



US Sailing

Judges' Manual for 2021-2024

Version Updated March 11, 2021

US Sailing is the national governing body for sailing. Our mission is to provide leadership, integrity and advancement for the sport. Founded in 1897 and headquartered in Bristol, RI, US Sailing is a 501(c)(3) non-profit organization.

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The *US Sailing Judges' Manual* was originally written by Jack H. Feller, Jr., and has been updated every four years in conjunction with the revision of *The Racing Rules of Sailing*. In addition to updating the manual for new and revised rules, we have endeavored to bring the manual up to date with the best practices in judging.

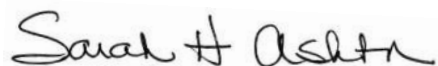
Over the years, some of our all-time best and most dedicated judges have made invaluable contributions. Just some of the key names that we will forever be indebted to include: Tony Jack, Ron Ward, John A. S. Brown, III, William Parks, Henry Chapman, John Drake Ross, Mark H. Baxter, Jim Beddow, Harry Anderson, Jr., F. Gregg Bemis and F. Gardner Cox. Also Tom Ehman, Jr., Evans Harrell, Harman Hawkins, Dave Lewis, George Rockwood, Glenn Russell, Donovan Smith, Theodore Tolson, Jr., Bill Bentsen, Mary Pera, Jim Capron and Joe Cochran. Also Brad Dellenbaugh, Art Engel, Barbara Farquhar, Tom Farquhar, Ann Newton, Mary Savage, Marty Ottenheimer, Burton Howell, Joe Krolak and John Siegel.

This 15th edition of the *Judges' Manual* was edited by members of the US Sailing Judges' Committee: Sarah Ashton, Wayne Balsiger, Edith Collins, Bruce Cook, Nancy Zangerle, Chris Luppens, Michael Gross, Michael Roth, Jim Walsh, Steve Schupak, Nancy Glover, Bruce Martinson, Mike Kaspar, Mary Pierce, Craig Daniels and Matt Hill. Mark Townsend updated Hearing procedures, added Rule 14 decision tree and the one hull length speed charts. Dick Rose provided timely information so we could get this update out on time.

The Judges' Committee would like to give special thanks and acknowledgement to Dave Perry (Chairman of the US Sailing Appeals Committee), Rob Overton (Chairman of the US Sailing Racing Rules Committee), and Matthew Hill (Race Administration Director), who provided many excellent recommendations for improvement in the 14th edition.

We are again able to provide an electronic copy of this edition to any US Sailing member without additional charge. To our members who have downloaded this manual, please respect that this document is a valuable benefit of being a US Sailing member and do not pass on the electronic copy to non-members. If your friends want an electronic copy of this manual, encourage them to join US Sailing so they can enjoy the manual as well as the many other benefits of membership.

We trust that you will find this manual informative and a valuable source for answers to your questions on judging and Judges' Committee procedures.



Sarah Ashton

Chair, US Sailing Judges' Committee
January 2021

Editors' Note

The *Judges' Manual for 2021-2024* is produced by the US Sailing Judges' Committee. Its purpose is to serve as a reference guide for certified judges, judges in training, umpires and other individuals who serve on protest committees. There is valuable information for others, including race committee members, competitors and individuals who simply want to know more about the protest process. This manual serves as the official study guide and textbook for the US Sailing judge seminars given under the auspices of the Judges' Committee.

This 15th edition of the Judges' Manual incorporates rule changes in *The Racing Rules of Sailing for 2021-2024, Including US Sailing Prescriptions*.

Please note that throughout this document, particularly in Chapter 13 – Resources, you will find references to web-based information. Much of this information can be found in the Judges section of the US Sailing website (judges.ussailing.org).

You are encouraged to provide comments, criticisms and suggestions that will improve the functionality and usefulness of this book to the email address below. The US Sailing Judges' Committee regularly revises and updates this manual, adding guidance for all judges to ensure consistent procedures and rules application, and gratefully accepts suggestions for improvement. Please send suggestions for enhancements, proposed topics or attachments to the editors, care of the Race Administration Director (raceadmin@ussailing.org).

Wayne Balsiger
US Sailing Judges' Committee Secretary
US Sailing Regional Judge
Seattle, Washington

Errata and Corrections

1. The Boat Speed table "Seconds to go One Hull Length" on page 105 has been corrected.
2. Under Scoring Redress the rule number has been updated to A9 from A10.

March 11, 2021
Wayne Balsiger
US Sailing Judges' Committee Vice Chair

Conventions Used in this Manual

- To be consistent with usage in the rulebook, the feminine gender is used when referring to a boat.
- In general, the term “rule” or “rules” refers to the racing rules in the *RRS*. When citing a rule, this manual will often provide the rule number or appendix letter, plus the title associated with the specific rule or appendix in parentheses. For example, “A protest committee is governed by the *rules* as described in rule 84 (Governing Rules).” When a rule is repeatedly referenced in a paragraph or section, the title is provided only with the first reference to the rule number. The reader should refer to the text of the applicable rule in the *RRS* when appropriate.
- US Sailing Appeals decisions are referred to as “Appeal” with the appropriate number. World Sailing Cases are referred to as “Case” with the appropriate number. Links to both the *US Sailing Appeals Book* and the *World Sailing Case Book* can be found on the US Sailing website (appeals.ussailing.org).
- The reader is referred to rules and US Sailing appeals and World Sailing cases throughout this manual and may find it useful to read the relevant rule and any applicable appeal or case in conjunction with the text of this manual.
- Words or phrases *in italicized type* are defined terms in the Definitions section of the *RRS*. For example, a sentence that includes “...is a *party* to...” should be interpreted to mean “...is a party (as defined in the *RRS*) to...” When the term is not italicized it has the meaning of common usage.
- In this manual we use the terms “protest committee” and “jury” interchangeably except where specifically noted. When the specific meaning is an International Jury as described in Appendix N (*International Juries*), we use the term “international jury.”
- In this manual we use the term “protest form”. The *RRS* in Part 5 notes the protest form in previous *RRS* editions has been replaced by two forms, a hearing request form and a hearing decision form.
- **Standard Abbreviations** – this manual regularly uses these abbreviations:

AAC.....association appeals committee	AC appeals committee
JC..... Judges’ Committee	NoR notice of race (per Appendices K & L)
OA..... organizing authority	PC protest committee
PRO..... principal race officer	RAJ Regional Administrative Judge
RC..... race committee	RRS..... <i>The Racing Rules of Sailing</i>
RSA..... regional sailing association	SI, SIs...sailing instruction(s)
TC..... technical committee	WS.....World Sailing

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1 – Introduction

Who is a Judge?

The term “judge” is generally applied to anyone who serves on a protest committee (PC). *The Racing Rules of Sailing (RRS)* define a PC. If the PC meets the requirements of Appendix N (International Juries) it is called an “international jury” or “jury.” These distinctions are described in rule 91 (Protest Committee).

For the most part, sailing is a self-policing sport, which means that competitors are expected to comply voluntarily with the rules and to protest when they think another competitor has broken the rules. The PC is the body designated under the RRS to resolve disputes between competitors, between a competitor and the RC, TC or PC and between a support person and the PC. It is also the body designated to resolve allegations that the RC or OA may have prejudiced a competitor’s results by failing to comply with the rules. The most important job that a judge has is to apply the rules fairly and consistently in making decisions. In general, the PC does not serve as a ‘policeman’ for an event; its job is mostly limited to resolving disputes brought before it.

Judges have other important functions to ensure that the event is fair to all competitors, such as reviewing the NoR and SIs or advising the RC on matters relating to the *RRS*.

Scope of Activities

The scope of a judge’s activities depends on the type and size of the event. The PC may be one or more judges appointed by the organizing authority (OA) or the RC to hear protests and redress requests and serve other functions.

For club races, the RC may appoint a PC after it has received a protest or request for redress. The PC may include RC members and other sailors from the club. Competitors who sailed in the same class as the boats involved in the protest or request for redress may have a conflict of interest and, if possible, should not serve on the PC considering the protest or request. However, rule 63.4 provides a procedure whereby the potential conflict can be disclosed and waived by the parties to the hearing.

At events where competitors come from outside the club or local area, the OA would be well advised to appoint a PC that is separate from and independent of the RC. This PC should generally not include any competitors from the event, although sailors may be part of the PC if they do not have a conflict of interest. It should include sailors and qualified judges from different clubs and, if possible, from outside the local area.

In events at higher levels, the OA may require that a majority be judges certified by US Sailing or international judges appointed by World Sailing. For large national and international events, the OA may appoint an international jury that has been properly constituted under Appendix N.

Part 5 (Protests, Redress, Hearings, Misconduct, and Appeals) provides rules and procedures for conducting hearings and resolving protests, requests for redress, allegations of rule breaches by

support persons and allegations of misconduct. Advisory guidelines for PCs can be found in Appendix M (Recommendations for Protest Committees).

Definitions

Listed below are commonly used terms and phrases with a brief explanation of their meanings.

Appeal

Most PC decisions are subject to appeal under rule 70 (Appeals and Requests to a National Authority). In the United States, such appeals are submitted to US Sailing, which refers most appeals initially to an association appeals committee (AAC). If the decision of the AAC is appealed further, it is then sent to the US Sailing Appeals Committee. See Part 5, Section D (Appeals) and Appendix R (Procedures for Appeals and Requests) in the *RRS*.

Area

One of 11 regions in the US that conducts US Sailing qualification events and sends the winners to national championships. Area officials also certify club-level judges and race officers after they have met US Sailing certification requirements.

Association Appeals Committee (AAC)

These committees consider and decide appeals of PC decisions at the first level. AACs are appointed by US Sailing Regional Sailing Associations (RSAs). However, an appeal or request arising from an event conducted under the procedural rules of the Inter-collegiate Sailing Association (ICSA) or the Interscholastic Sailing Association (ISSA) will be forwarded to the appropriate AAC for the ICSA or the ISSA.

US Sailing Appeals Committee

The US Sailing Appeals Committee considers and decides appeals, answers questions regarding interpretations of the *RRS*, reviews decisions of the AACs when requested, publishes selected decisions of the Appeals Committee, recommends changes in the *RRS* to the Racing Rules Committee, and submits US Sailing appeals for adoption as Cases by World Sailing.

International Jury (IJ)

A PC appointed by the OA that meets the requirements of Appendix N.

World Sailing (WS)

World Sailing is the international authority that governs the sport of sailboat racing. WS produces The Racing Rules of Sailing and publishes the World Sailing Case Book, authoritative interpretations of the racing rules. It comprises the member national authorities, class associations and other affiliated organizations. Among its responsibilities and programs are the training and certification of International Race Officials including International Judges, Umpires, Race Officers, Measurers, Classifiers and Technical Delegates.

Judge

A person who serves on a PC for an event. A US Sailing Judge has been certified by US Sailing, having met the qualifications described in Chapter 12 (US Sailing Judges Program) of this manual. An International Judge (IJ) is appointed by World Sailing.

Member National Authority (MNA)

An organization recognized by World Sailing that administers the sport of sailing in a country or political entity that has been granted status as an Olympic nation. US Sailing is the Member National Authority for the United States.

Organizing Authority (OA)

The entity that puts on an event. Under rule 89.1 (Organizing Authority), the OA may be World Sailing, an MNA, a club, a class association or other organization affiliated to a national authority, or another organization specified in the *rule*.

Principal Race Officer (PRO)

The PRO is the race official in charge of the activities of the RC on and off the water.

Protest

An allegation made under rule 61.2 by a boat, RC, TC or PC that a boat has broken a *rule*.

Protest Committee (PC)

A committee appointed by the OA or RC to hear protests and requests for redress. See rule 89.2 (Notice of Race; Appointment of Race Officials) and rule 91. All international juries (Appendix N) are also protest committees.

Race Committee (RC)

A committee appointed by the OA under rule 89.2(c) to run the event as provided in rule 90 and elsewhere in the RRS. As defined in Terminology in the Introduction, the RC includes any other person or committee performing a race committee function.

Regional Administrative Judge (RAJ)

A member of the Judges' Committee who administers the Judges Program for their US Sailing geographical area.

Request for Redress

A written request to the PC under rule 62 (Redress) from a boat, the RC or the TC to adjust the score(s) of one or more boats in a race or series. A PC may also call a hearing to consider redress for a boat. See rule 60 (Right to Protest; Right to Request Redress or Rule 69 Action).

Regional Sailing Association (RSA)

An association of sailing clubs within one of eleven geographical areas of the United States. There is usually more than one RSA per geographical area.

Technical Committee (TC)

A committee consisting of one or more persons appointed by the OA or RC under rule 92 or as prescribed in WS regulations to conduct equipment inspection and event measurement as directed by the organizing authority and as required by the *rules*. Event measurers and equipment inspectors are members of the technical committee. The technical committee may protest a boat, request redress for a boat, or make a report to the PC under rule 69.

Umpire

An official who makes decisions and imposes penalties on the water during a match or team race when the umpiring system is specified in the NoR and SIs. Appendix C (Match Racing Rules),

Appendix D (Team Racing Rules) and Appendix E (Radio Sailing Racing Rules) include descriptions of the functions of umpires. Umpires also may be used in certain fleet race events.

United States Sailing Association (US Sailing)

The Member National Authority for sailing in the United States. US Sailing has been recognized by the United States Olympic Committee (USOC) as the “national governing body” for sailing under the Ted Stevens Olympic and Amateur Sports Act. US Sailing is responsible for selecting the members of the US Olympic Sailing Team and receives significant funding for Olympic-path sailing from the USOC. The organization of US Sailing, including its directors, staff and volunteers, is described in detail on the US Sailing website (www.ussailing.org).

2 - Standards and Practices

On Being a Judge

US Sailing Judges are held to a high standard of behavior when they are judging and sailing, as well as in their daily lives. US Sailing expects that those who represent the Association will act with integrity at all times. Those who seek appointment as a US Sailing Judge should be aware of this expectation and be prepared to meet it.

Chapter 12 of this manual offers an overview of these standards and qualifications, which are regularly reviewed and updated by the Judges' Committee and may be found on the Judges pages of the US Sailing website (judges.ussailing.org). The standards describe what is expected of a judge and give RAJs objective criteria on which to base recommendations for certification and recertification.

Technical Qualifications and Skills

A judge must possess a wide range of technical qualifications and skills. Racing experience is critical since the hardest part of any protest hearing is determining what happened on the water. Generally, such experience cannot be taught and must be learned first-hand. Excellent knowledge of the *RRS* is also essential. This skill can be learned through study, but it is also important to have experience applying the right-of-way rules in practice as a competitor. A judge should have a firm understanding that a *rule* must be applied as written, consistent with its obvious intent, and should not substitute his or her own ideas about what would be fairest in the circumstances.

Other important qualifications include experience running races, English language proficiency and good physical health. The ability to find and write facts, run a hearing properly, and communicate effectively are also essential skills for a competent judge, as is the ability to handle small power boats when judging on the water at an event.

Personal Attributes

The most important attribute that every judge should possess is judicial temperament: the ability to treat each situation and competitor with fairness and impartiality. This should be second nature. Other personal attributes that a judge should possess are listed below. While these qualities can be found in most people, not everyone will possess them to the same degree. Some of the most important are integrity, maturity, honesty, open-mindedness, ability to work with others, reliability and objectivity. Judges must also exemplify excellent personal behavior, show respect for competitors, display sound reasoning abilities, be adept at considering multiple points of view, be able to maintain confidentiality and be capable of making reasoned decisions while under pressure. Most important, judges must keep in mind that the sailors are our customers, and that we are there to serve them and our sport.

A list of the personal attributes required for qualification as a US Sailing Club Judge, Regional Judge or National Judge is found in Chapter 12. All judges, certified or not, should strive to meet the highest standards in both personal and professional life.

Personal Conduct of Judges

The personal conduct of judges must be above reproach before, during and after an event. As highly visible representatives of US Sailing, judges must embody integrity and judicial temperament at all times. Judges are expected to be mature and temperate, moderate in their use of alcohol, judicious in their use of medications and in full control of their faculties. A judge must always defer drinking alcoholic beverages until all daily official duties are completed.

The PC chair must immediately dismiss a judge who engages in serious misconduct. If the Judges' Committee receives a report alleging inappropriate conduct by a US Sailing Judge, the Committee will investigate the report and may refer the matter to the US Sailing Review Board.

US Sailing Judges are subject to the US Sailing Code of Ethics described in section 14 of the US Sailing Regulations. In particular, section 14.04 of the regulations says:

14.04 Volunteers at US Sailing Events; Certified Officials at Any Event

Any individual involved in running an event organized or sanctioned by US Sailing; any individual selecting competitors to compete in an event organized by US Sailing or in the Olympic, Paralympic or Pan American Games; or any individual holding certification from US Sailing as a coach, instructor or race official, whether acting in the capacity for which they hold certification or otherwise, shall:

- A. avoid conflicts of interest, whether actual or perceived;
- B. subordinate his or her personal and individual interests to the interests of the sport of sailing and the competitors therein;
- C. apply and enforce the rules in a fair and even-handed manner; and
- D. respect the right of all competitors in the sport of sailing to fair and equal treatment, free from discrimination or harassment of any kind.

Relationships with Competitors

Judges must not only be fair but must also be perceived to be fair in their relations with competitors. While PC members can and should mix with competitors during social events and should be seen frequently on the dock and at other event venues, relations with competitors must be generally reserved during an event. It is common for judges to have close personal friendships with some of the competitors, but they must treat each competitor in a similar manner, regardless of their personal relationships.

Judges should never express an opinion concerning the relative abilities of competitors, speculate on the outcome of races or regattas, or participate in wagers of any kind (see WS Regulation 37, Betting and Anti-Corruption Code). Only the PC chair should make remarks concerning official business, and only on appropriate occasions. Deliberations of the PC are confidential and must be treated as such.

Competitors frequently ask judges for their opinions about rules situations. Judges must respond carefully to avoid being critical of an action or misleading about a situation for which they do not have all the facts. In response to a question from a competitor about a real or hypothetical question, a judge could say "I wasn't there, so I don't have both sides of the story, but if the facts are..., then the *rules* that apply are..."

3 – Organization and Authority

Authority and Responsibility

The PC derives its authority from the *RRS*. The OA may, in some cases, provide specific instructions extending the responsibilities and authority of the PC. The responsibility for conducting races rests with the RC. The PC and RC are expected to work together harmoniously to provide the best possible competition for the sailors.

Status of Protest Committees

- Rule 91(a) describes a committee appointed by the OA or the RC.
- Rule 91(b) describes what requirements must be met for an international jury. These are prescribed in the World Sailing Regulations and in Appendix N of the *RRS*.
- The US Sailing Judges' Committee has subdivided the above categories into Class A, Class B and Class C:
 - Class A: a PC appointed by the RC and available for consultation at the request of the RC. This PC is normally limited to hearing *protests* and requests for redress.
 - Class B: a PC appointed by the OA and separate from and independent of the RC. This committee, usually referred to as a jury, hears *protests* and requests for redress and may have additional responsibilities specified in the governing conditions or regulations or in the SIs.
 - Class C: a properly constituted international jury appointed by the OA under Appendix N. It hears *protests* and requests for redress and accepts other responsibilities as directed by the OA under rule N2. See rule 91(b).

Either the RC or an OA may appoint the PC, but neither has the right to direct the PC or change the PC's decision.

The PC has the authority to interpret and apply the *RRS* and government regulations. This may include the International Regulations for Preventing Collisions at Sea (IRPCAS; commonly known as COLREGS) when the sailing instructions state that those replace the *rules* of Part 2 (see the preamble to Part 2 of the *RRS*). SIs must be considered carefully and worded clearly when referring to government regulations because the PC may have to interpret the requirements.

Obligations of the Organizing Authority

The OA must decide who will appoint the PC for an event and whether it will have any responsibilities other than hearing *protests* and requests for redress. It is rarely wise to give the PC responsibility to supervise the RC. Unless the OA specifies otherwise in writing, all race management decisions are the responsibility of the RC.

Purpose of a Protest Committee

The function of a PC is to ensure the fairness of the competition and the proper application of the *rules*. The functions of the PC do not in any way replace the functions of the RC. The RC and PC should work together as a team. A good working relationship between the PC and RC will encourage the RC to seek desired input from the PC. The PC may also advise the RC if it sees or anticipates any situations that will impact the safety of the competitors or the fairness of the competition.

While a good relationship between the RC and the PC is of great importance, judges and race officers must take care to maintain a professional association with their counterparts in the view of the competitors. If the PC and RC are constantly seen to be close and casual, competitors may find it hard to believe that, in cases of requests for redress, the RC has not influenced the PC.

Composition of a Protest Committee

A PC usually consists of three to five members, but the *rules* do not prohibit a PC consisting of one judge (see Appeal 42). A minimum of three qualified judges is recommended. An international jury is composed of at least five members. The size and composition of an international jury is specified in Appendix N.

Protest committees holding a hearing under rule 69 (Misconduct) must consist of at least three judges. Because of the sensitive nature of such a hearing, all the judges in a rule 69 hearing should, if possible, be highly experienced and be US Sailing Judges. Chapter 10 (Misconduct Hearings) of this manual provides guidance for these hearings.

When more than one panel of judges is needed for an event, panels may be seated in groups of three or five. Although an odd number on the PC is desirable to avoid tied votes, the PC chair may be given a casting vote in the event of a tie vote in a panel with an even number of judges. A PC larger than five members tends to operate slowly.

At higher-level events, the PC chair should be a US Sailing Regional Judge or National Judge whenever possible. Other members of the PC should be a mix of certified and uncertified judges. Even when there is an ample supply of certified judges, every PC should try to include, if possible, at least one qualified but uncertified judge so that the trainee will have the opportunity to gain experience toward eventual certification. Every PC member should be qualified as to rules knowledge, racing and race management experience and personal characteristics. Unqualified persons should not serve on a PC but may be admitted to listen to the evidence phase of the hearing as observers, provided they will not be witnesses to the incident.

An ideal PC will have one member who is particularly familiar with the type of boat being raced and another with good local knowledge of weather and geography. To the extent possible, a PC should represent a breadth of geographic diversity similar to that of the competitors. In a hearing, it is useful to assign one juror responsibility for maintaining procedural integrity and another juror (generally referred to as the 'scribe') the task of writing the facts, conclusions and decisions.

Selection of the Protest Committee

Whether appointed by the OA or the RC, the PC chair (sometimes called the Chief Judge) should be appointed well in advance of the event so that there is plenty of time to perform preliminary duties. For a youth event, a PC chair who has experience and is comfortable working with youth sailors should be appointed. Often the PC chair will be consulted about other qualified candidates. All should be qualified judges and the majority should be US Sailing Judges. The goal is to select judges who will get along well together and complement one another's skills.

A PC or jury secretary can improve the efficiency of the PC greatly, reduce the time that competitors have to wait to have *protests* heard and improve communication with all parties. The functions of the secretary are described in detail in Chapter 5.

An excellent source of advice for selecting and organizing PCs is the US Sailing RAJ whose region includes the host club of an event. Names and contact information of RAJs are available on the US Sailing website. RAJs will provide lists of certified and prospective judges in their regions. Information about certified judges is shown on the *Find a Race Official* (findofficial.ussailing.org) page of the US Sailing website. The US Sailing Race Administration office can also help with judge selection.

US Sailing Championships

US Sailing is the OA and sponsor for a series of national championships. Most of these championships are sailed annually and are hosted by clubs in different areas of the country each year. Some have a series of qualifying events that qualify sailors for the national finals.

To ensure consistent quality in judging and race management for these championships, US Sailing's Regulations require minimum certification levels for the appointment of the race officials. Since these standards may change over time, the latest version should be reviewed when preparing for a US Sailing championship.

Additionally, US Sailing's prescription to rule 70.5(a) requires its approval if the right of appeal is to be denied in cases where "it is essential to determine promptly the result of a race that will qualify a boat to compete in a later stage of an event or a subsequent event." Under the prescription, these events must apply for a 'No-Appeal' status, which requires a certain level of certification for the PC. Other championships may use an area reopening procedure, which must be described in full in both the NoR and the SIs. Information on both can be found in the rules section of the website (rules.ussailing.org). Chapter 11 provides additional guidance.

General Policies

- No person may serve as a member of the PC at an event in which any competitor in the event is a close relative. See Conflict of Interest below.
- Volunteers in any capacity are expected to subordinate their personal and individual interests to the interests of the event and the sport of sailing. See US Sailing Regulation 14.04 and the summary in Chapter 2.
- Except in cases of illness or emergency, the PC should consist of a minimum of three judges.
- Whenever possible, the OA should try to appoint a majority of US Sailing Judges to the PC at fleet racing events.

- Whenever possible, the OA should try to appoint a majority of US Sailing Umpires to umpired events.

Qualifying Events – Local Level

- Recommend and encourage (but not require) the appointment of a US Sailing Judge of any level as PC chair
- At match or team racing events, require the appointment of a US Sailing Umpire for chief umpire

Qualifying Events – RSA or US Sailing Area Level

- Recommend and encourage the appointment of a US Sailing National Judge for PC chair but accept a US Sailing Regional Judge
- At match or team racing events, require the appointment of a US Sailing Umpire for chief umpire

Finals and National Championship Events

- Require the appointment of a US Sailing National Judge as PC chair
- Require a majority of the PC to be US Sailing Judges

The only possible exception is a reduction in certification level.

If the requirements for an appointment cannot be met after allowing for exceptions, the JC will make an appointment of certified judges.

Coordination

Appointing a PC for a US Sailing Championship involves coordination among several people: the US Sailing Adult Director or Youth Director, the chair of the US Sailing committee responsible for the championship, the event chair of the host club and, sometimes, the RAJ or the Judges' Committee.

In the qualifying levels, the host club will usually appoint the PC. For fleet racing events, the RAJ for the host club's area should be consulted for recommendations of PC members. At national finals, the committee chair of the specific championship will execute the duties of the OA on behalf of US Sailing. Consequently, the committee chair has the lead responsibility to appoint the PC. The committee chair should consult with the host club event chair on the choice of PC chair. For national finals, the Judges' Committee recommends that the PC chair come from a different US Sailing Area than the host club.

Once the PC chair is appointed, the committee chair and PC chair work as a team to appoint the remaining certified judges to the PC. At the finals, it is imperative for the reputation of the championship to have a top-flight PC that has geographic distribution and expertise in the style of boats being used.

If on-the-water rule 42 enforcement is planned, all members of the PC should have experience in enforcing rule 42 and be knowledgeable on the latest interpretations for judging rule 42. Since these championships also provide excellent experience for a promising potential judge, the JC encourages PC chairs to save a place on the PC for a judge-in-training.

Similarly, for match and team racing championships, the Umpires Committee (UC) should be involved well in advance to ensure a quality umpiring team. At the qualifying events, the UC and

the RAJ are excellent sources of recommendations for umpires, both certified and uncertified. At the national finals, the UC should approve uncertified umpires prior to invitations being made.

Conflict of Interest

The appointing authority and individual judges have a joint responsibility to scrupulously avoid not only *conflict of interest* (see definition), but also the appearance of conflict. As required by rule 63.4 (Conflict of Interest), judges may not serve on the PC if they may gain or lose because of the decision or are seen to have a close personal interest in the decision, and they must declare any possible conflict as soon as they are aware of it.

Rule 63.4 and the definition of *conflict of interest* prohibit a judge from sitting on a PC when a family member is competing in any way against the *parties* to the hearing. It is not sufficient for the judge to step down for only those hearings where the family member is a *party* to the hearing. A judge should never be appointed when there is a potential for a *conflict of interest*. A judge must decline an invitation if having a *conflict of interest* is a possibility. If a *conflict of interest* is discovered at the time of the event, the judge must step down.

If a judge finds himself in a situation in which there is a potential for *conflict of interest*, he must recuse himself. For example, a judge who heard a *protest* would recuse himself from sitting on any appeal committee's deliberation of that *protest*.

Conflict of interest exists if a judge has a close personal, business or family tie to a contestant, if there has been a significant adversarial relationship with a contestant, or if a judge has an interest in a competing boat. This includes contributions to a syndicate or campaign. No individual may ever judge and compete in the same race. When a PC cannot be formed without a *conflict of interest*, it is preferable to defer the hearing until the PC can be constituted without any of its members having a conflict.

The citizenship of a judge or a judge's membership in an OA or particular club is not by itself a *conflict of interest*. However, a *party* to a hearing may perceive it to be so. Some larger championships follow an approach used by international juries and select the PC chair from another club than the host.

The giving of testimony by a judge in a hearing is not a *conflict of interest*. However, as will be described later, the judge must be treated as a witness, including being questioned by *parties* and PC members.

Protest Committee Process

The primary function of the PC is to resolve disputes so that the *parties* feel that they have had a fair hearing and that the PC acted in strict compliance with the rules. The hearing should be conducted in a formal but friendly way. Each *party* to the hearing should feel his or her evidence has been considered seriously. It is extremely important to avoid situations where one *party* to a hearing is in the protest room while another is not. Do not invite *parties* into the protest room until all *parties* are present or it is certain that a *party* will not attend the hearing.

