

Rule 26. Evidence

In every trial the testimony of witnesses must be taken in open court, unless otherwise provided by a statute or by these rules. The admissibility of evidence and the competency and privileges of witnesses shall be governed, except when a statute or these rules otherwise provide, by the principles of the common law as they may be interpreted by the courts in the light of reason and experience.

COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002. In addition, the 2002 amendments deleted the word “orally” to accommodate witnesses who are not able to present oral testimony.

The rule differs from the federal rule in two respects. The first sentence omits reference to the federal rule-making statutes. The second sentence is retained from the former Superior Court rule.