

Alabama Rules of Disciplinary Procedure

Rule 17.

Subpoena power, witnesses, and pre-trial proceedings.

(a) *Power to Subpoena and Administer Oaths.* In matters under investigation or in any disciplinary proceeding, a Disciplinary Hearing Officer, the Disciplinary Board, the Disciplinary Commission, General Counsel, and a local grievance committee authorized by Rule 7 of these Rules may administer oaths and affirmations and compel by subpoena the attendance of witnesses and the production of relevant books, papers, and documents. Subpoenas shall be issued by the Disciplinary Clerk of the Alabama State Bar, by a Disciplinary Hearing Officer, a member of a Disciplinary Board or the Disciplinary Commission, or by the chair of a local grievance committee. A subpoena shall clearly indicate on its face that the subpoena is issued in connection with a confidential proceeding under these Rules, and that it is regarded as contempt of the Disciplinary Board or the Disciplinary Commission, punishable by a court or grounds for discipline under these Rules, for a person subpoenaed to breach in any way the confidentiality of the proceedings. It shall not be regarded as a breach of confidentiality for a person subpoenaed to consult with an attorney.

(b) *Enforcement.* A circuit court may, upon proper application, enforce the attendance and testimony of a witness and the production of any document so subpoenaed. Subpoena and witness fees and mileage reimbursement shall be the same as in the circuit court in civil cases, unless otherwise provided by the Board of Bar Commissioners.

(c) *Attack on Subpoena.* An attack on a subpoena issued pursuant to this rule shall be heard and determined by the Disciplinary Board or by the court in which enforcement of the subpoena is being sought.

(d) *Discovery.* Discovery proceedings shall be conducted in accordance with the Alabama Rules of Civil Procedure.

(e) *Conference to Obtain Admission or Otherwise Narrow Issues.* Upon the request of either General Counsel or the respondent, a Disciplinary Hearing Officer or the chair of the Disciplinary Commission may be order a conference for the purpose of obtaining admissions or otherwise narrowing the issues presented by the pleadings. The conference may be held before the Disciplinary Hearing Officer or the chair of the Disciplinary Commission or any member of the Disciplinary Board or Disciplinary Commission designated by the Disciplinary Hearing Officer or by the chair of the Disciplinary Commission.

(f) *Taking of Testimony.* With the approval of the Disciplinary Hearing Officer or the chair of the Disciplinary Commission, testimony may be taken by deposition and used pursuant to the provisions of Rule 32(a)(3), Alabama Rules of Civil Procedure.

Additionally, at the discretion of the Disciplinary Hearing Officer or the chair of the Disciplinary Commission, testimony may be taken by telephone or video conferencing.

(g) *Confidentiality*. The subpoena and deposition procedures shall be subject to the protective requirements of confidentiality provided in Rule 30, Alabama Rules of Disciplinary Procedure.

[Amended eff. 8-1-2000; Amended 9-20-2016, eff. 1-1-2017.]

Note from the reporter of decisions: The order amending Rule 17, effective August 1, 2000, is published in that volume of *Alabama Reporter* that contains Alabama cases from 753 So.2d.

Note from the reporter of decisions: The order amending Rule 8(a) and (b), Rule 10(a) and (b), Rule 17(f), Rule 18, Rule 26(h)(2), Rule 28(e), and Appendix A, Ala. R. Disc. P., effective January 1, 2017, is published in that volume of *Alabama Reporter* that contains Alabama cases from ___ So. 3d.