The PC chair is responsible for the PC as a whole, but the chair need not conduct every hearing. Conducting a hearing requires administrative and interpersonal skills, both of which take time to develop. Rotating responsibility for conducting hearings is an excellent way for other PC members to develop the skills required to chair a hearing. No PC member should be forced to conduct a hearing if they are not comfortable in that role. In general, a PC member should be willing to conduct a hearing when invited to do so if they understand that they can recess the hearing at any time and request the guidance of others who are more experienced.

A PC should strive to arrive at all decisions through consensus and should hear from each judge before making a difficult decision. The PC should try to construct a decision that is acceptable to every judge. Honest differences of opinion should be considered carefully. Each PC member should approach decision-making in a spirit of respect for other members of the PC and be willing to compromise.

A PC can expect questions about its decision. Defer to the chair for that explanation, and do not speak for the PC if you are not the chair. The chair should explain the facts found in a non-confrontational manner. The facts found may not be what really happened, but they represent what the PC believes happened based on all the evidence brought to it.

A judge should not discuss or reveal the internal debates, disputes or deliberations to anyone outside the PC. Some deliberations result in a split decision, even after an extended period. Unanimity is desirable but not always possible. A judge with a minority view must never publicly criticize the majority decision.

4 - Preparing for an Event

“Resolved, That no Admiral presume to bring more than two dozen of wine to his treat, for it has always been deemed a breach of the ancient rules and constitutions of the Club, except when my Lords the Judges are invited.”

A rule of the Royal Cork Yacht Club, c. 1765

Expectations of Juries and Protest Committees

The style, composition, responsibilities and expectations of PCs can vary widely. At the grassroots level a PC may be recruited from among sailors at the time of the hearing; at the top levels of competition an international jury may be appointed a year or more in advance and have extensive pre-regatta responsibilities. At all levels, competitors expect the highest quality racing possible.

Except for a jury that meets the criteria for an international jury, the term "protest committee" and "jury" are often used interchangeably. In this chapter, we try to refer to a "jury" when it is established in advance of an event and has duties beyond simply conducting hearings. We use the term "protest committee" to refer to duties related to handling and preparing for protest and redress hearings.

Types of Events

Judges may experience diverse types of events and venues that involve competitors at all levels of the sport. The following sections describe unique features and expectations of several types of events.

Local and Club Level Events

Much sailboat racing is casual and involves little formal structure. The NoR and SIs are simple. A PC is frequently assembled only when a sailor files a protest or redress request. The PC is quite often composed of sailors or visitors on site at the time and few, if any, are US Sailing certified judges. Overall knowledge of the protest process and the racing rules may be inconsistent. As with the style of the regatta, the hearings are often quite informal.

This environment is excellent for potential judges to get experience in protest hearings, but the informality of the regatta may result in lax and improper protest procedures. Remember that interesting and challenging rules issues can occur at any level of racing, from a Tuesday night fun race to the Olympics. Sailors at all levels of competition deserve to have the protest and redress process handled in accordance with the *rules* and established procedures.

Judges recruited to serve with little advanced notice should at least have a current rulebook and quickly review Appendix M. The standard US Sailing or World Sailing protest forms are laid out to help judges and sailors follow good hearing procedure.

Championships and Major Events

As a rule, the higher the level and prestige of the championship, the greater the amount of preparation and expertise will be expected of the jury. Each judge should ensure that he or she is fully up-to-date with the racing rules, the relevant class rules, US Sailing Appeals and World Sailing Cases, World Sailing regulations and other documents that apply. Both US Sailing and World Sailing have extensive websites and are committed to ensuring that they contain the latest and most up-to-date information. For World Sailing recognized classes, the World Sailing website also has links to those classes' current rules.

Junior and Youth Events

Some judges consider events involving young people to be the hardest to judge. Very young competitors may be nervous and confused. Teenagers may be just the opposite. Often, instructors, coaches or parents have given them a “crash course” in the rules. While adults are expected to know their rights and be able to defend themselves effectively, young sailors can easily be intimidated by officious judges.

Judges must always remember that young sailors require patience, understanding and support, and that they deserve the same careful attention that adults expect. They should also be held to the same standards of conduct, rules administration and propriety as adults.

A PC may use youth event protest hearings as opportunities to teach and may give more complete explanations of decisions than they would at adult regattas. Open hearings, where all participants are welcome to observe, can be valuable for competitors at junior events (see Chapter 6 for a discussion of open hearings). All hearings offer an opportunity to emphasize the basic principles of fair sailing and sportsmanship.

Judges can help young sailors learn proper hearing procedures and appropriate behavior. At the competitors' meeting, a judge may welcome competitors on behalf of the PC and tell them that the PC is there to help them resolve differences of opinion after racing. The judge may explain the process and reassure the sailors that they are not expected to be rules experts.

After a hearing, members of the PC may be approached by parents, coaches or instructors who know only one side of the story and question the PC's decision. Judges should defer to the chair, who should explain the facts found in a non-confrontational manner. The facts found may not be exactly what happened, but they represent what the PC thinks happened based on all the evidence brought to it. The judges should assist the coaches, parents and instructors in explaining the decision to the competitor. The chair may ask another member of the PC to accompany him (but remain silent) when having this conversation.

Interscholastic and Inter-Collegiate Sailing

High school and college sailing offer different challenges for judges. The Interscholastic Sailing Association (ISSA) and the Inter-collegiate Sailing Association (ICSA) each have their own procedural rules that can be obtained through their websites.

Judges need to be very familiar with these procedural rules since they modify the *RRS* and the US Sailing prescriptions, particularly those pertaining to time limits, breakdowns, redress, kinetics and recalls. The pace is rapid at high school and college events, and judges must hear

protests quickly without compromising proper procedures. Expedited hearings, or “three-minute justice,” are often held on the water. The ability to ask pertinent questions to determine what happened and whether boats met their obligations under the rules is an important skill needed for ICSA and ISSA protest hearings. The parties must be kept on track and the testimony should never be allowed to digress.

Umpired Events

Match racing and team racing events use umpires to make on-the-water calls and decisions. The rules for both events also allow for protest committees in certain situations (see the Umpires section of the US Sailing website for more information). Chapter 8 provides some guidance for protest committees at umpired events.

Umpired fleet racing is used in some circumstances under World Sailing’s Addendum Q. See the World Sailing website to learn more. Using the procedures outlined in Addendum Q at events in the U.S. typically requires the approval of the US Sailing Racing Rules Committee.

Setting up the Jury

When the jury is appointed in advance, at least one member (usually the chair) will review and provide advice on all critical stages leading up to the event. The jury may also request or be asked to monitor the competition on the water.

Appointing a Chair

The OA should appoint a chair well in advance of the event and may seek his or her advice on other members. In some cases, the chair may be asked to appoint the other members. The goal is to assemble a strong jury with diverse strengths that will work collaboratively and serve the sailors well. When the chair is not from the host club, a local judge may be appointed as the coordinator between the club and the jury. As soon as the final appointments have been confirmed, the chair should be notified and furnished with contact information including names and contact information of the other judges.

Inviting the Judges – Guidelines for the OA

Judges serve without pay but not without cost to themselves. It is customary for the OA or host club to provide the following:

- An invitation. The invitation should be sent to all jury members inviting them to serve at the event. The invitation must include the dates and times the jury is expected to be on site. It should explain what is expected of the jury member and what the OA will provide. The invitation should also describe the expected weather conditions and, if the jury is to be on the water, the kinds of boats that will be provided.
- Housing, meals and local transportation. Housing and transportation should be provided for judges who come from a distance. Meals should be provided for the entire jury. The standard practice in this country is for volunteer members of the host club to invite judges to stay in their homes and provide local transportation to and from the venue. If a judge prefers to stay at a hotel or have a private car, he or she should expect to absorb those costs.

- Travel to the venue. Reimbursement should be provided when possible for basic air transportation or mileage reimbursement if driving from outside the local area.
- Meals. When judges are on duty, the organizing authority should provide meals for the judges and invite them to the regatta's social events as guests of the OA.
- Note of thanks. A letter of thanks or other suitable recognition should be sent to each judge following the event, especially for judges who are not members of the host club.

The OA should not feel obligated to invite spouses. When spouses are welcome, they are generally invited to all social events to which the jury is invited. When spouses are invited, it is acceptable to ask that the judge/spouse cover the extra expenses that may be incurred when the jury budget is limited. The invitation should make clear what the host will provide for the spouses and what expenses the spouses are expected to incur.

Accepting the Invitation

Both the OA and the prospective judge need to take the invitation to attend an event seriously. The OA must send the invitation well in advance, not only to allow the judge time to arrange his or her schedule, but also to allow time to find another judge if the invitation is declined. The invited judge should respond as promptly as possible in order to allow the OA time to find another judge in the event he or she declines.

Appointing a Jury Secretary

If the regatta is large, or if many protests are expected, the OA may appoint a jury secretary and assistants as necessary. The jury secretary could be a local Club Judge or someone aspiring to become a judge. The duties of the jury secretary are described in Chapter 5. Assistants help with copying forms, distributing copies to parties, locating parties and witnesses for hearings and performing other functions assigned by the jury secretary or chair.

Preliminary Responsibilities

Before the event, the OA is well advised to send the NoR and the draft SIs to the chair of the jury for comment. The NoR is a contract between the OA and the competitors and ranks as one of the rules governing the event. In it, the OA sets out the conditions under which it is prepared to run the event. By entering the regatta, each competitor agrees to compete in accordance with those conditions. Notice of Race Guide, Appendix KG available on the World Sailing website provides recommended wording for a NoR and complies with RRS Appendix J. The US Sailing website will likely have an Appendix KG as well.

It is important that the NoR contain any requirements necessary to enable a competitor to decide whether to compete in the event and how to prepare. When practicable, the NoR should be reviewed by the jury chair in advance of publication. The chair can suggest changes in wording or content to ensure that the NoR complies with the requirements of rules 89.2 and J1 (Notice of Race Contents). If the review occurs after the NoR has been published, rule 89.2(b) allows any deficiencies in the NoR to be amended provided adequate notice is given.

Before the 2017-2020 rules became effective, only the SIs could change a *rule*, but beginning in 2017, the NoR may change a *rule* (rule 86.1(b)).

Since the jury will have to interpret the SIs, a careful review before publication can identify and correct flaws before racing begins. Rule J2 (Sailing Instruction Contents) describes the required elements of sailing instructions. Consult Sailing Instructions Guide (was Appendix L) for guidance on standard language and contents of SIs. The SIs, the class rules and the NoR should be checked carefully for conflicts among them. Class rules apply, even if not mentioned in the NoR or SIs, provided there is no conflict with the other *rules* (Case 98).

All members of the jury should review the final SIs at the earliest opportunity so that any necessary changes can be issued prior to the first competitors' meeting.

In reviewing the NoR and the SIs, pay careful attention to the words **shall**, **will** and **may**. The SIs should state the intentions of the RC ("will") and the obligations of competitors ("shall"). "May" or "should" indicate that an action is not compulsory.

Many SIs improperly attempt to make changes that are prohibited by rule 86 (Changes to the Racing Rules). Rule 85.1 requires that a change to a *rule* shall refer specifically to the *rule* and state the change. Make certain that there will be no misunderstanding in the change to the rule. Organizers and race officials must follow the principles on which sailing instructions are based (in the preamble to Appendix L). They should especially attend to the third principle: "They should not change the racing rules except when clearly desirable...."

The prescriptions of the national authority always apply unless the NoR or SIs state they do not apply. Rule 88 (National Prescriptions) allows the national authority to restrict changes to its prescriptions. US Sailing's prescription to rule 88.2 states that SIs may not change or delete:

- Rule 61.4 – Fees for protests and Requests for Redress
- Appendix R – Procedures for Appeals and Requests
- US Sailing prescription to rule 60.3(b) – PC may request redress for a boat
- US Sailing prescription to rule 67 – Damages
- US Sailing prescription to rule 70.5(a) – Denying the right of appeal
- US Sailing prescription to rule 76.1 – Exclusion of boats or competitors

When appropriate, for events where entries from other countries are expected, rule 90.2(b) requires that the SIs include, in English, the applicable national prescriptions. For such events, judges must check the SIs to ensure compliance.

Judges' Equipment

Each judge should have a judging briefcase, bag or kit containing:

- Current *RRS* with the US Sailing Prescriptions
- Current US Sailing Appeals and World Sailing Cases
- Event NoR and SIs and all amendments to them
- Copies of all official notices posted for the event
- Competitor entry sheets
- Notes from the judges, competitors and other official meetings
- Pad and pencil or pen for notes

The protest chair, at least, should have an up-to-date copy of the class rules for the classes in the event, master forms (including a US Sailing Protest Form) and a set of boat models for each protest room. Judges should also consider owning software or other templates to prepare neat, understandable diagrams to submit with the facts found in a *protest*.

Dress of jury members should be appropriate for the event. Judges should honor the dress code of the club and respect the level of formality of the event. The jury chair should determine in advance of the event what dress is appropriate and inform the other members of the jury.

Shore-side Jury Facilities

A room should be set aside for jury meetings and hearings. It must be private and quiet and, if possible, should be reserved for the exclusive use of the jury for the duration of the event. At a minimum, the jury room should be equipped with a conference table, sufficient chairs to seat at least four persons in addition to the members of the jury, and a set of boat models. If more than one panel will be hearing protests, a separate room must be provided for each panel. The jury room(s) should be near where competitors normally congregate and near the official notice board.

There should also be a desk or table outside the hearing room for use in distributing, collecting and logging in protest forms. There should be convenient access to a photocopier, printer and internet access and a satisfactory way to page or call the parties. A list of competitors is a convenient way to stay in contact with the parties and their witnesses.

Organizing authorities are increasingly using web-based regatta management software as a means of posting and notifying competitors of protest notices and status. While these platforms can be convenient, organizers must be very familiar with their operation. It is also essential to be clear about whether the online posting serves as the official notice board, or merely as a support for a more traditional physical notice board. For reviews of some online regatta management programs, see the Scoring Programs page of the US Sailing website (raceofficers.ussailing.org; Materials for Race Officers > Scoring programs).

On-the-Water Equipment

The jury is often expected to be on the water. The equipment needed will vary depending on the regatta and the role of the jury.

Jury Boats

Jury boats must be able to operate safely in all weather conditions in which the sailors will race. If there is only one race course and one jury boat for observation on the water, the boat should be large enough to safely accommodate the entire jury, but not so large that it obstructs competitors. It should be high enough to give the jury a good view. Whalers and other small boats are often suitable at dinghy events.

Press, photographers and spectators should not be on board the jury boats. Generally, any guests should be judges-in-training or umpires-in-training.

For on-the-water judging rule 42 under Appendix P (Special Procedures for Rule 42), smaller boats that will accommodate two judges per boat are required. The boats need to be maneuverable in order for the judges to move within the fleet during the races with minimal effect to the competitors. Generally, rigid hull inflatable boats (RIBs) are preferred, and of the smallest size possible while still ensuring the safety and basic comfort of the judges. Special care should be taken to minimize the boat's wind shadow and wake. Judges should wear life jackets while on the water in small boats. At US Sailing events, they are required to do so.

Jury Flags

The jury boats should be distinguished by a suitable signal, usually the US Sailing Judges flag or code flag J. The flag needs to be mounted high enough to be visible by the sailors and preferably in the stern of the boat so it does not block the judges' view.

For on-the-water judging rule 42, each judge on the jury boat will also need to be equipped with one yellow flag (code flag Q) mounted on a handheld pole.

Personal Equipment

Judges will develop their personal checklist of gear they bring to a regatta, but their equipment should include the following:

- Current *RRS* (with US Sailing prescriptions)
- Race documents (NoR, SIs, entry list, class rules)
- Watch suitable for timing
- VHF radio, mobile phone
- Tape or digital voice recorder
- Waterproof notebook (such as Wet Notes), pens and pencils
- Whistle, hand-bearing compass
- Binoculars
- Dry bag
- Foul weather gear
- Clothing suitable for the expected conditions
- Sunscreen, lip balm, hat, etc.
- Life jacket

A tape or digital voice recorder is valuable for judging rule 42 compliance under Appendix P. Judges are increasingly expected to have a portable VHF radio at events where they will be on the water. Countries outside of the U.S. often have more restrictive laws concerning use of VHF radios. Before taking your VHF outside the U.S., be sure you know if it's legal and check with the host club to see if it will be useful.

US Sailing Championships and virtually all junior events require the sailors to wear life jackets at all times while afloat. Many host organizations also strongly encourage or require all of their on-the-water personnel to wear life jackets. Rather than rely on whatever might be available onsite, judges are encouraged to take their own life jacket where possible.



Event of the Future? “Robotic” sailboats (SailBots) competing at the United States Naval Academy. College teams design, build and race these boats at SailBot competitions. The boats use onboard computers, instrumentation, GPS and some luck to steer and trim sails around different courses. The insert (upper right) depicts the relative size of these boats. Even with advances in technology, competitors depend on US Sailing Judges to adjudicate issues and incidents during the event.

5 – Regatta Operations

Protest Committee Organization

Each PC must have a chair to act as presiding officer and spokesperson. When it is necessary for the PC to speak to the RC, competitors, the OA, the press or others, the chair should speak for the PC. The chair should ensure that the opinions of each judge are considered and be willing to act as directed by the group's final decision, even when he or she may disagree. Whenever possible, the chair should be a US Sailing certified judge. When a prospective judge is serving as chair to gain experience, the panel should contain a least one certified judge to guide and advise as necessary.

When the PC divides into more than one panel to hear and decide protests, the chair of each panel should, if possible, be a US Sailing or international judge. For consistency, the chair may decide to have all requests for redress on the same subject heard by the same panel.

A jury that is on the water monitors race procedures and assists and advises the RC. They do not supervise or direct the RC. A good jury will note signals and timing on the water and tactfully alert the race officer if they observe problems. The jury representative should communicate with the RC only through the PRO or a designated representative. Communication with the race officer, particularly when there are rules or procedural issues, is best done in person or via cell phone rather than over the radio.

When racing is on a single course, the on-the-water jury will normally operate as a single unit. This permits them to make decisions that require input by the full jury on the spot. When racing is on more than one course, there are benefits to splitting the jury. When enforcing rule 42, the jury will usually be divided into pairs of judges in separate boats.

In addition to their general responsibilities, jury members may be asked by the chair to assume specific responsibilities. These may include recorder or "scribe," observer assigned to an area of the race course, or pilot to direct the operator of the jury boat when maneuvering close to competitors.

Jury Secretary

A competent and knowledgeable jury secretary can be an invaluable asset to the PC at a busy regatta. The secretary's duties are many and varied and may require the help of an assistant or "runner," depending on the number of protests filed and on the location of the notice board and copier. The primary responsibility of the secretary is logging in protest forms as they are delivered to the jury desk, noting the time and date received, sequentially numbering the filings, noting the protest time limit and initialing the form. It is also helpful if the secretary notes the cell phone number of the protestor on the protest form. The secretary will then complete a Protest/Redress Summary form (included at Addendum B) by writing in the protest filing number, the class, race number, and the bow or sail number (or other identifier) of the protestor and the protestee. Copies of each protest form must be made (one for each PC member and one for each party), and

the Summary form must also be copied. The Summary form is posted on the official notice board from time to time as protests are submitted, but before posting, a copy of the form is made that will stay at the jury desk.

When a protest form is submitted, the secretary can help move the process along by requesting that the protestor try to find the protestee and any witnesses and stay near the hearing area.

When receiving a protest form, the secretary must understand that all protests delivered to the jury desk must be logged in, regardless of the time the form is delivered. The PC, not the secretary, will decide if a protest form was delivered in time.

When a hearing is finished, the secretary collects the completed protest form, noting the jury's decision on the Summary form. When all hearings are over for the day, the secretary notes all jury decisions on the Summary form, including penalties assessed and details of redress granted. After making copies of the completed Summary form, the secretary keeps one copy, gives one copy to the scorer and posts a copy on the notice board.

The foregoing is quite an exhaustive list of responsibilities for the secretary, but if the jury chair has additional expectations for the secretary, they should meet ahead of time to discuss how to deal with those expectations.

Jury and Race Committee Meetings

Before racing begins, the jury chair should meet with the jury secretary and review the procedures for accepting and handling protests. When no secretary is appointed, the chair should assign these responsibilities to a member of the jury.

Initial Race Committee Meeting

When the jury will be on the water during racing, it is extremely important for the jury and the RC to have a good working relationship. The jury chair and the race officer should meet to discuss their roles and responsibilities and the best way to work together. Unless the OA specifically requests otherwise, the RC is responsible for all race management decisions on the water. The role of the jury on the water is usually to observe the quality and fairness of the racing. Relations on the water will be most productive if the two committees have met beforehand to establish a good rapport, understand the scope of responsibility and know how to communicate any concerns.

Initial Jury Meeting

The entire jury should meet as soon as possible after all the judges arrive. During this meeting the chair should, at a minimum, cover the following issues:

- Introduce the members and provide the names and phone numbers of the relevant members of the OA and the RC. When there is no jury secretary, this is the time to assign the jury secretary duties to one or more members.
- Discuss and agree on protest scheduling and hearing procedures.
- Thoroughly review the SIs and the NoR. If the jury believes that changes are necessary, the jury chair should review the issues with the RC. Since the SIs are the responsibility of the RC, the jury may suggest but not mandate changes. When there is a good working

relationship between the jury chair and the race officer, the jury's concerns can usually be resolved quickly.

- Review specific duties, proper dress, time of meetings, hearings and social functions.
- Review the jury's role on the water and, if applicable, allocate activities and jury boats.
- Decide on how proactive the jury will be for on-the-water rule compliance and jury protests. To ensure consistent rules application, the jury should discuss and agree when they would protest a boat on the water. It would be wise to understand the views of the class and/or the OA on this subject as well.
- Establish the tone, method and procedures for communications with the OA, RC, competitors, coaches and press.

Competitor Communications

Competitor meetings are not required by the rules, but having one is desirable at most events. The RC conducts this meeting but, as with all briefings, the jury chair, at least, should attend. The *US Sailing Race Management Handbook* contains guidance on the conduct of competitor meetings. For PC issues, the chair should:

- Introduce the committee members
- Describe where protests will be heard and where protest forms can be obtained and submitted
- When applicable, state that open hearings, on-the-water judging or other non-standard judging will be used and give a brief description of the process

Verbal instructions or rule interpretations should never be given during a competitor meeting. When a question is asked in a competitor meeting, the chair should ask that the question be submitted in writing and tell the competitors that the answers to any questions will be posted. When posted on the official notice board, both the competitor's question and the jury's answer should be included.

All official communications with competitors should be in writing to avoid the possibility of conflicting instructions and subsequent requests for redress.

On the Water

If the OA arranges for the jury to be on the water, the jury's role may include:

- Responding to questions from the RC
- Positioning the jury boat(s) to observe fairness of competition and compliance with the rules
- Judging rule 42 as provided in Appendix P

On-the-Water Observing (non-Rule 42)

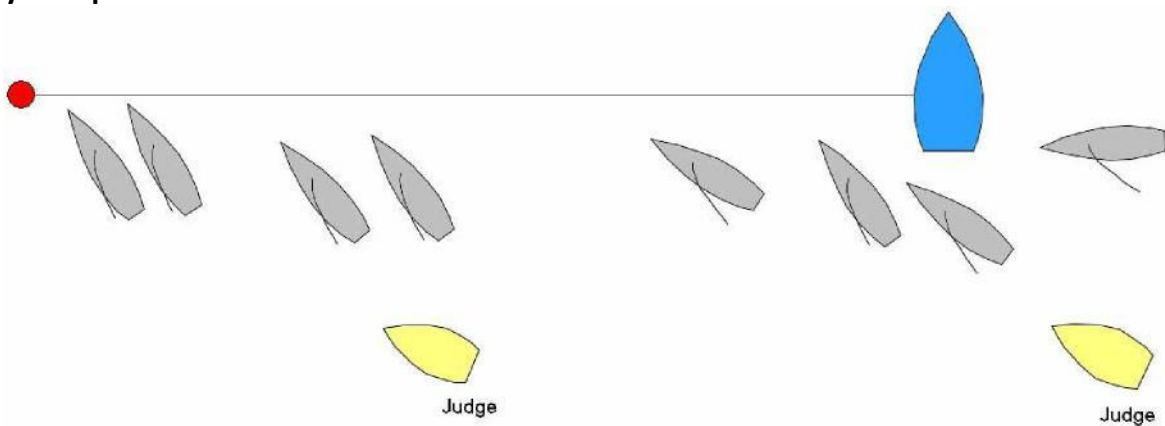
If the jury has been directed by the OA to be present on the water, it should be prepared to initiate a protest against a competitor. Members should also be alert as possible witnesses for protests between boats. The extent of rule enforcement expected by the OA must be determined in advance and clearly communicated to the jury. A jury member who observes an incident on the water and intends to initiate a protest under rule 60.3(a) should avoid discussing the incident with any other member of the jury.

Positioning

The jury boat(s) should be placed so judges can observe areas where incidents are likely to occur. Being close to the boats is helpful for observing the action, but judges should err on the side of caution to avoid interfering with the racing boats if not enforcing propulsion. The jury boat(s) should avoid creating a wake or blocking the wind for boats racing. Good boat positioning helps ensure that the jury can be effective in observing the fleet. Incidents are often observed at the start, mark roundings, clusters of tacking boats, legs with potential for boats to use kinetics and the finish. Judges should note boats that do penalty turns (and the number of tacks and gybes in those turns), protest flags and hails.

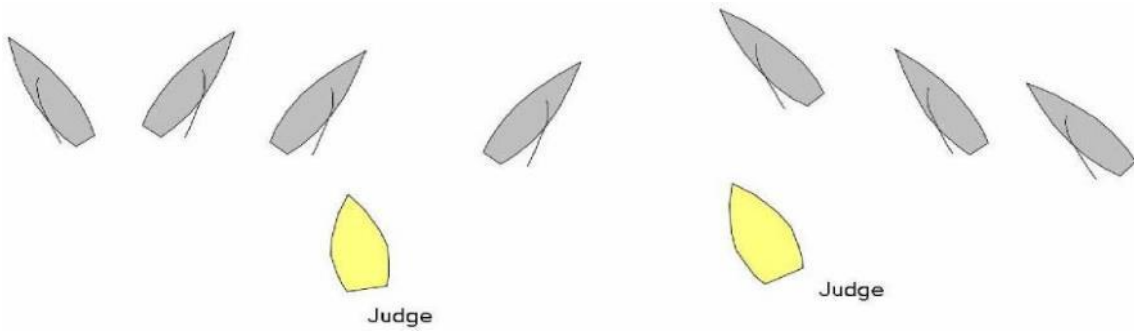
During the pre-start, the jury boat(s) will generally position below the line as shown below, favoring the starboard end of the line. If the starting boats cluster, gravitate towards the cluster, but strive to remain in line with the stern of the starboard tack boats, giving a good position to observe tacking and windward/leeward incidents. The boat farthest to the right will also watch for barging at the start.

Jury boat position at the start:



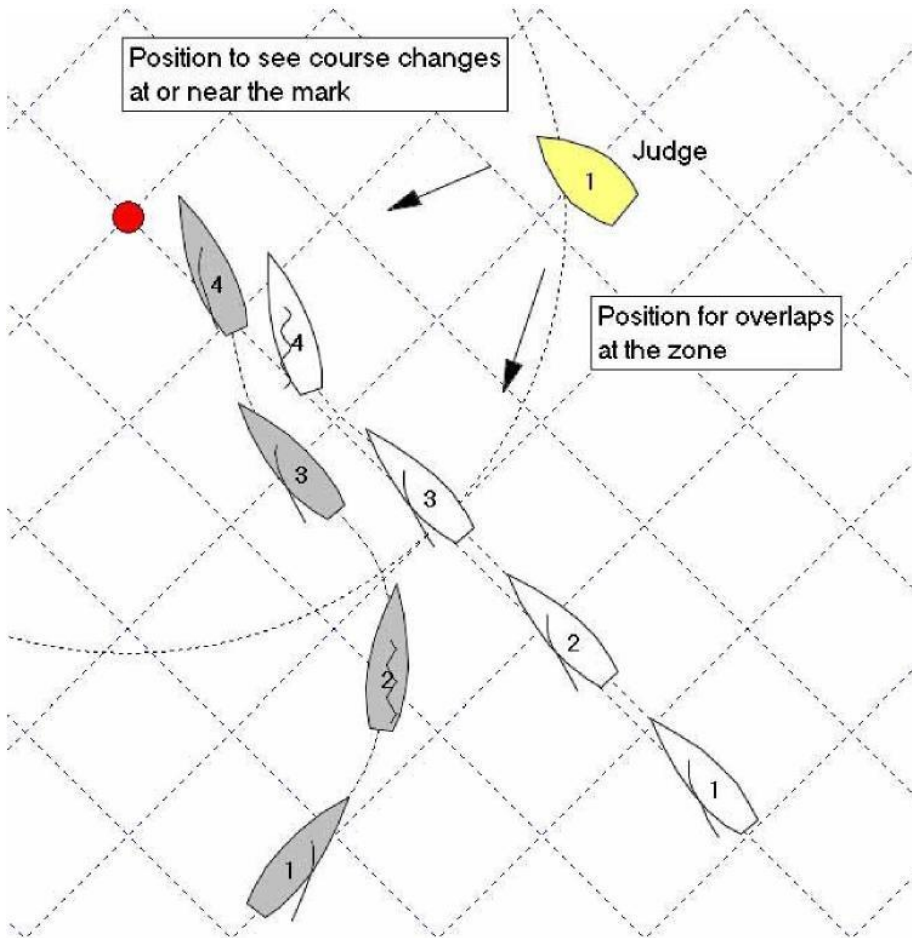
Working up the beat, stay below the fleet and watch for converging port-starboard situations as shown below. If there are two or more boats, spread left to right across the course. One jury boat should be designated to stay with leaders and observe the weather mark rounding. At the weather mark, the most common incidents involve tacking too close, luffing sharply or tacking inside the zone.

