

This document is a list of internal policies that guide the operation of the US Sailing Appeals Committee, drafted and maintained by that Committee. The goal of these policies is to assist in the smooth, fair and efficient operation of the Committee. They are not “rules” that bind the actions of the Committee. These policies have been developed by the Committee over time. They can be added to, deleted and/or revised at any time as deemed advisable by the Committee. They are listed in no particular order.

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**1) In stating what the Appeals Committee is not, it helps clarify the purpose and responsibilities of the Committee.**

The Appeals Committee is not:

- the Racing Rules Committee – it has no responsibility for the correctness of the racing rules, or the drafting of possible revisions to the rules;
- the Judges Committee – it has no responsibility for the conduct of a particular judge or member of a protest committee other than deciding whether that individual or committee has acted in compliance with the rules. Furthermore, it has no responsibility to dispense justice, other than deciding whether the rules were complied with in situations properly brought before it on appeal.
- the Protest Committee – it has no responsibility for finding facts or taking testimony from any parties or witnesses, other than comments properly submitted under rule R6; if it **decides the facts found by the protest committee are not “adequate”**, ~~is not satisfied with the facts found by a protest committee~~, it **will** ~~may~~ require the protest committee to provide additional facts and information under rule R5.4;
- the regional (Association) Appeals Committee – it has no responsibility for the make-up or functioning of the regional appeals committees in the U.S.
- the Review Board – it has no responsibility for taking action when an official or competitor acts badly, other than to decide whether action taken under rule 2 or rule 69 is in compliance with the rules;
- the US Sailing Board – it has no responsibility on the setting of policy for US Sailing, other than making suggestions to and responding to requests for input from the Board.

Having stated what the Appeals Committee is not, it is important to state that the members of the Appeals Committee remain important resources for bringing to the attention of the appropriate committees issues and ideas that will improve the rules, the judging in the US, and the comportment of sailors in the US; and will be helpful to association appeals committee members in the carrying out of their functions as appeals committee members.

## 2) Confidentiality and Respect

- We agree to disagree, with respect. **We can disagree without being disagreeable.**
- All discussions within the Committee are considered confidential. Committee meetings are closed for that reason.
- Members are expected to refrain from discussing with others any discussions within the Committee and any voting on committee decisions.
- Members are expected to support the Committee's decisions, even when they may disagree with one.

## 3) Decisions

- A simple majority vote of all Committee members carries a decision. In the event the membership is an even number, for instance when a member is recused, the Chair's vote will break a tie.
- We don't ordinarily list all the facts in our decision letter, as we assume the parties and committees involved in the appeal are familiar with the facts. We attempt to address each ground for the appeal in our decision letter.
- We list Appeal or Case references in our decisions when we think it will better help the reader understand the rule(s) being interpreted.
- In our published decisions, we include the rule number titles ~~in decisions~~ when the title is not listed at the heading of the appeal.
- We do not discuss our decisions with the parties or committees involved once the decision has been sent. **We try to write our decision clearly and completely enough that it speaks for itself.** We may review our decision if asked **to** by a party or committee.
- When the consideration of an appeal or request raises the issue of a possible deficiency in a rule, the Chair will bring that issue to the attention of the Racing Rules Committee or other appropriate committee.

## 4) Meetings

- We schedule monthly conference calls.
- We ordinarily don't send emails on Agenda items after 9:00pm east coast time the day before a meeting.
- We don't discuss things at our meetings (other than superficially) if they are not on the Agenda ahead of time.
- Immediately following the meeting, the Chair sends a brief recap of the meeting summarizing what was discussed and/or decided.

## **5) Membership**

- When a member's term expires, he/she remains on the Committee through December 31 of the year the term expires. He/she is offered the opportunity to participate in the discussion of any ongoing open case after December 31 until a decision is made, but will not have a vote.
- New members are approved by the BOD in December, and join the Committee as of January 1.
- New members on the Committee are expected to participate fully in any case received by the Committee after joining. Regarding ongoing cases, new members are expected to get up to speed as quickly as possible, and to deliberate and vote.
- As directed by the Board, the Appeals Committee may have no more than one member of the current US Sailing Racing Rules Committee on it.

