# U.S. District Court for the Southern District of New York

## Mediation Office:
## Zoom Mediations Best Practices Guide
## April 2020
### (Compiled By Maegan Gorman, Cardozo Law School)

## TABLE OF CONTENTS

*Note: All embedded hyperlinks can be found in the Bibliography of Sources section at the end of this document in a format that can be copied and pasted into your preferred Internet browser.

## SETTING UP YOUR EQUIPMENT

- Download the Zoom desktop app (or your preferred online resolution tool) and encourage your invitees to do the same.

- Zoom download can be found at: https://zoom.us/download.

- Decide whether you will use one monitor or two. Using two monitors may be useful to view documents or take notes while in a meeting.

- If you are using Zoom and decide to use two monitors, please follow the setup instructions for Zoom's dual-monitor display feature at: https://it.umn.edu/zoom-using-two-monitors-dual-monitor.

- Make sure you have strong and secure WiFi connection or Ethernet cable.

- Close unnecessary tabs in your browser and turn off all notifications for:
    - Email
    - Slack
    - Calendar
    - Music

- Clean up your desktop and browser bookmarks.

- Use a headset and microphone if you have them to reduce background noise and for added privacy.

- For more tips on Set Up and Equipment, see Susan Guthrie's **Learn to Mediate Online** materials found here and Simon Boehme's *Observations in Online Dispute Resolution as COVID-19 Spreads* found here.

> ***Remember:*** *Turn off your phone and remind others to do the same.*

## CHOOSING YOUR LOCATION

- Choose a location to conduct the meeting without additional foot traffic. This helps protect privacy and avoids the risk of derailing a conversation because of interruptions from family and/or pets.

- Make sure it is as quiet as possible. Consider potential unobvious distractions like the sound of an air conditioning unit turning on, the buzzing of a fan, a washing machine beeping, or cell phone ringing when choosing your location.

- For more information on location, see Marketing Resolution's *10 Essentials for Looking and Doing Your Best in Video Conference Calls* here.

## PREPARING YOUR PARTIES

- As a mediator, you should know how to operate Zoom or your preferred online resolution tool prior to hosting sessions.

- While you may be prepared, are your parties ready? How competent are your parties or clients in using the online resolution tool?

- As an ADR professional, you should explain the tools that may enable the parties to move online. This can be done in numerous ways:

  o Hosting "refresher" trainings (host it yourself or have a tech consultant run it);

  o Arrange a 10-15 minute orientation session with the parties to ensure their audio and video are functioning;

  o Describe what Zoom (or your preferred platform) has done for security (and the limits of those protections); and/or

  o Lay out your ground rules for effective communication during the session.

- For more information on preparing your parties, see Simon Boehme's *Observations in Online Dispute Resolution as COVID-19 Spreads* found here.

## SCHEDULING AND SENDING MEETING INVITATIONS

1. *Personal Meeting ID (PMI)*

   o If you use Zoom, you can invite people to your meeting by using your own personal link or one that is created for you.
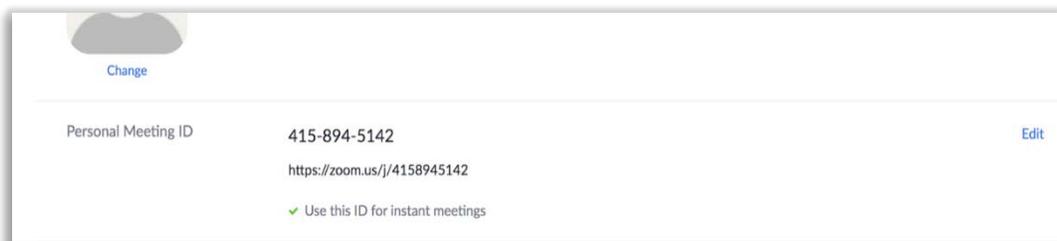


   o If you create a personal meeting ID as your cell phone number, and on the off chance you are disconnected, parties will know to call your phone number as it is now easily accessible.

