

Racing Rules of Sailing

Rules 63.1, 63.2, 63.3, 63.4, 63.5, 63.6, 64.4, 66 and 69.2(e) and the Protest Form

A submission from US Sailing

Purpose

To adjust the rules of Section B of Part 5 so that a fair and orderly procedure for a hearing under rule 60.3(d) is established and so that a support person who is a party to such a hearing will have the same rights that parties to a protest or redress hearing have.

Proposal

Make the changes shown below in the rules of Section B of Part 5.

SECTION B

HEARINGS AND DECISIONS

63 HEARINGS

63.1 Requirement for a Hearing

A boat or competitor shall not be penalized without a protest hearing, except as provided in rules 30.2, 30.3, 30.4, 64.3(d), 64.4(b), 69, 78.2, A5 and P2. A decision on redress shall not be made without a hearing. The protest committee shall hear all *protests* and requests for redress that have been delivered to the race office unless it allows a *protest* or request to be withdrawn.

63.2 Time and Place of the Hearing; Time for Parties to Prepare

- (a) All *parties* to a ~~the~~ hearing shall be notified of the time and place of the hearing, ~~the protest or redress information shall be made available to them,~~ and they shall be allowed reasonable time to prepare for the hearing.
- (b) For a *protest* or redress hearing, the *protest* or request shall be made available to the *parties*.
- (c) When the protest committee calls a hearing to consider whether a support person has broken a rule, a written statement from the protest committee shall be made available to the support person identifying the incident and the rule that may have been broken in that incident.

63.3 Right to Be Present

- (a) A representative of each *party* to a ~~the~~ hearing has the right to be present throughout the hearing of all the evidence. When a *protest* claims a breach of a

rule of Part 2, 3 or 4, the representatives of boats shall have been on board at the time of the incident, unless there is good reason for the protest committee to rule otherwise. Any witness, other than a member of the protest committee, shall be excluded except when giving evidence.

- (b) If a *party* to ~~a the hearing of a protest or request for redress~~ does not come to the hearing, the protest committee may nevertheless **conduct it without the party present** ~~decide the protest or request~~. If the *party* was unavoidably absent, the committee may reopen the hearing.

63.4 Conflict of Interest

- (a) A protest committee member shall declare any possible *conflict of interest* as soon as he is aware of it. A *party* to ~~a the hearing~~ who believes a member of the protest committee has a *conflict of interest* shall object as soon as possible. A *conflict of interest* declared by a protest committee member shall be included in the written information provided under rule 65.2.
- (b) [No changes]
- (c) [No changes]
- (d) [No changes]

63.5 Validity of ~~a the~~ Protest or Request for Redress

At the beginning of **a protest or redress** ~~the~~ hearing the protest committee shall take any evidence it considers necessary to decide whether all requirements for the *protest* or request for redress have been met. If they have been met, the *protest* or request is valid and the hearing shall be continued. If not, the committee shall declare the *protest* or request invalid and close the hearing. If the *protest* has been made under rule 60.3(a)(1), the committee shall also determine whether or not injury or serious damage resulted from the incident in question. If not, the hearing shall be closed.

63.6 Taking Evidence and Finding Facts

The protest committee shall take the evidence of the *parties* present at ~~a the~~ hearing and of their witnesses and other evidence it considers necessary. A member of the protest committee who saw the incident shall, while the *parties* are present, state that fact and may give evidence. A *party* present at ~~a the~~ hearing may question any person who gives evidence. The committee shall then find the facts and base its decision on them.

63.7 [No changes]

63.8 [No changes]

64 DECISIONS**64.1** *[No changes]***64.2** *[No changes]***64.3** *[No changes]***64.4 Decisions Concerning Support Persons**

- (a) **During a hearing under rule 60.3(d), when** ~~When~~ the protest committee decides that a *support person* who is a *party* to **the** ~~a~~ hearing has broken a *rule*, it may
- (1) issue a warning,
 - (2) exclude the person from the event or venue or remove any privileges or benefits, or
 - (3) take other action within its jurisdiction as provided by the *rules*.
- (b) The protest committee may also penalize a **boat associated with a support person** ~~competitor~~ for the breach of a *rule* by **the** ~~a~~ *support person* by changing the boat's score in a single race, up to and including DSQ, when the protest committee decides that
- (1) the **boat** ~~competitor~~ ~~may have~~ gained a competitive advantage as the result of the breach by the *support person*, or
 - (2) the *support person* commits a further breach after the **boat** ~~competitor~~ has been warned by the protest committee that a penalty may be imposed.