## **6) Requests for rule interpretations under rule 70.4**

- Rule R2.4 provides the specific requirements for a request for a rule interpretation. Typically we expect the request to come in on the requesting club or organization's letterhead stationary.
- A request should be limited to one incident or one rules interpretation. If the request contains a "laundry list" of questions or requests for rule interpretations, the Chair may write back to the requestor suggesting they limit their request or submit multiple requests.

## **7) Recusal Policy and Procedure**

- \* When a member of the Appeals Committee believes that he or she has had any direct or indirect knowledge or involvement in a matter that has been brought before the Appeals Committee, could gain or lose as a result of the Appeals Committee's decision, or has a close personal interest in the decision, that member shall, as soon as practicable, fully disclose his or her knowledge or involvement to the full committee.
- The member may decide to recuse him or herself, after first stating the reasons and then considering comments from other members. If the member is undecided or believes he or she should not recuse him or herself, the other members will discuss and decide whether the involvement by the member is reason for recusal. If so they will ask him or her to recuse him or herself.
- A member need not recuse him or herself if their work on an article or book, etc. has been quoted in the appeal.
- When a member recuses him or herself, all parties to the appeal and officials involved will be notified, and the recused member will not participate further in any of the discussions or receive any further correspondence or other documents connected with the appeal or request, except the final decision.

## **8) Internal Comment Period**

- members wait until the 15 day comment period set in the acknowledgment letter has expired before sending around their own comments on the merits of the appeal.

## **9) Applicable Rules**

- The racing rules that were in effect at the event from which an appeal or request arose will also apply to the consideration of the decision being appealed, even if a new edition of the RRS is in effect at the time the appeal or request is received or is being considered. This applies to both the rules that apply and the processes for filing and handling the appeal (Part 5, Section D and Appendix R).

## **10) Policy on what issues to address in the consideration of an appeal**

- we address issues raised by the appellant on appeal; i.e., the grounds for the appeal. We also address any issues for which facts are supplied by the protest committee, even if that includes issues not raised by the appellant. Generally, where a comment is made, either on the front of the protest form or in some document sent in later during the appeal (other than the original grounds for the appeal), but where there is no fact found addressing that issue, we generally do not explore that issue ourselves.

## **11) Communication with sailors and officials who are not a party or committee directly involved in an appeal or request**

- Ordinarily the Appeals Committee does not circulate appeals documents other than to the parties to the hearing in which the decision on appeal was made, and to the committees that made the decisions.
- Ordinarily the Appeals Committee does not consider comments sent regarding an appeal other than by the parties to the hearing and the committees making the decisions being appealed (see rule R6).

## **12) Internal Email**

- In all emails, the Subject line should clearly identify the topic of the email.
- Emails should be confined to one topic.
- In all emails pertaining to a file, begin the subject with the file number, as follows: 08-06
- Then, if you want to specify the nature of the email, that is fine; for instance:

08-06, Dave's opinion  
08-06, decision draft 2  
08-06, ack letter

If you want to put a deadline on replying to an email, put the deadline date in brackets [ ] in the subject, as follows: 08-06, draft decision [Jan 12]

### **13) Attached Documents**

- The Committee prefers the use of Microsoft Word for all attached documents unless not generated by the sending member in which case the document(s) should be sent in PDF format.
- All attached documents should contain the file number, date, drafter, and draft number in the upper left corner of the first page.
- The document should be saved using the file number first, then any secondary information the drafter chooses.
- Our manuals are saved in rtf format as it is most easily read by both PC's and Mac systems.

