

Commonly Used Utah Rules of Evidence (URE)	Description	Significant Law
<b>URE 106</b>		
Complete writing or recorded statement	If fairness requires, court may allow complete statement to be offered if a portion is in evidence	This rule is limited to writings and does not cover out-of-court oral statements. When oral statements are recorded or transcribed, those recordings or transcriptions are subject to this rule. <i>State vs. Leleae</i> , 993 P2d 232 (1999).
<b>URE 401</b>		
Relevance	Two part analysis: 1) evidence which has “ <i>any tendency</i> ” to make a fact in the case more or less probable; and 2) the fact is of consequence in determining the case.	Previous URE used the language “material fact,” and thus the new rule with the language “fact is of consequence” is broader. <i>State vs. Peterson</i> , 560 P2d 1387 (1987)
<b>URE 403</b>		
Unduly Prejudicial or other listed things	Evidence is excluded if its probative value is “ <i>substantially</i> ” outweighed by prejudice, confusion, misleading the jury, undue delay, wasting time, cumulative.	To admit evidence, court must make findings on six issues: 1) Strength of the evidence offered; 2) Similarities between the evidence and the crime(s) at issue; 3) Time elapsed between evidence and crime(s) at issue; 4) Need for the evidence; 5) Efficacy of alternative proof; and 6) Whether evidence will rouse the jury to overmastering hostility. <i>State vs. Shickles</i> , 760 P2d 291 (1988)

<b>URE 404 (a)</b>		
Character Evidence and “Pertinent trait” Evidence of Defendant or Victim	Character evidence is generally not admissible, except that a Defendant may offer evidence of a “ <i>pertinent trait</i> ” of Defendant or victim.	Once Defendant offers pertinent trait evidence, a prosecutor may rebut that evidence. <u>State vs. Watts</u> , 639 P2d 158 (1981) If defense of entrapment is used, a prosecutor may rebut that defense with evidence of the Defendant’s “disposition to commit the crime.” <u>State vs. Hansen</u> , 588 P2d 164 (1978)
<b>URE 404 (b)</b>		
Other Acts Evidence	Other Acts outside of those acts related to crime(s) charged (Rule is intended to be Inclusionary)	“Reasonable notice” must be given by a prosecutor. Other acts are admissible to prove motive, opportunity, intent, plan, preparation, knowledge, identity, absence of mistake or accident, and etc. A limiting instruction may be given by the court. Court must make findings on three issues: 1) Is evidence offered for a proper non-character purpose? 2) Is the evidence relevant? And 3) Is the evidence admissible under URE 403? <u>State vs. Nelson-Waggoner</u> , 6 P3d 1120 (2000)
<b>URE 404 (c)</b>		
Similar Crimes in Child Molestation Cases	Any other acts of child molestation are admissible to prove a propensity to commit the crime(s) charged.	“Reasonable notice” must be given by a prosecutor. “Any other acts of child molestation” include any act committed upon a child under the age of 14 years which would be a sexual offense or attempt to commit a sexual offense.
<b>URE 602</b>		
Foundation for Witness Testimony	Witness may only testify about matter within his or her personal knowledge	Witness must have had the “opportunity” and capacity to perceive the events in question. Testimony should not be excluded because it is less than complete. <u>State v. Eldredge</u> , 773 P2.d 29 (1989)

URE 608		
Character re: Truthfulness of any witness	Opinion offered to prove untruthfulness or to prove truthfulness after character has been attacked	<p>This rule should be read with URE 405. The use of specific instances of the witness's conduct to show truthfulness is limited and only in allowed in under the discretion of the court.</p> <p>The use of specific instances during cross-examination of a character witness is allowed. <u>Michelson v. United States, 335 U.S. 469</u></p>
URE 609		
Impeachment by Criminal Conviction Of any witness	<p>Adult criminal conviction punishable by more than 1 year of incarceration is admissible if it is less than 10 years old; OR older if probative value outweighs prejudice and notice is given before use</p>	<p>Inquiry into past convictions should be limited to : the nature of the crime, the date of the conviction, and the punishment. <u>State v. Tucker, 800P.2d 819 (1990)</u></p> <p>The final judgment of conviction for a plea or guilty verdict is what should be used to determine the relevance for impeachment purposes. <u>State v. Duncan, 812 P.2d 60 (1991)</u></p> <p>Under 609(a)(2), Misdemeanor convictions are admissible if they were for crimes involving dishonesty or a false statement. <u>State v. Brown, 771 P.2d 1093 (1989)</u></p>
URE 611 a		
Harassing or embarrassing a witness	Court duty to prevent harassment or embarrassment of witness	<p>Judge has broad discretion to decide the latitude of cross-examination based on the facts and circumstances. <u>Terry v. Zions Coop. Mercantile Inst., 605 P.2d 314 (1979)</u></p> <p>If the cross-examination is material and relevant to a fact in issue raised by direct examination, the witness must answer even if the fact may degrade his character. <u>Jennings v. Stoker, 652 P.2d 912 (1982)</u></p>

