

PROPOSED RULE OF JUDICIAL ADMINISTRATION 17

If a written communication is sent to and received by a judge from a non-party with respect to a case pending before the judge, then the clerk of the court or the judge must:

- (a) preserve the writing among the documents in the case to which the communication is related;
- (b) send a copy of the writing to all parties, if that has not already occurred; and
- (c) take such other action as the court deems appropriate.

Proposed Official Comment

This rule encompasses all forms of written communications, including electronic communications. Communications “sent to” a judge are communications that are directed to a judge (individually or collectively with other judges), and the term does not include communications directed to a broad audience such as newspaper editorials, billboards, and non-specific posts on social media. Communications “received by” a judge are communications that are received *and* seen by the judge, and the term does not include communications that may have been technically received but are not seen by the judge. With respect to subsection (c), examples of actions the court might consider include (1) a letter informing the parties that they may respond to the communication, or (2) a response to the sender of the communication.

Note to the Committee:

The Subcommittee decided not to include a reference in the rule to Section 36.04 of the Texas Penal Code, but thought that the full Committee should be aware of the code provision:

(a) A person commits an offense if he privately addresses a representation, entreaty, argument, or other communication to any public servant who exercises or will exercise official discretion in an adjudicatory proceeding with an intent to influence the outcome of the proceeding on the basis of considerations other than those authorized by law.

(b) For purposes of this section, "adjudicatory proceeding" means any proceeding before a court or any other agency of government in which the legal rights, powers, duties, or privileges of specified parties are determined.

(c) An offense under this section is a Class A misdemeanor.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.