



**FEDERAL RULES OF EVIDENCE
ARTICLE 4: RELEVANCE AND ITS LIMITS
[ALL-IN-ONE DOCUMENT]**

Article 4
Relevance and its Limits

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RULES OF EVIDENCE | FEDERAL

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RULE 401 | TEST FOR RELEVANT EVIDENCE

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

(As amended Apr. 26, 2011, eff. Dec. 1, 2011.)



RULE 402 | GENERAL ADMISSIBILITY OF RELEVANT EVIDENCE

Relevant evidence is admissible unless any of the following provides otherwise:

- the United States Constitution;
- a federal statute;
- these rules; or
- other rules prescribed by the Supreme Court.

Irrelevant evidence is not admissible.

(As amended Apr. 26, 2011, eff. Dec. 1, 2011.)

RULE 403 | EXCLUDING RELEVANT EVIDENCE FOR PREJUDICE, CONFUSION, WASTE OF TIME, OR OTHER REASONS

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

(As amended Apr. 26, 2011, eff. Dec. 1, 2011.)



RULE 404 | CHARACTER EVIDENCE; CRIMES OR OTHER ACTS

(a) CHARACTER EVIDENCE.

(1) *Prohibited Uses.* Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

(2) *Exceptions for a Defendant or Victim in a Criminal Case.* The following exceptions apply in a criminal case:

(A) a defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it;

(B) subject to the limitations in Rule 412, a defendant may offer evidence of an alleged victim's pertinent trait, and if the evidence is admitted, the prosecutor may:

(i) offer evidence to rebut it; and

(ii) offer evidence of the defendant's same trait; and

(C) in a homicide case, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

(3) *Exceptions for a Witness.* Evidence of a witness's character may be admitted under Rules 607, 608, and 609.

(b) CRIMES, WRONGS, OR OTHER ACTS.

(1) *Prohibited Uses.* Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) *Permitted Uses; Notice in a Criminal Case.* This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. On request by a defendant in a criminal case, the prosecutor must:



(A) provide reasonable notice of the general nature of any such evidence that the prosecutor intends to offer at trial; and

(B) do so before trial – or during trial if the court, for good cause, excuses lack of pretrial notice.

(As amended Mar. 2, 1987, eff. Oct. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 17, 2000, eff. Dec. 1, 2000; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 26, 2011, eff. Dec. 1, 2011.)



RULE 405 | METHODS OF PROVING CHARACTER

(a) BY REPUTATION OR OPINION. When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct.

(b) BY SPECIFIC INSTANCES OF CONDUCT. When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.

(As amended Mar. 2, 1987, eff. Oct. 1, 1987; Apr. 26, 2011, eff. Dec. 1, 2011.)



RULE 406 | HABIT; ROUTINE PRACTICE

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

(As amended Apr. 26, 2011, eff. Dec. 1, 2011.)



RULE 407 | SUBSEQUENT REMEDIAL MEASURES

When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove:

- negligence;
- culpable conduct;
- a defect in a product or its design; or
- a need for a warning or instruction.

But the court may admit this evidence for another purpose, such as impeachment or – if disputed – proving ownership, control, or the feasibility of precautionary measures.

(As amended Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 26, 2011, eff. Dec. 1, 2011.)

RULE 408 | COMPROMISE OFFERS AND NEGOTIATIONS

(a) PROHIBITED USES. Evidence of the following is not admissible – on behalf of any party – either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

(1) furnishing, promising, or offering – or accepting, promising to accept, or offering to accept – a valuable consideration in compromising or attempting to compromise the claim; and

(2) conduct or a statement made during compromise negotiations about the claim – except when offered in a criminal case and when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative, or enforcement authority.

(b) EXCEPTIONS. The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

(As amended Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 26, 2011, eff. Dec. 1, 2011.)

RULE 409 | OFFERS TO PAY MEDICAL AND SIMILAR EXPENSES

Evidence of furnishing, promising to pay, or offering to pay medical, hospital, or similar expenses resulting from an injury is not admissible to prove liability for the injury.

