

# Questions and Answers Regarding Electronic Filing

## **TO AVOID FILING MISTAKES PLEASE READ THIS DOCUMENT IN ITS ENTIRETY**

1. Is there any means to file a hearing record or pleadings and supporting papers with the Office of State Review (OSR) currently available?

Yes. A hearing record may be filed with OSR electronically **DURING THE COVID-19 PANDEMIC ONLY**. Once a pleading and any supporting papers have been **served** upon the opposing party, they can also be filed (together with the affidavit of service) through electronic means.

2. Am I required to file documents with OSR electronically?

No, documents may be mailed to the Office of State Review in accordance with the usual filing requirements of Part 279 of the Commissioner's Regulations. The ability to file electronically is an added measure available during the COVID-19 pandemic to assist parties in limiting the potential spread of the Coronavirus or to assist parties who have been quarantined.

3. What hardware and software are needed to file documents electronically with OSR?

Filing documents with OSR may require the following hardware or software:

- A personal computer running a standard platform such as Windows 8/10 or Mac OS X. A recent tablet with an up-to-date operating system such as an iPad with iOS 13 or android tablet.
- A PDF-compatible word processor like Microsoft Word or Corel WordPerfect.
- Internet service.
- A recent web browser, such as Google Chrome, Mozilla Firefox, Safari, or Microsoft Edge or Internet Explorer are recommended. Some users may have positive experiences with other web browsers that OSR staff does not have experience with.
- Software to convert documents from word processor format to portable document format (PDF). More recent versions of Corel WordPerfect and Microsoft Word can convert documents to PDF, or an additional product such as Adobe Acrobat can be used.
- Adobe Acrobat Reader, which is available for free, is needed for viewing PDF documents.
- A device capable of creating quality PDF files from paper, such as a document scanner, if a party needs to create PDF copies of documents that they wish to file electronically.

4. Who may file documents electronically with OSR?

A school district that is required to file a copy of the record of the impartial hearing proceedings in accordance with Part 279 of the Commissioner's Regulations (i.e. upon being served with a Notice of Intention to Seek Review) may file the hearing record with OSR electronically. In addition, any party to an appeal as defined under Part 279 (the petitioner or the respondent) may file a pleading with supporting papers or an extension request electronically.

5. Do documents that will be filed electronically with OSR need to be in a particular format?

**Yes, documents must be filed in PDF format.** This format was chosen because it allows a document to retain its pagination, formatting, and fonts no matter what type of computer or device is used to view or print the document. It is also an open standard format. Adobe developed the format and offers software that allows conversion of documents created in most word processing systems into PDF. Several word processing and other programs contain features that convert documents created in those programs into PDF. **Electronic transcripts provided by a school district as part of the impartial hearing record should be in text searchable PDF format.** If an exhibit is a multimedia file (i.e. an audio or video recording) the PDF requirement does not apply and may be uploaded in the file format provided to the impartial hearing officer.

6. How should I sign a notice, pleading, affidavit of service, or a verification that is filed with OSR?

These documents should be signed the same way a paper pleading is signed, notarized when required to be sworn, and scanned as a PDF before uploading the document to OSR. Additional information about notarization during the COVID-19 pandemic is located on the COVID-19 updates page of the OSR website (<https://www.sro.nysed.gov/coronavirus-covid-19-updates>). You must retain the original document. An attorney or party who electronically files a document with OSR that is required by Part 279 that bears an actual signature, or causes such a document to be electronically filed, represents to OSR that he or she possesses the executed hard copy of such document and that he or she shall make it available at the request of OSR.