<b>URE 611 b</b>		
Beyond the Scope	Examination is limited to the examination immediately preceding it except if permission of court is given for cross exam	Judge has broad discretion to decide the latitude of cross-examination based on the facts and circumstances. <i>Terry v. Zions Coop. Mercantile Inst., 605 P.2d 314 (1979)</i>
<b>URE 611 c</b>		
Leading	Leading questions are only allowed to lay foundation, during cross exam or when permission to lead granted by court	Judge has broad discretion to decide the latitude of cross-examination based on the facts and circumstances. <i>Terry v. Zions Coop. Mercantile Inst., 605 P.2d 314 (1979)</i>
<b>URE 701</b>		
Lay Opinion	Lay opinions are admissible if helpful and rationally based on witness perception	The fact that an issue might be capable of scientific determination does not make lay opinion inadmissible <i>State vs. Ellis, 748 P2d 188 (1987)</i>
<b>URE 702</b>		
Expert Opinion and Testimony	Testimony is admissible if witness has specialized knowledge, training or experience qualifies witness and will assist trier of fact. Trial court has “wide discretion.”	The admissible fields of knowledge are not limited to merely “scientific” and “technical,” but extend to all “specialized knowledge.” Expert may testify to educate the jury OR to apply knowledge and opinions to the facts of the case. Proponent of the evidence must make a “threshold showing” indicia of reliability of proposed expert testimony. <i>URE 702 Advisory Committee Note</i>

<b>URE 801</b>		
Hearsay	Statement, other than one made in court, offered to prove the truth of the matter asserted URE 801 (a)	<p>Non-hearsay listed in URE 801:</p> <p>1) Declarant's prior statement if: inconsistent with testimony;  b) declarant denies making statement; or c) declarant has forgotten matter; d) offered to prove recent fabrication;  e) identifies a person declarant perceived earlier;  OR 2) Statement of a party.</p>
<b>URE 803</b>		
Hearsay exceptions regardless of whether declarant is available to testify	Hearsay is inadmissible unless a listed exception applies	<p>Exceptions: Present sense impression; Excited utterance; Then-existing mental, emotional or physical condition; Statement made for medical diagnosis or treatment; Recorded recollection; Records of a regularly conducted activity; Absence of a record of a regularly conducted activity; Public records; Public records of vital statistics; Absence of a public record; Records of religious organizations concerning personal or family history; Certificates of marriage, baptism, and similar ceremonies; Family records; Records of documents that affect an interest in property; Statements in ancient documents; Statements in learned treatises periodicals, or pamphlets; Reputation concerning personal or family history; Reputation concerning character; judgment of a previous conviction; judgments involving personal, family, or general history or a boundary.</p>
<b>URE 804</b>		
Hearsay exceptions if declarant is unavailable to testify	Hearsay is inadmissible unless a listed exception applies	<p>Exceptions: Former testimony, Statement under the belief of imminent death; Statement against interest;  Statement of personal or family history.</p>

<b>URE 901</b>		
Foundation for Exhibit	Foundation is sufficient if evidence shows that exhibit is what it purports to be	Examples listed in URE 901: 1) Testimony by a witness with knowledge that item is what it is claimed to be; 2) Handwriting opinion; 3) Comparison by expert witness; 4) Distinctive characteristics; 5) Voice identification; 6) Telephone conversation; 7) Public Records; 8) Ancient documents; 9) Evidence about a process; 10) Methods provided by statute or rule.
<b>URE 902</b>		
Self Authenticating Documents	The listed items require no extrinsic evidence of authenticity in order to be admitted	Listed Items: 1) Signed and Sealed Public Documents; 2) Certified public documents; 3) Foreign Public Documents; 4) Certified public records; 5) Official publications of a public authority; 6) Newspapers and periodicals; 7) Trade inscriptions; 8) Acknowledged documents; 9) Commercial paper; 10) Presumptions under Federal law; 11) Certified domestic records of regularly conducted activities; 12) Certified foreign documents of regularly conducted activities.