Jury boat position on the beat:



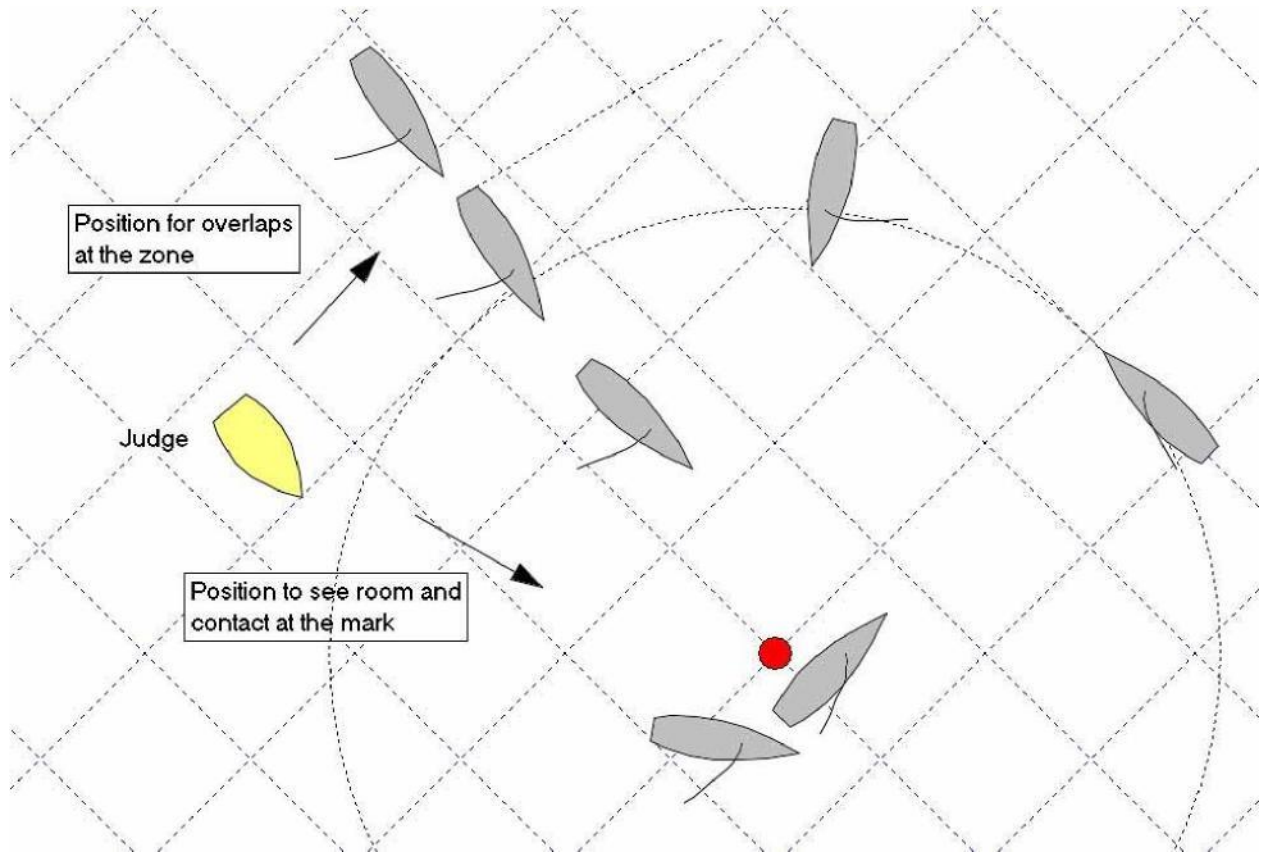
Positioning to the right (looking upwind) of the mark as shown below allows the judges to observe both the *zone* and the boats approaching on port tack.

Jury boat position at the windward mark:



At the leeward mark, witnessing overlaps at the zone is often key. A good position for this is below the port-tack lay line at the zone as shown below. Be alert for boats on the outside of a cluster approaching the mark that may track well below the layline. At a gybe mark, the best position to confirm overlaps is above the mark to observe boats as they approach the zone.

Jury boat positioning at the leeward mark:



Recording

A voice recorder and a note pad are useful for recording the details of incidents on the course. When using a tape recorder, two approaches can be effective. The most common is to observe the action and then, just after an incident that might lead to a protest has been observed, use the recorder to quickly record the relevant details such as the boats involved, distances between them and position of the jury boat.

The second approach is a process that umpires use to describe on-the-water situations. As a judge, you will "role play" a specific boat. As boats converge before an incident occurs, you speak into the recorder as if you were aboard the sailboat, describing the rights, reasons, obligations and opportunities for that boat and then update the description as the situation unfolds. Most incidents so discussed will not lead to protests but if they do, you will have already recorded a live description of the incident as it developed. You can then add to the

description the supplemental information above. The World Sailing umpire manual, available on the World Sailing Race Official training page, has a good description of this role-playing technique.

Radio Communications

Good radio communications are also necessary between the jury and RC on the water. Keep in mind, however, that discretion is essential, and nothing should be said over the radio that you don't want the entire regatta to hear. Sensitive conversations are best conducted face-to-face or via cell phone.

Judging Rule 42

Self-policing is a basic tenet of sailboat racing. When it came to propulsion, however, the self-policing concept failed because it was too difficult for a protestor to bring sufficient evidence to convince a jury that a breach of rule 42 had occurred. Over time, this led to a need for officials on the race course to enforce the propulsion rules. With competent on-the-water judging, a high level of compliance with rule 42 can be attained, thus providing fairer competition for the sailors.

Appendix P On-the-Water Enforcement and Changes to Rule 42

Appendix P (Special Procedures for Rule 42) allows on-the-water PCs and their appointed observers to penalize boats breaking rule 42 without a hearing. For Appendix P to apply, it must be so stated in the NoR and/or the SIs.

Only class rules may modify rule 42. Several classes do make changes to rule 42, but in manners that vary widely and sometimes define the conditions under which planing and surfing conditions exist.

The Inter-collegiate Sailing Association (ICSA) and Interscholastic Sailing Association (ISSA) act as class associations, allowing them to change rule 42 in their procedural rules, although the ISSA has not to date done so. Judges involved with these events should review these procedural rules before undertaking any on-the-water activities and especially before making any rule 42 calls.

Rule 42 is also modified by some *RRS* appendices. The windsurfing (rule B4.42) and match racing (rules C2.16 and C2.17) appendices both change rule 42, while the match racing and team racing appendices also specify different penalties and protest processes.

World Sailing Guidance for Judging Rule 42

Issues relating to rule 42 have occurred when sailors misunderstood the rule and when judges applied inconsistent tests and levels in protesting boats. In recent years, World Sailing has tried to improve the worldwide consistency of rule 42 enforcement. World Sailing's website has training information available under Race Officials, then under Rule 42. (Link in 13 – Resources.)

World Sailing has also issued interpretations of rule 42 to clarify the rule and to establish consistency in its enforcement. These interpretations have the same status as World Sailing Cases and the World Sailing Match and Team Racing Calls, and they rank as authoritative interpretations of the *RRS*. They are available for downloading from World Sailing's website.

The *WS Race Officials' Manual* and the *WS Judges' Manual* have been updated to reflect rule 42 interpretations. The US Sailing Judges' Committee believes that this information reflects good practice and is applicable to on-the-water rule 42 events in the United States. A link to the *WS Judges' Manual* can be found in Chapter 13 – Resources of this manual.

Post-Race Operations

After the race, the PC must decide protests and requests for redress. The proper conduct of a hearing is explained in Appendix M of the rulebook and Chapter 6 (Conduct of a Protest Hearing) of this manual which describes the processes for receiving and scheduling protests.

Receiving Protests

The SIs should specify where protests are to be delivered. The procedures for receiving and logging in protest forms are detailed above in the description of the jury secretary's duties. If a jury secretary is not available, members of the PC will undertake those duties.

Collecting Additional Protest Information

Sometimes a protestor wants to withdraw the protest after filing it. Once a protest is delivered, it must be heard (rule 63.1) unless the PC agrees to a protestor's request to withdraw it. See Chapter 6 for further discussion.

The PC often requests that the RC provide an action report at the end of each day of racing. At a minimum, the report should contain a list of boats observed flying protest flags at the finish. The report may also contain:

- A list of boats observed flying alternative penalty flags at the finish
- A record of reported protests, including the names and sail or bow numbers of the protesting and protested boats
- A record of reported penalty declarations
- A list of boats retiring
- A list of boats scored DNC, DNS, OCS, DNF, RET, NSC, ZFP, UFD, BFD or SCP
- The time the last boat finished in each race
- Any RC action that determines the protest time limit

If the SIs require that protests be brought to the attention of the RC when finishing, the report from the RC should be used to verify compliance and the appropriate notation made on the protest.

In case of a request for redress, the PC may request copies of mark rounding records and other log information that the RC records.

Chapter 13 – Resources contains links to these forms, which are available on the Judges pages of the US Sailing website (judges.ussailing.org).

Scheduling Hearings

The order of hearings and their estimated starting times should be posted as soon as possible. When there are protests from different boats about the same incident, as Case 49 states, a PC should schedule the protests to be heard in one hearing.

Since protests are received individually and it is not always clear before a hearing which protests involve the same incident, each is given a unique sequential number and assigned to a separate folder or envelope. When the PC decides that multiple protests apply to the same incident, it should combine them into a single hearing. If the protests do not apply to a single incident, the separate folders allow the matters to be heard separately.

If available, a member of the PC can assist the jury secretary by reviewing the filings after they are logged in to determine if two protests or redress requests relate to the same incident and also to separate protests that are eligible for arbitration (if applicable) from those that are not. The goal is to keep the process flowing smoothly, while striving to get hearings started as soon as possible.

Hearings should generally be scheduled in the order that the forms were received. However, those requiring RC evidence are frequently heard consecutively and as soon as reasonably possible. The RC should be informed promptly of any requests for redress so it has adequate time to investigate the circumstances.

Posting interim hearing schedules can be useful for getting protest hearings started. The jury secretary should maintain the master schedule and periodically update it while protests are being received. He or she should note that the schedule is preliminary and also note the posting time, then post a copy on the notice board. The secretary then continues to update the master schedule at the jury desk. This preliminary posting can be repeated throughout the filing period. The final copy of the schedule to be posted should also be time stamped and state that no additional hearings will be scheduled that day.

When the PC is ready to begin, a copy of the protest or redress form should be given to each committee member and to the parties (in case they didn't receive it beforehand). When the PC is ready to proceed, the parties are called. The jury secretary should ensure that:

- The protest notice has been posted properly
- There is a representative from each boat standing by
- Any witnesses are available and waiting
- Any witnesses are excluded from overhearing the proceedings (see Appeal 62)

On completion of the hearings, the jury secretary should:

- Post a record of protest hearing decision(s)
- Notify the scorer of any scoring changes as a result of the hearing(s)

The jury secretary should promptly inform the chair if there are any written requests from competitors.



On-the-Water Judging of Rule 42 at an Optimist Event

6 – Conduct of a Protest Hearing

“That any Yacht having been disabled by foul sailing on the part of any other Yacht, or having valid cause of complaint may hoist the Club ensign in lieu of their distinguishing flag as a signal of protest, which signal shall be answered by the Commodore firing a gun.”

Sailing Regulation 16
Royal Thames Yacht Club, c. 1840

Introduction

Hearings must be held to decide protests, decide requests for redress, act under rule 69, or consider whether a *support person* has broken a *rule*.

This chapter describes the procedures for basic protest hearings. Chapter 7 discusses procedures for redress hearings, Chapter 8 discusses other RC protests and procedures, including actions under rule 60.3(d), and Chapter 10 discusses Fair Sailing (rule 2) and Misconduct (rule 69) hearings.

The Right to Protest and Request Redress

As established in rule 60, a boat may protest another boat. If the incident involves a rule of Part 2 or rule 31, she must have been involved in or seen the incident. A boat may not protest the RC, PC, TC or OA, but she may request redress.

A race committee may protest a boat, request redress for a boat or report to the protest committee requesting action under rule 69. However, a protest by the RC or a hearing is not required when the RC penalizes a boat under rules listed in 63.1. See Protest Committee Initiated Actions in Chapter 8 for further discussion.

A protest committee may protest a boat, request redress for a boat, call a hearing to consider redress, call a hearing to consider whether a *support person* has broken a *rule*, or act under rule 69.2(b). However, it may not protest a boat as a result of information arising from a request for redress or an invalid *protest*, or from a report from a person with a *conflict of interest* other than the representative of the boat herself.

Preparation Prior to the Hearing

Each PC member should have the NoR, the SIs and amendments (especially noting any changes to the RRS (see Appeal 56 and Case 85), the current RRS including the US prescriptions, *The Appeals Book for 2021-2024*, and the *World Sailing Case Book for 2021-2024*. It is also helpful to have class rules available.

The PC should also have a set of model boats and an appropriate grid to use for describing and discussing the incidents.

Blank protest forms and pre-printed forms, such as the “Protest/Redress Summary,” “Scoring Inquiry,” and “Protest Filing Deadline” forms, should be available at the protest desk. These forms are often handled by the jury secretary, but if a secretary is not appointed, the PC Chair should assign this task to a member of the PC. (A complete overview of the jury secretary’s duties, including the receipt, logging-in and copying of filings, posting a Summary of protests and redress requests on the notice board, etc. is described in detail in Chapter 5.)

These forms and others the PCs may need are located in the Judges section of the US Sailing website, and links to them can be found in Chapter 13 – Resources.

Posting the Notice of Protest Filing Deadline

If a race committee action (such as the docking of the RC signal or finish boat) triggers the protest time deadline, the RC may choose to post the notice of the protest filing deadline, in which case a PC member should verify the posting including the posting time. Otherwise, the RC will inform the PC of the time limit, and the PC will post the notice, adding the time of posting.

RC Information Provided to the PC

A member of the RC needs to check in with the PC after racing is finished for the day and provide the PC with the following information:

- a list of boats displaying protest flags at the finish
- if required by the SIs to do so, a list of boats notifying the RC at the finish of their intent to protest, and
- a list of boats flying penalty flags and boats that have been scored other than in their finishing positions (DNC, DNS, OCS, DNF, RET, NSC, ZFP, UFD, BFD or SCP).

Accepting and Withdrawing Protests and Redress Requests

A PC shall hear all protests and requests for redress that have been received. However, rule 63.1 (Requirement for a Hearing) allows a protest to be withdrawn if approved by the PC. The PC should consider carefully any request to withdraw a protest. When considering the request, the PC may decide:

To approve the request to withdraw the protest when:

- The protestor has subsequently decided that no *rule* was broken
- Either *party* has taken an appropriate penalty for the incident
- Either *party* retires prior to the request for withdrawal
- Arbitration or a similar process is being used that allows withdrawal of a protest
- The protest is obviously invalid

To disapprove the request to withdraw the protest when:

- There has been contact, other than incidental
- A boat may have gained a significant advantage as a result of the incident
- There is another protest relating to the same incident (counter-protest), even if invalid
- The protestor may have been pressured or induced to withdraw his protest. This might occur when a top-of-the-fleet competitor pressures a middle-of-the-fleet protestor to withdraw it, or when the host club pressures a competitor to withdraw a protest that might hold up the trophy presentation.

The PC may allow a single judge, either working at the protest desk or conducting an arbitration meeting, to approve the withdrawal of a protest. Otherwise, a request to withdraw a protest should be considered by the full PC.

A request to withdraw a protest is recorded by completing the spaces provided on the protest form.

Role of PC Members

The period prior to hearings can be a period of high activity as competitors, the RC and others converge on the jury area. Unless directed by the PC chair, other members of the PC should curb the natural tendency to “try to help” and flock around the jury desk or space.

A PC member should never take any protests or other paperwork from the jury desk unless specifically instructed to do so by the PC chair or jury secretary.

The PC chair may wish to assign duties to PC members that they will undertake prior to and during the hearing. For example:

- Although each member should take notes, a scribe may be assigned to write the facts found, decision, etc., at the end of the hearing.
- One member (usually a person close to the door) may be assigned to call *parties* to the hearing and escort witnesses to the hearing room. A *party* should not be allowed to bring his own witness into the hearing room.
- One member may be assigned to research appeals and cases that may be applicable.
- Any member of the PC who is comfortable with hearing procedures may be invited to conduct a hearing.
- If the parties to a hearing and their witnesses are available and the members of the PC are ready, it is acceptable to convene a hearing before the end of protest time.

Opening the Hearing

Prior to Admitting Parties

Before admitting the *parties* to the hearing, the members of the committee should:

- Review the protest or request for redress so they can anticipate any procedural issues that may arise.
- The PC should verify that all *parties* to the hearing have been notified of the time and place of the hearing by the method specified in the sailing instructions. (See rule 63.2 and WS Case 48).
- The hearing chair should appoint the scribe and procedural judges.
- If a member of the committee realizes that he or she has a conflict of interest, he or she should immediately notify the PC chair. The PC should assess the conflict of interest and decide if it is significant (see rule 63.4). The hearing chair should determine if any members of the committee saw the incident. If so, rule 63.6(b) requires they state that fact in the presence of the *parties*.
- If there shall be no appeal from the decisions of the jury, is it constituted in accordance with the approval granted from US Sailing? (see rule 70.5, App N)
- Does the protest identify the incident or redress request reason? (rule 61.2(b), rule 62.2, Appeal 46, Appeal 65, Case 22)
- When redress has been requested, or maybe considered, that could affect other boats' score. Rule 64.3 requires that the PC makes as fair an arrangement as possible for boats affected before granting the redress, Even if the US prescription to rule 63.2 has been deleted, you should consider making affected boats a *party* to the hearing or request redress for other boats not *party* to the hearing. If the US prescription to rule 63.2 is in effect you must allow other boats to participate and make a reasonable attempt to notify all boats of the hearing time and place (see rule 63.2+USRx, rule 64.3).

Interpreters

Unless an interpreter is required, only one representative from each boat is permitted into the protest room. The interpreter may translate what a PC member, *party* or witness says, but he may not coach or add words of his own to the translation. The interpreter should sit behind or outside the *parties*. The interpreter should not physically come between the *parties* or between the witness and a *party*.

No Appeals Hearing

When the right of appeal has been denied under rule 70.5 Appoint a Review Judge, who preferably is not part of the hearing. The Review Judge is responsible for reviewing the written result of the hearing, including the facts found, the applicable rules, the decision, the reasons for it, and any penalties imposed, or redress given. They shall decide that the written result of the hearing is either adequate or requires changes. They could decide the facts are inadequate, or make comments on the conclusions, the applicable rules, the decision, the reasons for it, and any penalties imposed, or redress given. This review could require the protest committee to amend the written result of the hearing or reopen the hearing.

Following Procedures

It is very important for the PC chair to follow and complete the top portion of page 2 of the US Sailing or World Sailing hearing form. When the procedures on the form are carefully followed, the committee is not likely to commit a procedural error that would invalidate the hearing. It is also important for the PC chair to follow the guidelines in Appendix M.

Convening the Hearing

The following is a summary of the procedures involved in a hearing. Various facets of the hearing will be discussed in greater detail later in this chapter.

The panel chair will convene the hearing. After the *parties* are admitted, the chair should:

Hearing preliminaries with the *parties* present. (M2)

- Confirm that everyone is in the correct hearing. This is an incident between [who] at [where] [when]. Correct?
- If observers are present, provide rules, and make ensure they understand that they cannot be a witness (see rule 63.3(a), Case 49).
- Introduce the PC and the *parties*, recording the names of the *parties* on the hearing form.
- Only one representative per boat is allowed unless a *party* requires an interpreter, (see M2.1, 63.3(a), Case 49)
- If any *party* to the hearing is not present, consider proceeding under rule 63.3? (M2.1, 63.3(b))
- Disclose if any member of PC saw the incident? (M2.2, 63.6(b))
- Ask the *parties* if they object to any PC members based on *conflict of interest* and record their responses. (M2.3, 63.4, Case 137)
- Ensure that each *party* has a copy of the hearing form and has had time to prepare. (see M2.1, 63.2, Case 48)
- If the protest claims a breach of a rule of Part 2, 3, or 4, make sure that the representatives of the boats were on board at the time of the incident. (M2.1, 63.3(a))

Check the Validity of the Protest or Request for Redress. (M3.1, 63.5, Case 19, 22)

- Ask conditions at time of incident. In case relevant to validity of Part 2, 3 or 4 protest.
- Verify that the filing is timely. If not, is there good reason to extend? (61.3 or 62.2, Case 102, 128, Appeal 90, 94)
- Verify that the protestor notified RC at finish if required by SIs.
- If the incident was not identified on the hearing form provide protestor opportunity to explain. Then determine if the protest or request for redress is valid.
- Ensure the hearing form identifies the protestor and protestee. (rule 61.2(a), Case 22 or rule 62.2, Case 102)
- Ensure the hearing form identifies where & when the incident occurred. (rule 61.2(c), Case 22 or rule 62.2, Case 102)
- Ask protestor how protestee was notified of intent to protest. By hail? When? Words used? If too far to be heard, notified at first reasonable opportunity? (rule 61.1(a), Appeal 61, Appeal 65, Case 122)

- Ask about display of red flag (if hull 6 meters or more). When and where flown? Conspicuous display? Size and shape of flag appropriate for size of boat? Displayed at first reasonable opportunity? (rule 61.1, Appeal 66, Appeal 67, Appeal 82, Appeal 124, Case 39, Case 72, Case 85, Case 104)
- If there was no hail or flag was the protestee properly informed? (rule 61.1(a)(3)&(4) , Appeal 65, Appeal 84, Case 19, Case 112, Case 141)
- For an alleged breach of a rule of Part 2 or rule 31 verify the protestor was involved in or saw the incident. (rule 60.1(a), Appeal 116)
- Decide if protest is valid. If in doubt, excuse *parties* and deliberate.
- If protest is valid, continue with hearing by taking evidence of *parties*.

Take Evidence

- Protestor tells their story first, then protestee tells their story.
- Ask parties to describe the conditions, the incident and what they saw. (distinguish hearsay). (63.6)
- Protestee asks questions of protestor, then protestor asks questions of protestee
- Take evidence of witnesses (preferably protestor's first) by setting stage and saying: "Tell us what you saw."
- Protestee questions witness (to avoid the possibility of the protestor asking leading questions of his own witness), then protestor questions witness.
- The PC questions the witness. Repeat the process for each witness.
- PC questions protestor, then protestee.
- Ask each *party* to give a short summary.

Excuse parties and deliberate.

- Scribe reads the facts found, PC agrees with the facts as presented or makes amendments. (M3.3)
- Call back *parties* for more questions if necessary.
- Decide what rules apply to the boat(s), decide which boat (if any) broke a rule, and decide the relevant penalty.
- Scribe reads the conclusions and decision using preferred standard wording. PC agrees with the conclusions and decision as presented or makes amendments. (M3.4)
- Verify diagram (if applicable) agrees with the facts found. If not take a picture of the model boats or redraw.
- If redress affects other boats' score or place? Decide if further evidence is needed from affected boats. Decide if you need to request redress for other boats not *party* to the hearing. (M3,4, 64.3)
- Complete the back side of the form with the names of the panel members, the signature of the chairman, and date and time.

Inform the Parties. (M3.5, 65)

- Recall the *parties*, read the facts found and announce the decision.
- Give any party a copy of the decision on request. (M3.5, 65.2)

- Make sure the race committee scorer is apprised of the decision and any scoring changes. (5, 90.3(d))
- Ask the jury secretary to file the completed protest form and post the decision on the notice board. (rule 65.3)

Conflict of Interest

In 2017 this new rule replaced “Interested Party.” A member of a PC with a *conflict of interest* shall not be a member of the committee for the hearing unless all *parties* consent or the PC decides that the conflict of interest is not significant.

When deciding whether a *conflict of interest* is significant, the PC shall consider the views of the *parties*, the level of the conflict, the level of the event, the importance to each *party*, and the overall perception of fairness. When the PC is considering whether a person has a *conflict of interest*, or whether the conflict is significant, the committee will apply the rulebook definition of *conflict of interest* and will also consider rule 63.4 and Appendix M 2.3.

Competitors who sail and finish a race have a *conflict of interest* because they stand to gain or lose by the decision (see Appeal 22). When an action or omission of the RC is the subject of a request for redress, members of the RC have a *conflict of interest* (see Appeal 39). However, when the RC protests a boat, it does not have a *conflict of interest* in that protest (see Appeal 18).

Time to Prepare

If *parties* are not ready, they may be given additional time to prepare. If copies of the protest are not available, and the representatives have not had an opportunity to read the protest, they must be given a reasonable time to prepare. However, be aware of Case 48, which establishes that if a boat is aware she is being protested, it is her duty to prepare a defense. The abstract of that Case states: “Part 5 of the racing rules aims to protect a boat from being unfairly treated, not to provide loopholes for protestees. A protestee has a duty to protect herself by acting reasonably before a hearing.”

Absent Parties

When a *party* is not present for a hearing, rule 63.3(b) (Right to Be Present) allows the PC to decide the protest without that *party*. However, it is far better to have all the *parties* present. If practical, both the PC and the *parties* present should attempt to find the missing party. The PC chair may also wish to read rule 63.3(b) to those present and explain the possibility of having to restart the hearing should the missing party show up.

Should a *party* show up while the hearing is underway, the PC should pause the hearing to determine the cause of the absence. If the absence appears to have been unavoidable, the PC should restart the hearing. The PC should provide some latitude in making this determination. For example, some competitors may not keep their boats at the regatta venue and may have to travel to get to the hearing. Since this *party* did not hear earlier evidence, the PC will need to ask the same questions again, and the chair must ensure that all evidence provided earlier is repeated in this restarted hearing.

Should the PC decide not to restart the hearing, the *party* still has the right to be present for the remainder of the hearing and cannot be excluded. In such cases, the PC may expect a request for redress or reopening.

When a *party* wishes to attend a hearing but finds the time of the hearing inconvenient, the PC must decide how much it will accommodate the competitor. When no one attends the hearing, the PC may act under rule 63.3(b) as it sees fit and should expect a request to reopen.

Inexperienced Parties

If the *parties* are inexperienced, the PC chair may wish to explain the hearing process to them. The chair can explain the entire hearing at once or break it into parts, discussing the validity section first and the remainder of the hearing before taking testimony.

Hearings Involving the Same Incident

When two hearings are scheduled that arise from a single incident, or from very closely connected incidents, they may be heard together in one hearing. This applies to hearings resulting from protests, requests for redress, and hearings under rule 60.3(d) involving a support person. A single hearing will ensure all *parties* are present throughout the hearing of all evidence as required by rule 63.3. Case 49 illustrates the problems that can arise if this procedure is not followed. However, any hearings conducted under rule 69 shall not be combined with other types of hearing. (see M5.4).

Open Hearings

Hearings at which observers are present can be educational and enhance respect for the hearing system. However, open hearings should be held only if all members of the PC and the *parties* are comfortable with the procedure. When a hearing is open, no person who may be a witness may stay in the room, see rule 63.3(a). Observers may be excluded or allowed to remain during the PC's deliberations at the discretion of the committee. Chapter 8 further discusses open hearings.

Validity

The PC must test the hearing request for validity at the beginning of the hearing. The standard protest form includes a list of requirements for a valid protest. The PC chair normally completes this section in the order listed. The chair should always address validity questions in the following order and record the results on the original protest form:

- Was the hearing form filed within the time limit? If it was delivered after the end of the protest time limit, it is invalid unless there is good reason to extend the time. The PC may consider extending the time for an onboard emergency such as a sinking boat, an injury that needed attention, logistics such as traffic problems or a remote race course, or an unreasonable protest time limit in the sailing instructions. (Note that the PC “shall” extend the filing time if there is good reason to do so per rule 61.3 (Protest Time Limit).
- Is the nature of the incident identified in the protest? The protestor and protestee(s) can be corrected before the hearing and most other details can be corrected during the

hearing. However, rule 61.2 (Protest Contents) makes it clear that the incident must be identified and the protest must be in writing.

