

Original

(II) "Public records" includes the correspondence of elected officials, except to the extent that such correspondence is:

(A) Work product;

(B) Without a demonstrable connection to the exercise of functions required or authorized by law or administrative rule and does not involve the receipt or expenditure of public funds;

(C) A communication from a constituent to an elected official that clearly implies by its nature or content that the constituent expects that it is confidential or that is communicated for the purpose of requesting that the elected official render assistance or information relating to a personal and private matter that is not publicly known affecting the constituent or a communication from the elected official in response to such a communication from a constituent;

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(no change)

To be a "public record" as defined by subsection (6)(a)(II), an e-mail message must be for use in the performance of public functions or involve the receipt of public funds. A message sent in furtherance of a personal relationship does not fall within the definition. The fact that a public employee or public official sent or received a message while compensated by public funds or using publicly owned computer equipment is insufficient to make the message a "public record". Denver Publ'g Co. v. Bd. of County Comm'rs, 121 P.3d 190 (Colo. 2005).

A mixed message that addresses both the performance of public functions and private matters must be redacted to exclude from disclosure the information that does not address the performance of public functions. The open records law does not mandate that e-mail records be disclosed in complete form or not at all. *Denver Publ'g Co. v. Bd. of County Comm'rs*, 121 P.3d 190 (Colo. 2005).

24-72-206. Violation - penalty.

Any person who willfully and knowingly violates the provisions of this part 2 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.