

Alabama Rules of Appellate Procedure

Rule 16.

Court sitting in divisions.

(a) *Authority.* The Supreme Court may sit, hear, consider and determine causes and exercise all of its powers and jurisdictions, in divisions of five judges, such divisions to be constituted from time to time by the Chief Justice, who, as far as practicable, shall be a member of all divisions; and any division of which it is impracticable for the Chief Justice to be a member shall be presided over by one of the Associate Justices in such division who has the longest service on the bench.

(b) *Concurrences necessary.* The concurrence of five justices in the determination of any cause shall be necessary and sufficient thereto, except when, by reason of disqualification the number of justices competent to sit therein is reduced, in which event the concurrence of a majority of the justices sitting shall suffice; but, in no event, may a cause be determined unless at least four justices sitting shall concur therein.

(c) *Dissents.* When there is dissent in a division upon any material question, the same shall be considered and determined by the court as a whole.

(d) *Courts of appeals to sit in divisions.* The courts of appeals may sit in divisions or panels; provided, the presiding judge shall be, as far as practicable, a member of each division. Every division or panel shall be constituted by at least a majority of the membership of each court of appeals. When there is dissent in a division or panel upon any material question, the same shall be considered and determined by the court as a whole, but, in no event, may a cause be determined unless a majority of the court concurs.

Committee Comments

This derives from Title 13, §§ 11 and 14. It carries forward the prior practice of the Supreme Court sitting in divisions for so long as it continues necessary.

Provision is made for the courts of appeal to sit in divisions. The determination whether to sit in divisions is left to each individual court of appeals.