



## **Guidelines for Online Hearings**

*(Revised July 2021)*

These guidelines are considered best practices given current technology and conditions. They will be updated periodically. These practices will be applicable both while government health guidelines are in effect and in the future when our sport resumes its normal ebb and flow.

### **Part 1: Reasons to Schedule Online Hearings**

Online hearings should be considered:

- When social distancing is required
- When travel to a host location for a hearing is an issue for competitors or judges. For example:
  - when boats go home to various harbors after racing and travel to the host location for a hearing would be difficult or impractical
  - when the OA needs judges who are not available locally
  - to save the travel cost for panel members – for an international jury, for example
- For judge training and mentoring

### **Part 2: Event Planning**

Part of your event planning will involve considering the size of the event, the number of likely hearings, the number of judges joining the event, the number of teleconferencing platform accounts you might need, and when you need to have the results of the hearings (the same day or at a later time such as the following week).

The intention to hold hearings online should be included in the Notice of Race (see RRS Appendix J1). It will alert sailors that there will be online hearings so they can decide if they want to attend and arrange to bring the equipment they need. Sample language is included at the end of this document.

The intention to hold hearings online should also be included in the Sailing Instructions (see RRS Appendix J2). In addition to the usual provisions, the sample provisions at the end of this document may be used.

There must be a plan for document movement and distribution:

- This starts with making the filing electronic. The [US Sailing Racing Rules app](#) allows for filing requests for hearings, with diagrams, digitally. Other race management software packages have filing modules but may not accommodate diagrams, which must be submitted separately by email.
- It is helpful if you make an editable [Hearing Request Form](#) available on the official notice board if you allow emailed forms. It is easy to [make a QR code](#) that sailors scan to get the form.
- The chair of the hearing panel should decide who will receive the cases that are filed. If filings are made digitally, the system should be programmed to send the cases filed to designated people – this could be one person, a couple of people, or every member of the jury, whatever approach best suits the event.
- If only one person receives filings (if they go to a race management email address for the club, for example), make sure that someone is monitoring that email address until well after the protest time limit. That person is responsible for distributing the filings to the PC.
- If you accept paper filings, appoint a specific person to be responsible for digitizing and distributing the documents.

It is a 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.

### **Part 3: Managing the Online Platform**

Zoom is one of several platforms that can be used for online hearings. It is commonly used and most parties and witnesses are familiar with it so there is less of a learning curve. Other platforms are also available.

About Zoom accounts:

- Free Zoom accounts are satisfactory for arbitration because arbitration should never reach Zoom's 40-minute time limit for free accounts.
- Paid accounts are required for actual hearings as they will rarely be completed within 40 minutes.
- The OA or host club likely will have an account. Many individual judges may also have personal or work accounts they can access. It is acceptable to consider account holders when putting together the members of your hearing panel.

These are preferred Zoom conventions:

- Appoint 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 voting member of the panel. If the person is not a judge, he or she should be counseled to keep deliberations confidential.
- The hearing administrator must have host credentials for the hearing.
- Set up a separate meeting for each arbitration or hearing rather than using breakout rooms.
- Set up Zoom so everyone enters the hearing through the waiting room and is admitted to the meeting by the hearing administrator. The administrator will have to monitor who is in the waiting room.
- Move the parties and witnesses into the waiting room as appropriate when you do not want them in the meeting.
- Waiting rooms work better than breakout rooms because:
  - Only the administrator can move people in and out of the waiting room. Breakout rooms are voluntary, so people may decide not to go there or may return to the hearing at an inappropriate time.
  - Breakout rooms must all be closed at the same time, whereas the administrator can move people in or out of a waiting room one at a time or as a group.
  - People in breakout rooms can see and talk to each other, which is not appropriate for parties and witnesses and may lead to problems between parties.

#### **Part 4: Implementation**

It is best to ask the hearing panel members to join 15 minutes early to review the case and deal with any issues before the hearing starts. This will help the scribe focus on key testimony and will help expedite the hearing.

