

Misconduct Information Guidance for US Judges

October 2022

The purpose of this Misconduct Information Guidance is to track repeated misconduct. Misconduct, as defined in rule 69, is “conduct that is a breach of good manners, a breach of good sportsmanship, unethical behavior or conduct that may bring, or has brought, the sport into disrepute.” While most sailors never engage in misconduct, a few individuals have continued unacceptable behavior even after receiving warnings under rule 69.2(h) or 69.2(i).

There have been instances of competitors receiving repeated warnings when protest committees were unaware of similar misconduct at other events or venues that also resulted in a warning. In these cases, more severe penalties may have been warranted.

To better understand the problem and better address repeated misconduct, the Judges Committee requests that US judges provide “Misconduct Information” to US Sailing when a PC finds that a competitor, boat owner or support person has committed misconduct. Misconduct Information will include the facts found, the conclusions, and the action(s) taken under rule 69.2(h).

If an investigation or a hearing finds that no misconduct occurred, no information should be sent to US Sailing.

The Misconduct Information will be kept in a confidential database administered by the US Sailing Race Administration Director and Staff Counsel. The reports will be retained for seven years in the case of adults and five years in the case of minors.

When a protest committee finds that a person has committed misconduct, but before any further action is taken, the chair is advised to contact the [Race Administration Director](#) to request any “Misconduct Information” related to that person. If the protest committee determines that there is a pattern of repeated misconduct, action taken under rules 69.2(h) or 69.2(i) may include consideration of prior documented misconduct. See World Sailing Case 139 and World Sailing Misconduct Guidance 43.4.1 (July 2021) concerning aggravating factors.

The Judges Committee believes this information will help protest committees determine the appropriate level of penalty, which may include issuing a warning, changing a boat's score in one or more races, imposing one or more disqualifications that may not be excluded, excluding a boat, competitor or support person from the event or venue, removing privileges or benefits, or taking any other action within its jurisdiction.

The Misconduct Information Guidance does not change rule 69 as it is guidance and therefore not mandatory.

Rule 69.2(j) requires the protest committee to report its facts found, conclusions and decision to the subject's MNA when it imposes a penalty greater than one DNE, excludes a person from the event or venue, or in any other case it considers appropriate. In this situation a "report" will be filed and the US Sailing Review Board will review the penalty. In all other instances the Misconduct Information will not be considered a "report" under rule 69.2(j) and will not be sent to the Review Board.

A protest committee is limited in the penalties it may impose to "actions within its jurisdiction." In the rare case that a person has engaged in repeated or severe misconduct, US Sailing's Review Board may impose further penalties, including suspending a sailor's eligibility to compete.

Because misconduct hearings have specific requirements for due process, and because the stakes are potentially high for the person accused of misconduct, investigations and hearings should be undertaken only by highly experienced, trained judges.

What should a judge do if given a report of misconduct? Please call or email your RAJ. The RAJ will arrange support from an NJ or IJ who is experienced in misconduct procedures. That judge will help you find additional qualified judges, set up remote hearings if needed, assist you through all actions of a protest committee, and guide you through reporting to US Sailing.

To submit a Misconduct Information or Report, the chief judge should complete the brief [Misconduct Information or Report](#) form, attach the PC's Hearing Decision Form, and submit it to US Sailing.

- If the protest committee issues a warning or imposes a penalty of one DNE or less, the information will be reviewed and stored in a confidential data base, where it will be available for review as needed in the future.*
- If the protest committee imposes a penalty greater than one DNE, the report will be forwarded to the Review Board for further consideration.*

(Revised 10/20/2022)