- How did the protestor inform the protestee? What words were used? When was the hail made? Avoid leading questions such as “Did you hail ‘Protest!’ at the earliest opportunity?”
- The hail must be made at the first reasonable opportunity. “The first reasonable opportunity” means as soon as practicable, not as soon as convenient (Appeal 61). Extenuating circumstances may delay a hail if a boat capsizes or when safety is a factor. Otherwise, very little latitude should be given to the timeliness of the hail.
- The hail can be omitted under rule 61.1(a)(4) if as a result of the incident a member of either crew is in danger, or there is injury or serious damage that is obvious to the boat intending to protest, but she must attempt to inform the other boat within the time limit of rule 61.3.
- Rule 61.1 requires that a boat shall “inform” the other boat, so the hail must be sufficiently loud and clear. A statement by one party that he hailed “*protest*” is not necessarily in conflict with a statement by the other party that he did not hear a hail.
 - If the boats are not within hailing distance, the hail of “*protest*” is not required (rule 61.1(a)(1)), but the protestor must inform the protestee at the first reasonable opportunity. This may be at the next mark rounding or when they get back to the dock.
 - The PC must apply a test of reasonableness to each of these obligations. Was it reasonably possible for the protestor to hail “*protest*” and not be heard in the prevailing conditions? Was it reasonable that the first opportunity to inform the other boat was back at the clubhouse? In addition to the physical distance between the crew hailing and the closest opposing crew, other factors that affect sound include the wind speed and direction, the boats’ speeds and their courses, the sounds of sails and boats nearby, etc.
- Was a red flag, if required, displayed in a timely manner? The display of a red flag applies only to boats with hull lengths of 6 meters (19.7 feet) or greater unless the NoR or SI change this requirement. The flag must be displayed at the first reasonable opportunity. “The first reasonable opportunity” means as soon as practicable, not as soon as convenient (Appeal 67). The flag must be displayed until the boat is no longer *racing*.
- The flag need not be displayed under rule 61.1(a)(4) if a member of either crew is in danger or there is serious damage or injury that is obvious to the boat intending to protest, but she must attempt to inform the other boat within the time limit of rule 61.3.
- Was the protest flag properly displayed? The flag must be red, a reasonable size and displayed so that it is easily seen by other competitors and the RC. A 3”x 6” red flag that is adequate for an Optimist Dinghy would not be conspicuous on a 54’ boat. The flag must be recognized as a flag (Appeal 66 and Case 72).
- Did the protestor fly the flag until she was no longer racing? Since a RC may not notice a protest flag on a boat and may, therefore, not include the protestor on its RC report, the PC may need to get additional evidence from the RC or other witnesses.

If any of the above conditions is not met, ask the *parties* to leave the room for a committee discussion of validity. If the committee concludes that the protest is invalid, the *parties* are

recalled, the protest is declared invalid and the hearing is closed, unless there appears to be injury or serious damage and rule 60.3(a)(1) applies.

If the protest appears to be valid, the chair may ask in the presence of the *parties* if the committee agrees that the protest is valid and should proceed. If all agree, the chair announces that the hearing will proceed. There should be no further discussion of validity, unless other significant evidence is presented later.

Protests by the RC, TC and PC and requests for redress must also be tested for validity. This is discussed more fully in Chapters 7 and 8.

Taking Testimony and Gathering Evidence

Evidence consists of testimony by the *parties* and witnesses, records such as RC reports, documents such as the NoR and SIs, and any physical evidence, such as damage to a boat. As noted in the preamble to Appendix M, the PC should weigh all testimony with equal care, and should recognize that honest testimony can vary or be in conflict as a result of different observations and recollections.

A general approach when taking evidence is to look for the “Key Facts” relevant to the issue(s) at hand. The hearing result will hinge on one or more “Key Facts” where the *parties’* testimony may differ. In applying this approach, the PC should recognize the point when divergence occurs. Focus on the testimony that will allow resolution or determination of the “Key Facts” and attempt to minimize any extraneous facts.

Hearings must be conducted under the principles of fairness and sportsmanship. The PC must ensure that the parties maintain appropriate demeanor. Neither *party* should be allowed to intimidate or unreasonably influence the other. The PC may initiate a rule 69 hearing against a *party* in a valid protest who demonstrates disregard for the principles of good sportsmanship, such as a serious breach of a rule or ill-mannered behavior (see Chapter 10).

Evidence from the *Parties*

The chair should get the *parties* to agree on some basic information. This may help establish a more constructive atmosphere during the hearing. The *parties* can usually agree on:

- The size and type of the boats
- The representatives’ positions and duties on their boat at the time of the incident
- The time of the incident and the location on the race course
- Wind speed and direction
- The speed and direction of current and whether it was a factor
- The sea state at the time of the incident

The chair should first ask the protestor to describe the incident as the protestor saw and heard it, using the boat models if appropriate. The boat models used for the hearing should, if possible, correspond to the actual boats. There should be no interruptions unless a member of the PC wishes to ask a question to clarify something (for example, confusion about the color of models).

The protestee is then asked to describe the incident as the protestee saw and heard it. Following the protestee's presentation, the protestor is permitted to question the protestee, if he wishes, and vice versa. The chair should limit the questioning to pertinent questions and answers.

PC members may then ask questions about conflicting statements or actions. For instance, the representatives may have placed the same boat on opposite tacks. Substantive questions should be held until all testimony is received.

If the parties disagree on distances, times or boat speeds, the chair may demonstrate the use of speed and distance calculations by describing, for example, how 6 knots of boat speed equals 10 feet per second and relating this to distance. Chapter 13 – Resources provides a time, speed and distance table that may be helpful in determining what actually happened.

Evidence from Witnesses

When the committee has heard the facts alleged by each *party*, the PC chair should ask whether the protestor wishes to call any witnesses. The decision to call a *party's* witness is left to that *party*. The PC is required by Rule 63.6 (Taking Evidence and Finding Facts) to take evidence from the *parties* and their witnesses. First the protestor, then each protestee, calls witnesses one at a time. As an alternative, a PC may choose to call in the protestor's first witness, then the protestee's first witness, alternating back and forth until all *parties'* witnesses have been called. In addition, the PC may wish to call its own witnesses.

For each witness called, the chair should:

- Get the name of the witness and have a member of the committee summon him or her. Do not permit the *party* to summon his own witness.
- Scramble the positions of any model boats being used.
- Seat the witness between the *parties*.
- Ask the witness for his or her name and position on the boat.
- State who called the witness and identify the incident in question.
- Tell the witness which color model represents which boat and ask the witness to tell what he or she knows about the incident.
- Invite questions first by the other *party* and then by the *party* who called the witness. The *parties* should be cautioned against asking leading questions and reminded not to make additional statements. The chair may interrupt the testimony to enforce proper questions and answers.
- Invite the PC members to question the witness.
- Dismiss the witness when his or her testimony is complete.

The *parties* may call many witnesses, one at a time, as they wish. However the chair may suggest that the *parties* call only witnesses who will add to or clarify the testimony. And under Rule 63.6(a) "the committee may exclude evidence which it considers to be irrelevant or unduly repetitive".

Oral and Written Evidence

Oral or written testimony from someone who is not present at the hearing (hearsay) shall be taken, Rule 63.6(a). However, a party present at the hearing may question any person who gives

evidence, Rule 63.6(c). The person “who gives evidence” is considered to be the person who is not at the hearing whose evidence is being presented for its truth by a party who is at the hearing.

To address this situation, the PC should ask the parties before the hearing begins if they have any witness evidence to offer during the hearing. If the answer is ‘yes’, the protest committee should ask if the witness[es] will be present at the hearing; if the answer is ‘yes’, then the protest committee should obtain the name of the witness[es] and arrange for them to be present outside of the hearing room until it is their turn to testify. If the answer is ‘no’, the protest committee should determine the type of witness evidence that will be offered [oral or written] and inquire into the availability of the witness to answer questions. It may be, for example, that the parties could review the proposed evidence before the hearing and question its author when the author is available, or a conference call during the hearing could be arranged. While the protest committee can accommodate such approaches if it chooses to do so, it has no obligation to organize or facilitate them and it is cautioned not to allow any such arrangement to unnecessarily prolong the hearing process.

Then, once the evidence is presented, the protest committee shall give the evidence the weight it considers appropriate, Rule 63.6(d), and that may be little to no weight.

Protest Committee Members as Witnesses

Occasionally, one or more PC members observe an incident on the water that results in a protest and will be called as witnesses in a hearing. Since all *parties* are entitled to be present to hear evidence presented by witnesses, the PC witnesses must be careful not to discuss what they saw with other members of the committee before the hearing or during the deliberation and decision phase of the hearing. Members of a PC must notify the PC chair as soon as they are aware of a protest of an incident they have witnessed.

At the outset of the hearing, or as soon as the association is known, the chair should inform the parties that one or more PC members witnessed the incident, explain that the PC member has not discussed the incident with any other committee members, and describe the protest procedure regarding a PC member as a witness.

How a PC witness is handled depends in part on whether or not the PC itself initiated the protest. When the PC is the protestor, it should strive to act as a single team throughout the protest process. The PC should take extra precautions to be seen as an independent body intent on fairness in the competition as a whole, not as a group of individuals intent on protesting or witnessing against individual competitors, and therefore appearing to have a personal interest in the outcome of the protest.

If one or more members are witnesses, then the chair is encouraged to keep the PC witnesses on the panel, and the witnesses will generally remain in their seats as part of the PC. If not all of the PC witnessed the event, it may be best if someone other than the chair serves as a witness.

Whenever there are PC witnesses, the PC chair should call the PC witness after all other witnesses have been heard, remind the PC witness to tell everything they know about the incident, and invite all parties and the members of the hearing panel to question the witness.

When the PC has not initiated the protest, the PC witness may move to the customary witness seat between the *parties* while giving testimony.

If the PC witness remains as a member of the PC after giving testimony and answering all questions, he will return to his seat as a member of the PC. If the PC witness steps off the panel, he will leave the hearing room after testifying.

When a member of the PC is a witness, the chair must decide whether the PC witness should remain on the PC or step aside after giving evidence. Considerations in favor of keeping the PC witness on the panel include:

As discussed above, when the PC initiated the protest

- When the effectiveness of the PC would be impaired without the PC witness, such as when there is a small panel or when the witness is either the chair or one of the most experienced members
- When the diversity of the PC would be diminished in an event where diversity is important.
- If the proper composition of an International Jury under rule N1 (Composition, Appointment and Organization) would be compromised.
- If the PC witness's testimony is either on its own inconclusive or the testimony corroborates other testimony, and it is non-controversial.

Considerations in favor of having the PC witness step off the panel for that hearing include:

- When, as a result of witnessing the incident, the PC witness has a strong opinion about whether or not a party broke a rule.
- If the appearance of objectivity of the PC would be diminished if the PC witness remained on the panel.
- If the PC has enough experienced members that its effectiveness would not be impaired by the loss of the PC witness.

When an event is large enough to field two or more separate PCs, the PC chair may be able to assign judges to PCs so that the panel for each hearing does not include any PC witnesses except for protests initiated by the PC. Then a judge who was a witness to an incident could be a witness called by the PC without otherwise being a member of that PC.

When the US Sailing prescription to rule 63.4 (Conflict of Interest) is in effect, no person who brings an incident to the attention of the protest committee or who will give evidence regarding an incident shall be a member of the protest committee for a hearing involving that incident.

Photographic and Video Evidence

Photographs and video can sometimes provide useful evidence, but PCs should recognize their limitations and note the following points (also described in rule M7 (Photographic Evidence)):

- The *party* producing the photographic or video evidence is responsible for arranging the viewing. The images or screen should be of sufficient size so that the PC and parties can view the material as a group.
- View the video several times to extract all the information from it.
- The depth perception of any single lens camera is very poor; with a telephoto lens it is nonexistent and a fish eye lens may present additional distortion. When the camera views two *overlapped* boats at right angles to their course, it is impossible to assess the distance between them. When the camera views them head on, it is impossible to see whether an *overlap* exists unless it is substantial.

The PC should also ask the following questions:

- Where was the camera in relation to the boats?
- Was the camera's platform moving? If so, in what direction and how fast?
- Is the angle changing as the boats approach the critical point? Fast panning causes radical change.
- Did the camera have an unrestricted view throughout?

GPS Evidence

GPS devices have become increasingly popular as onboard equipment during racing. The GPS units may be owned by a *party* or made available to a fleet during a regatta by the OA or outside entities.

Parties might wish to present information from these devices to the PC during a hearing. Usually, the party wishes to use these devices as evidence that might depict location on race course (e.g., during an OCS hearing), position relative to other boats or a mark, or indication of course changes or penalty turns

Typically, parties seek to introduce information from these devices after an initial hearing, claiming that it meets the standard of "significant new evidence" as required under rule 66 (Reopening a Hearing).

The PC should consider the following questions:

- Where was the location of the device on the boat and in relation to other boats – especially if supplied by an outside entity?
- Was the device secured?
- Is the information the original acquired data, or was some form of processing or interpolation applied?
- How were locations of marks and other objects determined?
- What is the accuracy in both time and position of the devices used for the event? Many GPS units may have a distance error of three to six meters.

Just as they would with photographic and video evidence, the PC should consider and use evidence from GPS devices with caution. Generally, GPS evidence:

- Is not accurate enough to confirm boat-to-boat or boat-to-start line distances

- Is insufficient to overturn the judgment of a race officer deciding whether a boat is OCS at the starting signal. However, it may be useful in an OCS redress when a boat maintains, for example, that they restarted – perhaps by taking a turn around the pin end of the line – but the race committee did not record that restart.
- Can be useful when the devices are on all boats to develop a "big picture" about how an incident unfolded
- Can help determine the timeliness and validity of penalty turns
- Can be useful in the case of mistaken or missing identity

Summary Statements

When the committee has heard all the evidence, the PC chair invites the protestor first, then the protestee, to give a brief final statement. The summary should be limited to relevant rules and appeals or cases that apply and key facts for the committee to consider. The chair should restrict a *party* to a summary only and stop any *party* who attempts to repeat testimony or introduce new evidence. The *parties* should then be excused while the committee deliberates.

Deliberations

The PC must establish the facts from the testimony and evidence presented. Rule 63.6(d) says “The committee shall then give the weight it considers appropriate to the evidence presented, find the facts and base its decision on them.”

Initially, the committee will find points about the incident on which the *parties* agree, such as the wind speed, the tack each boat was on or whether there was contact. When there is significant disagreement in the testimony, the PC might begin with the last point before the incident and the first point after the incident where the *parties* agree. From there, they can review the evidence presented by each boat during testimony and accept as facts the points on which the boats agree. When there are points of disagreement, the PC can set them aside and return to them later.

When writing facts, the PC must be careful that each is a fact and not a conclusion or an interpretation. If a “fact” includes words such as “ample” and “adequate,” it is probably a conclusion. “Ample time” should be replaced with an exact time if the statement is to become a fact. If an exact time or distance is not known, a fact may use “approximately one boat length” and still qualify as a fact.

In the context of rule 63.6 and other *rules* using the term, a “fact” is an action or condition that a PC “finds” occurred or existed. A “conclusion” is derived by reasoning from something else and can be purely factual. For further discussion on facts versus conclusions, see Case 104.

Some experienced PC members may be able to write basic facts about the incident in a chronological order while the evidence is presented. Those facts might include the points on which there is agreement, evidence presented by one *party* and not refuted by the other, and what may seem to the writer as facts. Points on which there is conflicting evidence is left for the consensus of the PC.

There are several approaches used in keeping well-organized hearing notes. Generally, with increased experience, judges tend to develop their own particular note-taking style.

Approach A

One approach uses the left side of the paper to write down the testimony and evidence presented by *parties* and witnesses in a sequential, narrative order. This might take several sheets.

The right side of the paper is used to jot down potential rules that might apply, relevant questions that occur to the judge to ask when it becomes his or her turn, and to highlight any diverging areas or any Key Facts that become apparent.

Protestor (Bow 11)

1. Bow 11 & 44 sailing DW leg on starboard gybe
2. Approach mark, Bow 11 windward, inside and O/L
3. Bow 44 leeward, outside
4. Bow 11 still O/L at zone

Protestee (Bow 44)

1. Bow 44 approaching DW mark with much more speed than Bow 11
2. Bow 44 C/A before zone

Rules

11, 17?
Q: how O/L created?
11, keep clear, overlapped
11, 16, 17
18, mark-room

Rules

11, 16, 17
Q: what speeds?
18.2(b)

Approach B

An alternative also divides the paper into two columns. Testimony and evidence given by the protestor gets placed in the first column. The testimony and evidence for the protestee is placed in the second column.

The notes are entered into the columns in more or less chronological order, including the incident.

Protestor (Bow 11)

1. Both boats sailing DW leg on starboard
2. Bow 11 inside
3. Bow 44 outside
4. Bow 11 had O/L at zone

Protestee (Bow 44)

Agree
Agree
Agree
Disagree - C/A at zone

The judge lines up the areas where the testimony is the same. Just as importantly, he or she notes where the testimony differs or diverges or where there is missing testimony or evidence.

After writing the facts, the PC must consider these issues:

- What *rules* are applicable? Rule 14 (Avoiding Contact) should be considered whenever there is contact. It applies to all *parties* and should be noted in a protest involving contact, whether or not it was broken or resulted in a penalty.
- Did either *party* break one or more *rules*?
- Should exoneration under rule 64.1(a) (Penalties and Exoneration) be considered?
- Rule 64.1(a) and Case 51 instruct a PC that it must exonerate a boat when it is compelled to break a *rule* by another boat that breaks a *rule*.
- Rule 43 also contains provisions for exonerating a boat that broke a rule while entitled to *mark-room* or while rounding a mark on her *proper course*.

The PC should use the models and notes to re-enact the incident to scale. As the committee goes through the incident, they determine which *rules* are in play and follow through each boat's rights

and obligations as they change. After listing the facts, the chair asks what conclusions could be reached. The PC should examine relevant Cases and Appeals and should carefully review applicable *rules*. One member (often referred to as the ‘scribe’) records the decision collectively crafted by the PC.

In contrast with facts, conclusions typically include evaluative words such as “ample” or “adequate.” They also use language from the rules, such as “X, on port, did not keep clear of Y on starboard tack, and broke rule 10” or “X, outside overlapped, failed to give Y mark room and broke RRS 18.2(a).” Chapter 13 – Resources has a link to the World Sailing “Preferred Standard Wording” for writing conclusions on a hearing Form.

If the committee is unable to reach a decision, it is possible that there is insufficient evidence. It may be necessary to recall the *parties* for further questioning. In that case, the committee should know beforehand what information is needed and get it quickly. All *parties* must be given an opportunity to be present during the introduction of any new evidence.

The Decision

Under most circumstances, the decision that results from a hearing is whether the protest is upheld or denied or whether the request for redress is granted or denied. However, when rendering a decision as required under rule 65.1 (Informing the Parties and Others), a PC must include sufficient facts to justify its conclusion and its decision along with any scoring adjustments that result from the decision. Therefore, the written decision will be composed of:

- The facts found
- A PC-generated drawing or PC-endorsed drawing, if applicable, that supports the facts found and conclusion
- The conclusion with all applicable *rules*
- A decision as to whether any boat broke a *rule*
- Any penalties imposed or redress given

The *parties* are recalled when the committee is satisfied with its decision and the facts found are read to the *parties*. If there are other protests to be heard, it is satisfactory to leave the facts, conclusion and decision written in draft form. The facts that are read from the draft copy are the ones that will appear when transferred to the protest form later.

The conclusion includes any relevant right-of-way/keep-clear relationships between the boats, the applicable *rules* considered and all of the *rules* that were broken. It is important that all applicable rules be identified regardless of whether they are relevant to the decision. For example, if an inside boat entitled to *mark room* breaks rule 11 (On the Same Tack, Overlapped) in taking such room, the violation of rule 11 should be documented along with the corresponding exoneration under rule 43. The conclusion should also report that a boat was compelled to break a *rule* and whether that boat is exonerated. When the facts include contact between boats, rule 14 applies and the conclusion should contain the relevant findings as discussed above in the Deliberations section.

The decision describes the result of the hearing and whether the protest is upheld or denied. One or more boats may be disqualified or given some other applicable penalty under rule 64.1. This *rule*

requires a PC to consider all applicable *rules* that may have been broken by a boat that is a *party* to the hearing. A PC will often find that a boat broke more than one *rule*, and must cite all applicable *rules* that were broken in the decision. Well-written decisions mention each *rule* that each boat is obligated to meet, and then state whether or not the boat fulfilled that obligation. The reader, and maybe the appeals committee, will be interested to know if the committee considered all the applicable *rules*. Rules 14 and 16 (Changing Course) often apply to an incident and a PC will appropriately include its finding in the decision.

Case 25 is a good example of a nicely worded decision in which the appeals committee concluded that OL gave IW *room* to *keep clear* and did not break rule 16. With the exception of those rules listed in rule 63.1, only a boat that is a *party* to a protest hearing may be penalized. A boat whose crew is called as a witness by one of the *parties* may not be penalized at that protest hearing even if she broke a *rule*.

After the decision is read, the PC chair should thank the *parties* and excuse them. If either *party* requests a copy of the decision, rule 65.2 states that the request must be made in writing within seven days and the committee must respond promptly. As with any time-sensitive requirement, the PC should log the date and time of the request and the PC's response on the protest form. Since the request for a written decision could come after the PC has left the venue, the PC should prepare or endorse a diagram and complete the last page of the protest form before they adjourn. The scorer must be informed and the decision posted. The completed protest form may be kept by the PC chair or given to the OA chair for the regatta records.

Online Hearings (Video)

Online hearings often work well for a hearing. The Guidelines for Online Hearings is the guidance form the judges Committee on Online (video) hearings. It is available in the document "[Guidelines for Online Hearings](#)" on the Judges page under Guidelines. It covers everything from organizing the online hearing to running the hearing online.

Contact and Damage

Contact

Whenever contact has occurred between boats, rule 14 applies. If any or all of the boats broke rule 14, this conclusion must be included in the decision. While there is no *rule* that requires a PC to state that a boat did not break a *rule*, it is good practice and there is very good reason to do so with rule 14. Such a finding is essential if the *parties* to the protest need an insurance underwriter or court to further adjudicate a claim for damages.

Damage and Serious Damage

PCs are asked within the *rules* to determine whether damage resulted from an incident and, in some cases, the extent of the damage or injury. A right-of-way boat, or one sailing within the *room* or *mark-room* to which she is entitled, is exonerated for breaking rule 14 if the contact did not cause damage or injury. A request for redress may require the committee to determine whether damage or injury occurred as a result of an incident. Case 19 establishes that there is no special meaning for the word "damage" in the racing *rules*, but does offer a dictionary definition and some

questions to ask when deciding whether an incident resulted in damage or injury. Also see Case 141.

The terms “injury” and “serious damage,” which are used in rule 44.1 (Taking a Penalty), are also undefined in the *rules*. There are clear cases of serious damage and clear cases where damage is not serious, but the gray area between them is wide. The determination of whether there is no damage, damage or serious damage will always be a conclusion by the PC and, therefore, subject to appeal.

It is particularly important in a case involving damage for a PC to detail the relevant facts and clearly delineate its conclusion. Descriptions of the damage and its effect on the boat’s speed and maneuverability are essential. There may be occasions when, as part of the evidence gathering portion of the hearing, the PC may wish to inspect and possibly photograph the damage.

The following table, which attempts to define levels of damage, has been used at a variety of high-level events, including the 2017 International Women’s Keel Boat Championship and the 2017 US Sailing Championship of Champions. It is included here for reference and should be considered advisory.

Guidance on Damage

Level	Extent	Effect
Level A: Minor Damage	The damage does not significantly affect the value, general appearance or normal operation of the boat.	The boat may race without repair, although some minor surface work may be required after the event. Repairs should not normally require more than 1 hour of work.
Level B: Damage	The damage affects the value and/or general appearance of the boat.	The damage does not affect the normal operation of the boat in that race but may require some (temporary) work before racing again. Requires more than 1 hour of work but should not normally require more than 3 hours of work.
Level C: Major Damage	The normal operation of the boat is impaired and its structural integrity may be compromised.	The boat will need significant repair work before racing again. Requires more than 3 hours of work.

Liability for Damages

“Damages” is a legal term that refers to the estimated monetary equivalent of the loss, damage or injury sustained.

Part (a) of the US Sailing prescription to rule 67 makes it clear that even when a boat retires or accepts a penalty, she does not, by that action alone, admit liability for damages.

Part (b) of the prescription prohibits PCs and appeals committees from adjudicating any claim for damages. A PC must find facts and make its decisions only in compliance with the *rules*. Since laws vary from country to country, rule 67 appropriately directs the question of assessing damages to the civil courts of the applicable nation.

In section (c) of the rule 67 prescription, competitors are advised that, by participating in an event governed by the *rules*, a boat agrees that the responsibility for damages arising from any breach of the rules shall be based on fault as determined by application of the *rules* rather than by application of local law. To that end, section (c) rejects the legal doctrine of “assumption of risk” as the basis for determining monetary damages. Under that doctrine, a boat would assume the risk of whatever happens to her once she leaves the dock or casts off her mooring. As stated in section (c), that doctrine does not apply to events governed by the rules.

An amicus brief filed by US Sailing in a 1994 court case clearly underscores this idea. The court in Manning v Gordon observed: “The US Sailing Association filed an amicus brief opposing the application of the doctrine of assumption of risk to yacht racing on the grounds that sailing associations have very strict rules to avoid collisions, and assumption of risk will convert the sport to a ‘no fault’ enterprise and thereby undermine respect for the rules. The Sailing Association also contends that ‘one of the longest standing and most important traditions is that the competitor at fault in a racing collision pays for the damage to the other party’.”

The question of determining damages is therefore a bifurcated process. While the PC is charged with finding the party or parties at fault in the incident through application of the rules, it is prohibited from determining the actual monetary value of the damage, injury or loss.

7 – Redress

Introduction

Redress is the mechanism in the rules for competitors to receive corrective action when something has gone wrong. A request for redress is not a protest. As noted in Case 44, a boat may not protest the RC for breaking a *rule*, but she may request redress. The RC, TC, PC and OA cannot be protested or penalized.

Rule 62 (Redress) is very restrictive in defining how a boat qualifies for redress, but it also gives the PC considerable discretion in deciding what form of redress to grant. Rule 64.2 (Decisions on Redress) requires that the PC make “as fair an arrangement as possible for all boats affected, whether or not they asked for redress.”

US Sailing’s prescription to rule 63.2 requires that when redress has been requested or is to be considered for one or more boats:

- Any other boat may participate in the hearing and
- The PC shall make a reasonable attempt to notify all boats of the time and place of the hearing and the reason for the request or consideration of redress and give them reasonable time to prepare for the hearing. This is ordinarily done by posting such notice on the official notice board. Any other boat may participate in the hearing and become a *party* to that hearing. This gives boats whose scores or place may be affected as a result of the redress hearing the opportunity to participate and give evidence at the hearing and to appeal. Note that those boats do not need to request permission to participate in writing; they may simply show up at the hearing.
- The PC shall request redress for all the boats participating in the hearing, or boats that request redress in writing (see the prescription to rule 60.3(b)). The PC does not need to state a reason for such a request. Some committees provide a signup list at the hearing location to be sure it knows the name of each participant.

Given the notification requirement imposed by the above prescription, it is important that PCs treat requests for redress separately from boat-on-boat protests. For example, if a person submitting a protest form checks both the Protest by boat against boat box and the Request for redress box, these should be treated as two separate hearings. The boat-on-boat protest should be heard first, and the redress request heard separately after inviting all boats to participate as required by the US prescription to rule 63.2. Procedurally, it may make sense to photocopy the original form and add a comment denoting the need for a separate hearing.

If redress is warranted after deciding a boat-on-boat protest, the PC should file a separate protest form and check the box for “Consideration of redress by protest committee” and comply with the requirements of the US prescription to rule 63.2 before proceeding.

Validity

As in a protest hearing, the first step in a redress hearing is to establish the validity of the request in accordance with rule 63.5. The request must be in writing and identify the reason for making it. A protest form is customary and acceptable, but not required. The written request must be filed within the time limit for filing a written protest in accordance with rule 61.3 or within 2 hours of the incident, whichever is later. Other requests shall be delivered as soon as reasonably possible after learning the reasons for making the request.

This time limit shall be extended further for “good reason.” A good reason might be an injury or the late posting of RC actions after the competitors have left the venue. Appeal 41 establishes that, when it is not reasonably possible for a competitor to comply with the protest time limit, the PC must extend it.

No protest flag is required for a redress request except in match racing under rule C6.3.

Requirements for Redress

Rule 62.1 describes the three requirements for a boat to be granted redress. In order to qualify for redress, a boat’s request must be based on a claim or possibility that:

- 1) a boat’s score or place in a race or series has been or may be made significantly worse
- 2) through no fault of her own
- 3) by one of the four conditions listed in (a), (b), (c), or (d) of rule 62.1.

The word “shall” in rule 62.1 mandates that all three of these requirements be met. A request that does not meet all requirements must be denied. The PC has no latitude to ignore any of the three requirements. Conversely, if the request meets all three requirements, the PC must grant redress. The PC must carefully consider each requirement.

