

STATE OF VERMONT
VERMONT SUPREME COURT
Administrative Order No. 55
(Current as of June 3, 2024)

SUBMISSION AND STORAGE OF DIGITAL EVIDENCE

§ 1. **Need for Electronic Storage of Digital Evidence.** Digital multimedia files such as audio and video recordings and high-quality photographs cannot be submitted through the Judiciary’s electronic filing system or saved to the electronic case management system, both of which require files to be in PDF format. Storage devices, such as thumb drives and DVDs, are inefficient, have security risks, and make sharing files challenging.

§ 2. **Method for Submission and Storage.** The Vermont Digital Evidence Portal (VDEP) is an online platform that allows attorneys and other case parties and participants to upload digital evidence for use in trials and other evidentiary hearings. The files are stored safely, can be simultaneously accessed by multiple courts regardless of physical location, and can easily be shared with other parties or other authorized individuals.

§ 3. **Mandatory Use.** In all units and divisions of the superior court, attorneys, case parties, and other litigants must upload to VDEP all digital evidence that will be submitted to the court. Submission of contraband, such as images or video containing child sexual abuse material, is not covered by this directive. Failure to properly comply with instructions regarding VDEP may result in denial of a request to admit digital evidence.

Reporter’s Notes

Administrative Order 55 addresses how litigants are required to submit digital evidence such as video and audio recordings or high-quality photographs. Files that are not PDFs cannot be submitted through the Judiciary’s electronic filing system or stored in the electronic case management system. Traditionally, this evidence was submitted to the court on a physical device, such as a thumb drive or DVD. These methods presented several challenges, including difficulty accessing the exhibits from other counties or by the Supreme Court on appeal. VDEP provides a secure online database to store these exhibits for ready access by all court users. Digital evidence can easily be shared with other case parties. The Judiciary website contains detailed instructions on how to use VDEP.

<https://www.vermontjudiciary.org/about-vermont-judiciary/vermont-digital-evidence-portal>

Pursuant to § 3, all attorneys, self-represented parties, and other 2 case participants are required to upload any digital evidence to VDEP. The administrative order does not specify the time for uploading. It is preferable that digital evidence be uploaded to VDEP in advance of a hearing, but judges at their discretion may allow uploading during or after the hearing. Section 3 requires uploading for matters in all units of the criminal division. The Court will amend the administrative order as use of the portal is expanded to other units and divisions.

All evidence that can be saved as a PDF file (for example, documents) must continue to be filed as required by existing procedural rules and the 2020 Vermont Rules for Electronic Filing.

Reporter's Notes—2024 Amendment

Administrative Order 55, § 3 is amended to clarify that the requirements of the order do not apply to contraband, such as images or video containing child sexual abuse material. Counsel seeking to submit contraband should seek guidance from the court to identify the process for submitting this material into evidence.

Reporter's Notes—Second 2024 Amendment

Administrative Order 55, § 3 is amended to make VDEP mandatory in all units and divisions of the superior court.