   > *Note:* Do not share the meeting link to a public forum or anywhere other individuals aside from the parties can see it. This makes your event extremely public and ANYONE with the link can join the meeting. Your **Personal Meeting ID (PMI)** is one continuous meeting and sharing this publicly may allow individuals to access your personal virtual space even after the meeting is over. For more information, see *How to Keep Uninvited Guests Out of Your Zoom Event* by clicking here or copying and pasting: https://blog.zoom.us/wordpress/2020 /03/20/keep-uninvited-guests-out-of-your-zoom-event/

## 2. Other Meeting Scheduling Options

o No matter what online resolution tool you choose to use, it is helpful for the meeting schedule function to add the scheduled meeting to a new or existing calendar (e.g. Outlook, Google Calendar, etc.).

o Zoom offers multiple methods to schedule a meeting. A host has control over the options for their scheduled meetings.

- Outlook Add-In – The Zoom Scheduler Add-in allows you to easily add a Zoom meeting to any new or existing calendar event.

- Google Calendar Add-On – The Zoom for Google Calendar Add-In allows you to you can seamlessly schedule, join, and manage meetings right from Google Calendar.

o View the full guide to scheduling meetings on Zoom's support site to learn more about all scheduling options by clicking here.

## DO A DRY RUN VIDEO CALL TO TEST YOUR SETUP

- Conduct a dry run session to test your setup prior to your video conference.

- For more information on conducting a dry run video call, see *10 Essentials for Looking and Doing Your Best in Video Conference Calls* by clicking here.

## 1. Testing: Microphone

o The microphone can be easy to forget until you're on the call being told "we can't hear you," which gets your video conference off to a rocky start.

o Avoid this by having a colleague help you test the audio by completing a dry run of the video conference between two different computers or devices to make sure everything is in working order.

## 2. Testing: Sound, Feedback, and Background Noise

o During the dry run, ask your counterpart to listen for background noise, including any buzzing or hissing.

o If you do not use headphones, make sure that there is no feedback coming from your speakers when your counterpart is speaking on the call.

o You may also want to confirm your speaker volume before getting on the call. For more information on audio settings, see the Audio section below or visit Zoom's Help center here.

o Help to avoid interruptions by closing your office door and letting others know that you are on a conference call.

o   If for some reason something should go technically or situationally wrong, it is always okay to acknowledge it. Briefly acknowledging a technical issue helps keep the audience focused on the message you are trying to deliver.

> ***Tip:*** *In a physical setting, you are used to having the ability to acknowledge individuals by turning to address them and making eye contact. Be mindful that directing questions towards your screen or pointing will likely create confusion as to whom you are speaking to. Rather, you should call each party by their first or last name.*

# Meeting Setup

## VIRTUAL WAITING ROOM

- Always use the **waiting room** function when having parties log on to the Mediation session to control access to the actual meeting. Set up the meeting for the parties well in advance and let them know that they will be in a "virtual waiting room" until they have all signed on to the session at which time, they will be admitted to the meeting simultaneously.

- You can customize the waiting room settings for additional control and can personalize the message parties see when they enter the Waiting Room, so they know they are in the right place.

> ***Tip:*** this Waiting Room message is a good place to post initial rules/guidelines for the session.

- Set a time limit for how long you will wait participants to enter the waiting room and/or have a protocol for communicating (email, text, phone).

- Allow a 5 or 10-minute window after which you will bring the party or parties who are present into the room to discuss solely how to proceed.

- For instructions on setting up a virtual waiting room, click [here](#).

## CAUCUS AND BREAKOUT ROOMS

- Zoom easily allows for putting one or more parties back in the waiting room so that there can be a private conversation.

- Depending on how many parties there are and whether the mediation is primarily joint session or separate, **Breakout Rooms** may be more practical.