A Boat’s Score or Place Has Been Made Significantly Worse

The PC must decide if the boat’s finishing score or place, in either a race or a series, was made significantly worse as a direct result of the incident, action or omission claimed in the request for redress. The request must pass that test.

For example, Appeal 54 describes such an error by the RC. By starting a race after the latest permissible time stated in the SIs, the RC committed an error. The finishing place in the series for the boat requesting redress was made significantly worse. The request for redress was granted and the race was excluded from the series score.

Through No Fault of Her Own

When a PC concludes that the RC committed an error in scoring a boat OCS, for example, the boat is not automatically entitled to redress. If the PC determines in the hearing that the boat knew or should have known that she was over the starting line, the request for redress has not met the “through no fault of her own” requirement. If she was several boat lengths over the starting line, she has no valid claim that she had to rely on the RC signals.

It should be noted that the rule stipulates “no” fault on the part of the boat requesting redress. A partial contribution in the loss of finishing place will not meet the test for “no” fault and the request for redress must be denied.

Suppose a right-of-way boat on starboard-tack suffers significant damage in a collision with a boat on port that was required to keep clear. The damage prevents S from continuing the race in safety and she retires. S protests P under rule 10 (*On Opposite Tacks*) and requests redress under rule 62.1(b). In the protest hearing, the PC disqualifies P under rules 10 and 14 but finds that much or all of S's damage was caused because S broke rule 14. In such a case, the PC would likely disqualify S under rule 14 and deny her request for redress since the damage that caused her to retire (and lose finishing positions) was at least partly her own fault.

Conditions of Rule 62.1

When considering whether to grant redress, the PC must conclude that the worsening of the boat's score described in the request meets one of the four conditions listed in rule 62.1:

Condition One: Rule 62.1(a)

62.1(a) "an improper action or omission of the race committee, protest committee, organizing authority or technical committee for the event, but not by a protest committee decision when the boat was a *party* to the hearing."

Allegations of improper race committee procedures are the most common type of redress requests. Most often a boat claims that the RC incorrectly scored her OCS for breaking rule 29.1 (*Individual Recall*). Related requests involve rule 30 (*Starting Penalties*) where the boat claims she was incorrectly scored ZFP, UFD, BFD or OCS. For redress requests involving starting penalties, if the RC was using acceptable methods and is confident of the call, the boat must demonstrate that the RC erred. The boat should also demonstrate to the PC's satisfaction that she started properly. The boat may qualify for redress if the RC fails to meet the signaling requirements in the rules (typically rule 29.1). Cases 71 and 79 establish that when a boat reasonably believes she started correctly and the RC fails to follow the procedures under rule 29.1, the boat is entitled to redress.

Frequently a boat that was scored OCS bases her claim for redress on the fact that another boat that was farther up the course was not scored OCS. In that circumstance, the PC should deny the request for redress if there was no error in identifying the boat scored OCS.

The RC must score a boat in her finishing place if she meets the definition *Finish*. An exception is when an RC witnessed a boat failing to sail the course as required by rule 28 (*Sailing the Race*). Under Rule A5.1, the RC now scores the boat NSC - Did not *sail the course*.

Rule 4 (*Decision to Race*) requires a boat to take responsibility for deciding to race. If, as in Appeal 39, she decides not to race, she cannot claim that her score was made worse by an improper action of the RC. The request was denied.

The RC is required by rule 84 (*Governing Rules*) to conduct races in compliance with the *rules*, which include the SIs. When it fails to do so, a boat may be entitled to redress.

The action or omission must be "improper." In Case 68, the RC's failure to discover that a boat was sailing without a valid rating certificate was not an improper omission. Appeal 44 makes it clear that it is a proper action for the RC to correct a scoring error. Boats whose scores are changed as a result of the correction are not entitled to redress.

Condition Two: Rule 62.1(b)

62.1(b) “injury or physical damage because of the action of a boat that was breaking a rule of Part 2 or of a vessel not *racing* that was required to keep clear.”

When deciding whether a boat is entitled to redress under 62.1(b), a PC must establish that the boat suffered physical damage that affected her ability to proceed in the race at normal speed. Contact with another boat without bodily injury or physical damage that results in a loss of finishing place does not qualify for redress. The loss of concentration due to a crash tack does not qualify. Case 19 interprets the word “damage.” The damage to the boat seeking redress need not be the result of a collision. However, the damage must be caused by the action of a boat or vessel required to *keep clear*. When a starboard-tack boat executes a crash tack to avoid a port-tack boat and seriously rips her only jib, she qualifies for redress. The damage itself must affect the speed or handling characteristics of the boat in such a way that the boat’s score is made significantly worse. A bent stanchion that does not affect sail trim or prevent crew from hiking normally qualifies as damage but may not affect the speed or handling characteristics of the boat. Case 110 clearly requires the damage itself to be the reason for the loss of finishing place.

As noted in Case 110, the word “injury” refers to bodily injury to a person. Injury would be any bodily injury that requires medical treatment or that renders a crew less functional. Minor cuts or abrasions would not be considered “injuries” for the purpose of this rule. “Damage” is limited to physical damage to a boat or her equipment that results in the value of part or the whole of the boat being diminished or rendered less functional. The following are examples of actions that do not qualify as physical damage:

- capsize
- crew overboard
- rigs or lifelines entangled
- loss of places

Condition Three: Rule 62.1(c)

62.1(c) “giving help (except to herself or her crew) in compliance with rule 1.1...”

Rule 1.1 (Helping Those in Danger) directs a boat to give all possible help to any person or vessel in danger. The loss of finishing places as a result is a valid reason for claiming redress. When a boat complies with rule 1.1 and loses finishing places as a result, a PC must grant a request for redress. Boats that stand by capsized boats or respond to distress signals can expect to receive redress. In Case 20, a boat that goes to the aid of another boat that appears to be, but actually is not, in danger is granted redress.

Condition Four: Rule 62.1(d)

62.1(d) “an action of a boat, or a member of her crew, that resulted in a penalty under rule 2 or a penalty or warning under rule 69.2(h).”

This provision allows a PC to grant redress to a boat that suffered a loss in finishing place by the actions of a boat that broke rule 2 (Fair Sailing) or rule 69 (Misconduct). Case 34 describes a situation in which Boat A crossed the starting line well before the starting signal and then hindered Boat B in order to ensure that B’s finishing place was made significantly worse, which made A the winner of the series. A was penalized under rule 2.

Case 34 also discusses B’s ability to request redress under 62.1(d). Similarly, if the SIs require a boat disqualified under rule 30.3 to retire, and the boat fails to do so after being properly notified, she breaks rule 2 as stated in Case 65. If she then hinders another boat, that boat may be entitled to redress under rule 62.1(d). Also see Case 78.

Special Conditions Added by SIs or Other Rules

In some events, the RC may add additional conditions in the SIs to specifically allow or deny redress in certain circumstances. For example, at an event where the OA supplies boats for competitors, RCs frequently add language to the SIs regarding redress involving equipment breakdowns. Another common SI is language to limit OCS redress where the RC intends to announce OCS boats via VHF radio transmissions.

Judges should take some precautions regarding such clauses:

- Ensure that the SIs properly cite changes to racing rules and that they change racing rules only as permitted by rules 85 and 86.
- Check for rule changes embedded in class rules that are not properly made (often because the class rules attempt to change rules that they are not allowed to change). When a judge sees such clauses, he or she should work with the OA and RC in advance to ensure that the changes are properly brought into the SIs.
- Sometimes a sailing region or class will use special clauses as their normal practice. When that happens, judges and sailors must be careful not to assume that the language is present in SIs outside of that region or class.

Decisions on Redress

Once the PC has decided that one or more boats are entitled to redress, rule 64.2 requires the PC to make as fair an arrangement as possible for all boats affected. The PC is advised to avoid abandoning a race whenever possible. The PC is required to “take evidence from appropriate sources” when in doubt about the facts or probable results due to awarding redress. This may involve expanding the hearing to include other boats or taking testimony from additional witnesses.

The redress must include all boats affected, whether or not they sought redress. For example, if one boat asks for redress and the PC finds the boat is entitled to redress because of a race signal timing error, the jury is obligated by rule 64.2 to take testimony and find facts regarding any other boats that were affected by the same error.

However, as Case 37 suggests, the redress should not extend across multiple races if redress is not sought. If, in a multiple class event, the SIs are ambiguous and boats in one class are confused and sail different courses, some of them may be entitled to redress. If, however, in other classes all of the boats sail the same course, those boats are not entitled to redress unless they are protested under rule 28.

While not a requirement, before excusing the *parties* and entering into deliberations the PC chair can ask what type of redress they seek. This provides the PC with some gauge to use in their deliberations and decision.

Finally, if the proposed redress would significantly affect the score or results of another boat or boats, the PC should consider inviting representatives of those boats into the redress hearing and obtain testimony from them as well. The resulting redress is more likely to be respected and accepted by all the competitors if the PC has taken the time to listen to their perspectives.

Scoring Redress

When redress has been granted and the PC decides to adjust scoring, it will turn to rule A9 (Guidance on Redress). However, rule A9 is advisory, so the PC may look outside this rule for a scoring solution. Rules A9(a) and A9(b) use average points and are the two most common scoring adjustments when redress is granted to only a few boats. Rule A9(a) suggests calculating average points of an entire series, excluding the race in question. Frequently, the races to be sailed on the final day of an event are also excluded so that all boats know where they stand going into the final day. Rule A9(b), which suggests granting the average of her scores of all races before the race in question, is more appropriate in some circumstances, such as when the weather conditions have changed dramatically. Rule A9(c) suggests points based on the position of the boat at the time of the incident. This can be used if the boat's exact position is known and if the incident occurs very near the finish. For handicapped races scored on elapsed time, adjustments can be made in the finishing times.

The PC should also be aware that rule A6.2 allows for duplicate scores unless the PC decides otherwise. This prevents situations where the finish position of an "innocent" boat is altered because of a redress decision. It is advisable to specify clearly the PC's intent when providing redress information to the scorer. For example, a decision could read: "... Boat A is granted redress and is to be scored in 15th place, with no change to the scores of other boats ..."

Redress given to a boat that made an error as a result of an improper action of the RC should not result in that boat receiving a better score than boats that did not make the error. In Case 45, the SIs incorrectly gave instructions for finishing that were contrary to the definition *Finish*. Boats that *finished* in accordance with the SIs were entitled to redress, but the appeals committee determined that, in this situation, it would not be fair to award better finishes to those boats that followed the SIs than to boats that *finished* in accordance with the definition.

When granting redress, it is always an option for the PC to decide to let the results stand.

If there is a major RC problem at the finish of a race, the PC may have to reconstruct the actual finishing order or use the positions at the last rounding mark. Reconstructing a finish requires

creativity and testimony from many witnesses. One method is to open the hearing up to the entire one-design class or fleet. The PC chair might ask the skippers to line up in the order they believe they finished. It is surprising how well this can work to determine the finishing order for the vast majority of the fleet.

8 – Other Procedures

Race Committee-Initiated Actions

Protests Initiated by the RC

The RC is permitted by rule 60.2 (Right to Protest; Right to Request Redress or Rule 69 Action) to protest a boat under specific conditions.

The RC is prohibited from protesting a boat based on information in an invalid protest or in a request for redress, or from a report from a person with a *conflict of interest* other than the representative of the boat herself. For example, if a coach or parent complains to the RC about something that happened on the water, the RC cannot protest based on that information. However, such a complaint might cause the RC to examine its own records further to determine if there are grounds to protest.

When the RC intends to protest for an incident it observes in the racing area, it shall inform the boat after the race and within the time limit of rule 61.3. For other protests, it shall inform the boat as soon as reasonably possible and within the time limit. The SIs may state that posting constitutes the notice required by rule 61.1(b) (Informing the Protestee). However, the RC should attempt to locate the skipper of the boat being protested and notify him or her in person.

RC protests usually involve a boat touching a mark. New in 2021, rule A5.1 says If the RC believes a boat did not *sail the course*, it shall score her NSC.

The PC must ensure all validity requirements have been complied with before proceeding with the hearing. During the hearing, the RC is a *party* to the hearing and acts as the protestor. This includes giving evidence, being given the opportunity to ask questions, answer questions and call witnesses, and being asked to leave the room during the PC deliberation.

As stated in rule 63.1, a protest or hearing is not required for:

- Breaches of starting *rules* such as rules 30.2, 30.3, 30.4
- Breaches of rules 64.4(d), 64.5(b) and 78.2
- Breaches of rule 42 when Appendix P applies
- Boats that are scored DNS, RET, DNF or NSC under rule A5.1
- Alleged breaches of rule 69 are not subject to the normal protest hearing procedure. Instead, they are governed by special procedures described in rule 69.

Boats that are scored in anything other than their finishing places should be notified promptly. The RC usually does this by posting the scores or, if there is any significant delay, by posting a separate report of “Race Committee Actions.”

Requests for Redress Initiated by the RC

The RC cannot grant redress, but it may request that the PC consider giving redress to a boat under rule 60.2(b). This is generally done when the RC discovers its error too late to recall, postpone or abandon the race, or when abandoning the race is clearly not the proper or desirable action. The RC may also request redress on behalf of a boat that has been scored OCS but may have actually returned and started properly, or one that may have been impeded by a mark boat.

Protest Committee-Initiated Actions

Protests Initiated by the PC

Rule 60.3 permits the PC to protest a boat under specific conditions. Such protests have the same validity requirements as for those initiated by the RC and the TC, which must be met before the hearing.

The PC may not protest a boat “as a result of information arising from a request for redress or an invalid protest, or from a report from a person with a *conflict of interest* other than the representative of the boat herself.” However, there are two exceptions. Rule 60.3(a)(1) permits the PC to protest a boat involved in an incident that may have resulted in injury or serious damage, but the PC must, as a condition of validity, first determine whether the incident did result in injury or serious damage. Rule 60.3(b)(2) permits the PC to protest a boat when, during the hearing of a valid protest, it learns that the boat, although not a *party* to the hearing, was involved in the incident and may have broken a rule. If the PC decides to protest a boat under this rule, it must inform her as soon as reasonably possible, close the current hearing, proceed by completing a protest form as required by rule 61.2, follow the due process requirements of rule 63 and hear the original and new protests together.

When the PC initiates the protest, the “protestor” is the PC as a whole. When conducting the hearing, the chair should ensure that the boat’s representative is aware that, although one or more individual members of the PC will present the evidence, it is the PC as a body that has initiated the hearing.

Judges who see an incident must be careful not to discuss testimony with the other PC members prior to the hearing. Rule 63.3 gives all *parties* the right to be present for all testimony, so PC members must never discuss the incident without the *parties* present. Before racing begins, PCs should agree on the circumstances under which they will protest. Then, if a member witnesses an incident that falls within the agreed guidelines, he or she can deliver a protest on behalf of the PC without discussing the incident in detail. However, the member should also discuss their intent to file with the PC chair before actually doing so.

A basic principle in *Sportsmanship and the Rules* is that competitors are expected to follow and enforce the *rules* and to protest when a *rule* is broken.

There may be circumstances when the PC should consider initiating a protest under rule 60.3. However, the US Sailing Judges' Committee recommends that, unless specifically directed by the OA to do so, judges not initiate a protest under rule 60.3(a) against a boat on the water except when:

- It is obvious a boat broke a *rule* and there is no other boat nearby that could protest
- It is likely that a boat or competitor broke rule 2
- The NoR or SIs state that Appendix P (Special Procedures for Rule 42) applies

When the PC protests under rule 60.3(a), it is important to remember the principles of hearing evidence laid out in rule 63.6. One judge will represent the PC as the protestor in the hearing. If more than one judge saw the incident, one will present the case and the others may testify as witnesses. The *parties* to the hearing and the PC are entitled to question any judge who gives testimony.

Rule 61.1(b) requires that the PC inform the boat that the PC is protesting them within the protest time limit (unless the protest is based on information in another valid protest). The SIs may state that posting qualifies as notification. However, even if posting is the only notification, it must be accomplished within the protest time limit, and it is good practice to attempt to notify the protested boat so she can prepare her defense.

Since appearances do influence people's attitudes, the PC member who acts as the protestor usually sits in the position occupied by the protestor. If the PC is large enough and skilled enough, it should consider having that judge act only as the protestor and not serve on the panel. However, there are circumstances when this is impractical. Chapter 6 discusses procedures when a PC member is a protestor or witness in a hearing.

Other PC-Initiated Hearings and Penalties

The PC may consider redress without a request from a boat if it receives such a request from the RC under rule 60.2(b), from the TC under rule 60.4(b) or if the committee decides it is appropriate under rule 60.3(b). If judges observe an incident on the water that appears to meet the requirements for redress and neither a competitor nor the RC requests redress, the PC may initiate a hearing to decide if redress is appropriate.

The PC may initiate a hearing under rule 69 as described in Chapter 10 (Hearings Involving Misconduct).

If the SIs invoke Appendix P, the PC may disqualify a boat without a hearing for breaking rule 42 but must limit such penalties to incidents that a member of the committee or its designated observer sees.

Technical Committee-Initiated Actions

Protests Initiated by the TC

Equipment inspectors and event measurers are collectively called the Technical Committee (TC), which is appointed by the OA or RC (rule 92). The function of the TC is to conduct equipment inspection and event measurement as directed by the OA and as required by the *rules*. When the TC for an event decides that a boat or a competitor's personal equipment is not in

compliance with class rules, it has the authority to protest a boat directly. In addition, the TC now has the authority to request redress for a boat, to act as a *party* to a hearing and to report to the PC requesting rule 69 action.

The TC is under the same limitations as the PC and the RC for protesting a boat. It cannot protest a boat as a result of information arising from a request for redress or an invalid protest or from a report from a person with a conflict of interest other than the representative of the boat herself. However, it is required to protest a boat if it decides that a boat or personal equipment does not comply with the class rules or with rule 50.

The TC must meet the same protest requirements as the PC and the RC regarding informing the boat (rule 61.1(b)), protest contents (rule 61.2) and the protest time limit (rule 61.3). The TC has no authority to call a hearing or penalize a boat.

Measurement

Measurement is the process for determining under rule 78 (Compliance with Class Rules; Certificates) that a boat conforms to her class rules and her measurement or rating certificate. Competitors, RCs, PCs and TCs are all required to abide by these *rules*. The procedures for deciding a measurement *protest* are described in rule 64.4 (Decisions on Protests Concerning Class Rules).

Class rules include the details of how a boat is measured and rated. The class rules usually contain administrative provisions and owners' responsibilities. Although class rules and measurement procedures sometimes appear complex, a PC usually can understand them with a little effort and some informed assistance from an expert witness, usually a measurer or class administrator. The definition of *rule* includes the class rules (the rules of a handicap or rating system are also class rules). The class rules are always in effect even when they are not mentioned in the NoR or SIs by the following statement in the NoR and SIs: "The regatta will be governed by the rules as defined in *The Racing Rules of Sailing*."

International Measurers are appointed by World Sailing to measure for international classes or specific rating rules. Class measurers are appointed by class associations to measure for that class. Class rules may include a description of the qualifications and appointment process. However, when World Sailing's Equipment Rules of Sailing (ERS) are invoked, they specify that the TC appoints an equipment inspector (ERS C.4.6). In such cases, the PC should ensure prior to the event that the equipment inspector's required qualifications are met so that there are no misunderstandings between the OA and the class.

The SIs may include provisions for measurement and may also include specific requirements for pre-race measurement and measurement checks during or after the racing.

A person not appointed to the TC, even if he or she is an official measurer, has no official status at an event. Such a person can, of course, be called as an expert witness.

When the equipment inspector concludes before a race or regatta that a boat does not comply with the *rules*, he or she may request that the defect be corrected. If the boat then races without correcting the defect, or a defect is found after a race, the equipment inspector shall protest as directed under 60.4(a).

When hearing a measurement *protest*, the PC must first determine whether the *protest* is valid. Rule 61.2 (Protest Contents) requires that the *protest* identify, among other things, the incident, where and when the incident occurred, and any *rule* the protestor believes was broken. A protest stating only that “the boat doesn’t measure in” or that “she is too fast for her rating” does not meet the requirements of the rule. If no incident is identified, the *protest* is invalid.

Requiring a reasonable description of the measurement infringement does not prejudice the protestor. The same requirement exists for any other *protest*. If the protestor cannot be specific about an alleged breach, he is simply asking the PC to go on a “fishing expedition.” A PC can deal with a specific complaint, but it can’t be expected to order a full re-measurement simply because a protestor thinks the boat does not measure in.

When a *protest* alleging a breach of rule 78 is found to be valid, the PC must hold a hearing, find the facts, determine whether it can interpret the *rules* and, if so, decide the protest. If the PC is in doubt about the meaning of a measurement rule, rule 64.4(b) requires it to refer its questions to “an authority responsible for interpreting the rule.” In this case, the PC may defer making a decision, but must still find the facts and identify the interpretation or application about which it is not clear. The PC need not be expert on class rules. It may call witnesses who understand the rule, including administrators, inspectors, measurers, designers or any other witness it deems necessary. Rule 63.6 requires that the PC take evidence from the parties and other evidence it considers necessary to decide the *protest*.

A person who is thoroughly familiar with the class rules and procedures, such as an official measurer, can be helpful to the PC as an expert witness. Boat designers and builders can also be expert witnesses, but they may have *conflicts of interest*. Witnesses, no matter how expert, are just witnesses. The PC makes the final decisions.

When a measurer is available and the protest involves complex measurement issues, the PC may wish to order measurement checks or even complete re-measurement. This falls within the “other evidence it considers necessary” part of rule 63.6. Nothing in the *rules*, however, gives a boat the right to demand that another boat be re-measured. The decision to order re-measurement is up to the PC (or the OA if so stated in the SIs or NoR).

The “authority responsible for interpreting” measurement rules noted in rule 64.4(b) is usually identified in the class rules. US Sailing prescribes that the authority for interpreting rules of a handicap or rating system is the organization that issued the certificate. In the United States, for IRC, ORC and ORR, this is the Offshore Director of US Sailing. For PHRF, the authority is the PHRF handicapping committee that issued the certificate.

Once a PC refers a measurement question to the qualified authority, rule 64.4(b) requires the committee to be “bound by the reply.” When such a referral is made, the PC gives up some of its authority, so it should word its questions carefully to ensure that it gets the information needed to make its decision without abdicating its responsibilities.

As provided by rule 64.4(d), a boat that has been disqualified under a measurement rule may continue to race if she states in writing that she intends to appeal. She remains disqualified if she does not appeal or if her appeal is not sustained.

In a measurement protest, the PC has an additional responsibility. Rule 64.4(e) requires the unsuccessful *party* in a measurement *protest* to pay any measurement costs associated with the *protest*, unless the PC decides otherwise. The assignment of responsibility for paying the costs should be included in the PC's decision.

Hearings Involving Support Persons

The following section is adapted from an article by Wayne Balsiger, formerly RAJ-L, and Dick Rose, Chair of the World Sailing Racing Rules Working Party.

Hearings Involving Support Persons and Protest Hearings Compared

Most judges have lots of experience hearing boat vs. boat protests, but hearings involving support persons are rare. There are several differences between these two types of hearing and also several ways in which they are similar. These are discussed below.

Differences:

- A person who alleges that a support person has broken a rule is not required to notify the support person before he or she makes a report to the PC, and there is no requirement to hail 'Protest' or fly a red flag.
- A report alleging that a support person broke a rule must be made to the PC, but it does not have to be in writing or satisfy any of the requirements in rule 61.2.
- If a PC receives a report alleging that a support person broke a rule, it must decide whether or not to call a hearing. Also, a PC may decide to call a hearing based on its own observation or information received from any source, including evidence taken during a hearing (rule 60.3(d)).
- There is no time limit for making a report alleging that a support person broke a rule.
- The PC must hear all protests delivered to the race office unless it allows the protest to be withdrawn (rule 63). However, the PC is not required to hold a hearing when it receives a report alleging that a support person broke a rule. The PC must consider the report, or discuss its own observations concerning a support person's actions, and then decide whether or not to call a hearing.
- In a protest hearing, the parties are the protestor and the protestee, and the protestor presents the allegation. When a hearing is called alleging that a support person has broken a rule,
 - (1) the PC may appoint a person to present the allegation in the hearing, and
 - (2) every boat that the support person supports is a party to the hearing. This means that if a hearing is held because a coach, a parent or any other support person may have broken a rule, every boat supported by that person is entitled to be represented during the hearing and will have all the rights a protestee would have in a protest hearing.
- The details of the allegation shall be given to all parties to the hearing. Although there is no requirement that this be done in writing, doing so is a good practice.
- The validity rules in rule 63.5 do not apply, but the PC should make sure that the requirements of rule 63.2 have been met.

- In a protest hearing, only boats can be penalized (see rule 64.2). However, in a hearing involving a support person, action against the support person may be taken (see rule 64.5(a)), and, in addition, one or more of the boats that the support person supports may be penalized (see rule 64.5(b)).
- In the decision phase of the hearing, the PC shall comply with rule 64.5.

Similarities:

- All parties to the hearing shall be notified of the time and place of the hearing, and they shall be allowed reasonable time to prepare for the hearing (rule 63.2).
- All the requirements of rule 63.3 apply, except the requirement in the second sentence of rule 63.3(a).
- Rule 63.4, regarding possible conflicts of interest held by members of the PC, applies.
- Informing the Parties: rules 65.1 and 65.2 apply.
- All the requirements in rule 63.6 apply.
- All three parts of rule 64.1 apply.
- Reopening: rule 66 applies.
- Appeals and Requests: rule 70 applies.

Applicable Cases

Case 138 deals with Rule 2, Fair Sailing and Rule 69, Misconduct.

Case 139 deals with Rule 69.2(j), Misconduct: Action by a PC. This case specifically discusses when a PC should report an act of misconduct by a support person to the national authority or to World Sailing.

Rule 69.2(j) requires a report to the national authority or to World Sailing when the penalty applied is greater than DNE for one race, if the person has been excluded from the venue or in other cases when the PC considers it ‘appropriate’. It would be ‘appropriate’ to report in the following circumstances, as examples:

- (1) In a single race event the PC believes that the penalty for the breach would have been more than DNE for one race if it were in a multiple race event. This might be because of the seriousness of a single breach or a number of lesser breaches.
- (2) A support person is found in breach of rule 69 and would have been excluded from the venue, but the event is now into its last day and exclusion from the venue would be ineffective.
- (3) The PC has good reason to believe that the person who has breached rule 69 has previously been penalized for a breach of rule 69.1(a) and especially if the breach is similar.
- (4) The breach has an impact on events beyond the jurisdiction of the PC. For example, selection or qualification for another event and the breach has adversely affected the selection or qualification of another competitor.

The report is only sent to World Sailing when the breach occurs at specific international events as listed in World Sailing Regulation 35, Disciplinary Code. Otherwise the report is to be sent to the national authority of the person(s) found to have breached rule 69 (not necessarily to the national authority of the boat owner or venue).

Reopening a Hearing

There are two circumstances described in rule 66 when a PC is permitted to reopen a hearing after it has made its decision. The first is when the PC decides that it may have made a significant error. The second is when significant new evidence becomes available within a reasonable time. In both circumstances the reopening is optional. The word “significant” is used in both parts of the *rule*. The determination of what is significant is a conclusion made by the PC and is therefore subject to appeal. The only circumstance under which a PC is required to reopen a hearing is when it is directed to do so by an appeals committee under rule 71.2 or R5 (Inadequate Facts; Reopening).

If a *party* requests reopening, the PC first must decide if the request is valid. A *party* has 24 hours under rule 66 after being informed of the decision to ask for a reopening except on the last scheduled day of racing, when the request must be delivered within the protest time limit if the requesting *party* was informed of the decision on the previous day or no later than 30 minutes after the *party* was informed of the decision on that day.

If the request is timely, the PC decides whether to reopen. The initial portion of the hearing is a presentation by the requesting *party* of the reasons for reopening. That presentation should be limited to a discussion of reasons for reopening, not to actually taking any new evidence. While the *rules* do not require it, if all *parties* are available try to have them present during this initial fact-finding.

Evidence that was available to the *party* at the time of the original hearing but was not introduced is generally not considered “new evidence.” For example, suppose a boat was scored OCS and a redress hearing was held that confirmed the RC’s decision. Then suppose the next day, the boat requests reopening to call a new witness. The PC should ask why this witness was not called in the original hearing. If the PC believes that the boat had adequate time to prepare their case originally and that witness could have been called in the original hearing, then they would probably deny the request. Case 115 addresses what constitutes new evidence.

After the *parties* are dismissed, the PC decides whether there is sufficient reason to reopen and notifies the *parties* of its decision. If the hearing will be reopened, the PC must provide the same notification that is required for a protest hearing. Rule 66 states that a majority of the members of the PC conducting a reopened hearing should, if possible, be members of the original PC.

It is not necessary for a *party* to request reopening in order for the PC to reopen a hearing. If the PC decides that it may have made a significant error, it may reopen the hearing and re-deliberate without taking any new evidence and can revise its decision as necessary. When reopening based on a significant error, the protest committee, if practicable, have at least one new member. The *parties* are not entitled to be present for the deliberation. The PC could also learn of significant new evidence and decide to reopen the hearing. If any new evidence is to be considered, the *parties* have a right to be present under rule 63.3. In addition, the *parties* have the right under rule 63.6 to question any new witnesses.