- **Multiple devices:** Parties and witnesses may use multiple devices to connect. This can be to add or improve audio or video quality or to provide an additional camera to show boats.
- **Coaching participants and witnesses:** It is appropriate for the hearing administrator to help a party or witness with the connection technology, but not to discuss the case.
- **Model boats:** Many hearings will work better if the parties use model boats to illustrate the boat-on-boat interactions.
  - Clearly printed and cut out paper boats or model boats with an additional camera (a cell phone, for example) is a satisfactory method. Boats to be printed can be included with the email to the participants (a PDF file with model boats for printing can be found on the [Judges page](#) in the Judge Guidelines & Documents section, just below the link to this 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. It is essential not to lead the party or witness, but just do what they say and confirm they are happy with each step's placement.

## Part 5: The Hearing Process

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

After a notice of a hearing is posted on the official notice board, the parties should be contacted directly by the hearing committee. A member of the hearing committee should be appointed to do this. This will typically be the jury secretary, a hearing administrator, a panel chair or the hearing committee chair.

This person will ordinarily contact the parties by email and/or text. The message should include the connection link, a copy of the hearing request form, a copy of the Sailing Instructions and/or Notice of Race, and the time the parties are to connect to the hearing. The parties should also arrange for their witnesses to be present at the beginning so the chair can advise all participants how the hearing will be run and manage the participants. It is a good practice to request confirmation of receipt of these messages.

If you are holding a redress hearing and need to inform the whole class or fleet about the hearing and allow the sailors to become parties, you can post the necessary notice with the link for the hearing.

It is essential that the chief judge, jury secretary and hearing administrator have access to the registration information, including 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 the purpose of RRS 63.3(b). The same people will need access to the regatta management system to post on the official notice board.

## Part 6: Protest Committee Considerations

- **Witnesses:** It is a best practice at the beginning of the hearing to ask the parties if they plan to call witnesses.
  - 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 the time to make sure the witnesses are using different connections from those the parties are using. They may not share a connection with a party or be in a place where they can hear any other testimony, as this would make them unable to participate (RRS 63.3(a)).
  - Witnesses then go into the waiting room and are recalled when they are needed.

- **Video is required:** All participants should connect to the hearing using both audio and video. A participant who chooses not to join with video may be at a disadvantage because he or she will not be able to see people or presentations and cannot be seen by the other participants and the hearing panel. If a party declines to join with video and the hearing panel is willing to continue the hearing anyway, the chair should ask the participant to acknowledge and accept this potential disadvantage, and that should be a fact found in the written decision.
- **Visual Evidence:** for video, tracking or photo evidence, the presenting party is responsible for managing the technology to make their evidence available.
  - They may present on their computer and share their screen if it is connected.
  - The evidence rules are the same as for 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 the hearing were in person, they would sign the protest form to confirm this. It is acceptable to have them send an email that clearly states their intention to do so.
- **Failed connections:** when parties lose connection, use your judgment to re-establish the connection.
  - It is crucial to have more than one way to contact a participant. If their Internet is down, try to call their mobile phone. Be sure you have their contact information at the beginning of the hearing.
  - If the connection can't be restored, explore other options and determine how long it may take for them to get to another location with internet access. Use your best judgment about whether to wait for them or to reconvene at a later date.

US Sailing Judges Committee  
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## Standard NoR and SI Language for Online Hearings & Arbitration

### For hearings without arbitration available:

#### **NOR:**

[X.x] Protest Committee hearings will be virtual. Participants in any hearings (parties, party representatives and witnesses) must have access to a device that has internet accessibility with audio and video capability. Participants must use audio and video to appear before the protest committee unless advised otherwise by the protest committee.

**SI:** Same provision with the following statement added:

[X.x] See Virtual Hearing Addendum VH to these sailing instructions.

**VIRTUAL HEARING ADDENDUM VH**  
**VIRTUAL HEARING REQUIREMENTS & PROCEDURES**

**[XXX EVENT]**

**[DATES]**

All hearings conducted pursuant to the rules of RRS Part 5, Section B [Hearings & Decisions] and any misconduct hearings conducted pursuant to the rules of RRS Part 5, Section D [Misconduct] shall be conducted virtually using Zoom and the following rules.

