

1 **NRAP 26 – Proposed**
2 **(Adopt federal rule in (a) with edits, retain existing (b),**
3 **retain existing (c) with edits, and retain existing (d))**

4 **Rule 26. Computing and Extending Time**

5 (a) **Computing Time.** The following rules apply in computing any time
6 period specified in these rules, in any ~~local rule or~~ appellate court order, or in any
7 statute that does not specify a method of computing time.

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

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

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

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

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

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

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

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

24 (3) **Inaccessibility of the Clerk's Office.** Unless the court orders

1 otherwise, if the clerk’s office is inaccessible:

2 (A) on the last day for filing under Rule 26(a)(1), then the time for
3 filing is extended to the first accessible day that is not a Saturday, Sunday, or legal
4 holiday; or

5 (B) during the last hour for filing under Rule 26(a)(2), then the
6 time for filing is extended to the same time on the first accessible day that is not a
7 Saturday, Sunday, or legal holiday.

8 (4) **“Last Day” Defined.** Unless a different time is set by a statute,
9 ~~local rule~~, or court order, the last day ends:

10 (A) for electronic filing ~~in the district court under the Nevada~~
11 Electronic Filing and Conversion Rules, at ~~midnight~~ 11:59 p.m. in the court’s ~~time~~
12 zone local time; and

13 (B) ~~for electronic filing in the court of appeals, at midnight in the~~
14 ~~time zone of the circuit clerk’s principal office;~~

15 ~~_____ (C) for filing under Rules 4(~~de~~)(1), 25(a)(2)(~~B~~), and 25(a)(2)(~~CB~~)(ii)~~
16 ~~and (iii) and filing by mail under Rule 13(a)(2)_____~~ at the latest time for the method
17 chosen for delivery to the post office, third-party commercial carrier, or prison
18 mailing system;

19 ~~_____ (C) for filing via the Supreme Court drop box, when the Supreme~~
20 ~~Court building in Las Vegas is scheduled to close; and~~

21 (D) for filing by other means, when the clerk’s office is scheduled
22 to close.

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

1 measured before an event.

2 (6) **“Legal Holiday” Defined.** “Legal holiday” means:

3 ~~(A) the any day set aside as a legal holiday by statute NRS 236.015~~
4 ~~for observing New Year’s Day, Martin Luther King Jr.’s Birthday, Washington’s~~
5 ~~Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’~~
6 ~~Day, Thanksgiving Day, or Christmas Day;~~

7 ~~(B) any day declared a holiday by the President or Congress; and~~

8 ~~(C) for periods that are measured after an event, any other day~~
9 ~~declared a holiday by the state where the district court is located.~~

10 (b) **Extending Time.**

11 (1) **By Court Order.**

12 (A) For good cause, the court may extend the time prescribed by
13 these Rules or by its order to perform any act, or may permit an act to be done after
14 that time expires. But the court may not extend the time to file a notice of appeal
15 except as provided in Rule 4(c).

16 (B) Except as otherwise provided in these Rules, counsel may, on
17 or before the due date sought to be extended, request by telephone a 14-day extension
18 of time for performing any act except the filing of a notice of appeal. If good cause is
19 shown, the clerk may grant such a request by telephone or by written order of the
20 clerk. The grant of an extension of time to perform an act under this Rule will bar
21 any further motion for additional extensions of time to perform the same act unless
22 such a motion, which must be in writing, demonstrates extraordinary and compelling
23 circumstances.

24 (2) **By Stipulation.** Except as otherwise provided in these Rules, or

1 when not otherwise controlled by statute, the time prescribed by these Rules to
2 perform any act may be extended once for appellant(s) and once for respondent(s) by
3 stipulation of the parties. No stipulation extending time is effective unless approved
4 by the court or a justice or judge thereof; and such stipulations must be filed before
5 expiration of the time period that is sought to be extended.

6 (c) **Additional Time After Service.** When a party is required or permitted
7 to act within a prescribed period after a paper is served on that party, 3 ~~ealendar~~
8 days are added to the prescribed period unless the paper is delivered on the date of
9 service stated in the proof of service ~~or unless the party being served is a registered~~
10 ~~user of the electronic filing system.~~ For purposes of this Rule 26(c), a paper that is
11 served electronically is treated as delivered on the date of service stated in the proof
12 of service, which must be the date on which the document was electronically
13 submitted to the electronic filing system. Specific due dates set by a court order or
14 acts required to be taken within a time period set forth in ~~thea court~~ order are not
15 subject to ~~this~~ the additional 3-day allowance.

16 (d) **Shortening Time.** Except as otherwise provided in these Rules, or when
17 not otherwise controlled by statute, the time prescribed by these Rules to perform
18 any act may be shortened by stipulation of the parties, or by order of the court or a
19 justice or judge.

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22 **ADVISORY COMMITTEE NOTE—2017 AMENDMENT**

23 The federal time calculations in FRAP 26(a) have been adopted for time
24 calculations in Nevada, consistent with the time calculations in NRCP 6(a). The time-
computation provisions apply only when a time period must be computed, not when

1 a fixed time to act is set. NRAP 26(a)(1) addresses the computation of time periods
2 stated in days, weeks, months, or years. The directive to “count every day” is relevant
3 only if the period is stated in days (not weeks, months or years).

4 Under NRAP 26(a)(1), all deadlines stated in days are computed in the same
5 way. To compensate for the shortening of time periods previously expressed as less
6 than 11 days by the directive to count intermediate Saturdays, Sundays, and legal
7 holidays, many of those periods have been lengthened. In general, periods of time of
8 5 days or less were lengthened to 7 days, and periods of time between 6 and 15 days
9 were set to 14 days. Time periods of 16 to 20 days were set to 21 days, and periods
10 longer than 30 days were retained without change. The use of 7, 14, and 21-day
11 periods enables “day-of-the-week” counting; for example, if a motion was filed and
12 served on Wednesday with 7 days to respond, the opposition would be due the
13 following Wednesday, absent the application of rules providing for additional time to
14 respond.

15 NRAP 26(a)(6) is different from the federal rule and reflects Nevada’s state
16 holidays specified in NRS 236.015. Statutory and rule-based timelines subject to this
17 rule may not be changed concurrently with this rule. If a reduction in the times to
18 respond under those statutes and rules results, an extension of time may be
19 warranted to prevent prejudice.

20 NRAP 26(b), (c), and (d) retain the existing NRAP rules, with modifications to
21 NRAP 26(c) to clarify that electronic filing does not trigger an additional 3 days to
22 respond and that the time to respond is counted from the date that the document
23 was submitted to the electronic filing system. As stated in the comment to NRCP 6,
24 electronic filing has been synchronized across all Nevada rules to eliminate rules

1 providing for an additional 3 days to respond after electronic service and remove any
2 traps for the unwary. To the extent that electronic service after business hours, or
3 just before or during a weekend or holiday, results in a practical reduction of the time
4 available to respond, an extension of time may be warranted to prevent prejudice.

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