

New Jersey Rules of Evidence

Article VI - Witnesses

N.J.R.E 601. General Rule of Competency

Every person is competent to be a witness unless (a) the judge finds that the proposed witness is incapable of expression concerning the matter so as to be understood by the judge and jury either directly or through interpretation, or (b) the proposed witness is incapable of understanding the duty of a witness to tell the truth, or (c) except as otherwise provided by these rules or by law.

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

N.J.R.E. 602. Lack of Personal Knowledge

Except as otherwise provided by Rule 703 (bases of opinion testimony by experts), a witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the testimony of that witness.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; amended September 15, 2004 to be effective July 1, 2005.

N.J.R.E 603. Oath or Affirmation

Before testifying a witness shall be required to take an oath or make an affirmation or declaration to tell the truth under the penalty provided by law. No witness may be barred from testifying because of religious belief or lack of such belief.

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

N.J.R.E 604. Interpreters

The judge shall determine the qualifications of a person testifying as an interpreter. An interpreter shall be subject to all provisions of these rules relating to witnesses and shall take an oath or make an affirmation or declaration to interpret accurately.

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

N.J.R.E. 605. Restriction on Judge as Witness

The judge presiding at the trial may not testify as a witness in that trial. No objection need be made to preserve the point.

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

N.J.R.E. 606. Restriction on Juror as Witness

A member of the jury may not testify as a witness before the jury on which the juror is serving.

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

N.J.R.E. 607. Credibility and Neutralization

Except as otherwise provided by Rules 405 and 608, for the purpose of impairing or supporting the credibility of a witness, any party including the party calling the witness may examine the witness and introduce extrinsic evidence relevant to the issue of credibility, except that the party calling a witness may not neutralize the witness' testimony by a prior contradictory statement unless the statement is in a form admissible under Rule 803(a)(1) or the judge finds that the party calling the witness was surprised. A prior consistent statement shall not be admitted to support the credibility of a witness except to rebut an express or implied charge against the witness of recent fabrication or of improper influence or motive and except as otherwise provided by the law of evidence.

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

N.J.R.E. 608. Evidence of Character for Truthfulness or Untruthfulness and Evidence of Prior False Accusation

(a) The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, provided, however, that the evidence relates only to the witness' character for truthfulness or untruthfulness, and provided further that evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise. Except as otherwise provided by Rule 609 and by paragraph (b) of this rule, a trait of character cannot be proved by specific instances of conduct.

(b) The credibility of a witness in a criminal case may be attacked by evidence that the witness made a prior false accusation against any person of a crime similar to the crime with which defendant is charged if the judge preliminarily determines, by a hearing pursuant to Rule 104(a), that the witness knowingly made the prior false accusation.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; caption amended, text redesignated as paragraph (a) and amended, and new paragraph (b) adopted September 12, 2006 to be effective July 1, 2007.

N.J.R.E. 609. Impeachment by Evidence of Conviction of Crime

(a) In General

(1) For the purpose of affecting the credibility of any witness, the witness's conviction of a crime, subject to Rule 403, must be admitted unless excluded by the judge pursuant to Section (b) of this rule.

(2) Such conviction may be proved by examination, production of the record thereof, or by other competent evidence, except in a criminal case, when the defendant is the witness, and

- (i) the prior conviction is the same or similar to one of the offenses charged, or
- (ii) the court determines that admitting the nature of the offense poses a risk of undue prejudice to a defendant,

the State may only introduce evidence of the defendant's prior convictions limited to the degree of the crimes, the dates of the convictions, and the sentences imposed, excluding any evidence of the specific crimes of which defendant was convicted, unless the defendant waives any objection to the non-sanitized form of the evidence.

(b) Use of Prior Conviction Evidence After Ten Years

(1) If, on the date the trial begins, more than ten years have passed since the witness's conviction for a crime or release from confinement for it, whichever is later, then evidence of the conviction is admissible only if the court determines that its probative value outweighs its prejudicial effect, with the proponent of that evidence having the burden of proof.

(2) In determining whether the evidence of a conviction is admissible under Section (b)(1) of this rule, the court may consider:

- (i) whether there are intervening convictions for crimes or offenses, and if so, the number, nature, and seriousness of those crimes or offenses,
- (ii) whether the conviction involved a crime of dishonesty, lack of veracity or fraud,
- (iii) how remote the conviction is in time,
- (iv) the seriousness of the crime.

NOTE: Adopted September 15, 1992 to be effective July 1, 1993; text amended and designated as paragraph (a), paragraph (a) caption added, new paragraph (b) caption and text added September 16, 2013 to be effective July 1, 2014.

N.J.R.E. 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

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

N.J.R.E. 611. Mode and Order of Interrogation and Presentation

(a) *Control by court.* --The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) *Scope of cross-examination.* --Cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness. The court may, in the exercise of discretion, permit inquiry into additional matters as if on direct examination.

(c) *Leading questions.* --Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily, leading questions should be permitted on cross-examination. When a party calls an adverse party or a

witness identified with an adverse party, or when a witness demonstrates hostility or unresponsiveness, interrogation may be by leading questions, subject to the discretion of the court.

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

N.J.R.E. 612. Writing Used to Refresh Memory

Except as otherwise provided by law in criminal proceedings, if a witness while testifying uses a writing to refresh the witness' memory for the purpose of testifying, an adverse party is entitled to have the writing produced at the hearing for inspection and use in cross-examining the witness. The adverse party shall also be entitled to introduce in evidence those portions which relate to the testimony of the witness but only for the purpose of impeaching the witness. If it is claimed that the writing contains material not related to the subject of the testimony, the court shall examine the writing in camera and excise any unrelated portions. If the witness has used a writing to refresh the witness' memory before testifying, the court in its discretion and in the interest of justice may accord the adverse party the same right to the writing as that party would have if the writing had been used by the witness while testifying.

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

N.J.R.E. 613. Prior Statements of Witnesses

(a) *Examining witness concerning prior statement.* --In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown or its contents disclosed to the witness at that time. Upon request the statement shall be shown or disclosed to opposing counsel.

(b) *Extrinsic evidence of prior inconsistent statement of witness.* --Extrinsic evidence of a prior inconsistent statement made by a witness may in the judge's discretion be excluded unless the witness is afforded an opportunity to explain or deny the statement and the opposing party is afforded an opportunity to interrogate on the statement, or the interests of justice otherwise require. This rule does not apply to admissions of a party opponent as defined in Rule 803(b).

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

N.J.R.E. 614. Calling and Interrogation of Witnesses by Judge

The judge, in accordance with law and subject to the right of a party to make timely objection, may call a witness and may interrogate any witness.

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

N.J.R.E. 615. Sequestration of Witnesses

At the request of a party or on the court's own motion, the court may, in accordance with law, enter an order sequestering witnesses.

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