



Guidelines for Online Hearings

December 2020

These guidelines are considered best practice given the current technology and experience. It is anticipated that they should be updated periodically. These best practices will be applicable both now during this time of government guidelines, and in the future when our sport resumes it's normal ebb and flow.

Part 1 Reasons to Utilize Online Hearings

Online hearings are useful for several reasons to include:

- Social distancing
- When travel to a host location for a hearing is an issue for competitors or judges: for example,
 - where boats go home to various harbors after racing and travel to the host location for a hearing is difficult or impractical; or
 - the OA needs judges who are not available locally; or
 - to save the travel cost for panel members: for an international jury, for example
- Judge training and mentoring.

Part 2 The Process

The intention to hold hearings online should be included in the Notice of Race [See RRS Appendix J1]. It will give sailors the knowledge that there will be online hearings so sailors can decide if they want to attend and arrange to bring the equipment they need with them. Sample provisions that might be used are attached: [link](#).

The intention to hold hearings online should also be in the Sailing Instructions [See RRS Appendix J2]. In addition to the usual and customary provisions, the following sample provisions might be used: [link](#).

The reference to a document entitled *[Information for Competitors](#)* in the attached sample provisions refers to an informational document that explains the online hearing process in plain language. This document can help dispel any mystique about the process and provide competitors with a complete understanding of the process. A sample document is attached: [link](#). Note that this document is simply a guide and does not have

the force of a rule for enforcement. It should be posted on the notice board.

The hearing must follow the RRS, so use your standard checklist for holding a hearing.

After posting a notice of a hearing on the official notice board, the parties should be contacted directly by the hearing committee. Someone associated with the hearing committee should be identified by the chair of the hearing committee as the person responsible for doing this. Typically, this person will be the jury secretary, a hearing administrator, a panel chair, or the hearing committee chair. This person will ordinarily contact the parties by email enclosing the Zoom connection information, a copy of the hearing request form, a copy of any *Information for Competitors* document that has been posted, and the time the parties are to connect to the hearing. The parties should also be advised to have any witnesses they intend to call at the hearing join the hearing at the beginning of the hearing so the panel can manage the hearing and advise everyone appropriately.

If you are holding a redress hearing and need to inform the whole class or fleet about the hearing and allow the class/fleet to become a party, you can post the necessary notice with the Zoom address for the hearing.

It is essential that the Chief Judge, jury secretary and/or hearing administrator have access to the registration information that includes boat numbers, skipper's names and contact information [email and phone numbers] to make these contacts. This information can be used to follow up with people as needed to keep the process moving along and document efforts to contact parties for purposes of RRS 63.3(b). The same people will need access to the regatta management system to post on the official notice board.

Part 3 Use of an Online Platform:

Zoom is one of many platforms that can be used for Online Hearings. It has become very common, and most parties and witnesses are familiar with it so there is less of a learning curve. Here are some preferred Zoom conventions:

- You should have a hearing administrator responsible for setting up the meeting, moving people in and out of the waiting room (rather than the breakout rooms, see below), and dealing with technical issues like lost connections.
- The hearing administrator can be a judge or a technically proficient person. The chair can decide if the hearing administrator will be a part of the panel and vote. If the person is not a judge, the panel chair should counsel the person to keep any deliberations confidential.

- The hearing administrator must have host capacity for the hearing. Without it, the person can not run the hearing per these practices.

Set up Zoom so everyone enters the hearing through the waiting room and is admitted to the meeting by the hearing administrator. The hearing administrator will have to monitor who is in the waiting room.

- Move the parties and witnesses into the waiting room when you do not want them in the meeting as appropriate.
 - Waiting rooms work better than breakout rooms because
 - ◆ Breakout rooms are voluntary, and people can decide not to go there or return at their whim.
 - ◆ You have to close all the breakout rooms at one time; you can move people in/out of a waiting room one at a time or as a group.
 - ◆ People in break out rooms can see and talk to each other; this is not appropriate for parties and witnesses and can also lead to problems between parties.

Part 4 Implementation

It is best to ask the hearing panel to join 10 minutes early to discuss the case and deal with any issues before the hearing starts. This will help the scribe focus on particular testimony and help expedite the hearing.

