



United States Code Annotated [Currentness](#)

Rules of Evidence for United States Courts and Magistrates ([Refs & Annos](#))

Article V. Privileges

→ **Rule 502. Attorney-Client Privilege and Work Product; Limitations on Waiver**

The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.

(a) Disclosure made in a Federal proceeding or to a Federal office or agency; scope of a waiver.--When the disclosure is made in a Federal proceeding or to a Federal office or agency and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information in a Federal or State proceeding only if:

- (1) the waiver is intentional;
- (2) the disclosed and undisclosed communications or information concern the same subject matter; and
- (3) they ought in fairness to be considered together.

(b) Inadvertent disclosure.--When made in a Federal proceeding or to a Federal office or agency, the disclosure does not operate as a waiver in a Federal or State proceeding if:

- (1) the disclosure is inadvertent;
- (2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and
- (3) the holder promptly took reasonable steps to rectify the error, including (if applicable) following [Federal Rule of Civil Procedure 26\(b\)\(5\)\(B\)](#).

(c) Disclosure made in a State proceeding.--When the disclosure is made in a State proceeding and is not the subject of a State-court order concerning waiver, the disclosure does not operate as a waiver in a Federal proceeding if the disclosure:

- (1) would not be a waiver under this rule if it had been made in a Federal proceeding; or
- (2) is not a waiver under the law of the State where the disclosure occurred.

(d) Controlling effect of a court order.--A Federal court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court--in which event the disclosure is also not a waiver in any other Federal or State proceeding.

(e) Controlling effect of a party agreement.--An agreement on the effect of disclosure in a Federal proceeding is

binding only on the parties to the agreement, unless it is incorporated into a court order.

(f) Controlling effect of this rule.--Notwithstanding [Rules 101](#) and [1101](#), this rule applies to State proceedings and to Federal court-annexed and Federal court-mandated arbitration proceedings, in the circumstances set out in the rule. And notwithstanding [Rule 501](#), this rule applies even if State law provides the rule of decision.

(g) Definitions.--In this rule:

(1) ‘attorney-client privilege’ means the protection that applicable law provides for confidential attorney-client communications; and

(2) ‘work-product protection’ means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.

CREDIT(S)

([Pub.L. 110-322](#), § 1(a), Sept. 19, 2008, 122 Stat. 3537.)

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