

Rule 6. Discharge From Residential Placement

(a) Discharge by director of facility. If the director of a facility determines, based upon consideration of the results of an annual comprehensive evaluation, that continued residential care of an individual is no longer advisable, the director shall file with the Court a notice of intention to discharge. The notice of intention to discharge a resident committed pursuant to D.C. Code § 7-1304.06a (2003 Supp.) shall be filed at least 30 days prior to the proposed discharge. The Court shall thereafter send a copy of this notice to the resident, the resident's parent or guardian, attorney and advocate, and the Office of the Attorney General. The notice shall inform the resident, the resident's parent or guardian, attorney, and advocate, and the Office of the Attorney General, in cases in which the resident is committed pursuant to D.C. Code § 7-1304.06a (2003 Supp.), of their right to a hearing pursuant to D.C. Code § 7-1303.10 (2003 Supp.) and subparagraph (a)(1) of this rule.

(1) If the resident, his or her parent or guardian, attorney, or advocate object to the discharge, he or she may file with the Court a petition requesting a hearing. The petition must be filed no later than 10 days after receipt of the director's notice of intention to discharge. The Court shall thereafter schedule a hearing and provide notice thereof to all parties. If the Court finds that residential care is no longer advisable, the Court shall order the resident discharged.

(2) If a petition for a hearing is not filed pursuant to subparagraph (a)(1) of this rule, the Court shall promptly notify the director of the facility that no objection to the discharge has been filed.

(b) Discharge upon request of resident. A resident committed to a mental retardation facility may seek discharge from the facility any time after reaching his or her 14th birthday by filing a written request for discharge. The Court shall mail a copy of this request to the director of the facility, the Office of the Attorney General, the resident's parent or guardian, attorney, and advocate. If the Court determines that a hearing is required on the issue of the resident's competence to seek discharge, the Court shall schedule one promptly. If the Court concludes at this hearing that the resident is competent to request discharge, it shall order the resident discharged.

(c) Discharge upon request of parent or guardian. A parent or guardian who petitioned for the commitment, may seek discharge of a committed resident by filing with the Court a written request for such discharge. The Court shall schedule a hearing concerning the discharge.

COMMENT

Rule 6 (c) has been amended to ensure, in accordance with D.C. Code § 7-1303.08 (2003 Supp.) that the Court consults with the committed resident, his or her counsel, and his or her advocate to determine whether the resident consents to the release that his or her parent or guardian has requested.