- Breakout Rooms can have more than one participant in them, such as a client and their attorney:
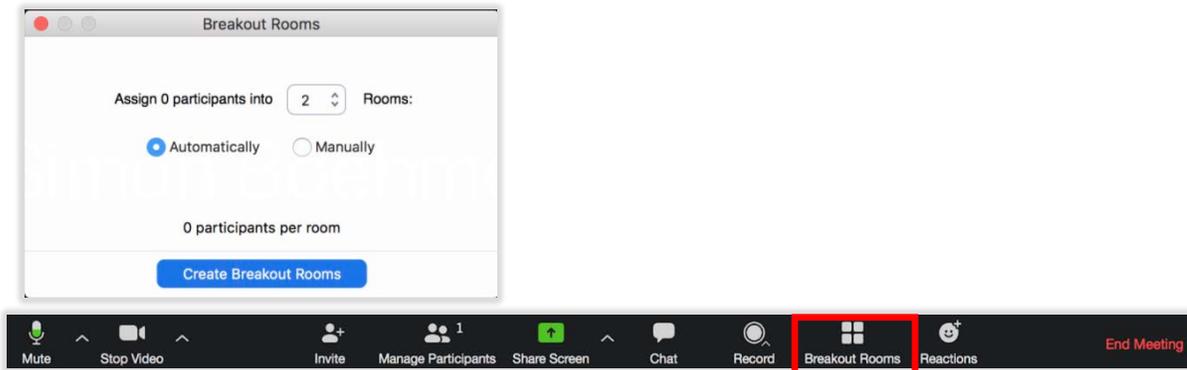


- You can have as many Breakout Rooms as needed and the mediator can move between rooms and can move people into different Breakout Rooms.

- For instructions on setting up Zoom Breakout Rooms, click here.

- If you are using an alternative online resolution tool, it should have a similar feature allowing for "virtual caucusing."

# Audio

## TESTING YOUR AUDIO PRIOR TO JOINING A MEETING

- Be sure to test the sound ahead of your webcam appearance to avoid distracting echoes or interference (e.g. caused by input and output devices such as a microphone and speaker that are too close together).

- With Zoom, you can ensure your audio is ready by selecting "Automatically join audio by computer when joining a meeting":
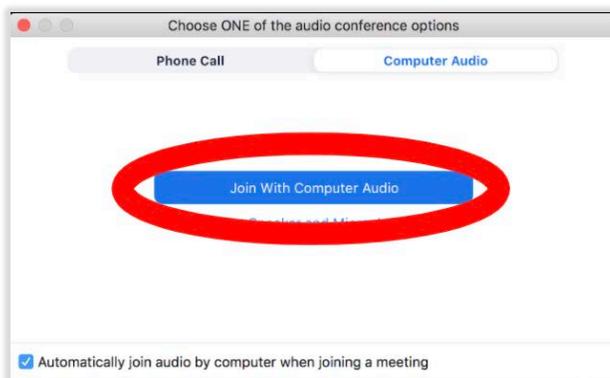


- For more information on testing computer audio with Zoom, click here.

> ***Tip:*** *If you are wearing a headset, make sure your audio input and output are connected to the headset and not your computer's built-in microphone or speakers:*
>
> | Select a Microphone | Select a Speaker |
> | --- | --- |
> | Same as System | Same as System |
> | ✓ Plantronics Savi 7xx | ✓ Plantronics Savi 7xx |
> | Built-in Microphone (Internal Microphone) | Built-in Output (Internal Speakers) |
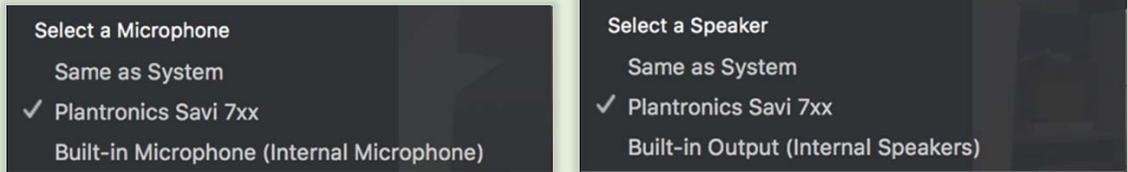
# Visual

## LOOK YOUR BEST

- For more information on successful lighting, background, camera angle, and dress, see Sidney Kanazawa's *Tips for Online Mediation in the Age of Social Distancing* here and Marketing Resolution's *10 Essentials for Looking and Doing Your Best in Video Conference Calls* here.

