

<p style="text-align: center;">STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS</p>	<p style="text-align: center;"><u>INTERIM MEMO:</u> Notice to Attorneys: Providing Electronic Legal Materials to Incarcerated Individuals</p>	<p style="text-align: center;">Page 1 of 4</p>						
<p>Local Procedure(s) Required: No Applicability: All staff (including contractors and volunteers) Security Level: “B” – Anyone may have access to this document.</p>								
<p>Approved:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;"><u>SIGNED</u></td> <td style="width: 33%; border: none;"><u>12/28/2022</u></td> <td style="width: 33%; border: none;"><u>12/27/2022</u></td> </tr> <tr> <td style="border: none;">Nicholas J. Deml, Commissioner</td> <td style="border: none;">Date Signed</td> <td style="border: none;">Date Effective</td> </tr> </table>			<u>SIGNED</u>	<u>12/28/2022</u>	<u>12/27/2022</u>	Nicholas J. Deml, Commissioner	Date Signed	Date Effective
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This interim memo provides attorneys and their legal representatives (agent) with directions on how to make electronic legal materials available to incarcerated individuals. This Interim Memo shall supersede the Department of Corrections’ (DOC) *Notice to Attorneys: Providing Electronic Legal Materials to Incarcerated Individuals*, dated 7/7/2022. All other requirements and processes outlined in DOC policy #385, *Inmate Access to Courts*, dated 2/12/2018, Guidance Documents, and Interim Memos are still currently in effect.

- A. Only computing equipment that is owned or leased by the Agency of Human Services (AHS) or operated by individuals under a contract with the AHS that permits such equipment, shall be connected to AHS equipment. External hard drives, USB flash drives, or compact discs (external storage mediums) cannot be operated on state equipment, per AHS Policy #5.10, *Personal Equipment, Software, and Data*.
- B. Attorneys shall choose between one of the two available options described below when making electronic legal materials available to incarcerated individuals.
 - 1. Attorneys or their agent shall bring, and personally supervise and control, the following items into a correctional facility for the purpose of the incarcerated individual viewing and listening to electronically stored

legal materials: a laptop, tablet, e-reader (without cellular capacity,) digital player or recorder, and external storage mediums. Attorneys desiring to preserve the attorney-client relationship are encouraged to utilize this option.

- a. The attorney shall:
 - i. Provide the facility with at least 24-hour notice of their visit;
 - ii. Comply with the Interim Memo: *Inmate Visits - Attorney Information*; and
 - iii. Take all electronic equipment and external storage mediums when they leave the facility.
 - b. Facility Staff shall inspect and inventory all electronic equipment and external storage mediums, but not content, entering and existing the facility.
2. Attorneys shall transfer all legal material to the State's GlobalScape system using Enhanced File Transfer,[™] which ensures the secure transfer of sensitive data. The Director of Legal Education (Director) shall review all legal materials that are transferred to the State's GlobalScape system.
- a. Before an attorney transfers any legal materials to the GlobalScape system, they shall:
 - i. Send an email to the Director requesting access to the GlobalScape system:
 - a) The Director shall obtain access permissions from the DOC's Information Technology Director (IT Director);
 - b) Once the IT Director permits access, the Director shall create folders in the GlobalScape system that the attorney shall use to temporarily transfer files. These folders shall not be used as a file repository; and
 - c) Attorneys shall establish a username and password to be able to access the folder;
 - ii. Upload files to the designated GlobalScape folder for the Director to inspect. The upload speed to GlobalScape may vary based on the attorney's internet connection and volume of files.
 - a) Attorneys shall confirm that all files are properly formatted and without errors.
 - 1) Permitted Formats include: .pdf for documents, images and photos, .mp3 for audio and .mp4 for video only.

- 2) Filenames shall include descriptors because individuals will access them by title and hyperlink in a table of contents; i.e., December13dashcam.
 - 3) Files shall not:
 - (a) Be larger than 1.5 GB in size per file and .
 - (b) Be copy-protected, encrypted, or password-protected, in a proprietary format; and.
 - (c) Require any special program or CODEC to load or run.
 - 4) Incarcerated individuals may receive no more than 25 files at a time. If there are several photographs, the attorney shall combine them into a single pdf document.
 - 5) Incarcerated individuals may receive no more than 10 GB of materials. Attorneys are advised to split hours-long videos.
 - b) Attorneys shall contact the Director to determine how to best proceed if they follow the steps above, but the files fail to upload to the designated GlobalScape folder.
 - c) The Director shall inspect the files provided for any contraband and remove any file that is considered contraband, in accordance with the policy on inmate mail, publications, and audio/video regulations.
- b. The state contractor:
- i. Shall upload properly formatted electronic legal files onto a secure server leased by the state, as is, and onto a scrubbed Windows based operating system that is available for use by incarcerated individuals on leased law library computer terminals; and
 - ii. Shall not correct errors, report unreadable files, convert unusual or unrecognized formats, or upload files that require a codec application.
- C.** Incarcerated Individuals shall sign the Offender Electronic Equipment Acknowledgement form before using electronic equipment, in accordance with the policy on offender access to electronic equipment.

1. The state contractor shall assign a password that will be provided to the incarcerated individual by Facility Staff, so that the incarcerated individual can access the assigned folder located on the desktop of facility law terminals.
 2. The incarcerated individual shall follow their facility's local procedures when scheduling time in the law library and access to the law library computer terminals.
 3. The incarcerated individual shall follow the necessary privacy precautions when sharing the law library space and equipment with others.
 4. The incarcerated individual shall use a personal headset to review audio files.
- D.** Incarcerated Individuals residing in a restricted housing unit or who had their electronic access revoked may be limited to the option described under B.1. only.