### **14) Publishing Policies – to publish or not to publish?**

- the test for whether a decision should be published includes:
  - a) the ISAF test: each case shall significantly clarify an important meaning of a rule or increase the understanding of a complex rule; and
  - b) the Appeals Committee test: the case should illustrate rule interpretations of educational value.
- We do not publish every decision. Here are some reasons:
  - the decision is an obvious one, providing no useful interpretation of a rule.
  - the decision is a lengthy and complicated one.
  - the incident(s) in the appeal are unlikely to occur again.
  - the decision is a near-duplicate of an Appeal or Case already published.
  - the decision is to not consider an appeal or request because it is invalid.
  - the Committee is fairly evenly divided on the interpretation in the decision, and/or the Committee feels it is more beneficial to alert the Racing Rules Committee of the issue and have the rule fixed, than to publicize the rules issue.
- We normally make the “to publish or not to publish” decision after seeing the final write-up of our decision.
- In our standard decision letter, we inform the parties and committees in that appeal/request that we may publish the decision, possibly in a revised version. If we do publish the decision, we also send them a copy of the publishable decision.
- our published decisions are posted on the Appeals Committee website, and in the e-newsletter of US Sailing, and any dedicated e-mailings to US Sailing Judges and Race Officials.
- During the drafting phase of publishable decisions, we continue to put the file number as the first item in the subject line of all emails.

### **15) Target Time Frame for processing an appeal or request**

- Our standard target time frame from initial receipt of an appeal or request to sending our decision is three (3) months.
- If we realize that a file will take substantially longer to decide, as a courtesy we inform the parties and committees of the expected delay.

### **16) Electronic communication with parties and committees in an appeal or request**

- We allow electronic communication between the Committee and the parties / committees in the appeal/request.
- All e-correspondence from outside the Committee goes to a dedicated email address received by the Secretary. It is: [appeals@ussailing.org](mailto:appeals@ussailing.org)

When a party communicates with us via email, we take that as permission to communicate with them at that email address. In that case, we do not send that party hard copies of the communication.

### **17) When a committee is non-responsive to our requests made under rule R5.4, Inadequate Facts; Reopening**

- We first send an email to the protest committee chair (PC), copied to the event chair (OA), with a short deadline for a response.
- Next, the Appeals Committee Chair calls the PC chair and/or the OA chair.
- If that fails to produce satisfactory results, the Chair contacts the Commodore of the Club or President of the Association, etc., and then the Commodore or President of the Regional Sailing Association, with appropriate copies to the Regional Sailing Associations Committee Chair and US Sailing President if deemed appropriate.

### **18) Meeting face-to-face at the US Sailing meetings**

- We do not meet face-to-face because:
  - a) our meetings are closed, meaning even if we met at the spring or annual meeting, observers are not permitted;
  - b) most of us are not on multiple committees, such that it would be extremely expensive and time consuming to make the trip to the meetings for a short meeting, and we do not want to meet unless we can have 100% member participation;
  - c) we can be as effective as we need to be using email and conference calls to do our business.

## **19) Rule 69 hearing decisions**

- We hear them ahead of other cases on our docket (By-law 522, Section 4)
- We review the procedural aspects of the rule 69 hearing to be sure the actions taken conform to *The Racing Rules of Sailing*.
- We can consider the assessment by the PC regarding the term “**misconduct.**” ~~“gross,” or its assessment regarding bringing the sport into disrepute.~~ We normally don’t consider the appropriateness of any penalty imposed or not imposed by the PC (these aren’t rules interpretation issues).
- We inform the Review Board when we receive such an appeal or request; and we send the Review Board a copy of our decision.

## **20) Informal rules discussions among Committee members**

- in general, outside of dealing with an actual appeal or request, members of the Committee are not encouraged to ask “hypothetical” rules questions to the Committee. This is primarily out of respect for people’s time. Each member has dedicated a certain amount of time for Committee work and interaction. However, if a member chooses to solicit the opinions of the Committee, the discussion is purely voluntary and carries no “official” meaning. It is important for the member to consider whether the issue will be coming to the Committee either via an appeal or request, or under 70.4 as a hypothetical question.

