

STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS	<u>INTERIM MEMO:</u> Notice to Attorneys: Providing Electronic Legal Materials to Incarcerated Individuals	Page 1 of 2
Local Procedure(s) Required: No Applicability: All staff (including contractors and volunteers) Security Level: "B" – Anyone may have access to this document.		
Approved:		
<u>SIGNED</u> Nicholas J. Deml, Commissioner	<u>07/03/2022</u> Date Signed	<u>07/17/2022</u> Date Effective

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 Sending Electronic Legal Materials to Correctional Facilities*, dated 4/27/2018. 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 mail non-returnable USB Drives to the Director of Legal Education (Director) at SOV/AHS/Department of Corrections, NOB 2 South 280 State Drive, Waterbury, VT 05671-2000. Before mailing any non-returnable USB drives, the Attorney (sender) is advised to ensure that all files are properly formatted (PDF, MP3, MP4) and without errors.
 - a. Upon receipt of the non-returnable USB drives, the Director shall:
 - i. Inspect the thumb drive for any contraband and remove any file that is considered contraband, in accordance with the policy on inmate mail, publications, and audio/video regulations; and
 - ii. Send the non-returnable thumb drive to the State Contractor.
 - 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.