

Rule 45. Clerk's Duties

(a) General Provisions.

- (1) **Qualifications.** The circuit clerk must take the oath and post any bond required by law. Neither the clerk nor any deputy clerk may practice as an attorney or counselor in any court while in office.
- (2) **When Court Is Open.** The court of appeals is always open for filing any paper, issuing and returning process, making a motion, and entering an order. The clerk's office with the clerk or a deputy in attendance must be open during business hours on all days except Saturdays, Sundays, and legal holidays. A court may provide by local rule or by order that the clerk's office be open for specified hours on Saturdays or on legal holidays other than New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

(b) Records.

- (1) **The Docket.** The circuit clerk must maintain a docket and an index of all docketed cases in the manner prescribed by the Director of the Administrative Office of the United States Courts. The clerk must record all papers filed with the clerk and all process, orders, and judgments.
- (2) **Calendar.** Under the court's direction, the clerk must prepare a calendar of cases awaiting argument. In placing cases on the calendar for argument, the clerk must give preference to appeals in criminal cases and to other proceedings and appeals entitled to preference by law.
- (3) **Other Records.** The clerk must keep other books and records required by the Director of the Administrative Office of the United States Courts, with the approval of the Judicial Conference of the United States, or by the court.

(c) Notice of an Order or Judgment. Upon the entry of an order or judgment, the circuit clerk must immediately serve a notice of entry on each party, with a copy of any opinion, and must note the date of service on the docket. Service on a party represented by counsel must be made on counsel.

(d) Custody of Records and Papers. The circuit clerk has custody of the court's records and papers. Unless the court orders or instructs otherwise, the clerk must not permit an original record or paper to be taken from the clerk's office. Upon disposition of the case, original papers constituting the record on appeal or review must be returned to the court or agency from which they were received. The clerk must preserve a copy of any brief, appendix, or other paper that has been filed.

Local Rule 45. Dismissals for Failure to Prosecute.

When an appellant in either a docketed or non-docketed appeal fails to comply with the Federal Rules of Appellate Procedure or the rules or directives of this Court, the clerk shall notify the appellant or, if appellant is represented by counsel, appellant's counsel that upon the expiration of 15 days from the date thereof the appeal will be dismissed for want of prosecution, unless prior to that date appellant remedies the default. Should the appellant fail to comply within said 15-day period, the clerk shall then enter an order dismissing said appeal for want of prosecution, and shall issue the mandate. In no case shall the appellant be entitled to reinstate the case and remedy the default after the same shall have been dismissed under this rule, unless by order of this Court for good cause shown. The dismissal of an appeal shall not limit the authority of this Court, in an appropriate case, to take disciplinary action against defaulting counsel.

I.O.P.-45.1. Clerk's Office.

The Clerk's Office is located on the fifth floor of the United States Courthouse Annex in Richmond, Virginia, and is open from 8:30 a.m. to 5:00 p.m. every weekday, except federal holidays. All correspondence concerning cases pending before the Court should be addressed to:

*Clerk, United States Court of Appeals
for the Fourth Circuit
1100 East Main Street, Suite 501
Richmond, Virginia 23219-3517
Telephone 804/916-2700*

-45.2. Public Information.

The Court's opinions, rules, procedures, forms, and argument calendar are available at www.ca4.uscourts.gov. Docket information is also available at www.ca4.uscourts.gov to users with a log-in name and password for the Judiciary's PACER system (Public Access to Court Electronic Records). Information concerning the status of appeals and the operation of rules and procedures may be obtained from the Clerk's Office by telephone inquiry. Matters of public record may be reviewed upon request at the Clerk's Office and case documents may be transmitted to the district court for review by counsel upon proper application to the Clerk's Office.

Local Rule 45 amended December 1, 1995, December 1, 1998, and April 1, 2008.

Former I.O.P.-45.3 rescinded December 1, 1995.

I.O.P. -45.2 amended December 1, 2002.