1. *Lighting*

   o The best lighting setup will use a combination of natural and artificial lighting.

   o Lighting should come from in *front* of you or from the *side* in order to best light your face. Do not sit with a bright light source (e.g., a window or fluorescent light) behind you. Avoid overhead lights too, as they can create dark under eye shadows.

   o As a general rule, avoid fluorescent lights, which can cast unflattering shadows. Allow natural light into the space you will be using. Then, fill in additional lighting using lamps and soft white bulbs on the sides of your laptop or PC to maintain even lighting.

   o For more tips on lighting, click here.

   > ***Tip:*** Test your video camera prior to joining a meeting to ensure that the camera is working correctly and that the lighting is appropriate.

2. *Background*

   o Choose a neutral, uncluttered, and professional background.

   o Sit at your desk (or location of choice) and take a selfie or screenshot of what others see in your background. Remove objects that may distract the person on the other side of the camera.

   o For more tips on background, click here.

3. *Camera Angle*

   o The camera should be placed at your eye level.

- o If you are using a laptop, place something beneath it to raise it until your eyes are at the same level as the camera lens.
- o The camera should capture your face and part of your upper body. Try keeping yourself centered in the image without moving around too much, as this will distract the person(s) you are talking to.
- o When talking, you should always look at the camera—not the screen.
- o For more tips on camera angle, click [here](here).

4. *Dress*

- o There are four best practices to keep in mind when you are considering what to wear during a video conference:
     1. *Pattern* – no stripes, checks, polka dots or other patterns or noticeable textures.
     2. *Color* – try to wear neutral tones; bright colors, metallics, and fluorescents may not translate well on camera.
     3. *Contrast* – make sure there is definition between your face, your background, and your clothing.
     4. *Shape* – check how it looks with your lighting setup.
- o For more tips on dress, click [here](here).

5. *Eye Contact*

- o Look directly into the camera or at the face of the person(s) you are interacting with.
- o Resist looking at yourself in the small frame at the corner of your video and avoid distractions elsewhere in the room.
- o As a reminder to maintain eye contact, it may help to put something above your webcam (e.g. a sticker or colored note).

## TEST YOUR CAMERA PRIOR TO JOINING A MEETING

- Test your video camera prior to joining a meeting to ensure that the camera is working correctly and that the lighting is appropriate.
- To test your camera using Zoom:
     1. Log into the Zoom client.

2. Click your Profile picture, then click Settings.



3. Click the Video tab.



4. You will see a preview of your camera and can choose a different camera source if needed. For further instruction on choosing a camera, click here.

## TESTING YOUR CAMERA DURING A MEETING

- Zoom or your preferred online resolution tool should also allow you to test your camera during a meeting, if necessary.

- To test your video while in a meeting with Zoom, click the arrow

- To test your video while in a meeting with Zoom:

    1. Click the arrow next to **Start Video/Stop Video**.

    

    2. Select **Video Settings**.
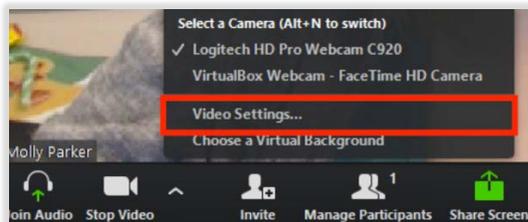
    

    3. Zoom will display your camera's video and settings.

## VIDEO LAYOUT

- When using Zoom or your preferred online resolution tool, select a video layout that allows you to see all parties on the screen at once.

- Zoom has three video layouts when no one in the meeting is screen sharing: Active Speaker, Gallery, and Mini.

- **Gallery view** is the video layout allowing you to see all participants on the screen at once:



- Click **Gallery View** in the upper right corner of your Zoom window to enter Gallery View.

- Learn more about displaying participants in Gallery View [here](here).

## SHARING YOUR SCREEN

- It is very easy to share your screen on Zoom with the mediation participants. This allows everyone who is in the meeting to see whatever you bring up on your computer screen.

- *Examples:* agreements, calendar, whiteboard, etc.