(As amended Apr. 26, 2011, eff. Dec. 1, 2011.)



RULE 410 | PLEAS, PLEA DISCUSSIONS, AND RELATED STATEMENTS

(a) PROHIBITED USES. In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:

- (1) a guilty plea that was later withdrawn;
- (2) a nolo contendere plea;
- (3) a statement made during a proceeding on either of those pleas under Federal Rule of Criminal Procedure 11 or a comparable state procedure; or
- (4) a statement made during plea discussions with an attorney for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

(b) EXCEPTIONS. The court may admit a statement described in Rule 410(a) (3) or (4):

- (1) in any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or
- (2) in a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

(As amended Pub. L. 94–149, § 1(9), Dec. 12, 1975, 89 Stat. 805; Apr. 30, 1979, eff. Dec. 1, 1980; Apr. 26, 2011, eff. Dec. 1, 2011.)

RULE 411 | LIABILITY INSURANCE

Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. But the court may admit this evidence for another purpose, such as proving a witness's bias or prejudice or proving agency, ownership, or control.

(As amended Mar. 2, 1987, eff. Oct. 1, 1987; Apr. 26, 2011, eff. Dec. 1, 2011.)



RULE 412 | SEX-OFFENSE CASES: THE VICTIM'S SEXUAL BEHAVIOR OR PREDISPOSITION

(a) PROHIBITED USES. The following evidence is not admissible in a civil or criminal proceeding involving alleged sexual misconduct:

(1) evidence offered to prove that a victim engaged in other sexual behavior; or

(2) evidence offered to prove a victim's sexual predisposition.

(b) EXCEPTIONS.

(1) *Criminal Cases*. The court may admit the following evidence in a criminal case:

(A) evidence of specific instances of a victim's sexual behavior, if offered to prove that someone other than the defendant was the source of semen, injury, or other physical evidence;

(B) evidence of specific instances of a victim's sexual behavior with respect to the person accused of the sexual misconduct, if offered by the defendant to prove consent or if offered by the prosecutor; and

(C) evidence whose exclusion would violate the defendant's constitutional rights.

(2) *Civil Cases*. In a civil case, the court may admit evidence offered to prove a victim's sexual behavior or sexual predisposition if its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. The court may admit evidence of a victim's reputation only if the victim has placed it in controversy.

(c) PROCEDURE TO DETERMINE ADMISSIBILITY.

(1) *Motion*. If a party intends to offer evidence under Rule 412(b), the party must:

(A) file a motion that specifically describes the evidence and states the purpose for which it is to be offered;

(B) do so at least 14 days before trial unless the court, for good cause, sets a different time;

(C) serve the motion on all parties; and

(D) notify the victim or, when appropriate, the victim's guardian or representative.

(2) *Hearing.* Before admitting evidence under this rule, the court must conduct an in camera hearing and give the victim and parties a right to attend and be heard. Unless the court orders otherwise, the motion, related materials, and the record of the hearing must be and remain sealed.

(d) DEFINITION OF "VICTIM." In this rule, "victim" includes an alleged victim.

(As added Pub. L. 95–540, § 2(a), Oct. 28, 1978, 92 Stat. 2046, eff. Nov. 28, 1978; amended Pub. L. 100–690, title VII, § 7046(a), Nov. 18, 1988, 102 Stat. 4400; Apr. 29, 1994, eff. Dec. 1, 1994; Sept. 13, 1994, eff. Dec. 1, 1994; Apr. 26, 2011, eff. Dec. 1, 2011.)

RULE 413 | SIMILAR CRIMES IN SEXUAL-ASSAULT CASES

(a) PERMITTED USES. In a criminal case in which a defendant is accused of a sexual assault, the court may admit evidence that the defendant committed any other sexual assault. The evidence may be considered on any matter to which it is relevant.

