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Susanne R. Young, Secretary

TO: Executive Branch Agency and Department Heads
FROM: Susanne Young, Secretary of Administration 
SUBJECT: Public Records Requests: Charges for Inspections
DATE: November 13, 2019

The purpose of this memo is to convey the Governor's directive that all Executive Branch Agencies and Departments shall refrain from charging for costs associated with preparing a public record for inspection pursuant to Vermont's Access to Public Records Act. This includes any digital, photographic or other copies a person inspecting a record may choose to make with their own personal device.

The Vermont Supreme Court recently issued its decision in a public record appeal captioned Reed Doyle v. City of Burlington Police Department (2019 VT 66). In that case, the Court made clear that a public agency may not charge for staff time spent in complying with requests to inspect public records. The Court acknowledged that although staff time was required to prepare the records in question for inspection, the Court determined the law is clear: charges associated with staff time in complying with a request to inspect are not authorized. Since no staff time or other State resources are required when a person makes a copy of a record with a personal device, such as a cellphone or camera, there is no justification for charging a fee in order to recover costs. This is now the law and we must modify our practices and procedures accordingly.

Please note, once again, the Court reminds us that the Public Records Act reflects a strong policy that favors "free and open examination" of records. The Act has been amended over the years to provide state agencies and departments with accepted methods to work with those requesting access to public records to minimize cost, such as allowing for consultations and requests to narrow, when appropriate. If you have questions regarding the Doyle case, please consult with your agency counsel.

Other directives relating to public records requests that should be reviewed include the following:

October 26, 2017 *Public Records Stored in Private Electronic Accounts*:

<https://aoa.vermont.gov/sites/aoa/files/SecMemo/Public%20Records%20Stored%20in%20Private%20Electronic%20Accounts%2010-26-17.pdf>

February 20, 2018 *Public Records Requests* pertaining to the requirement to catalog requests in the Public Records Database: <https://aoa.vermont.gov/sites/aoa/files/SecMemo/Public%20Record%20Requests%20Memo%202-20-18.pdf>

February 4, 2019 *Public Records Request System* announcing the updated records request system:
<https://aoa.vermont.gov/sites/aoa/files/SecMemo/New%20PRR%20System.pdf>

Please forward this directive to those responsible for handling Public Records requests within your agency or department including your Public Records Officers, Business Offices and legal staff.