- If you want other meeting attendees to see what you are working on, you can share your screen by clicking on the **Share** button in the Zoom toolbar:
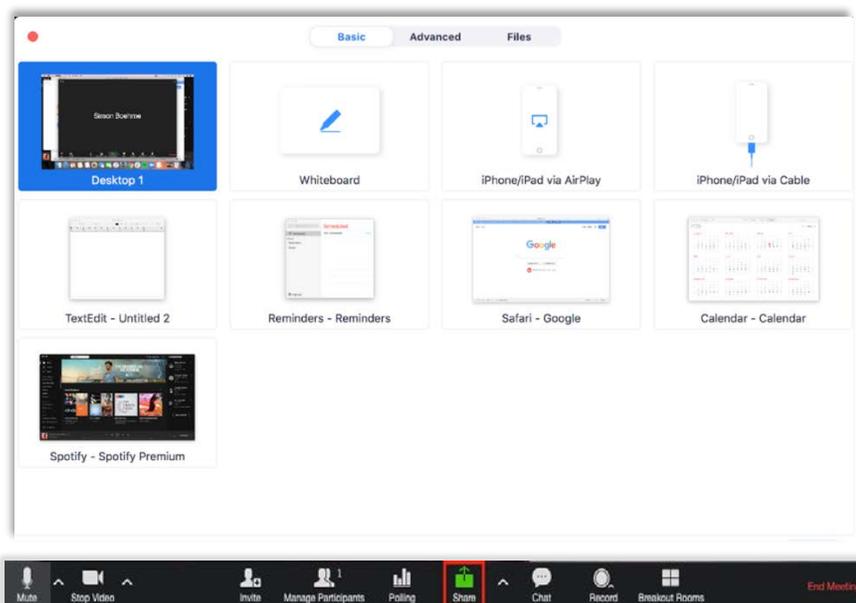
- As the meeting host, you can:
  - Lock the screen share, so no attendees can screen share without your permission; or
  - Allow multiple participants to share simultaneously.
- As a general rule, do not give up control of your screen. Not locking the screen share allows any participant to take control of the screen and share content with the group. You can restrict this—before the meeting or during the meeting—with the host control bar. This means that you are the only one who can screen share.
- To select one of these screen sharing permissions:
  - Select the screen sharing arrow in the host controls menu in order to choose screen sharing options.
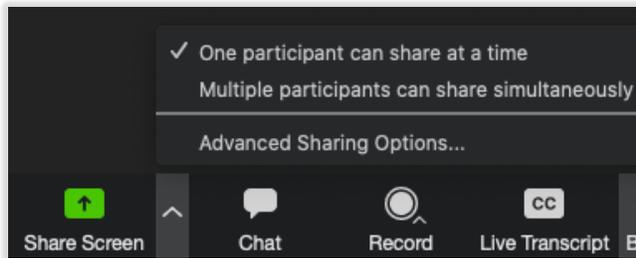


  - Select **Advanced Sharing Options** to lock the screen share so that only the meeting host can share.



- For further instruction on screen sharing and screen sharing permissions, click here.
- The Screen Sharing Function has a **Whiteboard** as well as the ability to share the screen of your iPad, cell phone or Tablet
- For more information on the Whiteboard function, click here.

## PARTICIPANT CONTROLS

- If you plan to use the Zoom tool, your Host Toolbar will appear different from the Parties' Toolbar.

**The Parties' Toolbar**
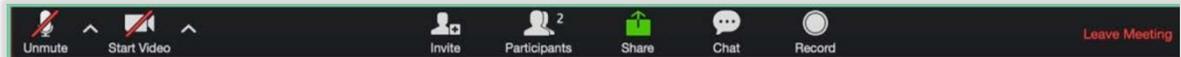


**The Host's Toolbar**



1. *Removing unwanted or disruptive participants from the meeting:*

   o Using the Zoom tool, the host can remove unwanted or disruptive participants from a meeting.

   o In the meeting, click the **Participants** button at the bottom of your Zoom window. If you hover your mouse over a participant's name, several options will appear, including **Remove**. Clicking Remove will disconnect that participant from the meeting.

   o For further instruction on removing participants, click here.