Frequently, competitors try to use a reopened hearing to have the entire matter reconsidered. At a reopened hearing, only the new evidence or evidence related to the error should be

considered. *Parties* may ask questions, call witnesses and sum up, and the PC proceeds as it would in any other hearing.

Open Hearings

Hearings that permit observers, such as other competitors, prospective judges, parents and coaches at protest hearings are called “open hearings.” This practice is becoming more common and is very beneficial to all concerned. It is especially useful for juniors whose concerns about protest hearings can be reduced by attending an open hearing.

The major thrust of holding open hearings is educational. In an open hearing, observers’ knowledge of the *rules* will be enhanced and they will gain a better understanding of due process and proper protest-hearing procedures. There are other benefits to open hearings as well:

- All participants in an open hearing (PC, the *parties* and witnesses) know that what they say and how they say it will be observed by a number of people, some of whom may have seen the incident being discussed.
- Once observers in an open hearing understand how a PC functions, they will be less intimidated in the future.
- The impression that PCs act arbitrarily will be diminished.
- When coaches are allowed as observers, they will be able to debrief the sailors more accurately, having heard the testimony firsthand

If hearings are to be open, the PC chair must make three rules for the observers very clear:

- Observers cannot be witnesses for either party. Before the hearing begins, this rule must be spelled out clearly to the parties and the observers. The chair should ask the parties to the hearing to scan the room and make sure that they do not see anyone that they might like to have as a witness, because anyone who remains in the room when the hearing begins can no longer serve as a witness. Witnesses must be excluded from a hearing under rule 63.3(a), except when giving evidence.
- Observers may not speak or communicate with the parties during the hearing. The chair must carefully control this rule. However, if time permits after the conclusion of the hearing, questions from observers should be encouraged.
- Once the hearing begins, observers will not be allowed to leave the room until they are dismissed, since they cannot communicate with any of the parties or witnesses. Before the hearing begins, the chair should make sure that this rule is well understood among all observers. The chair should give any observer who might not be able to honor this rule a chance to leave the room before the hearing begins.

Some PCs prefer to dismiss all observers (close the hearing) during deliberations. Whether the PC allows observers to remain in the room during this segment depends, in part, on the nature of the protest. If the issue is straightforward, observers may well benefit from hearing how deliberations are conducted. If the case is particularly difficult or contentious, it may be wise to close the hearing during deliberations. Due to the sensitive nature of the testimony, hearings held under rule 2 or rule 69 must never be open to observers.

Protest Committees at Umpired Events

Umpired events seek, to the extent possible, to determine a winner at the end of a race. When the boats are racing, this requires on-the-water resolution of rules issues, including the imposition of penalties. This system makes racing more exciting, but it does not completely eliminate the need for protest and redress hearings after a race is over. For further information on Match and Team Racing Umpiring, refer to the World Sailing Umpire Manual available on the World Sailing website.

World Sailing Codes

Although the following WS codes rank as rules under definition Rule (b), they are not printed in the rulebook because they can be changed or amended at any time by World Sailing: Advertising, Anti-Doping, Betting and Anti-Corruption, Disciplinary, Eligibility, and Sailor Classification. These codes can be found at Regulations 20, 21, 37, 35, 19, and 22 respectively. Changes to these codes are posted on the World Sailing website as soon as practicable after approval and may be obtained directly from World Sailing. Judges should access the website periodically to check for changes to these regulations.

Competitor Classification

Under rule 79 (*Classification*), World Sailing's *Sailor Classification Code* (Regulation 22) categorizes competitors according to the financial benefit they derive from activities that contribute to the performance of racing boats. Group 1 competitors generally do not benefit financially from such activity, while Group 3 competitors benefit financially to a greater degree. Regattas and classes can use the Classification Code to limit the participation of professional (Group 3) sailors. The code must be invoked by class rules or the NoR or SIs.

The Code can be applied in a variety of ways. It may apply to helmsmen or crew only, or it may be used to limit the number of competitors from a specific group (for example, not more than one Group 3 competitor shall be permitted per boat). The Code is typically incorporated into class rules in order to help shape the nature of competition. The wording of the Code may not be altered in class rules, the NoR or the SIs.

Classification *protests* are rare because competitors are typically required to apply for classification before the event. The code itself has a process for handling challenges, so protests during an event are the last resort. However, if a PC receives a *protest* based on classification and it is in doubt as to the classification of a competitor, it may refer its facts found to the Classification Authority at World Sailing and shall be governed by the decision of the Classification Authority on those facts. The PC must also report its decision to the Classification Authority.

Post-Event Reports

Occasionally the OA will request a report from the PC. The chair normally writes this report. At the end of each race day, the PC should meet to discuss each course and any problems, and the chair and vice-chair should meet with the race officers. The chair should meet with the jury

secretary to compile the hearing results. A wise chair will arrange to keep notes for producing reports.

The report should outline the conduct of the racing and include recommendations for improving future events. It should include a summary of the scoring and results. When innovative or unusual race management procedures are used, a description should be forwarded to the US Sailing Race Management Committee. The chair of the RC and each judge should receive a copy of the completed report.

The report should also include any controversial or interesting decisions, preferably after discussion by the PC. If there was a rule 69 hearing where a penalty was imposed, a report to the national authority is required. The report to the OA should include sufficient detail for a reader to understand why the decision was made. More than one report may be required. See Chapter 10 (Misconduct Hearings) for guidance on rule 69 hearings.



Judges observe the windward mark rounding at a Laser event.

9 – Alternative Procedures for Dispute Resolution

Introduction

Appendix T, originally a US Sailing prescription to the 2013-16 RRS, provided options for resolving rules disputes that were more informal and less intimidating than a full protest hearing, including post-race penalties, expedited hearings, and arbitration. But those options applied only in the United States. World Sailing adopted arbitration for the 2017-2020 RRS (as Appendix T), so now the same system of arbitration applies world-wide. Be aware, however, that Appendix T applies only if the NoR or SIs so state.

Post-Race Penalties

Rule T1 and the US prescription at rule V2 allow for a penalty, other than disqualification, provided that rule 44.1(b) does not apply. A boat that may have broken one or more rules of Part 2 or rule 31 in an incident may take a Post-Race Penalty at any time after the race until the beginning of a protest hearing involving the incident. However, as noted above, if a boat causes injury or serious damage, or gains a significant advantage by her rules breach, the Post-Race Penalty is not available to her and her only option is to retire.

The Post-Race Penalty language provided in rule T1(b) and rule V2 calls for a Scoring Penalty of 30% calculated as stated in rule 44.3(c). If a boat may have broken a rule of Part 2 and rule 31 in the same incident, she need not take a penalty for breaking rule 31. The method for taking a Post-Race Penalty is described in rules T1(c) and V2.

Arbitration

Arbitration is a tool for resolving rules disputes that any OA can choose to implement. Rule T2 (Arbitration Meeting) describes the process, which includes the Post-Race Penalty option described above.

Arbitration provides a shorter, simpler and less intimidating alternative to a protest hearing that often results in sailors taking a voluntary penalty less than disqualification or withdrawing their *protest*. Arbitration is an informal meeting between the sailors and a rules expert (the arbitrator) prior to a protest hearing. Competitors may learn more about the *rules* without having to sit through a lengthy protest hearing.

When arbitration applies, a Post-Race Penalty is also offered (see rule T1). This penalty is available to all competitors until a protest hearing involving the incident begins, regardless of whether they participate in arbitration. For example, after coming ashore, a competitor may realize that he or she broke a rule after reading the rulebook or talking with friends. In that case, that person may take a Post-Race Penalty in accordance with rules T1 or V2 if they apply.

An arbitration meeting is not a protest hearing, and the arbitrator will not be a member of the panel that hears the *protest* if it goes to a hearing. Boats or competitors are not penalized at arbitration; Post-Race Penalties are optional and may be taken or declined by competitors. Arbitrators give their opinion regarding the *protest*, but that is not a “decision” as the term is used in the racing rules. There can be no reopening, redress or appeal stemming from arbitration.

When a competitor takes a penalty, either during or after the race, it is not necessarily an admission of fault for that incident. Often it is just protection against a possible unfavorable decision by the PC after the race despite the competitor’s belief that no *rule* was broken

Arbitration is technically optional to the competitors (just as protest hearings are), although competitors are strongly encouraged to participate when they are involved in a *protest*. It is generally in both parties’ interests to have the *protest* resolved at arbitration if possible

An arbitration meeting should take no more than 15 minutes, and less if possible. Only the arbitrator, protestor and protestee attend. No witnesses are allowed. If a competitor believes his case requires a witness, the *protest* should be forwarded to the PC. However, before forwarding the protest to the PC, the arbitrator might ask if either party wishes to accept a Post-Race Penalty, if appropriate.

The *protest* should be sent directly to the PC for a hearing if:

- the incident involves possible injury, serious damage, or if one of the parties may have gained a significant advantage in the incident; or
- the arbitrator decides that a conclusion cannot be reached in a short time

The Arbitrator

Arbitrators should be highly-qualified and experienced judges with a strong command of the *rules*. They must think and make decisions quickly and must command the respect of the sailors. A good arbitrator listens well, speaks confidently yet respectfully, and does not “talk down” to the sailors. Trained umpires often make excellent arbitrators. Some judges who excel at untangling complex protests make poor arbitrators, as they may be uncomfortable with the quick pace of the presentation and decision-making.

A good way to learn to become an arbitrator is to watch experienced arbitrators in action. Auditing an arbitration meeting as an observer is fine, as long as the *parties* agree. To protect the objectivity of the PC, neither the arbitrator nor the observer should be a member of the panel that hears the *protest*.

Preparing for Arbitration

Before the arbitration meeting begins, the arbitrator should review the protest carefully and think through possible rules issues that might arise. The arbitrator should also ensure that the protest is appropriate for arbitration. If the protest alleges serious damage, injury or the possibility that a boat gained a significant advantage by her breach, the protest cannot be arbitrated and must go directly to a protest hearing. Arbitration may also be inappropriate if the incident involves rules other than the rules of Part 2 or rule 31 or if the incident involves more than two boats, which may make arbitration quite complicated. It is possible, however, that simple multi-boat incidents can be successfully arbitrated.

Before beginning the meeting, the arbitrator should have a copy of the NoR and SIs and any amendments to them, a rulebook, boat models, and a watch to keep track of time. The arbitrator should also ensure that the parties have a copy of the protest and have had time to prepare.

If all boats involved in a *protest* are not represented at arbitration, there will be no arbitration meeting, and if the *protest* is not withdrawn, it will be heard by the PC. Note that any *party* involved in the incident can choose to take the Post-Race Penalty at any time until the protest hearing begins, even if arbitration is not held.

The Arbitration Meeting

Arbitration is held in a quiet location, well away from other competitors and observers. At the outset, the arbitrator will first identify the parties and confirm that the protestee has had an opportunity to read the protest. The arbitrator may then give a brief overview of arbitration so that the parties are comfortable with the process.

Validity

Before hearing the evidence, the arbitrator will inquire about the validity of the protest. If the arbitrator believes that the PC will find the protest invalid, he or she renders an opinion on this and gives the protestor an opportunity to withdraw the protest. If the protestor agrees to withdraw the protest, he or she will check the box “Withdrawal requested” on the protest form and sign it. Rule T4(b) permits an arbitrator to act on behalf of a PC and approve the withdrawal of a protest.

If the arbitrator believes that the protest is not valid but the protestor declines to withdraw the protest, arbitration continues.

Contact, Damage and Injury

If the incident involves contact, the arbitrator should quickly establish that damage, if any, was not serious and that there was no injury. To resolve this quickly, the arbitrator can ask each party if there was contact. If there was, then ask each party if they believe there was damage or injury. If either party contends there was damage, the arbitrator should ask each party if they believe that the damage was serious. If all parties agree (without the arbitrator rendering an opinion) that there was no injury and that the damage, if any, was not serious, then the meeting will continue. If any party contends that there was injury or serious damage, the arbitrator should end the meeting and forward the matter to the PC.

Taking Evidence and Rendering an Opinion

The arbitrator asks the protestor to present an account of the incident, using boat models, and then asks the protestee to do the same. The arbitrator may question the parties and may allow them to question each other, but only very briefly and under the arbitrator’s firm control. Once the evidence has been given, the arbitrator decides whether or not the facts are clear enough to render an opinion. If the incident may require witnesses the arbitrator should forward the protest to the full PC. However, before sending the parties to a protest hearing, he or she may offer either party the option of accepting a Post-Race Penalty.

If the arbitrator is able to render an opinion, he or she should offer the opinion in terms of what the PC would likely conclude and lay out what options the parties have. It is important to keep in mind that, while the arbitrator should be confident in expressing an opinion, he or she should be careful not to appear to pressure either party into an action. It is up to the parties to choose the option they wish to take.

The arbitrator will give one of four opinions, based on the evidence given by the representatives:

- The protest is invalid
- No boat will be penalized for breaking a rule
- One or both boats will be penalized for breaking one or more rules
- A decision cannot be reached or a Post-Race Penalty is not appropriate

If the arbitrator believes that no rules were broken, he or she should render that opinion (without explaining why) and give the protestor the option of withdrawing the protest.

If the arbitrator believes that one or more boats broke a rule, he or she should say which boats may have broken those rules (again, without stating why), and then list the options available to each party, including:

- Taking a Post-Race Penalty,
- Retiring, or
- Not taking a Penalty

If a party accepts a Penalty, he or she writes on an alternative penalty form or the protest form a simple statement such as "I accept a 30% penalty in race (X)" and signs the form. Once this is done, the arbitrator presents the option of withdrawing the protest to the protestor. If the protestor agrees to withdraw the protest, he or she will check "Withdrawal requested" on the back of the protest form and sign it. The arbitrator then checks the box "Withdrawal permitted" and hands the form to the jury desk. The matter is then closed, and if time permits, the arbitrator is free to discuss the issue more fully.

However, if a protestor insists on having a full protest hearing after the protestee has accepted an appropriate penalty, the arbitrator could note that one possible outcome of a full PC hearing might be that the protestor is penalized since the protestee cannot be penalized further. Knowing this, most protestors will withdraw their protests. Nevertheless, a protestor always has the right to a protest hearing under rule 63.1 even if an appropriate penalty has been accepted by the other party. It should be noted that if a party needs a written decision to clarify which party or parties were at fault in the incident, the protest should be forwarded to the PC for a hearing.

The arbitrator must not give a reason for his or her opinion or make a case for either side until the protest is resolved, either by its withdrawal or by a subsequent protest hearing. Once all protests involved in an incident are withdrawn after arbitration and the protest form is completed and handed into the protest desk, only then is the arbitrator free to discuss the incident and explain the reasons for his or her opinions to the parties. This session often turns into an excellent learning opportunity for the sailors and is one of the rewarding aspects of being an arbitrator.

If the arbitrator's opinion is not accepted or if the arbitrator is unable to render an opinion, the protest is forwarded to the PC for a hearing. The arbitrator should not discuss the incident or the reason the protest was forwarded with any member of the hearing panel.

If the protest goes from arbitration to a protest hearing, the arbitrator should not be a member of the panel that hears the protest since the arbitrator has already expressed an opinion about the incident.

PC Concerns on Changing Testimony

When arbitration was first introduced in the early 1990s, there were infrequent instances in which a party changed his or her testimony between the arbitration meeting and the full protest hearing. This problem, although not widespread, was difficult to deal with because conventional wisdom dictated that there could be no communication between the hearing panel and the arbitrator. The only exception to this practice was that the arbitrator could be called as a witness in a rule 69 hearing if the hearing panel suspected that a party was lying.

To a large extent, that line of thinking still exists. However, there is another approach to dealing with this problem that doesn't escalate the issue to the level of a rule 69 hearing: permitting the arbitrator to monitor the testimony presented in the protest hearing. This is accomplished by amending Appendix T in the NoR or SIs thus:

“Appendix T, Arbitration, will apply as changed. At the end of T4, Arbitration Meeting Outcomes, add:

(c) The first sentence to 63.3(a) is changed to “A representative of each *party* to the hearing and the Arbitrator, if arbitration has been conducted, have the right to be present throughout the hearing of all the evidence.”

Of course, if the PC believes that a party may have changed his or her testimony, it may call a hearing under rule 69.2 to determine whether the person may have committed an act of misconduct.

10 – Misconduct Hearings

Rule 69 (Misconduct) is a rule Judges must be thoroughly familiar with before participating in any misconduct proceedings. The US Sailing Judges' Committee also recommends that protest committees consult World Sailing's Misconduct Guidance document, available on the World Sailing website.

Special Considerations for Rule 2 and Rule 69 Hearings

Hearings involving misconduct require an extra level of care and attention to procedures and rules for several reasons:

- The reputations of the sailors and of the sport are at stake
- A sailor's right to compete can be suspended for misconduct by his or her national authority or World Sailing
- Amateur athletes have rights that US Sailing must respect, including the right to a hearing when the right to compete may be suspended. Failure to satisfy these requirements may result in expensive and time-consuming grievances through the United States Olympic Committee (USOC) arbitration system.

The Ted Stevens Act, USOC Bylaws and US Sailing Regulations

The Racing Rules of Sailing, the Ted Stevens Olympic and Amateur Sports Act (variously referred to as "TSOASA" or "Amateur Sports Act" or the "Ted Stevens Act"), the USOC Bylaws and the US Sailing Regulations all "...protect the opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition" (Ted Stevens Act - 36 U.S.C. Sec. 220501 et seq.). Primary among these safeguards is the right to a hearing, including "...a reasonable opportunity to present oral or written evidence, to cross-examine witnesses, and to present such factual or legal claims as desired" (USOC Bylaws, Section 10.7). US Sailing's Regulation 15 establishes administrative, grievance and disciplinary procedures that must be observed.

These safeguards extend beyond the Olympic-path sailors to include most sailors in the United States. Since a penalty issued under rule 69 can lead to a sailor's loss of eligibility to participate in the sport, all rule 69 hearings in the United States must be conducted with scrupulous attention to due process and the following additional requirements in mind:

- The notification of hearing to the sailor must describe possible penalties
- The sailor has the right to assistance at the hearing, including legal counsel
- The sailor has the right to have a record made of the hearing

A person who believes that his or her rights have been violated can file a grievance under US Sailing Regulation 15. If the grievance is not resolved, the party may demand a hearing through the USOC Arbitration process. US Sailing may be required to pay the costs for conducting these hearings.

Mandatory Reporting: SafeSport and Allegations of Physical, Emotional or Sexual Abuse or Misconduct

Race officials are “mandatory reporters” under SafeSport, meaning that they have an affirmative duty to report any suspicion or allegation of misconduct or abuse.

The SafeSport program, which is mandated by federal law (P.L. 115-126, signed into law in February, 2018) established athlete protection and training requirements for all US Olympic sports and requires the NGBs identify individuals who are subject to SafeSport requirements. The US Sailing Covered Individuals List includes race officials.



If, during the course of a hearing or through any other source, race officials become aware of a suspicion or allegation of physical or emotional misconduct (including bullying, hazing or harassment) or sexual misconduct or sexual abuse, they are required to report the suspicion or allegation.

To report sexual misconduct or abuse of a minor athlete (under age 18):

If you suspect or know of sexual misconduct or abuse of a minor athlete, contact the US Center for SafeSport immediately.

US Center for SafeSport Response and Resolution Office
[US Center for SafeSport.org Report-a-concern](https://www.uscenterforsafesport.org/Report-a-concern)

Follow instructions on website. You may report online or call to report.

Phone: 720-524-5640 Monday-Friday 9am-5pm MT.

You must also report abuse of a minor to local law enforcement:

You must report any instance of possible abuse of a minor to local law enforcement. Reporting to US Sailing or to the U.S. Center for SafeSport Response & Resolution Office does not satisfy the legal obligation you may have to report known or suspected child abuse or neglect. If you have reason to suspect child abuse or neglect, report it immediately to the appropriate authorities.

To report non-sexual misconduct to US Sailing:

If your concern deals with a possible incident of other misconduct—i.e. emotional and physical misconduct, electronic or media related misconduct, travel policy, please report to US Sailing.

US Sailing Reporting Channels:

Email: safesport@ussailing.org Dedicated Phone line: 401-342-7966

Submit the online incident report form, found on the [US Sailing SafeSport Report a SafeSport Incident page](#)

For more information about SafeSport programs and requirements, visit safesport.ussailing.org.

Fair Sailing Hearings

Rule 2 requires that a competitor compete according to recognized principles of sportsmanship and fair play. A protest under rule 2 is lodged against a boat and may be applied with or without another *rule*. A boat, the RC, TC or the PC may all initiate a protest under rule 2. The procedures governing protests under rule 2 are the same as for other protests, including validity testing.

When determining whether a boat broke rule 2, the PC should re-read the section at the beginning of the rulebook entitled *Sportsmanship and the Rules*. If a boat knowingly breaks a *rule* and does not promptly take a penalty or retire, she may break rule 2. Cases 34 and 65 in particular, as well as 27, 31, 47, 73, 74, 78 and 138 and US Appeal 42 all address rule 2.

Rule 2 requires that it be “clearly established” that the principles of sportsmanship and fair play have been broken. When in doubt, the PC must conclude that the *rule* was not broken. Disqualifications may not be excluded from a boat’s series. A disqualification that is not excludable must be noted in the scores with the designation DNE per rule A10. Further, a boat whose score in a race or series may have been made significantly worse by a boat breaking rule 2 may be entitled to redress under rule 62.1(d).

Allegations of Misconduct

When a competitor, boat owner or *support person* may have committed an act of misconduct through a breach of good manners or sportsmanship, or may have brought the sport into disrepute, a rule 69 action may be warranted. Rule 69 is conducted in a significantly different manner from the protest process of other rules. The rule describes how a hearing is initiated, as well as its procedures and penalties.

Unlike other rules, an allegation of misconduct is made against an individual competitor, boat owner or *support person*, not a boat. A hearing under rule 69 is initiated by a PC based on its observations or through a report received from any source concerning the action of a competitor, boat owner or *support person*, on or off the water (rule 69.1(a)). Only the PC may initiate a rule 69 hearing.

There are no restrictions on the source of a report, as there are for RC, PC, or TC protests under rules 60.2, 60.3 and 60.4. A rule 69 action is not a protest but can be initiated based on information in a protest or discovered during the hearing of a protest. In this case, the committee should decide the protest first. After completing the protest hearing, the PC should dismiss the *parties* and decide whether to proceed under rule 69.

If a PC receives a report concerning a person affiliated with the event who is not a competitor, boat owner or *support person*, it cannot conduct a rule 69 hearing. It may, however, investigate and submit a report to US Sailing (or other relevant national authorities) and the national authority may act under rule 69.3. In the United States, the report should be sent to the US Sailing Review Board, care of the Chief Executive Officer.

Time and Place of Misconduct

Since a rule 69 hearing is based on alleged misconduct by a competitor, boat owner or *support person*, the misconduct usually occurs during a competitive event, which is generally considered to be from the time that sailors gather at the venue through the conclusion of the event. This usually coincides closely with the timing of a single event, but it may take place over a longer period, such as a series of races.

The time and place of an incident is irrelevant provided that the misconduct can readily be associated with the event. For example, a rule 69 hearing may be appropriate if a competitor was involved in a serious fight in a public place unrelated to the regatta venue during the time period of the event when that fight brings the sport into disrepute. On the other hand, a rule 69 hearing may not be appropriate where the fight takes place between the competitor and someone unrelated to the regatta, in private or in public, without the public knowing the competitor was competing in the regatta.

Deciding to Hold a Hearing

When considering whether to proceed on a charge of misconduct, the PC should first carefully re-read rule 69, Appendix M and the Due Process Checklist.

On receiving the report, the PC must determine if the allegation is serious and credible enough to warrant a hearing or investigation under rule 69. The allegation needs to be credible and it must allege a breach of good manners or sportsmanship, unethical behavior, or conduct that may bring the sport into disrepute.

An incident must be within the PC's authority to investigate. Note that rules 69.2(c) and 69.2(d) have specific requirements for an investigation. Rule 69.1(b) speaks of bringing the sport into disrepute. A violation of the law involving private behavior that has nothing to do with sailing might not bring the sport into disrepute. On the other hand, a known competitor who displays obnoxious public behavior does bring the sport into disrepute. If the behavior remains undisciplined, the town, the sponsor and the local club may not wish to host the event in the future.

An investigation is important. For instance, sometimes the investigation makes the need for a hearing go away. When practicable, an investigation is strongly encouraged before a hearing is called. When the Protest Committee hears the results of the investigation, it may decide no hearing is warranted.

Preparing for a Hearing

If the PC decides to hold a hearing, it must follow the procedures described below to protect the rights of the party.

Scheduling the Hearing

There is no time limit for calling a hearing under rule 69. In scheduling the hearing, the PC should balance priorities: if it is late in the day, it may well be wise to schedule the hearing for the following morning when tempers have cooled; the party must be given sufficient time to prepare his or her defense; and the hearing must be scheduled so that the party can reasonably attend. On the other hand, delaying the hearing more than necessary allows tension to grow and

misinformation to spread. If members of the PC are no longer available, the OA may appoint a new PC for the hearing under rule 69.2(k).

Notification

While the report to the PC alleging misconduct need not be in writing, the PC is required under rule 69.2(e) to promptly notify the party in writing. The notification must include a statement of the alleged misconduct, the date, time, and location of the hearing. The TSOASA also requires that the notification state the possible penalties.

The notification must describe the allegations specifically enough that the party is able to adequately prepare his or her defense. However, the allegations also should not be too narrow, as the hearing should encompass the scope of allegations.

An allegation such as “regarding your behavior after racing last week” or “that you behaved in a fashion that brings the sport into disrepute” is insufficient. An allegation that “you cursed at an umpire on leg 3” might be too specific if the verbal abuse occurred during and after the race. An appropriate statement might be “that you directed abusive and foul language at the umpires during and after race 5.” A sample notification letter is shown below.

This letter may be presented during the event or mailed to the *party* after an event has concluded. If the letter is not delivered in person, follow up to ensure that the *party* received the letter. The rules do not address whether email would be valid notification. If you use email to deliver the notice, again, be sure that the *party* receives it and consider sending a printed version of the email via US mail as well.

Sometimes the behavior that leads to a rule 69 hearing is linked to an incident involving a protest or request for redress under other racing rules. The PC should hear the protest or request for redress separately, before the rule 69 hearing. If the evidence leading to a rule 69 hearing arises during a hearing, you can prepare the written notification as you finish the decision and give it to the *party* after delivering the decision.

Sample Rule 69 Notification Letter:

<PC Chair Name>

<Address>

<Date of Letter>

<Name/Address of Party>

Dear <Name>:

The protest committee has received a report of an incident alleging <description of the charges>.

These allegations are sufficiently serious to warrant a hearing under rule 69, Misconduct, of *The Racing Rules of Sailing*.

If you are found to have broken rule 69.1(a), the protest committee may, under rule 69.2(h), issue a warning, disqualify you from one or more races of the regatta or take other actions described in rule 69.2(h)(3) and (4). You are strongly advised to review rule 69, with particular attention to rule 69.2(j), which describes the conditions under which your national authority and the World Sailing Federation (World Sailing) will be notified and may suspend your eligibility to compete in sailing under rule 69.3.

You have the right to be assisted in the presentation of your case at the hearing, including the assistance of legal counsel, if desired; you have a right to call witnesses (you must have them present at the hearing or readily available by telephone) and present oral and written evidence and argument; you have the right to confront and cross-examine adverse witnesses; you have the right to have a record made of the hearing. If you wish to exercise any of these rights, it is your responsibility to make necessary provisions.

The protest committee has scheduled a hearing to investigate the above allegations on <date> at <time> hours at <location>.

Sincerely,

<PC Chair, Name>

Chair, <Event> Protest Committee

cc: <other members of PC and others directly involved>

Setting up the Rule 69 Protest Committee

The requirements and recommendations for a rule 69 protest committee are more stringent than for a regular hearing. Rule 69.2(a) requires that the PC have at least three members. Adding additional members with expertise in rule 69 hearings to the protest committee is acceptable under the rules and may be accomplished by video conference if necessary. The PC may also consider adding a member who is familiar with libel laws.

In addition, US Sailing strongly recommends that, whenever possible, all PC members should be US Sailing certified judges because they are covered under US Sailing's liability insurance policy, and that the panel chair be a judge with prior experience conducting rule 69 hearings.

Both the actual and the perceived objectivity of the protest committee are particularly important. Take extra care when setting up the hearing panel that no member of the protest committee has a *conflict of interest*. Avoid including a member of the protest committee who has had significant conflict with the *party*. No one who serves as a witness to the alleged incident should participate in the decision in a rule 69 hearing.

