

1 **10-360. Discharge hearing.**

2 A. **Discharge hearing.** The last review or permanency hearing held before the child’s
3 eighteenth birthday shall be a discharge hearing.

4 B. **Notice.** The department shall be responsible for obtaining a setting for the
5 discharge hearing and shall give notice of the discharge hearing to all other parties and any other
6 persons as required by law.

7 C. **Conduct of hearing and required findings.** At the discharge hearing, the court
8 shall

9 (1) review the transition plan;

10 (2) determine whether the department has made reasonable efforts to

11 (a) provide written information concerning the child’s family history
12 and the whereabouts of any sibling, if appropriate;

13 (b) provide education and health records to the child;

14 (c) provide the child’s social security card, certified birth certificate,
15 state-issued identification card, death certificate of a parent, proof of citizenship or residence, and
16 official documentation that the child was in foster care to the child;

17 (d) assist the child in obtaining Medicaid if the child is eligible; and

18 (e) refer the child for a guardianship or limited guardianship if the child
19 is incapacitated; and

20 (3) make a finding of whether the child has decided to participate in the
21 fostering connections program and whether the child has been provided an opportunity to develop
22 a voluntary services and support agreement.

1 D. **Continued jurisdiction past the child’s eighteenth birthday.** If the court finds
2 that the department has not made reasonable efforts to meet all the requirements of Paragraph
3 (C)(2) of this rule and that termination of jurisdiction would be harmful to the child, the court may
4 continue to exercise its jurisdiction in the abuse or neglect case for a period not to exceed one (1)
5 year from the child’s eighteenth birthday, as long as the child consents to the court’s continued
6 jurisdiction. The court may dismiss the case at any time after the child’s eighteenth birthday for
7 good cause.

8 [Provisionally adopted by Supreme Court Order No. 21-8300-006, effective November 12, 2021.]

9 **Committee commentary.** — This rule uses “child” throughout to mirror statutory
10 language, but the Committee recognizes that this rule impacts youth, those older children who are
11 closer to the age of eighteen (18).

12 This rule implements hearing requirements for youth imposed by the Abuse and Neglect
13 Act and by the Fostering Connections Act, Articles 4 and 26 of the Children’s Code, respectively.
14 Paragraph D addresses the continued jurisdiction of the children’s court over an abuse and neglect
15 case involving a youth who has reached the age of eighteen (18) only when the department has
16 failed to make reasonable efforts to provide the information, documents, and assistance required
17 by NMSA 1978, Section 32A-4-25.3 and 8.10.9.17 NMAC.

18 Paragraph D of this rule does not address the jurisdiction or procedures of the Fostering
19 Connections Act for eligible adults beyond the age of eighteen (18). *See* Article 8 of the Children’s
20 Court Rules and Forms and *see generally* NMSA 1978, §§ 32A-26-1 to -12.

21 For Indian children, in addition to the information listed in Paragraph (C)(2), it is best
22 practice to provide the Indian child’s tribal membership documents, contact information for the

CHILDREN'S COURT RULES
RULE 10-360
[NEW MATERIAL]

Supreme Court Approved
September 28, 2021

- 1 tribe and the ICWA worker, the child's clan relationships, and the child's genogram or ancestry
- 2 chart.
- 3 [Provisionally adopted by Supreme Court Order No. 21-8300-007, effective November 12, 2021.]