

Rules of Procedure of Judicial Inquiry Commission

Rule 16.

Deferral of impairment cases.

A. If the commission finds during the course of an investigation that there is cause to believe that any misconduct specified in the complaint was the result of alcohol, drug, or substance abuse, addiction, or a mental or emotional disorder, the commission and the judge may agree that the judge undergo confidential evaluation through the Alabama Lawyers Assistance Program ("ALAP"). Should the evaluation reveal the existence of a condition for which treatment through ALAP is appropriate, the commission may thereafter enter into a diversion agreement with the judge under which resolution of the complaint is deferred upon the condition that the judge participate in the professional treatment, counseling, after-care, and/or other assistance program recommended in the ALAP evaluation. Every diversion agreement shall be reduced to writing, shall provide for periodic reporting by ALAP to the commission regarding the judge's compliance or noncompliance, and shall be signed by the judge and the chairman of the commission. A copy of the agreement will be given to the judge; the original shall be maintained in the commission's file. Upon the judge's satisfactory completion of the agreed treatment, counseling, or other assistance program, the commission may dismiss the complaint or take other appropriate action. If the commission finds the judge is noncompliant with treatment or has otherwise failed to successfully complete the agreed program, the commission may reopen the deferred matter.

B. All statements made by or for a judge in the course of discussions or negotiations with the commission regarding referral to ALAP or in the course of his or her involvement in or assessment by ALAP, including statements made in connection with any evaluation, treatment, counseling, or after-care, shall be privileged and inadmissible as either substantive evidence or impeachment evidence against the judge.

[Amended eff. 2-1-2009.]

Note from the reporter of decisions: The order amending the Rules of Procedure of the Judicial Inquiry Commission, effective February 1, 2009, is published in that volume of *Alabama Reporter* that contains Alabama cases from 996 So.2d.