2. *Allowing removed participants to rejoin:*

   o Removed participants cannot rejoin the meeting. However, if you would like a removed participant to rejoin, you can do so by clicking on **Account Settings**, navigating to the **Meeting** tab, and then selecting **Allow removed participants to rejoin**.
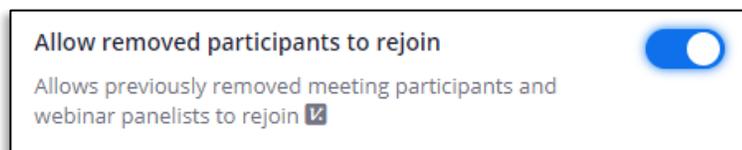
   

   o For further instruction on allowing removed participants to rejoin, click here.

3. *Using Attendee on Hold during meetings:*

   o The Zoom tools allows you to temporarily remove someone from the conversation using the **Hold** setting. If this setting is enabled, you can put an attendee on hold during a meeting, and the attendee's video and audio connections will be disabled momentarily.

o   Click on an attendee's video thumbnail and select **Start Attendee On Hold** to activate this feature.
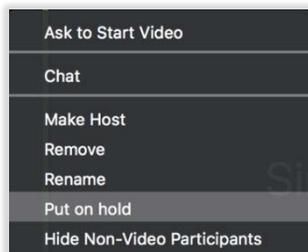


o   Click **Take Off Hold** in the **Participants** list when you are ready to bring them back in.

o   For further instruction on attendee hold settings, click here.

4.  *Muting Participants:*

o   Hosts can mute/unmute individual participants or all of them at once.

o   This allows hosts to block unwanted, distracting or inappropriate noise from other participants.

o   You can also enable **Mute Upon Entry** in your settings to keep the clamor at bay during sessions.

o   Hosts may opt to allow participants to unmute themselves to speak during the meeting by clicking the unmute button in the bottom left-hand corner of the menu bar or using a keyboard shortcut.

o   You will have access to enable or disable these options at the bottom of the participants list:
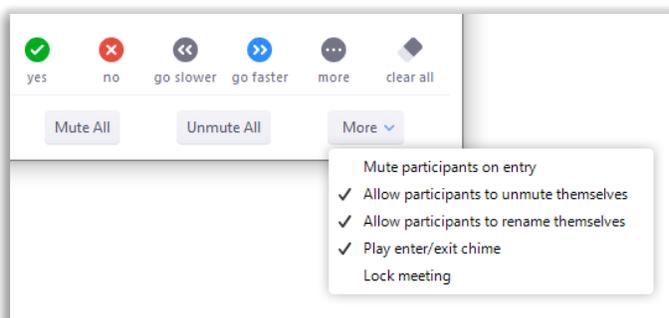


o   For instructions on muting participants, click here.

## VIDEO CONTROLS

- Disabling participant videos:

o   Hosts can turn participants' videos off. This allows hosts to block unwanted or distracting gestures or commotion happening in a participant's video.

o   For instructions on disabling video, click here.

## ANNOTATION

- Zoom allows meeting participants to annotate on a shared screen as a viewer or the one that started sharing your screen.

- The meeting host can disable attendee annotation in the Zoom settings to prevent parties from writing on the screen.

- For instructions on enabling or disabling annotation for yourself (as the host) or for attendees, click here.

# Messages

## PRIVATE CHAT

- Zoom has an in-meeting chat that allows messages to be sent to publicly to everyone in the session. However, attendees can "filter" the recipients of these messages in order to message each other privately.

- You may want to advise parties at the beginning of the meeting that they can be split into breakout rooms for discussions with counsel, or use text or email to communicate directly, which may be more secure than the private chat option.

- As the host, you can disable the private chat feature to restrict participants' ability to chat amongst one another during the session.

- For instructions on controlling and disabling private chat, click here.

# Privacy and Confidentiality

## KNOW YOUR PLATFORM'S SECURITY

- You should be able to communicate to parties the reasons why Zoom (or your preferred platform) is safe, but also be sure to acknowledge that no one can guarantee that any platform can't be breached.

- By default, Zoom encrypts in-meeting and in-webinar presentation content at the application layer using TLS 1.2 with Advanced Encryption Standard (AES) 256-bit algorithm.

- If you are not using Zoom, check the security software of your preferred platform.

- For more information on Zoom's platform security, see Simon Boehme's *Observations in Online Dispute Resolution as COVID-19 Spreads* found here.

