

New Jersey Rules of Evidence

Article IV. Relevancy and its Limits

N.J.R.E. 401. Definition of “Relevant Evidence”

“Relevant evidence” means evidence having a tendency in reason to prove or disprove any fact of consequence to the determination of the action.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; amended September 16, 2019 to be effective July 1, 2020.

N.J.R.E. 402. Relevant Evidence Generally Admissible

All relevant evidence is admissible, except as otherwise provided in these rules or by law.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; amended September 16, 2019 to be effective July 1, 2020.

N.J.R.E. 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Except as otherwise provided by these rules or other law, the court may exclude relevant evidence if its probative value is substantially outweighed by the risk of:

- (a) Undue prejudice, confusing the issues, or misleading the jury; or
- (b) Undue delay, wasting time, or needlessly presenting cumulative evidence.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; punctuation and initial capitalization in paragraphs (a) and (b) amended September 16, 2019 to be effective July 1, 2020.

N.J.R.E. 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes Evidence

(a) Character Evidence. Evidence of a person’s character or character trait, including a trait of care or skill or lack thereof, is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait except:

(1) Character of Defendant in a Criminal Proceeding. Evidence of a pertinent trait of the defendant’s character offered by the defendant or by the prosecution to rebut it. Evidence of a pertinent trait of the defendant’s character offered by the defendant shall not be excluded under Rule 403;

(2) Character of Victim. Evidence of a pertinent trait of character of the victim of the crime offered by a defendant in a criminal proceeding or by the prosecution to rebut it, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;

(3) Character of Witness. Evidence of the character of a witness as provided in Rule 608.

(b) Other Crimes, Wrongs or Acts.

(1) Prohibited Uses. Except as otherwise provided by Rule 608(b), evidence of other crimes, wrongs, or acts is not admissible to prove a person's disposition in order to show that on a particular occasion the person acted in accordance with such disposition.

(2) Permitted Uses. This evidence may be admitted for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident when such matters are relevant to a material issue in dispute.

(c) Character and Character Trait in Issue. Evidence of a person's character or character trait is admissible when that character or trait is an element of a claim or defense.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; paragraphs (a) and (b) amended September 15, 2004 to be effective July 1, 2005; paragraph (b) amended September 12, 2006 to be effective July 1, 2007; paragraphs (a) and (b) captions and text amended, and paragraph (c) caption and text amended September 16, 2019 to be effective July 1, 2020.

N.J.R.E. 405. Methods of Proving Character

(a) Reputation, Opinion, or Conviction of Crime. When evidence of a person's character or character trait is admissible, it may be proved by evidence of the person's reputation, evidence in the form of opinion, or evidence of conviction of a crime which tends to prove the character or trait. Specific instances of conduct not the subject of a conviction of a crime shall be inadmissible under this paragraph.

(b) 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 specific instances of the person's conduct.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; paragraphs (a) and (b) captions and text amended September 16, 2019 to be effective July 1, 2020.

N.J.R.E. 406. Habit, Routine Practice

(a) Evidence, whether corroborated or not, of habit or routine practice is admissible to prove that on a specific occasion a person or organization acted in conformity with the habit or routine practice.

(b) Evidence of specific instances of conduct is admissible to prove habit or routine practice if evidence of a sufficient number of such instances is offered to support a finding of such habit or routine practice.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.

N.J.R.E. 407. Subsequent Remedial Measures

Evidence of remedial measures taken after an event is not admissible to prove that the event was caused by negligence or culpable conduct. However, evidence of such subsequent remedial conduct may be admitted as to other issues.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.

N.J.R.E. 408. Settlement Offers and Negotiations

When a claim is disputed as to validity or amount, evidence of statements or conduct by parties or their attorneys in settlement negotiations, with or without a mediator present, including offers of compromise or any payment in settlement of a related claim, is not admissible either to prove or disprove the validity or amount of the disputed claim. Such evidence shall not be excluded when offered for another purpose; and evidence otherwise admissible shall not be excluded merely because it was disclosed during settlement negotiations.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; amended September 15, 1998 to be effective July 1, 1999; amended September 16, 2019 to be effective July 1, 2020.

N.J.R.E. 409. Payment of Medical and Similar Expenses

Evidence of furnishing or offering or promising to pay medical, hospital, property damage, or similar expenses occasioned by an injury or other claim is not admissible to prove liability for the injury or claim.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; amended September 16, 2019 to be effective July 1, 2020.

N.J.R.E. 410. Inadmissibility of Pleas, Plea Discussions and Related Statements

(a) Prohibited Uses. Except as otherwise provided in this rule, evidence of:

(1) a guilty plea, which was later withdrawn; or

(2) any statement made in the course of that plea proceeding; or

(3) any statement made during plea negotiations when either no guilty plea resulted or a guilty plea was later withdrawn,

is not admissible in any civil or criminal proceeding against the person who made the plea or statement or who was the subject of the plea negotiations.

(b) Exceptions. The court may admit a statement described in Rule 410(a):

(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.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; paragraphs (a) and (b) amended, redesignated, and captions added September 16, 2019 to be effective July 1, 2020.

N.J.R.E. 411. Liability Insurance

Evidence that a person was or was not insured against liability is not admissible on the issue of that person's negligence or other wrongful conduct. Subject to Rule 403, this rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, control, bias, or prejudice of a witness.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993.