

Vermont eFiling General Policy and Procedure Guide

v4 August 2023

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About This Guide

This guide summarizes Vermont’s policies and requirements for use of the Odyssey File and Serve electronic filing system. All filers are encouraged to review it thoroughly to insure they understand and comply with all requirements.

Policies are governed by the Vermont Rules of Electronic Filing, available at <https://www.vermontjudiciary.org/sites/default/files/documents/PROMULGATED%2012-10-19%20VREF%202020%20with%20amendments%20through%203-15-21%20%20with%20TOC.pdf>

and the Vermont Rules for Public Access to Court Records, available at <https://www.vermontjudiciary.org/sites/default/files/documents/PROMULGATED%20VRPACR.pdf>

This guide does not provide full detailed instructions for use of the eFiling system. Additional information is contained in division-specific Vermont filler guides available at <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing> and in system user guides and other training resources from Tyler Technologies available in the “Self Help” section on the OFS website. <https://odysseyfileandserve.zendesk.com/hc/en-us> .

eFiling System

Odyssey File & Serve (OFS) is a web-based platform for electronically filing documents in all units and divisions of Vermont Superior Court as well as the Judicial Bureau. eFiling in the Vermont Supreme Court is expected to launch in Summer 2021. Electronic filing is accessible to all court users, including self-represented litigants.

OFS may be accessed from the “eFiling” link on the Court’s website or may be directly accessed here: <https://vermont.tylertech.cloud/OfsWeb/>. The system is accessible from most modern web browsers and from smartphones and mobile devices.

OFS is hosted by Tyler Technologies, which provides ongoing support and service for the system. More information about Tyler is available at <https://www.tylertech.com/>.

Who must eFile

All attorneys and public agency personnel are required to file documents electronically through OFS.¹ Self-represented litigants can choose between filing electronically and filing documents in paper form. Once a filer has filed a document through OFS, he or she must continue to use OFS to file documents for the rest of that case.²

Documents that Cannot be eFiled

A few types of documents cannot be filed through OFS. The rules of electronic filing

¹ V.R.E.F. 3(a)

² V.R.E.F. 3(d)

allow for filings by alternative means³ (hard copy or by email with the court's permission) in these situations:

- Wills deposited for safekeeping or original wills filed in probate cases.
- After hours emergency filings that require immediate attention prior to the next business day, unless specific arrangements have been made with after hours personnel (court staff or judge)
- Documents that are sent to the court, but are not related to any specific case file. For example, invoices, records requests and other communications addressed to a staff member or judge.
- Post judgment motions in older cases (generally pre-1990) that were never entered in the legacy (pre-Odyssey) case management system. This includes petitions to expunge criminal records.
- Criminal Division matters initiated by filers other than authorized state agency criminal filers (including civil suspensions, civil miscellaneous cases, ordinance cases and investigative requests if filed directly by law enforcement).

NOTE: The Court will not accept responsive filings and motions in any format for Criminal Division matters that have not yet been initiated by the state and filed with the court. As soon as the case is submitted by the filing agency it will become available for subsequent filings in OFS.

Filing Fees

The Vermont Judiciary has instituted a new per case filing fee structure for the e-Filing system, effective **April 1, 2021**. This new fee structure is the result of a collaborative effort and the culmination the e-Filing Fees Study Committee, as well as continued dialogue with the Vermont Bar Association and Tyler Technologies. The new per case fee is \$14.00 per filer or firm, payable upon a party's first filing. Convenience fees remain in place with a 2.89% processing fee for credit card payments and \$1.00 per case for eCheck payments. However, a number of exemptions remain in place. All criminal filings are automatically exempt from the case fee and for any case type where there is no court fee, the party filing will not incur the user fee either.

Please note:

- *The new per case fee is \$14 per party, per filer within a firm, charged once upon first filing. If a party's representation changes from one firm to another, the fee will be charged again upon the new firm's first filing into the case. A pro se litigant who chooses to use the eFiling system is also required to pay the fee upon first filing. If a pro se litigant later seeks representation, the fee would be charged again upon the firm's first filing against the firm's*

³ V.R.E.F. 3(b)

payment account.

