

Racing Rules of Sailing

Rules 64.4, 41 and 60.3(a)

A submission from US Sailing

Purpose

To solve problems and avoid undesirable outcomes created by new rule 64.4(b). To clarify the rules that permit a protest committee to penalize a boat when she gains a competitive advantage from a rules breach by her support person.

Proposal

Change rules 64.4, 41 and 60.3(a) as shown below:

64.4 Decisions Concerning Support Persons

- ~~(a)~~ When the protest committee decides that a *support person* who is a *party* to a hearing has broken a *rule*, it may
- ~~(a+)~~ issue a warning **to the support person**,
 - ~~(b2)~~ exclude the person from the event or venue or remove any privileges or benefits, or
 - ~~(c3)~~ take other action within its jurisdiction as provided by the *rules*.
- ~~(b)~~ ~~The protest committee may also penalize a competitor for the breach of a rule by 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 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 competitor has been warned by the protest committee that a penalty may be imposed.~~

41 OUTSIDE HELP

41.1 While she is racing, a ~~A~~ boat shall not receive help from any outside source, except

- (a) help for a crew member who is ill, injured or in danger;
- (b) after a collision, help from the crew of the other vessel to get clear;
- (c) help in the form of information freely available to all boats;
- (d) unsolicited information from a disinterested source, which may be another boat in the same race.

However, a boat that gains a significant advantage in the race from help received under rule 41.1(a) may be protested and penalized; any penalty may be less than disqualification.

41.2 **While she is not racing, a boat shall not receive help as a result of a breach of a rule by her support person if that help could give her a competitive advantage [] [in a race]. The penalty for breaking this rule may be less than disqualification.**

60.3 A protest committee may

- (a) protest a boat, but not 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 may protest a boat
 - (1) if it learns of an incident involving her that may have resulted in injury or serious damage, ~~or~~
 - (2) if 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, or*
 - (3) **if it learns that she may have broken rule 41.2;**

Current Position

As above.

Reason

Current rule 64.4(b) appears to allow a boat to be penalized even though she has not broken a rule, which is contrary to the whole premise of the racing rules. It also allows the protest committee to penalize her without a hearing in contravention of a fundamental principle of due process.

One possible 'fix' to the conflict between rules 64.4(b) and 63.1 is to amend rule 63.1 by adding rule 64.4(b) to its list of exceptions, but that would deprive a boat of the opportunity to argue against the penalty, present facts not known to the protest committee, ask for a reopening, or appeal. The proposal above suggests a fairer approach that is consistent with the intent of the Part 5 rules.

The proposed solution in this submission is to delete rule 64.4(b) and add a new rule 41.2 that can be broken by a boat. The proposal also adds a new rule 60.3(a)(3) and makes a small addition to rule 64.4(a)(1).

A description of the proposed changes in specific rules and the associated reasons is shown below.

Deletion of rule 64.4(b)(1) and addition of new rule 41.2 – A boat that has gained a competitive advantage as the result of a breach by a support person has received outside help in the spirit of rule 41, and for that reason it is appropriate that such a competitive advantage be dealt with within rule 41.

A boat may receive help as a result of a breach by a support person either while she is racing or while she is not racing. Current rule 41 adequately deals with help that is received while the boat is racing. The proposed new part of rule 41, rule 41.2, applies only while the boat is not racing and carries the same discretionary penalty as current rule 64.4(b)(1). Under proposed rule 41.2, a boat whose support person has given her an advantage while not racing may be protested in the usual way, so no special provision for such a situation is required in rule 63.1, and the boat will receive a hearing and all the rights of a party to the hearing.

Deletion of rule 64.4(b)(2) – This rule is deleted and not replaced. A support person who commits more than one breach of a rule may be penalized under rule 69 (see item 9 in the list in new Case 138). If the support person is found to have broken rule 69.1, the protest committee may take action under current rule 64.4(a) and may also refer the matter to the national authority under rule 69.2(j), in which case severe penalties may be given. This could result, for example, in suspension of eligibility to serve as a support person at any World Sailing event for a period of years. That possibility should be a sufficient deterrent to repeated infringements by a support person and is far preferable to penalizing a boat that did not gain any competitive advantage as a result of the support person's breach.

Current rule 64.4(b)(2) could have particularly undesirable consequences if the boat penalized is sailed by a child and the support person is the child's parent, or a coach hired by the parent.

Addition to rule 60.3 - With the addition of new rule 41.2, a protest committee can protest a boat for gaining a competitive advantage as the result of a rules breach by her support person. However, without a change to rule 60.3(a), the protest committee could not protest a boat as a result of information arising from a report from a person with a conflict of interest. It is quite possible that a report about a possible rules breach by a support person could come from a person with a conflict of interest. Coaches, for example, are often in the best position to see rules breaches by other coaches. With the addition of new rule 60.3(a)(3), a protest committee can consider and act on such reports. This is consistent with their ability to act on similar reports with regard to rule 69 and incidents that may have resulted in injury or serious damage.

Change in Rule 64.4(a)(1) – The addition of the words 'to the support person' makes it clear that this warning is to be made only to a support person who breaks a rule, and not to the boat associated with the support person.
