

**PROPOSED REVISIONS TO THE RULES OF EVIDENCE
PROPOSAL 2026-023**

March 6, 2026

The Rules of Evidence Committee has recommended adoption of new Rule 11-415 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed new rule set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's website at <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 5, 2026, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

[NEW MATERIAL]

11-415. Evidence of immigration status.

A. **Criminal or delinquency matters; evidence generally inadmissible.** In any criminal or delinquency matter, evidence of a party's or a witness's immigration status shall not be admissible unless immigration status is an essential fact to prove an element of, or a defense to, the offense, to show motive, or to show bias or prejudice of a witness pursuant to Rule 11-607. This paragraph shall not be construed to exclude evidence that would result in the violation of a defendant's or a juvenile's constitutional rights.

B. **Civil matters; evidence generally inadmissible.** In any civil matter, evidence of a party's or a witness's immigration status shall not be admissible unless immigration status is an essential fact to prove an element of, or a defense to, the action, or to show bias or prejudice of a witness pursuant to Rule 11-607.

C. **Procedure.** Unless a party did not know, and with due diligence could not have known, that evidence of immigration status would be necessary, the following procedure shall apply prior to any such proposed use of immigration status evidence:

- (1) The proponent shall file under seal and serve a written pretrial motion containing an offer of proof of the relevancy of the proposed evidence supported by an affidavit.
- (2) If the court finds that the offer of proof is sufficient, the court shall order an in camera hearing.

(3) The court may admit evidence of immigration status pursuant to paragraph A or paragraph B if it finds the evidence is reliable and relevant, and that its probative value outweighs the prejudicial nature of evidence of immigration status.

D. **Voluntary revelation.** This rule shall not prohibit a person, or the person's attorney, from voluntarily revealing his or her immigration status to the court.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary. – This rule is modeled after Pennsylvania Rule of Evidence 413.

[Adopted by Supreme Court Order No. _____.]



New Mexico Courts

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[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court

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Sun, Mar 15, 2026 at 2:47 PM

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Proposal Number Proposal 2026-023 – Exclusion of Immigration Status

Comment Evidence of immigration status is often important in civil cases involving claims for past or future lost wages or loss of earning capacity. For example, an expert opining on future loss of earning capacity can be properly cross-examined and impeached by inability to work lawfully in the United States. In addition, current case law provides that the cost of future medical care is only reasonable at the location it would ordinarily be rendered. The rule should exclude any limitation on evidence in situations where immigration status has been put at issue by presenting evidence of seeking damages for lost wages or future medical care. When lost wages and future medical care are not at issue, immigration status should be excluded. However, when a Plaintiff in civil litigation voluntarily chooses to place future earning potential or medical future treatment at issue, evidence should be allowed to impeach such contention including that Plaintiff has no lawful ability to work in the US or would be required to seek future medical treatment or care outside the US.