## **21) Giving personal opinions to individuals or in public forums such as books, articles, seminars, Scuttlebutt, etc.**

- this is to be treated with great sensitivity and care.
- before responding in any way:
  - a) investigate the situation to be satisfied that the question does not pertain to a live case that could be appealed (such as an active protest);
  - b) precede every rules opinion or talk in which you are giving your personal opinion with a phrase along these lines: “these are my personal opinions and in no way represent the opinion of the US Sailing Appeals Committee of which I am a member.”
- be especially judicious before writing in a public forum such as an e-publication (Scuttlebutt, Sailing Anarchy, etc.) or a book or magazine, etc.
- Do not sign any personal opinions with an indication that you are a member of the Appeals Committee.
- Let people know that to obtain an official interpretation of the rules, they must follow the process in rule 70.4 and rule R2.4 and R3.3 of *The Racing Rules of Sailing*.



## **22) Case submissions to World Sailing**

Timeline:

May 1 – gather suggestions from Appeals Committee on possible submissions

June 1 – make final decision on submitted appeals; write up submission reasons; circulate to Race Administration Committee for its input

July 10 – send submissions to US Sailing Board for their approval

August 1 – US Sailing office sends submissions to World Sailing

## **23) meaning of “final” in rule 71.4**

At the Appeals Committee meeting May 26, 2015, we discussed and agreed to the following interpretations and applications of the term “final” as used in rule 71.4:

- Once we have sent our written decision, we can't change the decision in the appeal we were deciding. In other words, if we decided Boat X should be DSQ, or that a hearing should be voided, we can't subsequently change that decision, even if we subsequently decide we were incorrect. That means that any effect on the scoring of the race or series caused by our decision cannot subsequently be changed; it is “final.”
- “Final” means the same thing for a request for confirmation/correction as it does for an appeal, as the request involves the actual scoring of the race or series.
- A request for interpretations of the rules is not a “decision.” There is no scoring impact, i.e., it is purely an academic exercise. Therefore we can change our minds even after sending out our written answer.
- Rule 71.4 does not apply to the published decisions of an appeals committee. Appeals committees publish their opinions as a helpful tool for the racing community. It is done primarily for educational reasons. There are no “rules” that govern the publication of an appeal. An appeals committee is free to change its published appeals whenever it wishes to. This can include revising the write-up or deleting it altogether.
- The Appeals Committee standard practice has been that when it revises a published decision, it puts the revision date at the bottom of the Decision. When it deletes an appeal, it notes that, along with the reason, in the Appeals Book Index of Deletions.

Furthermore, it has been the Appeals Committee practice that when it decides an appeal decision is not correct (because a rule has been changed or it does not agree with the Decision), it has deleted that appeal as opposed to changing the Decision and leaving the appeal in the book. This has been to avoid confusing the readers.

- It has been the practice of the Appeals Committee, when it has revised or deleted an appeal, not to write to the parties and committees, or requesters, involved in that appeal to tell them what it has done. One reason is that often it is revising an appeal published many years ago. An exception to this would be when the appeal has only been published for a short time, say a year or so.

#### **24) Policy on answering appeals that are not “valid.”**

- If an appellant does not comply with the rules for submitting an appeal in Appendix R, and those errors cannot be corrected (e.g., the appeal was submitted after the 15 day deadline), the Appeals Committee cannot decide the appeal.
- For educational purposes, the Appeals Committee may send to the parties and committees involved its opinion on the situation in the appeal. This would be done when the rules applications, etc. are fairly straightforward and would not change the decision of the committee being appealed.

#### **25) Policy on handling appeals under rule 70.1(b) (no required hearing held)**

- We first send an email to the protest committee chair (PC), copied to the event chair (OA), with a short deadline for a response.
- Next, the Appeals Committee Chair calls the PC chair and/or the OA chair.
- If that fails to produce satisfactory results, the Chair contacts the Commodore of the Club or President of the Association, etc., and then the Commodore or President of the Regional Sailing Association, with appropriate copies to the Regional Sailing Associations Committee Chair and US Sailing President if deemed appropriate.

#### **26) Policy on sending out acknowledgement letters in the last two weeks of December**

Out of respect for the family and other commitments people have at the end of the year, it is our policy to not have the 15-day comment period occur in the last two weeks of December. Therefore, we do not send out acknowledgement letters after December 1.