- *Some filers may be erroneously re-assessed the \$14 charge as a result of merging of system entities in Odyssey (a process to correct duplicate records for the same individual). When a party entity for whom the per case fee has been paid is merged into another entity for whom the fee has not been paid, the fee will assess again. Filers in those situations may contact jud.efilingsupport@vermont.gov*

For the following exemptions, parties must still choose a waiver account when filing:

Statutory or rule exemptions

- Government and appointed filers, including mediators, pursuant to 32 V.S.A. § 1433 and Rule 10(d)(1) of the Rules for Electronic Filing (2021)
- Stalking & Sexual Assault cases, pursuant to 12 V.S.A. § 5133(f)
- Relief from Abuse cases, pursuant to 15 V.S.A. § 1103(f)
- Abuse Prevention for Vulnerable Adult, pursuant to 33 V.S.A § 6933(b)

As applied economic hardship exemptions

- Fee waiver determination, pursuant to 32 V.S.A. § 1431(h) or 32 V.S.A. § 1434(b) in Probate cases, and
- Fee waiver determination, pursuant to V.R.C.P. 3.1 and V.R.P.P. 3.1

Government agency filers and others who are statutorily exempt from paying filing fees may file via a “waiver” account that can be set up for each registered user. There is a guide to creating a waiver account posted at <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing>.

A waiver account would also be used by anyone filing an Application to Waive Filing and Service Fees (*formerly IFP/In Forma Pauperis*). Filers upload the completed application in PDF format along with their other filing(s) and are notified after court review whether the application has been granted. If the request is denied, the filing will still be accepted but the filer will be sent a notice of a deadline for making payment of the appropriate fee.

Case filing fees paid to the Court are established by statute. Current fees and authorizing statutes are available at <https://www.vermontjudiciary.org/fees> .

The latest updates and answers to frequently asked questions regarding electronic filing are available on the Judiciary website at <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing>.

Serving Documents on Other eFilers

The eFiling system’s “Serve” function can be used to serve documents electronically on

other registered OFS users with service contacts. This function can be used on its own or concurrent with submission of documents to the court (“eFile and Serve”). There is no additional fee for using the serve function. Service is sent to recipients as soon as a court clerk has accepted the filing into the case management system. Returned/rejected filings are not served.

Note: in order to serve documents through the eFiling system, the filing type of “eFile and Serve” or “Serve” must be selected. Selecting “eFile” alone will not result in service.

Service Obligations Under the Vermont Rules for Electronic Filing

At the time of registering and beginning to use OFS, all eFilers must create a Service Contact with one or more designated email addresses for receiving service of documents on cases, and must make their service contact available on the Public List for opposing filers to select.⁴

All eFilers are required to serve documents on opposing parties with service contacts through the eService feature of OFS, unless a statute or rule requires a different form of service for a particular case type, or unless the parties have agreed in writing upon an alternate form of service for the case and submitted that agreement to the court.⁵

More information and detailed steps for eService are in the Vermont eService Guide available at <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing>.

Serving Documents on non-eFilers

When the other party to the filing is not a registered OFS user service must be completed via the applicable rules of procedure for the case type. OFS may not be used for service where a rule or statute requires personal service of documents.

Certifying Compliance with Service Obligations

All eFilers must certify compliance with service requirements by completing a submission agreement checkbox as part of the filing submission process. By completing the checkbox, the filer attests that they have either (1) made service using the OFS Serve feature or (2) filed a certificate of service for any parties served through other means.⁶

An eFiler must file a Certificate of Service any time service of a filing is made by means other than through OFS upon a non-eFiler, an eFiler who has not provided a Service Contact or a party with whom the filer has an agreement for an alternative method of service.⁷

⁴ V.R.E.F. 4(b)(3)

⁵ V.R.E.F. 11(d)

⁶ V.R.E.F. 11(g)(1)

⁷ V.R.E.F. 11(g)(2)

Receiving Documents Served Through OFS

When a document is served through OFS, the recipient will receive an email containing a link to the document. The document will be available for download from the link for 30 days after the date of service. Beyond that time, the document would be accessed through the Public Portal <https://publicportal.courts.vt.gov/Portal/> .

User Registration

Every OFS user (including both attorneys and non-attorney public agency personnel who are required to eFile) self-registers with an individual username and password, but users within a firm, agency or organization must register under a firm account managed by one or more firm administrators. They may then share payment accounts, service contacts and other features, although every user within the firm maintains individual login credentials. Any organization, not only law firms, can and should register as a firm; one designated firm administrator must initially create the firm in the system. The firm admin will then be able to invite other attorney and non-attorney users to register directly into that firm account. Paralegals, administrative and other support staff members may register as filers and may file documents on behalf of attorneys in their firm (the actual filed documents must be signed by the attorney).

