

**Notable Differences between the Delaware
Rules of Evidence and Federal Rules of Evidence**

Rules of the D.R.E. for Which There is No Corresponding F.R.E.
202, 301(b), 304, 503-09, 511-13, 613(c), 616, 801(d)(1)(C)

Rules of the F.R.E. for Which There is No Corresponding D.R.E.
302, 412, 413, 414, 415, 704(b), 804(a)(5)(B)

Rules of the D.R.E. that Vary from Corresponding F.R.E.	
D.R.E.	Difference from Corresponding F.R.E.
201(f)	Must request for the Court to instruct the jury to accept a noticed fact as conclusive
404(a)(2)(B)	Includes “except as otherwise provided by statute”
404(b)	Does not require pretrial notice of the prosecution’s intent to introduce evidence for a non-character purpose
410	Application against the “person,” rather than “defendant.” Does not address statements made “during plea discussions with an attorney for the prosecuting authority.”
510	Based on F.R.E. 502, not 510 (which does not exist)
608(a)	Includes “except as otherwise provided by statute”
609(a)	Requires a court determination of admissibility of a felony conviction
609(c)	Substitutes “felony” for “crime punishable by death or by imprisonment for more than one year”
615	“May,” instead of “must” in the first line
703	Includes “Upon objection” at the beginning of the last sentence
801(d)(1)(A)	Omits “and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition”
801(d)(1)(D)	Omits “as someone the declarant perceived earlier,” as in F.R.E. 801(d)(1)(C)

801(d)(2)(E)	Includes “provided that the conspiracy has first been established by the preponderance of the evidence to the satisfaction of the court”
803(5)	Includes “in the court’s discretion,” instead of “only if offered by an adverse party”
803(8)	Differently defines a public record and establishes specific exceptions to the hearsay rule, whereas the F.R.E. only require that “the opponent does not show that the source of information or other circumstances indicate a lack of trustworthiness”
803(22)(B)	Includes “a felony under the law pursuant to which the person was convicted,” instead of “a crime punishable by death or by imprisonment for more than a year”
804(a)(5)	Omits “in the case of a hearsay exception under Rule 804(b)(1) or (6),” as in F.R.E. 804(a)(5)(A), and “or testimony, in the case of a hearsay exception under Rule 804(b)(2), (3), or (4),” as in F.R.E. 804(a)(5)(B)