During the Hearing

Party

In a rule 69 hearing, there is usually only one *party* to the hearing: the accused competitor, boat owner or *support person*. If multiple competitors or others are involved in the same incident, the rules allow you to hold a single hearing with all the accused persons as *parties*. Be extremely diligent in honoring the rights of all *parties*. This includes:

- Notifying each *party* in writing of the alleged misconduct.
- Allowing each *party* time to prepare a defense.
- Allowing each *party* to call witnesses to the hearing.
- Ensuring that each *party* is able to question every witness who gives testimony. In addition, the USOC/TSOASA gives each *party* the right to counsel.

If the Party Fails to Attend

The rules for handling hearings when the party fails to attend are significantly different from those of a protest or redress hearing. The PC must try hard to ensure that the hearing is scheduled so that the *party* can attend. Due to the seriousness of the allegations, the PC should conduct a hearing without the *party* only if they are quite certain that he or she could attend but chose not to do so. Under rule 69.2(f), if the *party* has a good reason for being unable to attend, the PC must reschedule the hearing. Under rule 69.2(f), if the *party* does not attend the hearing and does not provide a good reason for failing to attend, the PC may hold a hearing without him. If the PC decides that it cannot or should not conduct a hearing without the *party* present, it shall investigate, take evidence and, if the allegation seems justified, submit a written report to US Sailing. In conducting the investigation, use the same procedures and guidelines that you would use in a formal rule 69 hearing. The report should be sent to the Chief Executive Officer of US Sailing.

The Hearing

The PC must maintain an atmosphere of calm formality and carefully comply with the rules and procedures governing rule 69 hearings. A calm, cool demeanor is essential, since the PC may find itself confronted with a case that stirs strong emotions. Significant responsibility for maintaining control of the hearing falls on the PC chair. He or she must be skilled at keeping the tone business-like and defusing situations in which emotions threaten to flare up and derail the hearing.

The PC must be meticulous about following procedures, including making a complete and accurate written account of the proceeding, erring in favor of the *party* in case of doubt, and ensuring that he or she has ample opportunity to prepare an answer to the allegations.

Before the hearing begins, the entire PC should reread rule 69 and Appendix M. The hearing must be held in accordance with the procedures in rules 63.2, 63.3(a), 63.4, 63.6 and 63.9. The hearing must not be hurried. The PC's careful attention to fairness and procedure is critical.

Due to the serious nature of a rule 69 hearing, the following key points should guide the process.

- A rule 69 hearing should be initiated only when there is evidence that indicates a reasonable possibility of misconduct.
- The *party* must be given the allegations in writing and a reasonable opportunity to prepare a defense.
- During the hearing, ample opportunity should be given to the *party* to present evidence and call witnesses.
- A record of the evidence presented must be kept. A high-quality audio recording will usually suffice. In addition, make copies of all written evidence and take careful notes.

Making an Audio Recording of a Hearing

Making an audio recording of a hearing can ensure that the proceedings are accurately documented in a simple and cost-effective manner. To make an effective recording:

- Use a digital recorder that allows you to download the recording to a computer and transmit it electronically. Make sure that the recorder has fresh batteries and the capacity to record the entire hearing.
- Assign one member of the PC to monitor the recorder throughout the hearing.
- Before the hearing, test the recorder in the room where the hearing will be held. Make voice samples from everywhere in the room where someone might speak. If the test recording is not clear and easy to understand, adjust as necessary.
- Inform all those present that you will record the hearing. Do not make a clandestine recording.
- At the start of the hearing, all persons should introduce themselves by name and state their role in the hearing. This ensures that each person's voice is recorded and linked to their name at the start of the hearing.
- Make sure each witness is aware that a recording is being made. If a witness objects, consider pausing the recording to understand what his or her concerns are and try to resolve them. Have each witness introduce himself or herself for the sake of the recording.
- Ensure that the recording is kept confidential. Providing copies to the *parties* and the PC members is appropriate. The US Sailing Review Board may ask to review the recording, so ensure that the parties to the hearing know this. Should the Review Board make such a request, the chair of the hearing should review the recording with the Review Board to ensure that the contents are clear and the identities of the speakers are correct.

Decisions

Once the PC has heard all the evidence, it must reach one of three decisions: Dismiss, Warn or Penalize. The appropriate decision is a question of evidence, and the panel must be very sure of the facts. If they are not, the PC must **Dismiss** the allegation.

Rule 69.2(g) specifies the standard of proof to be used in misconduct hearings: “The standard of proof to be applied is the test of the comfortable satisfaction of the protest committee, bearing in mind the seriousness of the alleged misconduct.”

The *World Sailing Misconduct Guidance* (2017) offers the following guidance for applying this test:

“The words ‘comfortable satisfaction’ must be given their ordinary and natural meaning. If a protest committee member is personally uncomfortable with a conclusion that misconduct occurred, then they are not ‘comfortably satisfied.’...

“The test requires the protest committee to consider the seriousness of the alleged misconduct. The more serious the misconduct alleged, the more unlikely it will generally be that a competitor will have committed it and therefore the greater the evidence needed to prove that it was committed. This reflects the starting position that competitors are assumed to comply with the rules and the Basic Principle.”

If the *party* is found innocent of the alleged misconduct, the PC should make this clear. The news of a rule 69 hearing will have spread throughout the regatta, and it is important to clear the person’s name publicly.

If the PC finds that the person committed a breach of good manners or sportsmanship, unethical behavior, or conduct that may bring the sport into disrepute, it must then decide whether to Warn or Penalize.

A **Warning** is not a penalty and the PC does not report it to a national authority or World Sailing. If the person has apologized, paid for any damage and seems genuinely contrite, a warning may suffice. A person who receives a warning has still committed a breach of good manners or sportsmanship, unethical behavior, or conduct that may bring the sport into disrepute, but the record of the misconduct remains at the local level.

If the PC decides that the person has committed a breach of good manners or sportsmanship, unethical behavior, or conduct that may bring the sport into disrepute and does not give a warning, then it must issue a **Penalty**.

Penalties by the PC are limited to the OA’s jurisdiction and usually apply to the race or regatta for which the PC has been appointed. A penalty under rule 69.2(h) may exclude a *party* from the venue, from a race, from the remaining races in a series, from an entire series or for a period of time.

Penalties Imposed on Support Persons

When the PC decides that a *support person* has broken rule 69.1(a), rule 64.5 applies (see rule 69.2(i)). For further information about hearings concerning support persons, see Chapter 8.

Guidance on Penalties

The appropriate penalty will vary for each incident, depending on the severity of the incident, the attitude of the *party*, whether the offense is repeated, and the presence of other aggravating or mitigating circumstances. Consistency in penalties for similar breaches is also important. (See World Sailing Regulation 35).

Disqualifications may or may not be excluded from a boat's series score at the discretion of the PC (see rule 69.2(h)(2)). If the PC assigns a disqualification that is not excludable, it must be noted in the scores with the designation DNE per rule A10.

Consider the table in Chapter 13 – Resources, “Guidelines for Ranges of Penalties for Misconduct,” as advisory guidance from the US Sailing Judges’ Committee in applying appropriate penalties. The table contains six levels of action:

Level 0 - Interview the *party* but do not hold a hearing

Level 1 - Hold a hearing and warn the party but do not penalize

Level 2 - Make the boat's score in a race or series worse

Level 3 - Disqualify the boat or exclude the *party* from a race or races

Level 4 - Disqualify the boat or exclude the *party* from the event

Level 5 - Disqualify the boat or exclude the *party* from the event and recommend further action by the national authority.

Note: This table is intended for decisions in a rule 69 misconduct hearing and is not to be used for rule 2 hearings. Penalties for rule 2 hearing decisions are DSQ or DNE unless the sailing instructions state otherwise.

After the Hearing

Posting

The decision should be posted promptly on the notice board. The decision in the public posting must not go into detail as it could be considered libelous. No other publication of the outcome should be made. Further, the PC should not make any public comments about the hearing other than to state the penalty.

Notes for use of the following sample decision notice:

- Add relevant information in the square brackets
- Omit wording in italics
- Do not add details of the nature of the misconduct or include the facts found. Notify competitors only of the result of the hearing.
- If in doubt over the contents of the notice, do not post it. This may be particularly relevant where the competitor is found not guilty. However, posting may be necessary if the original rule 69 hearing was posted on the hearing schedule.
- Keep a copy of the notice

Sample Rule 69 Decision Notice:

<Name of Event>

<date>

PROTEST COMMITTEE NOTICE [#] – RESULT OF RULE 69 HEARING

On [date], the Protest Committee conducted a rule 69 hearing against [name].

If the allegations were not proven:

[As a result of this hearing, the Committee has determined that [name] has not committed misconduct under rule 69.1(a).]

If the allegations were proven:

[As a result of this hearing, the Committee has determined that [name] has committed misconduct under rule 69.1(a).]

If only a warning was issued:

[The Committee has issued [name] with a warning and no further action will be taken by the Committee.]

If a penalty up to one DNE was imposed:

[The Committee has penalized [name] by [insert details of penalty].]

If a penalty greater than one DNE was imposed:

[The Committee has penalized [name] by [insert details of penalty].]

[The penalty will be reported to [the national authority].]

For the Protest Committee

<signed>

Chair

Threats of Litigation

In the past, competitors have threatened to sue PCs for libel, which is defined as “bringing someone into ridicule, hatred or contempt.” PCs should not let such threats deter them from making the appropriate decisions but should be meticulous in using correct procedures and following the rules.

US Sailing provides liability insurance to its certified officials while they act as volunteer officials. For more information, consult the insurance information on the US Sailing Race Officials page (roinsurance.ussailing.org).

Reporting to National Authorities

The full written report should be considered confidential and distributed only to the PC, the *parties* to the hearing and the relevant national authorities, if appropriate.

In some cases, a PC must send a report to one or more outside organizations. When the PC imposes a penalty greater than one DNE, or excludes the person from the event or venue, or in any other case if it considers it appropriate (rule 69.2(j)), the PC must send the report to:

- The national authority of the person (69.2(j)) (for penalties imposed on US persons, send it to the Review Board, c/o Chief Executive Officer of US Sailing)
- World Sailing – for specific international events listed in the World Sailing Regulations

In the report, the PC should provide a detailed description of the incident, its findings and a copy of the written hearing record. This should include the facts found by the PC and any other information such as descriptions of provocation, behavior in the hearing, specific language used, restitution and the PC's recommendation regarding any further penalty. A copy of any recorded evidence should also be included.

Action by a National Authority

The US Sailing Review Board will proceed under rule 69.3 and may decide that no further action is necessary. It may also take additional action including conducting further investigation, holding hearings and, possibly, suspending a competitor's eligibility to compete in its area of jurisdiction for a period of time per WS Regulation 19.

If US Sailing suspends a sailor's eligibility to compete, it must forward a copy of its report to World Sailing and to the national authorities of a foreign competitor and/or boat owner.

Appealing the Decision

Appeals of rule 69 decisions should, like all appeals, be sent to the Race Administration Director at US Sailing. Appeals of rule 69 decisions are handled directly by the US Sailing Appeals Committee, not by Association Appeals Committees.

The US Sailing Review Board will not conduct a follow-up investigation until any action by the US Sailing Appeals Committee is completed. The Review Board's procedures are described in US Sailing Regulation 15.

As the governing body in the United States for an Olympic sport, US Sailing is legally bound by the TSOASA. This means that athletes may request binding arbitration before a USOC arbitration panel. While such requests are extremely rare, they can occur and may do so on very short notice (if, for example, a rule 69 penalty eliminates a competitor from qualifying for a subsequent event that may only be a short time after the qualifying event).

The process to request such a hearing is documented on www.teamusa.org. Search for Ombudsman and Dispute Resolution.

Action by World Sailing

World Sailing may also investigate and take further action under Regulation 35 when it receives a report from a national authority that has suspended a sailor's eligibility, or from an international jury acting under rules 69.2(j) or (k).

Chapter 13 – Resources includes a Due Process Checklist designed to ensure that PCs respect a party's rights during a hearing.

11 – Appeals

Protest committees are not infallible. Appeals are a mechanism to correct possible PC errors in procedure or interpretation of the rules. For most appeals, US Sailing has a two-level appeals system consisting of an association appeals committee (AAC) and the US Sailing Appeals Committee (AC). There are no appeals to World Sailing. World Sailing publishes and maintains *The Case Book* that is a collection of appeals decided by various national appeals committees. These cases are “authoritative interpretations of the *rules*.” World Sailing selects appeals for inclusion in *The Case Book* from appeals submitted by national authorities that “clarify an important meaning of a rule or increase the understanding of a complex rule” (World Sailing Regulation 28.3.3(a)).

US Sailing receives approximately 25 appeals each year. Since appeals are infrequent, a PC whose decision is being appealed should carefully review the pertinent *rules* in Part 5, Section D (Appeals) and the US Sailing prescription to Appendix R (Procedures for Appeals and Requests), when providing documents, comments or additional information to an appeals committee.

A useful FAQ on the appeals process can be found on the Appeals page of the US Sailing website (appeals.ussailing.org).

Right of Appeal

Under rule 70 (Appeals and Requests to a National Authority), only the PC’s decision or its procedures may be appealed, not the facts found by the PC. It is common for competitors who are unhappy with the decision of a PC to appeal based on an improper determination of the facts. In such cases, rule 70.1 directs the appeals committee to deny the appeal.

Who may appeal? Rule 70.1 allows a *party* to the hearing to appeal. The definition *party* includes not only a protestor, protestee and a boat requesting redress, but also a technical committee acting under rule 60.4(b), a *support person* subject to a hearing under rule 60.3(d), and persons alleging and being accused of having broken rule 69.

A PC may request confirmation or correction of its own decision under rule 70.2 and an AAC may request confirmation or correction under rule R7.1(b). This is not done often, but it can be very useful when the case is complex or the decision is controversial. US Sailing receives only a few requests for confirmation or correction of decisions each year. If the PC has resolved a complex protest but is uncertain about its conclusions, referring the decision to an appeals committee is a good way to allay concerns the competitors may have about the decision.

Requests for confirmation or correction of a decision by the PC or AAC must be sent no later than 15 days after making its decision. This is to keep the process moving toward closure as quickly as possible. *Parties* to the hearing may also appeal the decision of the PC or AAC, and they also must send their appeal no later than 15 days after receiving the written decision. If an appeals committee receives an appeal and a request for confirmation or correction from the same decision, it will simply consider them together.

A club or other organization affiliated with US Sailing, but not an individual, may request an interpretation of the *rules* under rule 70.4, provided that no protest or appeal is involved. This is another way for a PC or OA to deal with a difficult situation. The primary difference between a referral in rule 70.2 and a question in rule 70.4 is that the AC can correct the PC's or the AAC's decision in a referral under rule 70.2. The answer to a question submitted under rule 70.4 has no effect on a protest decision.

When applicable under J2.2(25), the sailing instructions for an event should specify the national authority to which appeals should be sent as required by rule 70.3.

Denial of the Right of Appeal

The *rules* provide for the denial of the right of appeal, but only in a few circumstances:

- If the protest committee is a properly constituted international jury under Appendix N (International Juries).
- If the NoR or SIs so state, the right of appeal may be denied provided that:
 - The event qualifies competitors for a subsequent event, under rule 70.5(a) (US Sailing prescribes that its approval is required for such events desiring this procedure);
 - US Sailing approves the denial of appeal and the event is not open to competitors from other national authorities, under rule 70.5(b);
 - US Sailing and World Sailing agree, provided the PC includes at least two International Judges, under rule 70.5(c).

The right of appeal may be denied when it is essential that the results of a race, series of races be final to qualify a boat in a later stage of the event. Such events could include qualifying events of a US Sailing Championship, where the winner of a regional event advances to the finals. However, US Sailing has prescribed that it must approve the denial of appeal for any of these events. Details on obtaining such approval can be found on the Rules page of the US Sailing website (rules.ussailing.org).

Rule 70.5(b) allows an OA and RC (being responsible for the NoR and SIs) to petition US Sailing to deny the right of appeal for an event open only to entrants under their jurisdiction. It would be exceptional for US Sailing to approve such a request.

Except in the case of an international jury, whenever the right of appeal is to be denied it must be so stated in the NoR or SIs.

Unless at least one of the conditions in rule 70.5 is precisely met, the right of appeal cannot be denied. Anything in the NoR or SIs that suggests that appeals will not change the race results or affect the awarding of prizes is invalid unless one of the conditions in rule 70.5 applies.

Appeal Procedures

The *rules* do not provide for the conduct of a "hearing" when processing an appeal. Only the interpretation of the *rules* by the PC or Association AC or its procedures can be appealed. Under rule 70.1, an appeals committee deliberates based on the facts found by the PC and cannot take

additional testimony. If additional facts are required, the appeals committee, under rule R5.4 (Inadequate Facts; Reopening) must get them from the PC.

Appendix R (Procedures for Appeals and Requests) is a US Sailing prescription that replaces World Sailing Appendix R. This US Sailing rule establishes a two-level appeals system.

The US Sailing Appendix R (Procedures for Appeals and Requests):

- Cannot be changed by the NoR or SIs (rule 86.1(b))
- Directs that appeals of PC and AAC decisions, and PC and AAC requests for confirmation or correction of their decisions, are sent to Race Administration Director at US Sailing (rule R1.1)
- Empowers AACs (preamble to Appendix R)
- Directs appeals of PC decisions or appeals under rule 70.1(b) to the AAC (rule R1.2)
- Directs appeals of AAC decisions to the AC (rule R1.3)
- Directs requests by PCs for confirmation or correction of their decisions to the AAC (rule R1.3)
- Directs requests by AACs for confirmation or correction of their decisions to the AC (rule R1.3)
- Directs requests for interpretations of the rules (rule 70.4) to the AC (rule R1.3)
- Directs appeals from a decision of a protest committee acting under rule 69.1, or the finals of US Sailing championships and requests for confirmation or corrections of PC decisions at such events to the AC (rule R1.4)
- Describes the appellant's responsibilities (R2)
- Establishes a 15-day (non-extendable) time limit from the appellant's receipt of the written decision for appealing (rule R2.1)
- Requires appellants to complete the US Sailing Appeals and Requests Information Form (rule R2.2)
- Requires PCs and AACs, when requesting confirmation or correction of their decisions, to complete the US Sailing Appeals and Requests Information Form (rule R2.3)
- Establishes a 15-day (non-extendable) time limit from the day its decision was made for requesting confirmation or correction of its decision (rule R2.3)
- Sets fees for appeals, referrals and questions to US Sailing (rule R3.3)
- Requires the appeals committee to notify the committee whose decision is being appealed and ask for missing documents (rule R4)
- Requires PCs to provide missing documents, facts or other information requested by the AC (rule R5.1)
- Requires a PC to conduct a hearing or re-hearing as directed by the AC (rule R5.1)
- Requires an AAC to provide missing documents (rule R5.2 (a))
- Requires an AAC to send its decision in writing to all parties to the hearing and the protest committee (rule R5.2(b))
- Requires an AAC to consider an appeal if so directed by the AC (rule R5.2 (c))
- Requires the AC to send copies of the relevant documents to all concerned who do not already have them (rule R5.3)

- Requires the appeals committee to accept the protest committee's facts (rule R5.4)
- Requires the PC to provide requested facts in writing or reopen the hearing (rule R5.4)
- Establishes a fifteen-day time period for parties, the PC, and the AAC to make comments on an appeal to the appropriate committee (rule R6)
- Establishes additional actions allowed under the provisions of rule 71 (rule R7)
- Provides an expedited appeals system for Protected Competitions (see US Sailing Regulation 12.03) (rule R8)

Appeal Decisions

No person with a *conflict of interest* can be involved in an appeal decision (rule 71.1). No member of the PC can be involved in the appeal decision (rule 71.1). The involvement of any such person could be the basis for another appeal.

The AC may return the protest for a new hearing by the same PC (rule 71.2), or for a new hearing by a different PC (rule 71.2). As is true for PCs (rule 64.1), the AC may penalize any *party* to the hearing, based on any *rule* that it finds to be applicable (rule 71.3). Decisions of the AC are final, and all concerned (competitors, PC, RC and OA) are bound by those decisions (rule 71.4).

Comments on an Appeal

The *parties* and committees involved in an appeal are permitted, but not required, to comment on appeals. It is their responsibility to initiate comments. There is a 15-day time limit from the PC's receipt of the appeal. Comments sent later than the time limit, or comments on comments, may be ignored (R6). Comments are not facts and therefore do not have the same significance as facts to an appeals committee. If the PC reviews its decision and decides that more facts are needed, the committee should reconvene and add the necessary facts to its decision. If more testimony is required, then all the *parties* must be notified of the time and place of the reopened hearing and be given the opportunity to attend (rule 63.2 and rule 63.3(a)).

Expedited Appeals

An expedited appeals process has been established for protected competitions. Protected competitions are defined in US Sailing Regulation 12.03 (accessible from the About tab, Bylaws & Regulations on the US Sailing website) and apply to very specific cases of high-level competition. For the expedited appeals process to be available, the NoR and the SIs must include the following language:

The right of appeal will not be denied under rule 70.5 (a), (b), or (c), but an expedited appeal process may be used that balances the needs of the competitor for certainty with respect to berths in future competitions and sufficient time to prepare the arguments and evidence for the appeal.

More information about the expedited appeals process can be found on the US Sailing website in the Appeals section (appeals.ussailing.org).

12 – Judge Certification

When the US Sailing judges program began in 1977, application for certification was by resume and supported by personal references. RAJs handled applications for judges in their geographic area.

In 1995, the US Sailing Board of Directors asked the JC to improve the quality of the judges program by reviewing the procedures for appointing judges and by instituting a training and testing program. In 1998 a new training and testing process was initiated.

The standards for judges require racing and race management experience, protest committee experience, a high degree of personal integrity, attendance at educational programs and a written test. A seminar or equivalent continuing education offerings and test must be taken every four years, and each judge must pass the online judge certification test.

Judges are expected to uphold the highest standards of personal conduct and integrity, and to be excellent role models and representatives of US Sailing. Those seeking certification as a US Sailing judge must meet the standards found in this manual and in the Judges Program section of the US Sailing website (judges.ussailing.org).

When a protest committee is on duty afloat or ashore and the chair is a US Sailing Judge, members may display the US Sailing Judges flag.

These standards also recognize that individuals may follow different judging paths based on their experience and abilities. The Judges' Committee has established qualifications and certification standards for Club Judges, Regional Judges and National Judges, as well as a nomination procedure for World Sailing International Judges.

Judges' Committee

Purpose and Functions

The Judges' Committee (JC) is authorized to conduct the Judges Program under Regulation 4.06(c) as a member of the Race Administration Division. The Judges' Committee:

- Develops, supports, and certifies judges in the US and oversees judge training, testing and certification
- Assists sailing organizations in obtaining qualified judges for events
- Provides support and advice on the roles and conduct of judges at US Sailing events
- Submits well-qualified US judges for endorsement by the Board of Directors as candidates to be World Sailing International Judges
- Honors retired judges who have provided long and extraordinarily distinguished service to the Judges Program with the designation of Judge Emeritus
- Reviews complaints involving the conduct of judges and refers potential disciplinary matters to the Review Board
- Meets in person annually and by online conference periodically throughout the year; maintains meeting minutes on the JC web page

Composition

The JC is composed of a Chair, a Vice Chair, a Regional Administrative Judge (RAJ) from each US Sailing Area, the Chair of the Umpires Committee (ex-officio), the Chair of the Judges Education Training and Testing Subcommittee (JETTS), and a Secretary. Other members may be added to the committee at the discretion of the Chair as needed. Appointment of the JC Chair is made by the President of US Sailing. Other members of the JC are appointed by the Chair and confirmed by the Board of Directors. The JC Chair serves on the Race Administration Committee and as an ex-officio member of the Umpires Committee.

Regional Administrative Judges (RAJ)

Each US Sailing Area is represented by a Regional Administrative Judge. RAJs should be highly experienced judges with strong management skills and familiarity with the judges in his or her area. RAJs are appointed by the JC Chair for one or two three-year terms. A RAJ's intended successor should serve as an apprentice, if possible, for at least one year.

The JC administers the Judges certification program. The RAJ reviews and makes recommendations to the JC regarding applicants, annually reviews judges' SOARS logs and recommends certification level upgrades. For the Club Judge program, the RAJ is authorized to grant certifications. The RAJ may also respond to informal rules questions, assist Organizing Authorities (OAs) in obtaining qualified judges for an event and investigate reported misconduct of judges.

An important duty of the RAJ is encouraging capable sailors in the Area to become certified judges. This is done primarily in two ways:

- Identifying, encouraging and mentoring potential applicants
- Encouraging clubs to host judge seminars throughout an Area, assisting with scheduling, and identifying qualified instructors

The RAJ Guide is a helpful reference for RAJs. It is on the US Sailing website [Judges page](#) in the Judge Guidelines & Documents section.

Judge Certification Qualifications

The following section summarizes the qualifications and procedures for US Sailing judge certification. Specific information about Judge qualifications is posted on the US Sailing Judge web pages (judges.ussailing.org).

Certification Levels

Club Judge - for those who seek to judge primarily at their own club and would like to have a stronger and more consistent rules knowledge

Regional Judge* - for those who seek to judge anywhere in a region of the country in addition to serving their club

* The Judges' Committee changed the certification name from Judge to Regional Judge in February, 2019, to align it with the certification level in both Umpires and Race Management. The change is effective January 1, 2020.

National Judge - for those already certified at the Regional Judge level who seek to officiate at any event in the country, including as Chief Judge of a national championship regatta

Additionally, US Sailing nominates highly qualified candidates to World Sailing for certification as an International Judge (IJ). Candidates for international certification must be approved by the Judges' Committee and endorsed by the US Sailing Board of Directors. For information on becoming an international judge, visit the World Sailing website (sailing.org).

General Qualifications

- Be a member in good standing of US Sailing
- Be willing to serve actively for a four-year term
- Maintain an up-to-date Sailing Officials Automated Reporting System (SOARS) log
- Submit an application to US Sailing for initial and renewal certification
- Abide by US Sailing's SafeSport Code, Bylaws, Regulations and Conflict of Interest policies

Personal Attributes

A US Sailing judge must strive at all times to conduct himself or herself with:

Integrity:

- Act in a principled, forthright and truthful fashion in all matters, and hold others to the same standard
- Act in a fashion consistent with the precepts found in the Basic Principles and Fundamental Rules of *The Racing Rules of Sailing*
- Be an excellent representative of US Sailing and a role model and mentor for those interested in becoming judges

Judicial temperament, as the term is commonly understood. For example:

- View the hearing of protests and requests for redress as a service to sailors by sailors
- Demonstrate a strong command of *The Racing Rules of Sailing* and a clear commitment to applying the rules even-handedly and without bias
- Apply the rules as they are written and interpreted by appeals, cases and calls
- Attend to the due process rights of all persons
- Listen with care and empathy and consider the viewpoints of all parties
- Contribute to the work of the protest committee in a positive, collaborative and thoughtful manner and consult with more experienced judges when appropriate
- Maintain the confidentiality of the protest committee's deliberations

Sound judgment and maturity:

- Treat others with respect and courtesy
- Maintain a calm, professional demeanor even in the midst of vigorous disagreement
- Acknowledge and correct mistakes graciously and in a timely manner
- Understand the roles and respect the authority of others, such as the race committee and organizing authority, and work collaboratively with them
- Do not expect special treatment or privileges

- Refrain from the use of medications which might impair judgment or alertness, and abstain from the use of alcohol or other substances that may alter judgment until protest committee duties are complete
- Care for the property of others, including boats, equipment and housing
- Honor commitments, accept the assignment of tasks willingly and cheerfully, follow through on them conscientiously, and understand that PC work comes before social obligations
- Obtain permission from the chief judge and the organizing authority prior to communicating, via social media or in any other form, about an incident, decision or any other action taken by those acting in an official capacity; be discreet and considerate in discussing the actions of others
- Take care to represent the judge corps, US Sailing and the sport of sailing in a manner that is worthy of respect

Technical Skills

A judge must have thorough knowledge and understanding of the RRS, US Sailing Appeals and World Sailing Cases and the ability to use them appropriately. Judges are expected to:

- Apply the RRS and other rules as they are written and authoritatively interpreted
- Review the notice of race and sailing instructions and make constructive suggestions about them to the RC and OA
- Observe racing on the water and record critical events accurately
- Hear protests according to Appendix M (Recommendations for Protest Committees)
- Apply Appendix P (Special Procedures for Rule 42) as needed

Physical Attributes

Judges must be able to (as applicable):

- Perform the essential functions of a judge, using natural or assisted physical abilities
- Go on the water in small boats for extended periods in a variety of weather conditions and then hear protests at the end of the day
- Operate small motorboats safely in close proximity to racing sailboats

SafeSport Training and Background Screening

Under federal law (Public Law 115-126), the Center for SafeSport has authority over all of the national governing bodies (NGBs) of Olympic and Paralympic sports in the United States to investigate and resolve claims of sexual misconduct or abuse. As the NGB for the sport of sailing, US Sailing is responsible for investigating reports of physical or emotional misconduct (including bullying, hazing or harassment), and for administering the SafeSport program and implementing disciplinary decisions issued by the Center for SafeSport.