Self-represented litigants and other filers not associated with a firm or organization may register for individual OFS accounts.

See user guides and resources on OFS website for registration instructions for all user types.

Attorney Registration in OFS Registration

Attorneys must be registered as attorneys in their firm's account in Odyssey File and Serve, and must be entered with their correct Bar Number (the 4 digit number assigned by the Attorney Licensing office, **not** the ERN number assigned by eCabinet). The Bar Number is labeled Attorney Number in the OFS Registration process.

A firm administrator can add and edit firm attorneys from the "Firm Attorneys" section in the Actions dropdown menu. Note that adding an attorney to the "Firm Attorneys" list does not negate the need for that attorney to also register into the firm as a user.

OFS requires at least one attorney entity be registered in each firm. For organizations without attorneys, there are instructions on the Judiciary website eFiling page at <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing> for setting up a workaround to this requirement.

Availability of OFS

OFS is available for filing and service 24 hours a day, seven days a week, except for times of regular and as-needed maintenance. Notice of such downtimes will be posted on the OFS homepage and on the Judiciary website.

Documents may be filed through OFS at any time. A document will be deemed filed as of a particular day if it has been successfully submitted by 11:59 p.m.⁸, unless it is subsequently rejected and returned by the court reviewer.

Electronic Signatures

The rules allow a variety of types of signatures on eFiled documents.⁹

- A scanned image of a document with an original signature affixed by hand
- A facsimile signature image electronically applied to a document
- A typographical signature containing the filer's typed-in name preceded by "/s/

A filing of any stipulation or agreement signed by multiple parties constitutes a representation by the filer that all signatures are valid and that all parties consented to the filing of the document.¹⁰

Notarized Documents

A document that would otherwise require notarization may be filed electronically by inserting the following language above the signature and date:

"I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I will be subject to the penalty of perjury."

Alternatively, an electronic scanned copy of an original notarized document will also be accepted.¹¹

Public vs. Non-Public Information – Filer Responsibilities

Filers are responsible for appropriately designating each individual document filed as either public or confidential. This is done as a mandatory step in the filing process. Filers should be familiar with the Vermont Rules of Public Access to Court Records, as well as the rules for the applicable case type, to determine whether a filing is public or non-public. There are many categories of information that are considered not public

⁸ V.R.E.F. 5(c)

⁹ V.R.E.F. 9(a)(2)

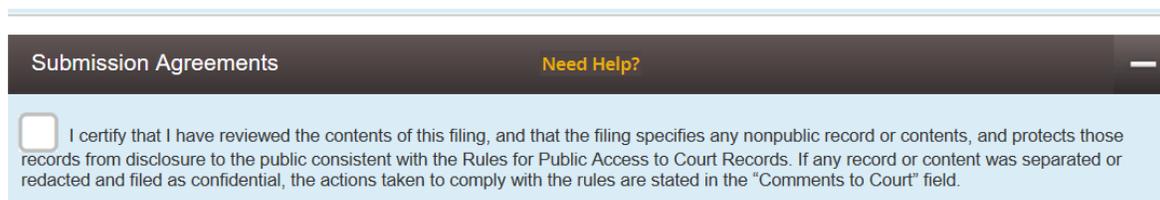
¹⁰ V.R.E.F. 9(b)

¹¹ V.R.E.F. 9(c)

(confidential). Filers should carefully review Vermont Rule of Public Access 6(b) and the Appendix to that rule in certifying their compliance with the VREF and Public Access rules.

A document may be confidential in its entirety, such as a medical or financial record. This should be identified as a confidential document. Alternatively, a particular document may include certain information, such as a social security number, that is confidential. In such situations, it is the filer’s responsibility to redact or omit non-public information on public documents, and to separately file the complete or unredacted document as a confidential document.¹² When filing original and redacted versions of a document, filers are instructed to note the redaction actions taken in the “Comments to Court” field in OFS.

OFS requires filers to check a box certifying that their filings comply with all applicable rules. It should be noted that OFS requires users to check this box for documents that are served, but not filed, though the certification applies only to documents filed with the court.