## CONFIDENTIALITY

- The same confidentiality rules apply to online mediations.

- This means you must explain the confidentiality provisions for mediation and provide the Confidentiality Agreement to be signed by the parties at the beginning of the mediation as you normally do.

- The *S.D.N.Y. Mediation Confidentiality Agreement* can be found here.

- To see a copy of the *Mediation Program Procedures*, click here. More information can be found on the S.D.N.Y. website here.

## PRIVACY

- Privacy is one of the main benefits of mediation. It is also one of the most vulnerable during remote mediations. Mediators no longer have immediate control of the environment that the parties are in.

- Explain to the parties prior to the mediation session that there can be no third parties, no eavesdroppers, no recording of the session, and that each party should be using a secure WiFi connection (e.g. instead of public WiFi).

- If you are using the Zoom tool, lock the meeting to ensure no one else can unexpectantly join after all participants have joined:
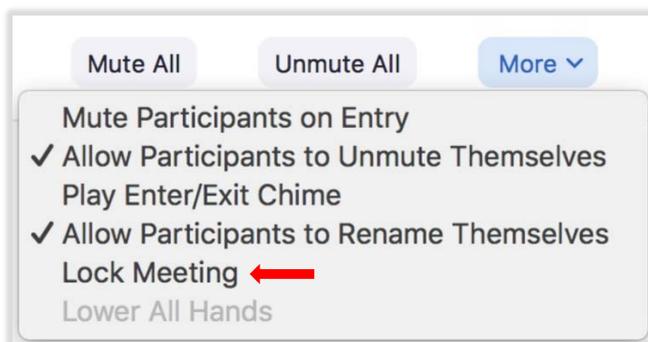


- Consider using a headset for added privacy when conducting your meeting from home or other location that is shared with other occupants.

- Choose an interruption-free zone.

## MEETING PASSWORDS

- Meetings and Webinars can require passwords for an added layer of security.

- Joining participants will be required to input this before joining your meeting.

- Passwords may be alphanumeric and are case sensitive.

- For instructions on setting Meeting and Webinar Passwords, click here.

> *__Note:__* Do not share the meeting link to a public forum or anywhere other individuals aside from the parties can see it. This makes your event extremely public and ANYONE with the link can join the meeting. Avoid using your **Personal Meeting ID (PMI)** to host events—your PMI is one continuous meeting and sharing this will allow individuals access to your personal virtual space even after the meeting is over. For more information, click here.

## RECORDING

- Zoom allows for the Host and/or Attendees to record a meeting.

- **DO NOT RECORD MEETINGS.**

- Allowing participants to record sessions is under the control of the Host. Turn the recording features off to avoid parties using it.
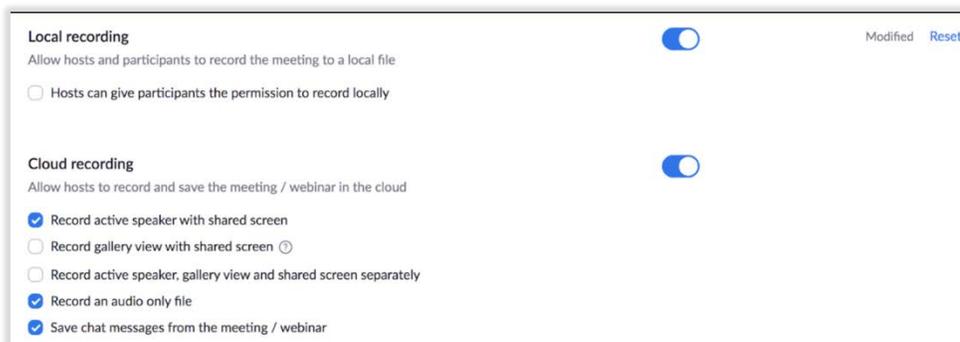


- It is critical in your opening statement you make it clear that they cannot record.

> *__Note:__* Zoom will always notify meeting participants that a meeting is being recorded, so *no participant can record without your knowledge*. It is not possible to disable this notification. Multiple notifications can also be enabled for a user, group, or entire account. Multiple notifications enable notifications to participants to hear a notification each time the recording is started, paused, resumed, or stopped. For more information on recording notifications, click here.

