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Susanne R. Young, Secretary

To: All State Employees
From: Susanne R. Young, Secretary of Administration
Re: Public Records Stored in Private Electronic Accounts
Date: October 26, 2017

On October 20, 2017, the Vermont Supreme Court issued its decision in a public records appeal that presented the Court with the issue of whether a state agency responding to a Vermont Access to Public Records Act (“PRA”) request must ask state employees or officials to determine whether they possess public records in their personal electronic communications accounts. The Court ruled that records produced or acquired in the course of agency business are *public records* as defined in the PRA *regardless of whether they are stored in private accounts of state employees*. Further, the Court held that where a requester seeks specified communications of identified individual employees or officials under the public records act, the responding state agency’s reasonable search for such documents must include asking those named employees or officials to provide any responsive public records they may have in their private accounts.

The Agency of Administration, with the assistance of other state agencies and departments, is reviewing State of Vermont Personnel Policies and Procedures that may need to be updated to comply with and implement the Court’s decision. Updated Personnel Policies and Procedures will be issued accordingly. As a reminder, State of Vermont Personnel Policies and Procedures Manual, [Section 11.7, Rules for use of Systems or Internet Services](#), states: “employees are expected to use state-provided systems for state business. Employees with access to a state email account must use their state email account for state business. Employees with state email accounts shall not routinely use personal email accounts to conduct state business unless such use of the employee’s personal account is reviewed by the Department of Information and Innovation and approved by the Secretary of Administration.”

In the interim, if your employing agency receives a records request that seeks access to public records which may exist in your personal accounts, you may be asked to search those accounts for those public records, and will be required to produce any such responsive public records.