**** Note: Checking this box meets the requirements for a certificate of compliance under Vermont Rules of Public Access to Court Records Rule 7(a)(1) and Vermont Rules of Electronic Filing Rule 7(a)(5). Checking the box once will apply to all documents within an envelope. No separate certificate of compliance needs to be filed.*

Confidential Case Masking

Juvenile, Mental Health, Relief From Abuse and other confidential case types will be available for parties to file into through OFS, but will be identifiable only by their case number – party names for these cases are not displayed in OFS. All parties filing into confidential case types will need to know the case number and unit (county) of the case.

Document Formatting Requirements

All electronically filed documents must be submitted in PDF format. If a situation arises in which a filer is required to submit a document in Word or other format, a judge or clerk may direct the filer to submit it through alternative means.

Filers are responsible for ensuring that scanned PDF documents are viewable and legible

¹² V.R.E.F. 5(b); V.R.P.A.C.R 7(a)(1).

and are in a “flat” format; this means that fillable field forms and any other document with objects or images added or embedded in it must be saved/printed as a “flat” PDF file before attaching and submitting. See directions below for flattening fillable forms.

Every individual document in a filing must be submitted as a separate PDF. Filings will not be accepted if multiple filed documents are scanned/uploaded together as one combined PDF. Multi-page documents should be submitted as one PDF.

OFS allows filers to submit multiple documents within the same “envelope” when filing. Documents that are related to each other should be filed as part of the same envelope. The OFS system use fee is charged per-envelope so it is to the filer’s benefit to include all related documents within the same envelope submission.

Documents that cannot reasonably scanned and submitted as a PDF because of their size, shape or condition may be filed through alternative means.¹³

Form-Fillable PDFs

When eFiling a form-fillable PDF (which includes all of the posted court forms on the Judiciary website), you must first save it as a flat file. Otherwise, the filing will fail and you will need to refile.

Follow the steps below to "flatten" a completed PDF fillable form:

1. Open fillable form.
2. Add appropriate data.
3. Right click on document and select Print. NOTE: if document opens in Adobe, Select File and select Print.
4. Select the PDF printer. (The Adobe PDF printer is installed automatically with Adobe Acrobat. Other users may have “Microsoft Print to PDF”). Numerous free PDF printer drivers are available for download from the Internet.)
5. Select OK.
6. Specify location to save the printed, "flattened" version of the form.
7. Select Save.

Support

OFS is hosted by Tyler Technologies, which provides primary customer support to users about the system itself. eFiling questions related to Vermont-specific procedures and policies should be directed to the Vermont eFiling Help Desk at JUD.EFileSupport@vermont.gov .

¹³ V.R.E.F. 3(b)(6)

For general support using the eFiling system, Tyler Technologies provides the following support guidance (information also available on OFS website):

Although we would like to help in every situation, there are times when you will need to contact the court you are filing into for more information. Listed below are some examples of when it would be appropriate to contact technical support and when it would be best to contact the courts.

Vermont court contact information can be found at <https://www.vermontjudiciary.org/court-locations>

Technical Support	Courts
Site access	To suggest additions or modifications to data selection values available on the site
One-on-one training over the phone	Court specific procedures
Webinars	Questions related to filing codes
Desktop/Browser support	Court dates
Filing status	Changes to party information
Issues viewing stamped documents	Information about rejected filings beyond the rejection comments in the system
Financial reconciliation	Court portal/ Docket viewing
Internal errors	Court specific procedures for cancellations and refunds of accepted filings

Email Us: Efiling.Support@Tylertech.com Emails received during normal business hours are normally responded to within 24 hours, Monday - Friday between 7:00am and 9:00pm Central Time. E-mails received after 9:00pm Central Time or on a holiday will be responded to on the following business day.

Click Here to Chat With Us :Start a chat for immediate assistance, and one of our trained specialists will assist. Normal business hours are Monday - Friday, 8 am - 7 pm Central Time. (Holiday hours may vary)

Call Us: We are available Monday - Friday, 7 am - 9 pm Central Time. (Holiday hours may vary) **1.800.297.5377**

Users are also encouraged to consult all the resources available on the OFS website’s “Self Help” section, which contains user manuals, training materials and a knowledge base of troubleshooting questions and answers and other information.

Additionally, there are many guides and resources available on the Judiciary’s eFiling page at <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing>. This page includes division-specific guides for filing new and

subsequent case filings in all different dockets.