

# Protest Arbitration

Arbitration is simply a short meeting between sailors involved in a protest and an experienced rules expert (the arbitrator) that takes place before a protest hearing. The purpose of arbitration is to speed up the protest process and to give sailors a chance to take a less severe penalty than disqualification when they realize that they have broken a rule. Because sailboat racing is a self-policing sport, protesting is the legitimate process whereby rules disputes are resolved. But too often, competitors involved in a breach of the rules are not willing to protest because the process of resolving the problem is too formal and intimidating, and often takes too much time. Some competitors would rather ignore a breach of the rules than give up their social time after a race to attend a protest hearing. Arbitration is fast, informal and much less intimidating.

## Principles of Arbitration

Arbitration takes place after a written protest has been filed, but prior to the protest hearing. At the outset of arbitration, the arbitrator will explain the process so that the competitors are comfortable with the procedure. The following principles should apply:

- An arbitration hearing is not a protest hearing. While general procedures of hearing a protest are used in arbitration, the rules of Part 5, Section B (Hearings and Decisions) are amended for an arbitration hearing.
- Arbitration should be used for protests only when two boats are involved and only when the rules of Part 2 apply. If it becomes clear that other rules are applicable, or another boat may be involved, the protest should be forwarded to the protest committee. Also, arbitration cannot be used if injury or serious damage is alleged.
- Only the arbitrator, protestor and protestee are permitted to attend. No witnesses are allowed.
- When the hearing begins, the arbitrator will first test validity and approve a request to withdraw the protest. If the validity of the protest is at issue and cannot be resolved, the arbitrator should refer the protest to the protest committee, since validity is a rule of Part 5, not Part 2.
- The entire process should take no longer than 15 minutes. If that time is exceeded, the issue is too complex for arbitration, and the arbitrator should consider forwarding the protest to the protest committee.
- The opinion of the arbitrator will be one of the following, based on the testimony presented:
  - The protest committee would find the protest to be invalid.
  - The protest committee would find that no boat broke a rule.
  - The protest committee would find one or both boats broke a rule(s).
  - An opinion cannot be given based on conflicting testimony.
  - A protest hearing is appropriate unless either party accepts an arbitration penalty.
- Rule 63.1 (Requirement for a Hearing) requires the protest committee to hear all protests unless it approves a protestor's request to withdraw the protest. When a party accepts an arbitration penalty or when the parties accept the arbitrator's opinion that neither boat broke a rule or that the protest is invalid, the protestor should technically request that the protest be withdrawn, which will be approved by the arbitrator on behalf of the protest committee. If the protestor insists that the protest be heard by the protest committee, that request cannot be denied. But if a boat accepts a penalty at arbitration, rule 64.1(b) (Limits on Penalties) applies, and the boat may not be penalized further.
- The arbitrator must not give a reason or make a case for either side until the protest is resolved.
- If the arbitrator's opinion is not accepted or if he is unable to render an opinion, the protest is forwarded to the protest committee for a full hearing.

## Arbitration Resolution

If a competitor accepts the opinion of the arbitrator that he may have broken a rule, he shall write "***I accept a 30% penalty***" on the protest form, and sign it.

If the protestor accepts the arbitrator's opinion that the protest is invalid, or that no rule was broken, or accepts the penalty taken by the protestee, the protestor shall write "***I withdraw this protest***" on the protest form and sign it.

The arbitration penalty is a Scoring Penalty calculated under rule 44.3(c), and the scores of other boats shall not be changed.