

(3) it is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts; and

(4) admitting it will best serve the purposes of these rules and the interests of justice.

(b) *Notice*. The statement is admissible only if, before the trial or hearing, the proponent gives an adverse party reasonable notice of the intent to offer the statement and its particulars, including the declarant's name and address, so that the party has a fair opportunity to meet it.

Rule 901. Authenticating or Identifying Evidence

(a) *In General*. To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.

(b) *Examples*. The following are examples only – not a complete list – of evidence that satisfies the requirement:

(1) *Testimony of a Witness with Knowledge*. Testimony that an item is what it is claimed to be.

(2) *Nonexpert Opinion about Handwriting*. A nonexpert's opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

(3) *Comparison by an Expert Witness or the Trier of Fact*. A comparison with an authenticated specimen by an expert witness or the trier of fact.

(4) *Distinctive Characteristics and the Like*. The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.

(5) *Opinion about a Voice*. An opinion identifying a person's voice -- whether heard firsthand or through mechanical or electronic transmission or recording -- based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

(6) *Evidence about a Telephone Conversation*. For a telephone conversation, evidence that a call was made to the number assigned at the time to:

(A) a particular person, if circumstances, including self-identification, show that the person answering was the one called; or

(B) a particular business, if the call was made to a business and the call related to business reasonably transacted over the telephone.

(7) *Evidence about Public Records*. Evidence that:

(A) a document was recorded or filed in a public office as authorized by law; or

(B) a purported public record or statement is from the office where items of this kind are kept.

(8) *Evidence about Ancient Documents or Data Compilations*. For a document or data compilation, evidence that it:

(A) is in a condition that creates no suspicion about its authenticity;

(B) was in a place where, if authentic, it would likely be; and

(C) is at least 20 years old when offered.

(9) *Evidence about a Process or System*. Evidence describing a process or system and showing that it produces an accurate result.

(10) *Methods Provided by a Statute or Rule*. Any method of authentication or identification allowed by a federal statute, a rule prescribed by the Supreme Court, or an applicable regulation prescribed pursuant to statutory authority.

Rule 902. Evidence that Is Self-Authenticating

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

(1) *Domestic Public Documents that are Sealed and Signed*. A document that bears:

(A) a seal purporting to be that of the United States; any State, district, Commonwealth, territory, or insular possession of the United States; the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and

(B) a signature purporting to be an execution or attestation.

(2) *Domestic Public Documents that are Not Sealed but are Signed and Certified*. A document that bears no seal if:

(A) it bears the signature of an officer or employee of an entity named in subdivision (1)(A) above; and

- (B) another public officer who has a seal and official duties within that same entity certifies under seal – or its equivalent – that the signer has the official capacity and that the signature is genuine.
- (3) *Foreign Public Documents*. A document that purports to be signed or attested by a person who is authorized by a foreign country's law to do so. The document must be accompanied by a final certification that certifies the genuineness of the signature and official position of the signer or attester – or of any foreign official whose certificate of genuineness relates to the signature or attestation or is in a chain of certificates of genuineness relating to the signature or attestation. The certification may be made by a secretary of a United States embassy or legation; by a consul general, vice consul, or consular agent of the United States; or by a diplomatic or consular official of the foreign country assigned or accredited to the United States. If all parties have been given a reasonable opportunity to investigate the document's authenticity and accuracy, the military judge may, for good cause, either:
- (A) order that it be treated as presumptively authentic without final certification; or
 - (B) allow it to be evidenced by an attested summary with or without final certification.
- (4) *Certified Copies of Public Records*. A copy of an official record -- or a copy of a document that was recorded or filed in a public office as authorized by law -- if the copy is certified as correct by:
- (A) the custodian or another person authorized to make the certification; or
 - (B) a certificate that complies with subdivision (1), (2), or (3) above, a federal statute, a rule prescribed by the Supreme Court, or an applicable regulation prescribed pursuant to statutory authority.
- (4a) *Documents or Records of the United States Accompanied by Attesting Certificates*. Documents or records kept under the authority of the United States by any department, bureau, agency, office, or court thereof when attached to or accompanied by an attesting certificate of the custodian of the document or record without further authentication.
- (5) *Official Publications*. A book, pamphlet, or other publication purporting to be issued by a public authority.
- (6) *Newspapers and Periodicals*. Printed material purporting to be a newspaper or periodical.
- (7) *Trade Inscriptions and the Like*. An inscription, sign, tag, or label purporting to have been affixed in the course of business and indicating origin, ownership, or control.
- (8) *Acknowledged Documents*. A document accompanied by a certificate of acknowledgment that is lawfully executed by a notary public or another officer who is authorized to take acknowledgments.
- (9) *Commercial Paper and Related Documents*. Commercial paper, a signature on it, and related documents, to the extent allowed by general commercial law.
- (10) *Presumptions under a Federal Statute or Regulation*. A signature, document, or anything else that a federal statute, or an applicable regulation prescribed pursuant to statutory authority, declares to be presumptively or prima facie genuine or authentic.
- (11) *Certified Domestic Records of a Regularly Conducted Activity*. The original or a copy of a domestic record that meets the requirements of Mil. R. Evid. 803(6)(A)-(C), as shown by a certification of the custodian or another qualified person that complies with a federal statute or a rule prescribed by the Supreme Court. Before the trial or hearing, or at a later time that the military judge allows for good cause, the proponent must give an adverse party reasonable written notice of the intent to offer the record and must make the record and certification available for inspection so that the party has a fair opportunity to challenge them.

Rule 903. Subscribing Witness's Testimony

A subscribing witness's testimony is necessary to authenticate a writing only if required by the law of the jurisdiction that governs its validity.

Rule 1001. Definitions That Apply to This Section

In this section:

- (a) A "writing" consists of letters, words, numbers, or their equivalent set down in any form.
- (b) A "recording" consists of letters, words, numbers, or their equivalent recorded in any manner.
- (c) A "photograph" means a photographic image or its equivalent stored in any form.
- (d) An "original" of a writing or recording means the writing or recording itself or any counterpart intended to have the same effect by the person who executed or issued it. For electronically stored information, "original" means any printout or other output readable by sight if it accurately reflects the information. An "original" of a photograph includes the negative or a print from it.
- (e) A "duplicate" means a counterpart produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original.