- Parties and witnesses can use multiple devices to connect.
 - ◆ This can be to add audio or video quality or an additional camera to show boats.

Coaching participants and witnesses.

- Zoom has become common, and most people are familiar with it. It would be appropriate to have the hearing administrator help a party or witness with the connection technology but not discuss the case.
- Many hearings will be better if there is access to boats to demonstrate the boat on boat issues.
 - ◆ Clearly printed and cut out paper boats or model boats with an additional camera (say cell phone) is a satisfactory alternative to using software. Boats to be printed can be included with the hearing guideline document.
 - ◆ Drawn diagrams of the boats and situation can be submitted electronically
 - ◆ The last resort is to use Sail Replay (Mac only) or Boat Scenario software while sharing the screen. This software can be challenging to learn. Rather than teaching someone how to use it, the hearing administrator or one of the judges can follow the participants' directions to move the boats. Essential

here is not to lead the party or witness but just do what they say and confirm they are happy with each step's placement.

It is better to have a separate Zoom meeting for each arbitration or hearing rather than using breakout rooms.

- Free Zoom accounts are satisfactory for arbitration because arbitrations should never reach Zoom's 40-minute time limit for free accounts.
- Paid accounts are required for actual hearings as they rarely will be completed within 40 minutes.
- The OA or host club likely will have an account. It is not unusual that individual judges may have accounts either personally or through work they can access. It is acceptable to consider account holders when putting together the members of your hearing panel.
- Part of your event planning will be the size of the event, the number of likely hearings, the number of judges joining the event, the number of accounts you might need, and when you need to have the results of the hearings (same day or at a later time such as during the week that follows).

It is best practice to state in the regatta documents that parties and witnesses must use audio and video to appear before a hearing panel unless advised otherwise by the hearing panel. This practice best simulates an in-person hearing. If this statement does not appear in the regatta documents, it will not have the strength of a rule. If a participant chooses not to join with video and the hearing panel is willing to continue the hearing on that basis, the participant should be counseled that this may put the person at a disadvantage because the person will not be able to see people or presentations and that the risk of doing so is a risk accepted and assumed by that person. This decision should be a fact found in the written decision for the case.

When planning an event, there must be a plan for document movement and distribution.

- It starts with having the filing be electronic. Some race management software line Yachtscoring has a filing module, but it does not allow for diagrams, which must be submitted separately by email. The US Sailing Racing Rules 2021-2024 of Sailing App may change this as it should allow for filing requests for hearing forms electronically.
 - ◆ It is helpful if you make an editable request for a hearing form available on the official notice board if you allow emailed forms.
 - ◆ The chair of the hearing panel should decide who is to receive the cases that are filed; if filings are done electronically, the system should be programmed to send the cases filed to designated people: this could be to one person, a

couple of people, or to every member of the jury, whatever approach best suits the event.

- ◆ If only one person receives it (say it goes to a race management email address for the club), make sure that someone is monitoring that email address until well after the protest time limit.
- ◆ If you allow paper filings, have a specific person who is responsible for digitizing the document and distributing it.

Part 5 Protest Committee Considerations

It is a best practice at the beginning of the hearing to ask if there will be any witnesses called.

- ◆ The witnesses should be present at the very beginning of the meeting before the hearing starts to make sure their equipment is working, and they are ready to participate.
- ◆ This is an excellent time to make sure they are using separate connections to not share with a party, which would make them unable to participate.
- ◆ Witnesses then go into the waiting room.
- With video, tracking or photo evidence, it is still the requirement of the presenting party to make it technologically available.
 - ◆ They can have it run on their computer and share their screen if it is connected.
 - ◆ The evidence rules are the same as in-person hearings.
- Signatures on forms. There are times (in arbitration, for example) where a party wishes to accept a scoring penalty or withdraw a protest. If it were in person, they would sign the protest form. It is acceptable to have them send an email that clearly states their intention in an online hearing.
- When parties lose connection, use your judgment to re-establish the connection.
 - ◆ This is why it is crucial to have more than one way to contact a participant. If their Internet is down, try to call their mobile phone.
 - ◆ If there was a stable connection and it is lost, explore other options and how long it will take for them to get to a location with the Internet. Use your best judgment as to whether to wait for them or to reconvene at a later date.

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