7. Are there fees associated with electronic filing with OSR?

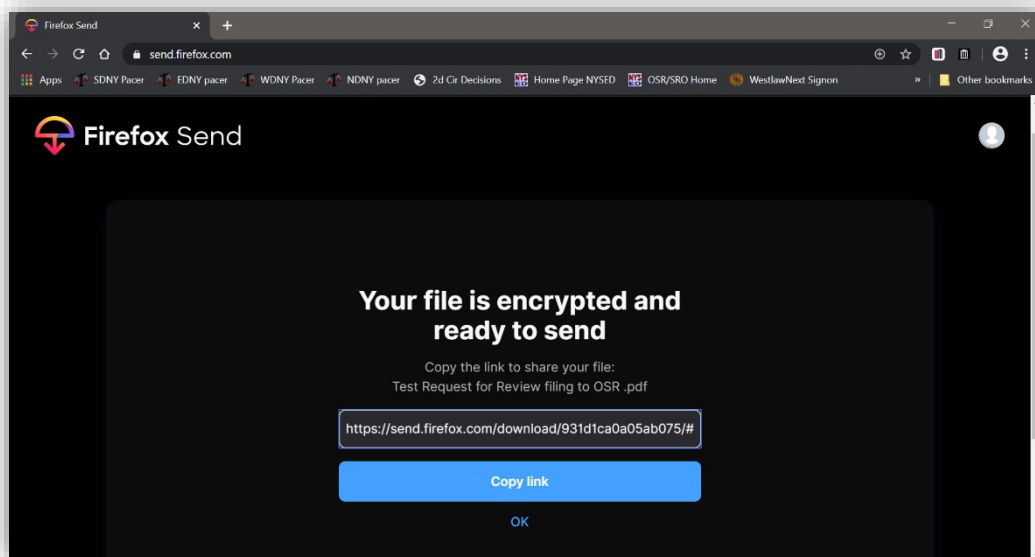
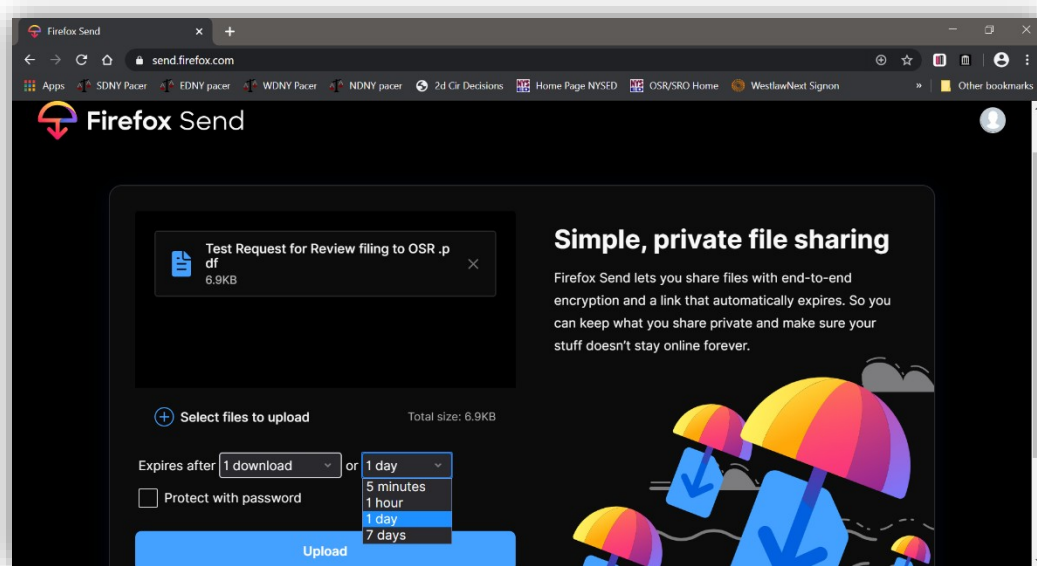
There are no added fees for filing documents electronically with OSR. OSR does not provide access to any necessary software or hardware, and such expenses are

the responsibility of each party. Some software makers will offer a free trial of products available for download over the internet.

8. How will documents be filed electronically with OSR? Can they be filed by e-mail?

**Documents will not be accepted by e-mail (as attachments to an email).**

However, they may be electronically transmitted to OSR using a private encrypted filesharing service called "Firefox Send" (send.firefox.com). Firefox Send is free and provides automatic end-to-end encryption. As shown below, the link generated for OSR to receive files will automatically expire after a period of time specified by the sender (a maximum of seven days) and the encrypted documents are automatically deleted. The resulting link may be faxed to OSR at (518) 485-9377 or emailed to [osrfilecovid@nysed.gov](mailto:osrfilecovid@nysed.gov)



8-A **July 10, 2020 UPDATE.** The "Firefox Send" service has been taken offline by the creator of the service, Mozilla Corporation. What now?