(b) DISCLOSURE TO THE DEFENDANT. If the prosecutor intends to offer this evidence, the prosecutor must disclose it to the defendant, including witnesses' statements or a summary of the expected testimony. The prosecutor must do so at least 15 days before trial or at a later time that the court allows for good cause.

(c) EFFECT ON OTHER RULES. This rule does not limit the admission or consideration of evidence under any other rule.

(d) DEFINITION OF "SEXUAL ASSAULT." In this rule and Rule 415, "sexual assault" means a crime under federal law or under state law (as "state" is defined in 18 U.S.C. § 513) involving:

- (1) any conduct prohibited by 18 U.S.C. chapter 109A;
- (2) contact, without consent, between any part of the defendant's body – or an object – and another person's genitals or anus;
- (3) contact, without consent, between the defendant's genitals or anus and any part of another person's body;
- (4) deriving sexual pleasure or gratification from inflicting death, bodily injury, or physical pain on another person; or
- (5) an attempt or conspiracy to engage in conduct described in subparagraphs (1)–(4).

(As added Pub. L. 103–322, title 4XII, § 320935(a), Sept. 13, 1994, 108 Stat. 2136, eff. July 9, 1995; amended Apr. 26, 2011, eff. Dec. 1, 2011.)



RULE 414 | SIMILAR CRIMES IN CHILD-MOLESTATION CASES

(a) PERMITTED USES. In a criminal case in which a defendant is accused of child molestation, the court may admit evidence that the defendant committed any other child molestation. The evidence may be considered on any matter to which it is relevant.

(b) DISCLOSURE TO THE DEFENDANT. If the prosecutor intends to offer this evidence, the prosecutor must disclose it to the defendant, including witnesses' statements or a summary of the expected testimony. The prosecutor must do so at least 15 days before trial or at a later time that the court allows for good cause.

(c) EFFECT ON OTHER RULES. This rule does not limit the admission or consideration of evidence under any other rule.

(d) DEFINITION OF "CHILD" AND "CHILD MOLESTATION." In this rule and Rule 415:

- (1) "child" means a person below the age of 14; and
- (2) "child molestation" means a crime under federal law or under state law (as "state" is defined in 18 U.S.C. § 513) involving:
 - (A) any conduct prohibited by 18 U.S.C. chapter 109A and committed with a child;
 - (B) any conduct prohibited by 18 U.S.C. chapter 110;
 - (C) contact between any part of the defendant's body – or an object – and a child's genitals or anus;
 - (D) contact between the defendant's genitals or anus and any part of a child's body;
 - (E) deriving sexual pleasure or gratification from inflicting death, bodily injury, or physical pain on a child; or
 - (F) an attempt or conspiracy to engage in conduct described in subparagraphs (A)–(E).

(As added Pub. L. 103–322, title 4XII, § 320935(a), Sept. 13, 1994, 108 Stat. 2136, eff. July 9, 1995; amended Apr. 26, 2011, eff. Dec. 1, 2011.)



RULE 415 | SIMILAR ACTS IN CIVIL CASES INVOLVING SEXUAL ASSAULT OR CHILD MOLESTATION

(a) PERMITTED USES. In a civil case involving a claim for relief based on a party's alleged sexual assault or child molestation, the court may admit evidence that the party committed any other sexual assault or child molestation. The evidence may be considered as provided in Rules 413 and 414.

(b) DISCLOSURE TO THE OPPONENT. If a party intends to offer this evidence, the party must disclose it to the party against whom it will be offered, including witnesses' statements or a summary of the expected testimony. The party must do so at least 15 days before trial or at a later time that the court allows for good cause.

(c) EFFECT ON OTHER RULES. This rule does not limit the admission or consideration of evidence under any other rule.

(As added Pub. L. 103–322, title 4XII, § 320935(a), Sept. 13, 1994, 108 Stat. 2137, eff. July 9, 1995; amended Apr. 26, 2011, eff. Dec. 1, 2011.)



APPENDIX



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