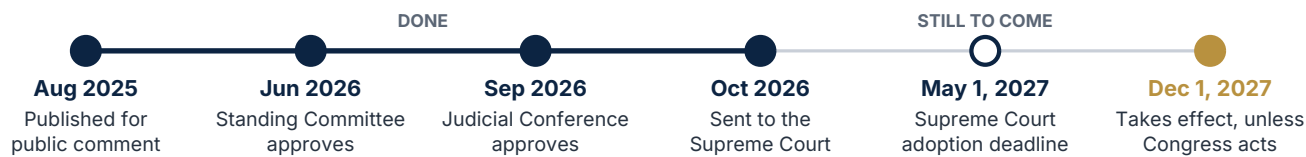


FEDERAL RULES OF CIVIL PROCEDURE

Federal Subpoenas by Mail: The Rule 45 Changes Coming in 2027

Approved amendments to Federal Rule of Civil Procedure 45 would let a subpoena be served by U.S. mail or commercial carrier, add a 14-day notice period, and let witness fees be paid when the witness appears. They are not in effect yet. Here is what changes, when, and what to do until then.

Not in effect yet. The Judicial Conference of the United States approved the amendments in September 2026 and sent them to the U.S. Supreme Court. If the Court adopts them by May 1, 2027, and Congress does not act, they take effect on **December 1, 2027**. Until then, the current Rule 45 applies. For cases already pending then, the Supreme Court decides how far the new rule applies (28 U.S.C. § 2074(a)).



RULE 45(b)(1)

Four ways to serve a subpoena

Today the rule says serving a subpoena “requires delivering a copy to the named person,” and courts have disagreed about whether that means hand delivery. The amendment lists the methods that count. Any person who is at least 18 and not a party can still serve a subpoena.

METHOD	WHAT THE AMENDED RULE ALLOWS
1. Personal delivery	Delivering a copy to the named person personally.
2. Left at home	Leaving a copy at the person’s dwelling or usual place of abode with someone of suitable age and discretion who resides there. This is the same standard Rule 4(e)(2)(B) uses for a summons.
3. Mail or commercial carrier	Sending a copy to the person’s last known address by a U.S. mail or commercial-carrier method that confirms actual receipt by the named person or by a resident described in method 2.
4. Court-approved method	Another means the court authorizes for good cause that is reasonably calculated to give notice. The committee note says good cause ordinarily requires trying the other methods first.

ALSO IN RULE 45(b)(1)

Two more changes to service

- **14 days' notice.** A subpoena that requires attendance at a trial, hearing, or deposition must be served at least 14 days before the date the person is commanded to attend, unless the court orders otherwise. Today the rule sets no advance notice for the witness.
- **Witness fees.** The fees for one day's attendance and mileage can be tendered at service or at the time and place the person is commanded to appear. Today they must be tendered with service. Fees still need not be tendered when the subpoena issues on behalf of the United States.

RULE 45(c) AND RULE 26(a)(3)

Remote trial testimony

A new Rule 45(c)(2) says the place of attendance for remote testimony is the location where the person is commanded to appear in person. A witness can then be subpoenaed to testify remotely from a place within the usual 100-mile limits of where they live or work, even when the courtroom is farther away. The court still decides whether to allow remote testimony. A companion change to Rule 26(a)(3) requires pretrial disclosures to say whether each witness's testimony is expected to be in person or remote.

FOR YOUR OFFICE

What to do now, and what changes in 2027

- **Until December 1, 2027, plan on personal service.** The current rule still requires delivering a copy to the named person and, for attendance, tendering one day's fees and mileage with service. Because courts disagree on whether anything less than hand delivery works, personal service is the safe choice.
- **Mail will count only with the right signature.** Receipt has to be confirmed by the named person or by a resident of suitable age at the person's home. A signature from a front desk, a mailroom, or a coworker would not meet that test. The rule doesn't say whether mail service is complete when sent or when received, so count the 14 days from the confirmed receipt date.
- **Build in the 14 days.** Once the change takes effect, deposition, hearing, and trial subpoenas need to be served at least 14 days ahead. If a witness is hard to reach, start service earlier.
- **Record who received it at the home.** When a subpoena is left at the witness's home, the server should record the person's name and confirm they live there and are of suitable age.
- **Proof and notice do not change.** When needed, the server files a certified statement showing the date and manner of service and the names of the persons served (Rule 45(b)(4)), and document subpoenas still need notice to the parties before service (Rule 45(a)(4)).
- **State court subpoenas are not affected.** California subpoenas follow the Code of Civil Procedure.

Need a federal subpoena served?

Our registered process servers serve subpoenas from any federal court throughout California at our process serving rates, and we can prepare the subpoena for a California federal case. Visit directlegal.com/federal-subpoena-service or call (800) 675-5376.

This update is general information, not legal advice. Direct Legal Support, Inc. is not a law firm.

SOURCES

Full article: directlegal.com/federal-rule-45-subpoena-service-2027. Report to the Judicial Conference, September 2026 (Rule 45 text in Appendix D): uscourts.gov. Memorandum to the Clerk of the Supreme Court, October 20, 2026: uscourts.gov. Pending Rules and Forms Amendments: uscourts.gov. Current Rule 45: law.cornell.edu.