

Rule P. Sealing of Records

(a) Right to have records sealed. Consistent with D.C. Code § 16-2335, a child shall be entitled to have his or her records sealed if:

(1) The child has been adjudged neglected and has since reached majority or has been legally adopted;

(2) Two years have elapsed since the final discharge of the child from legal custody or supervision, or since the entry of any other Court order not involving custody or supervision and the child has not subsequently been convicted of a crime or adjudicated delinquent or in need of supervision and no proceeding is pending seeking such conviction or adjudication.

(b) Notification of right to seal. The Juvenile Branch shall send notice of eligibility to seal to the child and his or her attorney at the time the dispositional order is entered and again at the time of the child's final discharge from supervision, treatment, or custody. The notice shall specify the procedures to be followed in having records sealed. A copy of the notification shall be kept in the court jacket and an appropriate docket entry made.

(c) Initiation of sealing procedures. A child who is eligible to have records sealed may file with the Court a motion to seal and proposed order to seal. The motion shall state the basis upon which the sealing is proposed and the time limit for filing opposition to the sealing. The order shall direct the sealing of the child's records and set forth the legal effect of the order and the penalty for noncompliance with the order, pursuant to D.C. Code § 16-2335(a).

(d) Motion to seal. Upon the filing of a motion to seal and proposed order to seal, the Court shall send copies of the motion and proposed order to:

(1) The Office of the Attorney General;

(2) The authority granting the discharge, if the final discharge was from an institution, parole, or probation;

(3) The law enforcement agency having custody of the files and records as specified in D.C. Code § 16-2333; and

(4) The child's parents or legal guardians.

Each named recipient shall have 45 days from the date of mailing to contest the motion to seal.

(e) Procedures if sealing is not contested. If no opposition to sealing has been received by persons or agencies listed in paragraph (d) of this rule within 45 days after the filing of the motion to seal and proposed order to seal records:

(1) The Court shall enter an order instructing the Clerk in the Branch Office to seal all Family Court records concerning the child.

(2) Except where the record is a medical record in the possession of a medical facility, the persons or agencies receiving notice under paragraph (d) of this rule shall seal all records pertaining to the cases listed in the motion without further action by the Court.

(f) Procedures if sealing is contested. Any person or agency opposing the sealing of records shall file an opposition in writing with the Clerk of the Branch Office within 45 days after mailing of the motion and proposed order to seal. The opposition may be accompanied by a request for hearing.

(1) If the opposition is not accompanied by a request for hearing, the Clerk shall submit the case to the assigned judge.

(A) If the judge concludes that a hearing is required, the Clerk shall proceed in accord with subparagraph (f)(2) of this rule.

(B) If the judge concludes that sealing should be denied, he or she shall enter a written order setting forth the reasons for denial, and the Clerk of the Branch Office shall mail a copy of the denial to the child and his or her attorney.

(C) If the judge concludes that sealing should be granted, an order of sealing shall be prepared and distributed to all persons and agencies referred to in paragraph (d) of this rule. This order shall set forth the legal effects of sealing and the penalty for non-compliance with sealing.

(2) If a request for a hearing on sealing is timely filed with the Court or is initiated by the assigned judge, the Clerk shall set the matter within 45 days after the request and shall mail notice of the hearing to all persons and agencies notified pursuant to paragraph (d) of this rule.

(A) Content of notice. Notice to the child shall advise him or her of the right to representation by counsel at the hearing and of the right to appointment of counsel by the Court if he or she is indigent.

(B) Conduct of hearing. In hearings conducted under this subparagraph, the rules of evidence governing fact-finding hearings shall apply. The burden of proof shall be on the person or agency opposing the sealing to show by the preponderance of the evidence that the child is not eligible for sealing of records.

(C) Rulings and orders. All rulings and orders of the Court on sealing of records shall be in writing. If sealing is granted, a written order shall be prepared and served personally or by mail on persons and agencies enumerated in paragraph (d) of this rule. If the sealing is denied, a written order of denial setting forth the reasons shall be prepared and served personally or by mail on the persons and agencies enumerated in paragraph (d) of this rule.

(g) Unsealing of records.

(1) Pursuant to D.C. Code § 16-2335(e), an adjudication of delinquency or need of supervision or conviction of a felony subsequent to sealing shall have the effect of nullifying the vacating and sealing order. In order to initiate proceedings to unseal records the Office of the Attorney General shall file a motion and proposed order with the assigned judge requesting unsealing and specifying that the Clerk of the Juvenile Branch provide to the Office of the Attorney General the name(s) of the attorney(s) of record in the sealed case(s) so that the attorneys may be served with a copy of the motion and signed order.

(2) Procedures if unsealing is not contested.

(A) If no opposition to the unsealing has been received by the Office of the Attorney General within 45 days after mailing of the motion to unseal and proposed order, the order shall become final and the Office of the Attorney General shall bring the signed order to the Clerk, who shall immediately unseal the records.

(B) The Clerk shall notify all parties as outlined in paragraph (d) of this Rule that the records have been unsealed and shall return any records received from those parties along with a copy of the unsealing order.

(3) Procedures if unsealing is contested.

(A) Within 45 days after mailing of the motion and proposed order to unseal, any person opposing the unsealing shall file an opposition in writing with the Clerk and shall serve a copy upon the Office of the Attorney General.

(B) The motion to unseal shall be heard by the assigned judge. Upon granting of the motion to unseal, the signed order shall be brought to the Clerk who shall immediately unseal the records.

(C) The Clerk shall then proceed pursuant to subparagraph (g)(2)(B) of this rule.

(4) Waiver of time limits. For good cause shown, upon motion of the Office of the Attorney General or upon the Court's own motion, and following notice to all parties, the Court may waive the 45 day time period for formal entry of an unsealing order and order juvenile records unsealed at an earlier time.

(h) Destruction of Court paper records. When a record is sealed, the microfilm copy shall be retained for 10 days past the date of the individual's 25th birthday. The Court paper copy shall be shredded.

(i) Sealing upon the Court's own motion. Pursuant to D.C. Code § 16-2335, the Court may file a motion to seal records, in accordance with the procedures specified in this Rule.