

## **Rule 45. Computing and Extending Time**

(a) COMPUTING TIME. The following rules apply in computing any time period specified in these rules, in any court order, or in any statute that does not specify a method of computing time.

(1) *Period Stated in Days or a Longer Unit.* When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(2) *Period Stated in Hours.* When the period is stated in hours:

(A) begin counting immediately on the occurrence of the event that triggers the period;

(B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and

(C) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(3) *Inaccessibility of the Clerk's Office.* Unless the court orders otherwise, if the clerk's office is inaccessible:

(A) on the last day for filing under Rule 45(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(B) during the last hour for filing under Rule 45(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(4) *"Last Day" Defined.* Unless a different time is set by a statute, rule or court order, the last day ends at midnight in the court's time zone.

(5) *"Next Day" Defined.* The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(6) *"Legal Holiday" Defined.* "Legal holiday" means:

(A) the day set aside by statute for observing New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, District of Columbia Emancipation Day, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, or Christmas Day; and

(B) any day declared a holiday by the President or Congress, or observed as a holiday by the court.

(b) EXTENDING TIME.

(1) *In General.* When an act must or may be done within a specified period, the court on its own may extend the time, or for good cause may do so on a party's motion made:

(A) before the originally prescribed or previously extended time expires; or

(B) after the time expires if the party failed to act because of excusable neglect.

(2) *Exception.* The court may not extend the time to take any action under Rule 35, except as stated in that rule.

(c) ADDITIONAL TIME AFTER CERTAIN KINDS OF SERVICE. Whenever a party must or may act within a specified time after being served and service is made in the manner provided under Rule 49(a)(3)(C), (D), and (F), 3 days are added after the period would otherwise expire under Rule 45(a).

#### COMMENT TO 2024 AMENDMENTS

Subsection (a)(6)(A) has been amended to include District of Columbia Emancipation Day and Juneteenth National Independence Day in the definition of legal holiday.

#### COMMENT TO 2020 AMENDMENTS

The cross-references to Civil Rule 5 have been updated to reflect the new filing and service provisions found in Criminal Rule 49.

#### COMMENT TO 2017 AMENDMENTS

This rule is identical to *Federal Rule of Criminal Procedure 45*, as amended in 2009 and 2016, except for 1) deletion of reference to local rules and 2) modification of subsection (a)(6)(B) to include holidays observed by the court, which made federal subsection (a)(6)(C) inapplicable. As explained in the Advisory Committee Notes to the federal rule, the 2009 federal amendments were intended to simplify and clarify the process for computing deadlines.

#### COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002, and to conform to a change in paragraph (c) of the federal rule in 2007. It is substantially identical to the federal rule. It retains a distinction, now in subparagraph (a)(3), that permits an extra day for computing time when the clerk's office is actually closed.

In subparagraph (a)(4)(B), the phrase "or observed as a holiday by the court" was added to account for local holidays, such as District of Columbia Emancipation Day, that are observed by the court.

Subparagraph (b)(2) includes a change made to the federal rule in 2005. In that year, *Federal Rule 45* was amended to conform to contemporaneous changes made to *Federal Rules 29* (Motion for Judgment of Acquittal), *33* (New Trial) and *34* (Arresting Judgment), removing the requirement that the court act within seven days on motions for enlargement of time.

The subject matter of former paragraph (d), concerning the timing of written motions and affidavits, is addressed in Rule 47. That paragraph has been deleted from this rule.