OSR does not currently have the resources to implement its own, robust electronic filing system and the Firefox Send service has been a temporary measure to assist parties during the pandemic. The temporary suspension of the Firefox send service is a circumstance that is beyond the control of OSR and OSR is not in a position to guarantee the availability of electronic filing services. **While the Firefox Send service is suspended,** OSR will accept a link to encrypted files using the alternative service, "DropSecure," which is located at <https://dropsecure.com/>. However, parties are advised that the free version of the service is limited to 10 files per upload and a user of the free version cannot customize the length of time/number of downloads before the encrypted files are deleted from the service after seven days. Furthermore, OSR will not be providing any screen shots, instructions or attempt to assist parties in their attempt to use the DropSecure encryption service in leu of the traditional hardcopy filing methods authorized by Part 279. **Accordingly, continued use of electronic filing methods are at the party's own risk.**

At this juncture, parties are advised that if the New York State Government continues along a trajectory of allowing businesses and schools to reopen, **it is anticipated that the temporary electronic filing methods authorized by OSR will be discontinued** as reliance on constantly changing technology outside of the control of OSR is not sustainable.

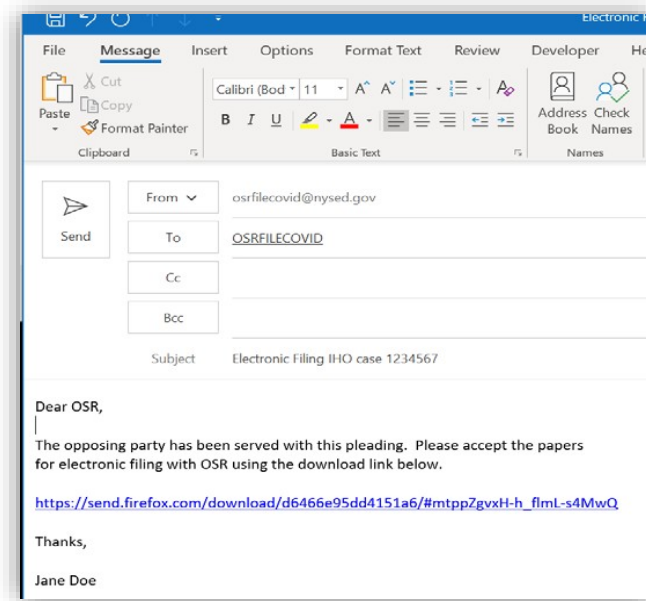
9. Can I send filings involving multiple cases in one upload with multiple links in an e-mail?

No. Files related to a single appeal for a student can be uploaded together. Multiple PDFs are merged into a single zip file when received by OSR. Therefore combining uploads involving multiples appeals or multiple students will not be accepted by OSR electronically and will be rejected.

**July 10, 2020 UPDATE.** If parties elect to use the DropSecure service, the party must continue not to combine documents from multiple appeals into a single download.

10. Can I now correspond with OSR staff by e-mail?

No. All correspondence with OSR must be prepared as a formal letter as an attached PDF document, which must be transmitted to the opposing party. Such letters are added to the administrative record before the State Review Officer. The e-mail address will be used to facilitate sending download links only. Under the directive of the Chief State Review Officer, OSR staff will not engage in e-mail correspondence with parties. An example is shown below.



If you have questions regarding electronic filing, you may call the OSR at 518 485-9373. OSR staff will keep telephone discussions confined to ministerial matters of assisting a party to complete their electronic filing if possible. OSR staff will not be able to provide assistance with complex technical issues. Please be advised that because of the pandemic you may need to leave a message and OSR staff will return your call as soon as they are able.

**July 10, 2020 UPDATE.** The DropSecure service uses its own interface to send email, and parties are responsible to navigate the use of the service. OSR staff will not attempt to provide assistance or instruction with the use of DropSecure. The party is responsible to file documents via US Mail or private carrier if the party is unable to successfully use the electronic encryption services described above.

11. When will a filing be received by OSR?

OSR will receive electronic filing between the hours of 8:30am and 4:30pm on a business day. Links received by OSR on a non-business day or after 4:30PM will be designated as received the following business day.

12. How will I know if my filing is received?

You will receive an auto response if you send a download link to OSR via e-mail. You may also call OSR to confirm that your filing was received.

13. Can I seek copies from OSR of what the opposing party has uploaded?

No. Under Part 200 of the Commissioner's Regulations the parties must disclose the evidence and elements that make up the record of the impartial hearing to each other, and parents are entitled to a verbatim copy of the transcript. The parties are required to serve each other copies of documents and additional evidence prepared in an appeal. The Office of State Review will examine filings and determine if

there are discrepancies in the record of the impartial hearing as submitted versus the record as documented by the impartial hearing officer.

14. What if I cannot successfully file electronically?

You may need to file by the U.S. mail procedures under Part 279 and to do so, you may need to seek an extension of time depending on your circumstances. However, OSR will try to assist you in your effort to file electronically during the COVID-19 pandemic.