

4.01. Relevant Evidence

(1) Relevant evidence is evidence having any tendency to make the existence of any fact that is of consequence to the determination of the proceeding more probable or less probable than it would be without the evidence.

(2) All relevant evidence is admissible except as otherwise provided or required by the Constitution of the United States or the Constitution, statutes, or common law of New York State.

Note

Subdivision (1). Subdivision (1) defines the term “relevant evidence.” It is derived from *People v Davis* (43 NY2d 17, 27 [1977]). As observed by the Court of Appeals, under this definition the evidence must tend to prove a fact that is material in the litigation. (*People v Stevens*, 76 NY2d 833, 835 [1990] [Evidence “should not be admitted unless relevant to a material fact to be proved at trial”]; *People v Scarola*, 71 NY2d 769, 777 [1988] [“Evidence is relevant if it has any tendency in reason to prove the existence of any material fact”]; *People v Yazum*, 13 NY2d 302, 304 [1963] [“all that is necessary is that the evidence have relevance, that it tend to convince that the fact sought to be established is so. That it is equivocal or that it is consistent with suppositions other than guilt does not render it inadmissible”].)

Subdivision (2). Subdivision (2) is derived from *Ando v Woodberry* (8 NY2d 165, 167 [1960] [“(I)t is well to recall the principle, basic to our law of evidence, that ‘(a)ll facts having rational probative value are admissible’ unless there is sound reason to exclude them, unless, that is, ‘some specific rule forbids’ (1 Wigmore, Evidence [3d ed., 1940], p. 293). It is this general principle which gives rationality, coherence and justification to our system of evidence and we may neglect it only at the risk of turning that system into a trackless morass of arbitrary and artificial rules”]). The Court of Appeals has repeatedly referred to this “principle.” (*E.g. Scarola*, 71 NY2d at 777 [“In New York, the general rule is that all relevant evidence is admissible unless its admission violates some exclusionary rule”]; *People v Alvino*, 71 NY2d 233, 241 [1987]; *People v Lewis*, 69 NY2d 321, 325 [1987].)