

In those cases where sexual misconduct has been alleged:

- (A) Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's sexual activity with the offender, and only to the extent that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.
- (B) Prior to taking testimony or receiving evidence of any sexual activity of the victim, the ~~attorney~~ hearing examiner shall resolve the admissibility of the proposed evidence in a closed hearing. The victim may be represented by counsel in that hearing or other proceedings to resolve the admissibility of evidence upon approval by the ~~attorney~~ hearing examiner.
- (C) Nothing in this rule shall be construed as limiting the authority of the hearing examiner to close a hearing as provided under paragraph (B) of rule 4731-13-03 of the Administrative Code.

Effective: 02/28/2004

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Certification

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Date

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