## MANAGING YOUR PARTICIPANTS

- **Authentication profiles** allow only signed-in users to join.

- If someone tries to join your event and isn't logged into Zoom with the email they were invited through, they will receive this message:

- For more information on authentication profiles, click here.

## LOCKING THE MEETING

- It's always smart to lock your front door, even when you're inside the house.

- When you lock a Zoom meeting that has already started, no new participants can join, even if they have the meeting ID and password (if you have required one).

- In the meeting, click **Participants** at the bottom of the Zoom window. In the Participants pop-up, click the button that says **Lock Meeting**.

- For more information on locking a Zoom meeting, click here.

## TWO-FACTOR AUTHENTICATION

- Generating a random Meeting ID when scheduling your even and requiring a password to join is recommended.

- This adds an extra layer of security and avoids having to share the actual meeting link.

- For more information generating Meeting ID's and password setting, click here.

# Practical and Ethical Considerations

## STREAMLINING THE MEDIATION PROCESS

- You may need to use a variety of online programs to streamline function of the mediation process that would normally take place in person, including the sharing, storing, and signing/executing documents.
  - Examples of sharing and storing online programs: Dropbox, Google Docs, etc.
    - Zoom also contains its own in-meeting file sharing capabilities. For more information on enabling/disabling Zoom's In-Meeting File Transfer, click here.
  - Examples of signing/execution of documents: Docusign, RightSignature, etc.

  *Note:* Let the parties know what programs you use, what requirements there are, and why you use them.

## SETTING THE GROUND RULES

- Create a document that educates and informs the parties.

- o Example: "My Online Guidelines & Ground Rules"
- Minimally, this document should explain:
  - o The importance that all parties participate within an Interruption Free Zone;
  - o The importance of taking steps to maintain confidentiality and privacy;
  - o Respectful and effective online communication; and
  - o Simple protocols in case of technological failure.
- For more information on setting effective ground rules, see Susan Guthrie's *Online Options for Dispute Resolution* by clicking here or visiting www.learntomediateonline.com.

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- *Displaying Participants in Gallery View* – https://support.zoom.us/hc/en-us/articles/360000005883

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- *Host and Co-Host Controls in a Meeting* – https://support.zoom.us/hc/en-us/articles/201362603-Host-and-Co-Host-Controls-in-a-Meeting?_ga=2.197267695.115961943.1585575135-143674534.1584043387

- *How Do I Schedule Meetings? -* https://support.zoom.us/hc/en-us/articles/201362413-How-Do-I-Schedule-Meetings-

- *How Do I Test My Video? -* https://support.zoom.us/hc/en-us/articles/201362313-How-Do-I-Test-My-Video-

- *In-Meeting File Transfer –* https://support.zoom.us/hc/en-us/articles/209605493-In-Meeting-File-Transfer?_ga=2.234034526.115961943.1585575135-143674534.1584043387

- *Managing Participants in a Meeting –* https://support.zoom.us/hc/en-us/articles/115005759423-Managing-participants-in-a-meeting?_ga=2.221861080.115961943.1585575135-143674534.1584043387

- *Meeting and Webinar Passwords –* https://support.zoom.us/hc/en-us/articles/360033559832-Meeting-and-Webinar-Passwords-?_ga=2.95998300.115961943.1585575135-143674534.1584043387

- *Pre-Assigning Participants to Breakout Rooms –* https://support.zoom.us/hc/en-us/articles/360032752671-Pre-assigning-participants-to-breakout-rooms

- *Recording Notifications -* https://support.zoom.us/hc/en-us/articles/360000486746-Recording-Notifications

- *Testing Computer or Device Audio -* https://support.zoom.us/hc/en-us/articles/201362283-Testing-computer-or-device-audio

- *Using Attendee on Hold in Your Meetings –* https://support.zoom.us/hc/en-us/articles/201362813-Attendee-On-Hold?_ga=2.162616828.115961943.1585575135-143674534.1584043387#h_87d70d90-5b0e-46b8-b7b0-b51e3c9fd699

- *Waiting Room -* https://support.zoom.us/hc/en-us/articles/115000332726-Waiting-Room