SafeSport training is mandated by the US Sailing Board of Directors for all certified race officials, coaches, instructors, instructor trainers and Safety at Sea moderators, as well as Directors, staff and members of the Olympic Sailing Committee. This list of “covered individuals” is subject to annual review. Periodic training is required.

All US Sailing officials have a **mandatory reporting duty** – that is, all officials must report any suspicion or allegation of violations of the US Sailing SafeSport policy. An allegation or suspicion of sexual misconduct or abuse of a minor athlete must be reported to the Center for SafeSport. Additionally, officials must report suspicions or allegations of abuse of a minor to local law enforcement authorities. Suspicions or allegations of non-sexual misconduct (including bullying, hazing or harassment) must be reported to US Sailing.

To make a report of abuse or misconduct to the Center for SafeSport or to US Sailing, or for more information about the SafeSport program, visit the SafeSport pages on the [SafeSport on US Sailing Website](#).

You can also find reporting information in the “Mandatory Reporting: SafeSport and Allegations of Physical, Emotional or Sexual Abuse or Misconduct” section of Chapter 10.

Background checks are now required for periodic criminal background screening for covered individuals. More information on this requirement can be found on the website page [SafeSport & Race Officials - US Sailing](#).

Certification Requirements

The following is a general description of the requirements for judge certification. Specific requirements vary by certification level – see the Judges section of the website for specific information.

A. For all certifications (initial and renewal):

- Participate in an appropriate number of protest committee hearings, in which facts were found and a decision rendered, for the certification level desired
- Maintain required periodic SafeSport training and background screening
- Maintain an up-to-date SOARS log (soars.ussailing.org)
- Submit an online application for the certification desired ([Certification Programs - US Sailing](#))
- Possess the current editions (electronic or print) of: *The Racing Rules of Sailing*, US Sailing *Judges’ Manual*, and US Sailing Appeals Book and World Sailing Case Book
- Pass the US Sailing Judges exam applicable to the certification level desired

B. For initial certification:

(In addition to the requirements of section A)

- Have experience as an active racing sailor for at least three complete racing seasons in a position requiring on-the-water application of the racing rules (as skipper, tactician, watch captain, navigator or similar position)
- Attend a US Sailing Judge Seminar within the past four years applicable to the certification level desired
- Obtain references from the seminar instructor and one or more certified judges
- Be endorsed by a flag officer or similar at a local sailing organization

C. For renewal of certification:

(In addition to requirements of section A)

- Accumulate sufficient Continuing Education Units (CEUs) from US Sailing's race official continuing education program over the four-year period of certification. CEUs may be used in place of a seminar, but applicants always have the option to attend a seminar.

Protest Committee Classification

In order to evaluate PC experience, the JC classifies the level of a protest committee as follows:

Class A - a committee appointed by the race committee

Class B - a protest committee that is separate from and independent of the race committee

Class C - an international jury meeting the requirements of RRS Appendix N

Procedures for Certification

Candidates for initial certification or upgrade should discuss their qualifications and experience with their RAJ before submitting an application. The RAJ may also suggest additional training and help applicants gain more experience should it be needed.

The steps for certification are:

1. The applicant shall complete an online application for the certification level desired at certforms.ussailing.org. The application will be automatically forwarded to the RAJ.
2. If references are required, indicate who will provide them. Send the link found in the application form to the references and ask them to complete the online form. The reference form is also available in the Certification Forms section of the website. It is the applicant's responsibility to make sure that the people recommending him or her submit their references. The RAJ will confirm that the references have been submitted.
3. Once all requirements have been met, the RAJ will move the application forward for review. Club Judge applications are reviewed and approved by the RAJ.
4. The JC periodically reviews applications for all other levels of certification. The RAJ will communicate the final status of the application.

Renewal certification:

1. The certification term length for all judges is four years. A judge's initial term ends on December 31 of the fourth full year. For example, a judge who was initially certified in August of 2018 would be due for recertification on December 31, 2022. Renewal terms begin on January 1 and end on December 31.
2. The applicant shall complete an online application for the certification level desired at certforms.ussailing.org. The application will be automatically forwarded to the RAJ.
3. During the last year of a judge's term, the RAJ will verify that he or she has satisfied the CEU requirement and passed the exam within the last four years. The RAJ will also review the judge's SOARS record and other pertinent information, such as comments or evaluations from competitors or others regarding his or her skills and judicial temperament. When the judge has met all the requirements for recertification, the RAJ will forward the recommendation to re-certify to the Judges' Committee.
4. If a judge has not met some of the recertification requirements, the RAJ will work with him or her during the last year of the term to complete the missing requirements.

5. A judge who does not complete the recertification process by the end of his or her term will have a six-month period to meet the requirements. However, when the term expires on December 31 of the fourth year, the judge is not certified until he or she is recertified by the JC. If a judge fails to complete recertification during the six-month period following expiration, he or she may be required by the JC to start again with an initial application.

Procedures for Unsuccessful Applications

If an applicant's application is declined, the RAJ will explain why the application was unsuccessful and will encourage and assist him or her to meet the necessary qualifications. If the denial is based on an evaluation of poor judicial temperament or reputation, the content of the report will be shared with the candidate if it is found to be credible, and the source of the report may be disclosed to the candidate if the person providing the information agrees.

A candidate whose application is denied may appeal to the US Sailing Review Board.

A candidate who fails the written test may re-take the test after a waiting period of 30 days and after completing a debrief of the failed test with the course instructor or the RAJ.

A candidate who fails the written test three times must obtain the approval of the JC before taking any further tests. The JC may require a candidate to complete a plan of improvement.

SOARS Reports

Certified judges are required to log their judging activities throughout the year on the SOARS system on the US Sailing Website (soars.ussailing.org).

SOARS reports are an important component of the certification process. The RAJ will examine a judge's or candidate's log to evaluate his or her events and may use it to identify other officials who worked events with the candidate. RAJs may use this information to seek other judges' feedback on the candidate's performance. An applicant whose SOARS log is incomplete will not be considered for certification until he or she meets this requirement.

Judges who serve on Association Appeals Committees or the US Sailing Appeals Committee can receive Continuing Education credit (20 units per appeal) for appeals they participate in deciding. Please read about recording [SOARS credit for AAC or AC service](#).

Confidentiality

RAJs and other members of the JC will treat applications, references and any discussions concerning these topics with the candidate or any other person providing information about the candidate as confidential. This information will be shared only with other members of the committee, except that information will be shared with the Review Board if the applicant appeals a decision to decline certification.

Only the RAJ responsible for reviewing an application or the appropriate Committee Chair shall discuss the application with the candidate.

When issues concerning a candidate's performance or character are raised in references, the identity of the person providing this information will be kept confidential if he or she so

requests. The substance of the issue will be shared with the candidate if it is found to be credible. Individuals providing references are encouraged, but not required, to share their comments with the candidate directly.

Judge-in-Training Program

US Sailing offers a Judge-in-Training (JIT) designation to candidates who have attended a seminar and taken the test. At the request of the seminar instructor or RAJ, candidates may be identified as a JIT and listed in the Find a Race Official list on the website (findofficial.ussailing.org). JITs may be recruited by organizing authorities looking for judges to sit on their protest committees. Candidates interested in this learning path should contact their RAJ for more information.

Judge Emeritus

US Sailing has established a Judge Emeritus program to recognize judges who have given many years of distinguished service to the sport and have demonstrated significant leadership in the judging community.

A RAJ may nominate a retired National Judge or International Judge whom he or she feels is deserving of the distinction. A description of the judge's activities and proposed presentation language for the award are required and a form for supplying these are located in the Trophies and Recognitions section of the website. The JC will review the nomination and, if approved, grant the designation and arrange for a certificate to be presented to the honoree at a suitable occasion.

Judge Emeritus is a lifetime designation. Names of judges honored with Emeritus status are published on the US Sailing Website and forwarded to the US Sailing Board of Directors for recognition.

13 – Resources

The following resources are available on the Judges page of the US Sailing website [Judges page of the US Sailing](#) unless another location is given:

Checklists and Forms

- Useful Event Checklists
- Useful Protest Committee documents
- Suite of PC Forms
- Due Process Checklist (below)

[Various RC Forms Webpage](#), Diagrams, Equipment and Other Items Useful in Race Management

[Notice of Race Template](#) in Word [Sailing Instructions Template](#) in Word

[World Sailing Appendix KG and LG](#) US Sailing link to Notice of Race & Sailing Instructions Guides

Other Guidance Documents

Note: Later on, use [Judges Page](#) link to be sure you are getting the latest version

Rule 63.6 Taking Evidence and Finding Facts. See “Dave Perry explains the Rule Changes: Rule 63.6” in the US Sailing Racing Rules App. This video highlights big changes in rule 63.6.

Judges’ Manual. To find updated versions of this manual
[Found on Judges Page in the Judge Guidelines & Documents Section](#)

[Regional Administrative Judge – Guide \(RAJ Guide or RAJ-GU\)](#)

[US Sailing Judge Certification Requirements](#)

[Judges Continuing Education Events and CEUs Table](#)

<https://cdn.ussailing.org/wp-content/uploads/2020/10/Judge-Continuing-Education-Units.20200820.pdf>

[Recording SOARS Activity for Area Appeals or US Sailing Appeals Committee Work](#)

[US Sailing Standard Protest Form](#)

[Standard Wording for PC Decisions](#)

[Guidelines for Online Hearings \(Video\)](#)

[Guidance for On the Field of Play Decisions \(Proposed Appendix\)](#)

[US Sailing Appeals Book for 2021-2024](#) See link on webpage

[2021-2024 US Sailing Prescriptions](#)

[SafeSport on US Sailing Website](#)

[SafeSport Handbook](#)

To report sexual misconduct or abuse of a minor athlete (under age 18):

If you suspect or know of sexual misconduct or abuse of a minor athlete, contact the US Center for SafeSport immediately.

US Center for SafeSport Response and Resolution Office

[US Center for SafeSport.org Report-a-concern](#)

World Sailing Documents

The following resources (and many others) are available in the [International Judges Document Library](#) on the World Sailing website

Note: Later on, use above link to be sure you are getting the latest version from World Sailing

[World Sailing Case Book](#) Choose Case Book and Supplements from menu

[World Sailing Judges Manual](#)

[World Sailing's "Preferred Standard Wording" for writing conclusions on a Hearing Form](#)

[World Sailing Misconduct Guidance](#)

[World Sailing Call Books for Team Racing](#)

[World Sailing Call Books for Match Racing; Rapid Response Calls – Match Racing](#)

[World Sailing Rule 42 – Propulsion page](#)

[World Sailing Racing Rules Question & Answer Service](#)



Due Process Checklist

The Ted Stevens Olympic and Amateur Sports Act (TSOASA) requires that athletes, coaches and officials have a hearing before being declared ineligible to participate [§220522 (a)(8)]. The following should be included in any hearing that may result in a person being declared ineligible to participate:

- Notice of the specific charges or alleged violations in writing, and possible consequences if the charges are found to be true
- Reasonable time between receipt of the notice of charges and the hearing in which to prepare a defense
- The right to have the hearing conducted at such a time and place so as to make it practicable for the person charged to attend
- A hearing before a disinterested and impartial body of fact finders
- The right to assistance in the presentation of one's case at the hearing, including the assistance of legal counsel, if desired
- The right to call witnesses and present oral and written evidence and argument
- The right to confront and cross-examine adverse witnesses
- The right to have a record made of the hearing if desired
- The burden of proof shall be on the proponent of the charge, which burden shall be at least a "preponderance of the evidence" unless the NGB requires or provides for a higher burden of proof
- A written decision, with reasons therefore, based solely on the evidence of record, handed down in a timely fashion
- Written notice of appeal procedures, if the decision goes against the person charged, and prompt and fair adjudication of the appeal



Protest Hearing Procedures

(Consult Appendix M and the US Sailing Judges Manual for more guidance.)

1. Introduce PC and parties. Be sure protestee has a copy of the protest and time to prepare.
2. Does any party object to any member of PC?
3. Was protest timely? Is there good reason to extend?
4. Did protestor notify RC at finish (if required by SI)?
5. Is incident, including where and when it occurred, identified in protest?
6. "Protest" hailed (close enough to hear?) or notified at first reasonable opportunity?
7. Flag flown (if ≥ 6 m) at first reasonable opportunity?
8. Decide if protest is valid (deliberate if necessary).
9. If valid, take evidence from parties:
 - a. protestor tells his/her story
 - b. protestee tells his/her story
 - c. protestee questions protestor
 - d. protestor questions protestee
 - e. PC questions protestor, then protestee
10. Take evidence from witnesses (protestor's first):
 - a. set the stage and ask, "Tell us what you saw."
 - b. protestee questions protestor's witness first (and vice versa)
 - c. PC questions witness
11. Invite each party to give a brief summation.
12. Excuse parties and deliberate:
 - a. find facts and write them down
 - b. decide what rules apply to whom
 - c. decide which boat (if any) broke a rule
 - d. decide the relevant penalty (DSQ or other)
13. Call parties back and announce decision.
14. Give copies of decision to parties if requested.

Detailed Protest Hearing Procedures (2021-2024)

(Consult Appendix M and the World Sailing Judges Manual for more guidance.)

1. Before The Hearing (Parties Not Present)
 - a. Chair appoints, scribe & procedural judges.
 - b. Protest hearing posted and scheduled? (M1, 63.2, Case 48)
 - c. Member of PC saw the incident? (M2.2, 63.6)
 - d. PC member with *conflict of interest*? Assess conflict. (M2.3, 63.4, Case 137)
 - e. No Appeal PC or Intl Jury properly constituted? (70.5, App N)
 - f. Contents; identifies incident? (61.2(b), 62.2, Case 22, US 46, 65)
 - g. Could redress request affect other boats' score or place? Consider making them a *party*? (63.2+USRx, 64.3)
2. Hearing Preliminaries (Parties Present) (M2)
 - a. This is an incident between [who] at [where] [when]. Correct?
 - b. Observers present, provide rules, cannot be a witness. (63.3(a), Case 49)
 - c. Introduce PC & *parties*. Record the names of *parties*. Names of witnesses? (63.2).
 - d. Disclose if any member of PC saw the incident? (M2.2, 63.6(b))
 - e. Objection to PC member on grounds of *conflict of interest*? (M2.3, 63.4, Case 137)
 - f. Each party has a copy of the protest? Had time to prepare? (M2.1, 63.2, Case 48)
 - g. One representative per boat (unless interpreter)? (M2.1, 63.3(a), Case 49)
 - h. Parties present? If not proceed under rule 63.3? (M2.1, 63.3(b))
 - i. "What was your position on board?" Must have been on board for Part 2, 3, or 4. (M2.1, 63.3(a))
3. Check the Validity of the *Protest* or Request for Redress. (deliberate?) (M3.1, 63.5, Case 19, 22)
 - a. Ask conditions at time of incident. In case relevant to validity of Part 2, 3 or 4 protest.
 - b. Contents; protestor & protestee identified? (61.2(a), Case 22 or 62.2, Case 102)
 - c. Contents; if not already, identify where & when? (61.2(c), Case 22 or 62.2, Case 102)
 - d. Was protest timely? Good reason to extend? (61.3 or 62.2, Case 102, 128, US 90, 94)
 - e. Hail "Protest" at first reasonable opportunity? (61.1(a), US 61, 65, 122)
 - f. Red flag displayed (hull length \geq 6m) 1st reasonable opportunity? (61.1, Case 39, 72, 85, 104, US 66, 67, 82, 124)
 - g. If no hail/flag, protestee properly informed? (61.1(a)(3)&(4), Case 19, 112, 141, US 65,84)
 - h. Protestor involved in or saw incident? (61.1, US 116)
4. If valid, Take Evidence from *parties* and witnesses. (M3.2, 63.6, Case 104, 136)
 - a. Take evidence of protestor, then take evidence of protestee or, Redress protestor states request.
 - b. Ask parties to describe the conditions, the incident and what they saw. (distinguish hearsay). (63.6)
 - c. Protestee questions protestor & vice versa.
 - d. Witnesses (protestor's 1st); set the stage. "Tell us what you saw."
 - e. Protestee questions protestor's witness first (and vice versa)
 - f. PC questions witness.

- g. PC questions protestor, then protestee. (M3.2)
- h. Invite each party to give brief summation. (M3.2)
- 5. Deliberate. Excuse parties and deliberate. (Parties Not Present)
 - a. Scribe reads facts. PC agrees or amendments are made. (M3.3)
 - b. Scribe reads conclusions and decision. PC agrees or amendments are made. (M3.4)
 - c. Redress affects other boats' score or place? Is further evidence needed from affected boats? (M3,4, 64.3)
- 6. Inform the Parties. (M3.5, 65)
 - a. Recall parties and announce decision. (M3.5, 65.1)
 - b. Give any party a copy of the decision on request. (M3.5, 65.2)
 - c. Scoring changes to race committee. (5, 90.3(d))
 - d. Post written decision on official notice board. (65.3)

Above by Mark Townsend 1-17-21

Seconds to go one hull length

Speed kts	Distance	
	m/sec	ft/sec
1	0.5	1.7
2	1.0	3.4
3	1.5	5.1
4	2.1	6.8
5	2.6	8.4
6	3.1	10.1
7	3.6	11.8
8	4.1	13.5
9	4.6	15.2
10	5.1	16.9
11	5.7	18.6
12	6.2	20.3

LOH		Seconds to travel one hull length at x knots											
(m)	(ft)	1	2	3	4	5	6	8	10	12	14	16	20
2.4	8	4.7	2.4	1.6	1.2	0.9	0.8	0.6	0.5	0.4	0.3	0.3	0.2
3.0	10	5.9	3.0	2.0	1.5	1.2	1.0	0.7	0.6	0.5	0.4	0.4	0.3
3.7	12	7.1	3.6	2.4	1.8	1.4	1.2	0.9	0.7	0.6	0.5	0.4	0.4
4.3	14	8.3	4.1	2.8	2.1	1.7	1.4	1.0	0.8	0.7	0.6	0.5	0.4
4.9	16	9.5	4.7	3.2	2.4	1.9	1.6	1.2	0.9	0.8	0.7	0.6	0.5
5.5	18	10.7	5.3	3.6	2.7	2.1	1.8	1.3	1.1	0.9	0.8	0.7	0.5
6.1	20	11.8	5.9	3.9	3.0	2.4	2.0	1.5	1.2	1.0	0.8	0.7	0.6
6.7	22	13.0	6.5	4.3	3.3	2.6	2.2	1.6	1.3	1.1	0.9	0.8	0.7
7.3	24	14.2	7.1	4.7	3.6	2.8	2.4	1.8	1.4	1.2	1.0	0.9	0.7
7.9	26	15.4	7.7	5.1	3.9	3.1	2.6	1.9	1.5	1.3	1.1	1.0	0.8
8.5	28	16.6	8.3	5.5	4.1	3.3	2.8	2.1	1.7	1.4	1.2	1.0	0.8
9.1	30	17.8	8.9	5.9	4.4	3.6	3.0	2.2	1.8	1.5	1.3	1.1	0.9
9.8	32	19.0	9.5	6.3	4.7	3.8	3.2	2.4	1.9	1.6	1.4	1.2	0.9
10.4	34	20.1	10.1	6.7	5.0	4.0	3.4	2.5	2.0	1.7	1.4	1.3	1.0
11.0	36	21.3	10.7	7.1	5.3	4.3	3.6	2.7	2.1	1.8	1.5	1.3	1.1
11.6	38	22.5	11.3	7.5	5.6	4.5	3.8	2.8	2.3	1.9	1.6	1.4	1.1
12.2	40	23.7	11.8	7.9	5.9	4.7	3.9	3.0	2.4	2.0	1.7	1.5	1.2
13.7	45	26.7	13.3	8.9	6.7	5.3	4.4	3.3	2.7	2.2	1.9	1.7	1.3
15.2	50	29.6	14.8	9.9	7.4	5.9	4.9	3.7	3.0	2.5	2.1	1.9	1.5
16.8	55	32.6	16.3	10.9	8.1	6.5	5.4	4.1	3.3	2.7	2.3	2.0	1.6
18.3	60	35.5	17.8	11.8	8.9	7.1	5.9	4.4	3.6	3.0	2.5	2.2	1.8
19.8	65	38.5	19.3	12.8	9.6	7.7	6.4	4.8	3.9	3.2	2.8	2.4	1.9
21.3	70	41.5	20.7	13.8	10.4	8.3	6.9	5.2	4.1	3.5	3.0	2.6	2.1

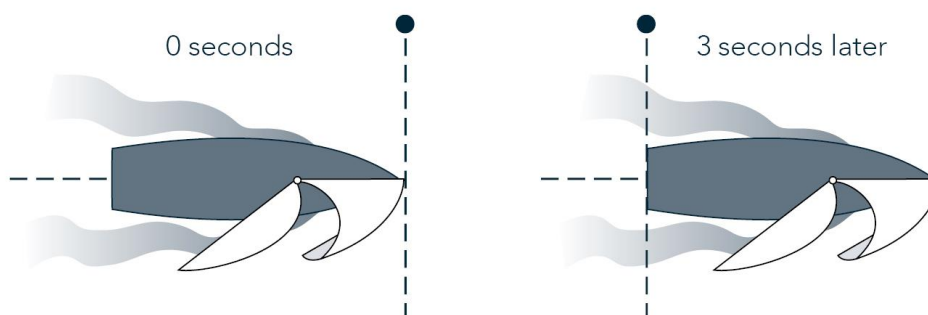
Note: Table Corrected March 11, 2021

Speed, Distance & Time Table

(based on the formula: $\text{distance} = \text{rate} \times \text{time}$)

(1 knot = 6076 feet per hour)

Boat speed	Feet per second	Meters per second
1 knot	1.69	0.51
2 knots	3.38	1.01
3 knots	5.06	1.52
4 knots	6.75	2.03
5 knots	8.44	2.53
6 knots	10.13	3.04
7 knots	11.81	3.54
8 knots	13.50	4.05
9 knots	15.19	4.56
10 knots	16.88	5.06



In other words, if your boat is going 4 knots, you will travel 6.75 feet per second. One way to determine your boat's speed is to sail by a buoy or other fixed object and count how many seconds it takes for the buoy to go from your bow to your stern. If in a 24-foot boat it takes 3 seconds to go by the buoy, you are going 8 feet per second, or just under 5 knots.

It's very useful to know your boat's approximate speed on all points of sail in all wind and wave conditions, particularly in a protest hearing. For instance, in the above example you know that a zone that is three lengths wide is about 9 seconds worth of sailing before the *mark*. You also know that if you tack in front of another boat and she claims to have hit you only 3 seconds after you became close-hauled, you can point out that, by her own testimony, she held her course for a full boat-length after you were close-hauled.

Adapted from *Understanding the Racing Rules of Sailing through 2020* by Dave Perry.
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Tables

Guidance on Damage

The following table, which attempts to define levels of damage, has been used at a variety of high-level events, including the 2017 International Women's Keel Boat Championship and the 2017 US Sailing Championship of Champions. It is included here for reference and should be considered advisory.

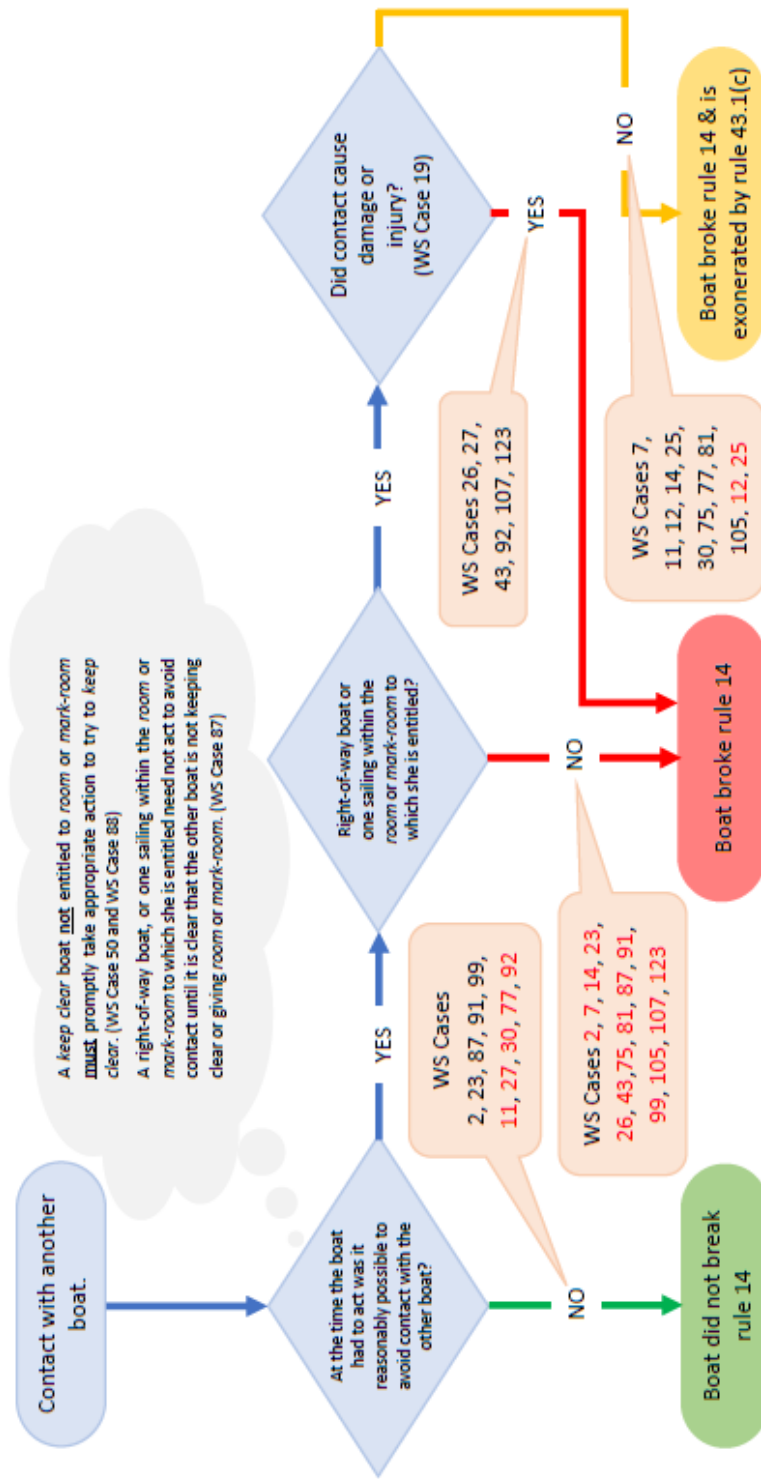
Level	Extent	Effect
Level A: Minor Damage	The damage does not significantly affect the value, general appearance or normal operation of the boat.	The boat may race without repair, although some minor surface work may be required after the event. Repairs should not normally require more than 1 hour of work.
Level B: Damage	The damage affects the value and/or general appearance of the boat.	The damage does not affect the normal operation of the boat in that race but may require some (temporary) work before racing again. Requires more than 1 hour of work but should not normally require more than 3 hours of work.
Level C: Major Damage	The normal operation of the boat is impaired and its structural integrity may be compromised.	The boat will need significant repair work before racing again. Requires more than 3 hours of work.

Rule 14 Decision Tree

Racing Rules of Sailing 2021-2024

Follow the decision tree for each boat. Each WS Case that includes rule 14 is shown below, once for each boat. A **black case number** for the right-of-way boat, and a **red case number** for the keep clear boat.

14 AVOIDING CONTACT
A boat shall avoid contact with another boat if reasonably possible. However, a right-of-way boat, or one sailing within the room or mark-room to which she is entitled, need not act to avoid contact until it is clear that the other boat is not keeping clear or giving room or mark-room.



Mark Townsend

v 1-Jan-2021

Guidance on Penalties for Misconduct

The table on the next page is intended only for decisions in a rule 69 misconduct hearing and is not to be used for rule 2 hearings. Penalty for rule 2 hearing decisions is DNE.

Guidelines for Ranges of Penalties for Misconduct

LEVEL 0	LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
Interview the party but do not hold a hearing <i>A hearing is not required</i>	Warn the party but do not penalize <i>A hearing is required</i>	Make the boat's score in a race or series worse <i>A hearing is required</i>	Disqualify the boat or exclude the party from a race or races <i>A hearing is required</i>	Disqualify the boat or exclude the party from the event <i>A hearing is required</i>	Disqualify the boat or exclude the party from the event and recommend further action by the national authority. <i>A hearing is required</i>
Breaking one or more racing rules, or behavior that is sufficiently serious that the normal penalty may be inadequate					
	Foul or abusive language that is intended to intimidate or offend or that is inappropriate for the occasion or location				
		Refusing to comply with a legitimate request from the organizing authority or race officials			
			Abuse of officials		
				Bullying, intimidating, or discriminatory behavior	
					Repeatedly committing the same measurement infraction
					Fighting or physical or sexual assault
					Lying in a hearing or to officials
					Theft, damage or abuse of property
Committing an act of misconduct that is a breach of good manners, a breach of good sportsmanship or unethical behavior; or conduct that may bring the sport into disrepute					