65 INFORMING THE PARTIES AND OTHERS*[No changes]***66 REOPENING A HEARING**

The protest committee may reopen a hearing when it decides that it may have made a significant error, or when significant new evidence becomes available within a reasonable time. It shall reopen a hearing when required by the national authority under rule 71.2 or R5. A *party* to **a** ~~the~~ hearing may ask for a reopening no later than 24 hours after being informed of the decision. On the last scheduled day of racing the request shall be delivered

- (a) within the protest time limit if the requesting *party* was informed of the decision on the previous day;
- (b) no later than 30 minutes after the *party* was informed of the decision on that day.

When a hearing is reopened, a majority of the members of the protest committee shall, if possible, be members of the original protest committee.

Consequential changes:**69.2 Action by a Protest Committee**

Add '(a)' to rule 69.2(e) as shown below:

- (e) If the protest committee decides to call a hearing, it shall promptly inform the person in writing of the alleged breach and of the time and place of the hearing and follow the procedures in rules 63.2(a), 63.3(a), 63.4 and 63.6 except that:

World Sailing Protest Form

Add on the first page in paragraph 2, TYPE OF HEARING, the following new entry:

Hearing under rule 60.3(d) ☐

Current Position

As above.

Reason

Background: In 2017, new rule 60.3(d) allowed a protest committee to call a hearing to consider whether a support person has broken a rule. The rules in Section B of Part 5 were written to cover protest hearings, redress hearings and, for rules 63.2, 63.3(a), 63.4 and 63.6, rule 69 hearings. When the rules in Section B were written, the authors did not contemplate applying them to the new type of hearing allowed by new rule 60.3(d). The proposal changes the rules of Section B of Part 5 so that they apply to hearings conducted under that rule. The majority of the changes are very simple changes of one, or a few, words. The reasons for the specific changes proposed in this submission are shown in the paragraphs below.

Rule 63.1: Current rule 64.4(b) permits the protest committee to penalize a boat associated with a support person without making the boat a party to a hearing. This is inconsistent with current rule 63.1, and adding rule 64.4(b) to the list of rules in rule 63.1 would remove the inconsistency. However, US Sailing strongly supports its submission to delete rule 64.4(b) and change rules 41 and 60.3. If that submission is approved, then rule 64.4(b) should not be added to the list in rule 63.1.

Rule 63.2(c): A protest, a request for redress or an alleged breach of rule 69 requires that a written allegation or request be given to each party. These requirements are in rules 61.2, 62.2 and 69.2(c). Proposed new rule 63.3(c) adds a similar requirement for a written statement when a hearing under rule 60.3(d) will be held.

Reason for the change from 'the hearing' to 'a hearing' in seven places (rules 63.2(a), 63.3(a), 63.3(b), 63.4, 63.6 (twice) and 66): One meaning of the word 'a' is 'any'. The word 'a' is used with that meaning in many places in the racing rules; see, for example, rule 10 where the two uses of the word 'a' imply that any port-tack boat is required to keep clear of any starboard-tack boat. Changing 'the hearing' to 'a hearing' in the seven rules listed above

makes it clear that those rules apply to 'any' hearing, which includes a hearing under rule 60.3(d) as well as a protest hearing, a redress hearing and, provided the rule is listed in rule 69.2(e), a rule 69 hearing.

Rule 63.3(b): The change to the wording 'conduct it without the *party* present' duplicates the wording used in rule 69.2(f)(2), and that wording states more accurately what the protest committee should do if a *party* to a hearing does not come to the hearing.

Rule 63.5: The words added to rule 63.5 are needed because that rule deals only with protest or redress hearings.

Rule 64.4:

The added words at the beginning of rule 64.4(a) make it clear that the rule applies only to hearings under rule 60.3(d).

The words 'may have' are deleted from rule 64.4(b)(1) because a penalty should only be given if the protest committee decides that the boat penalized actually did gain a competitive advantage as the result of a breach of a rule by her support person. A boat should never be penalized unless the protest actually finds that she broke a rule, and not because she 'may have' broken one.

The other changes in rule 64.4(b) were proposed because, under the racing rules, boats receive scores, not competitors. Therefore, it is a boat associated with the support person that should have its score changed if the protest committee decides that rule 64.4(b)(1) or (2) applies. Also, the wording of these changes was chosen to help avoid the confusion that could occur under rule 64.4(b) when the support person who breaks a rule is coaching, or otherwise supporting, more than one boat in the race.

Summary: The changes proposed in this submission provide a simple way to change the rules of Section B of Part 5 so that a protest committee will know how to conduct a hearing under rule 60.3(d) and so that a support person who is a party to such a hearing will have the same rights as a party to a protest or redress hearing. This proposal adds just 61 words to Section B and is a much more straightforward way to provide procedural rules for hearings under rule 60.3(d) than to add new rules, or a new appendix, for such hearings.