1. People participating in these hearings [parties, party representatives in misconduct hearings, and witnesses] must have access to a device that has internet accessibility with audio and video capability.
2. If someone participating does not have such a device, the person will have to obtain access to and use of such a device from another person or have another person appear before the hearing committee in their place and stead in the case of protests or redress requests. If a person appearing before the hearing committee does not know how to use such a device, they can have someone else set the device up so audio and video is in use for the person participating. Information about Zoom is available on its website: <https://zoom.us>; it is available for computers, tablets, and mobile phones.
3. People participating in virtual hearings and arbitration meetings must use audio and video in the presence of the hearing committee unless otherwise advised by the hearing committee. If a party or witness does not comply with this rule, the hearing committee may nevertheless decide the protest or request for redress as if the person did not come to the hearing [See RRS 63.3(b)], or take such action as is provided in rule 69 for a misconduct hearing [See RRS 69.2(f) and 69.2(k)].
4. On the date of the hearing, and at least 10 minutes before the hearing is scheduled to begin, the parties, party representatives for misconduct hearings, and any witness a party intends to have testify during the hearing, are to join the virtual hearing.
5. The parties to a virtual hearing are responsible for having their witnesses, if any, and party representatives for misconduct hearings, present in the virtual hearing at least 10 minutes before the time of the hearing on the date of the hearing.
6. At that time, the hearing panel will review the procedure for having parties, party representatives for misconduct hearings, and witnesses participate in the hearing. Note: Parties and witnesses must be in separate locations when party testimony is being given: if a witness is present when party testimony is being given, the witness will not be permitted to testify.
7. No audio or video recording of the hearing is to be made by anyone other than the hearing committee; the hearing committee will advise the parties if a recording of the proceeding will be made.

8. Parties and witnesses shall not communicate or share information with anyone other than the hearing committee by any means or technology from the time the hearing begins until the hearing is closed except to testify or question a party or a witness.

9. Notices of hearings will be posted on the official notice board (see below) as soon as practical after a request for hearing is filed to inform competitors of hearings in which they are parties or named as witnesses.

10. Hearings will be held virtually online on the day and time posted on the official notice board using Zoom links to be provided by the hearing committee (by email) before the hearing time.

11. Competitors must contact the Chief Judge or Jury Co-Ordinator by email should there be any questions regarding information posted.

12. Decisions will be communicated to the parties in person at the hearing, by email or cell phone and they will also be posted on the Official Notice Board.

Finding and submitting forms:

- **Location for forms:** [website link]
- **Email for submitting forms:** [chief judge; jury coordinator]
- **Notice Board [hearing schedule]:** [notice board location/link]
- **Chief Judge:** [name; email address]
- **Jury Co-Ordinator:** [name; email address]

[Date]

### **For hearings and arbitration:**

#### **NOR:**

[X.x] Protest Committee hearings and arbitrations will be virtual. Participants in any hearings (parties, party representatives and witnesses) and arbitrations must have access to a device that has internet accessibility with audio and video capability. Participants must use audio and video to appear before the protest committee unless otherwise advised by the protest committee.

**SI:** Same provision with the following statement added:

[X.x] See Virtual Hearing & Arbitration Addendum VHA to these sailing instructions.

**VIRTUAL HEARING & ARBITRATION ADDENDUM VHA**  
**VIRTUAL HEARING REQUIREMENTS & PROCEDURES**

**[XXX EVENT]**

**[DATES]**

All hearings conducted pursuant to the rules of RRS Part 5, Section B [Hearings & Decisions], all arbitrations conducted in accordance with the rules of Appendix T [Arbitration] to the RRS, and any misconduct hearings conducted pursuant to the rules of RRS Part 5, Section D [Misconduct] shall be conducted virtually using Zoom and the following rules.

1. People participating in these hearings and meetings [parties, party representatives in misconduct hearings, and witnesses] must have access to a device that has internet accessibility with audio and video capability.
2. If someone participating does not have such a device, the person will have to obtain access to and use of such a device from another person or have another person appear before the hearing committee/arbitrator in their place and stead in the case of protests or redress requests. If a person appearing before the hearing committee does not know how to use such a device, they can have someone else set the device up so audio and video is in use for the person participating. Information about Zoom is available on its website: <https://zoom.us>; it is available for computers, tablets, and mobile phones.
3. People participating in virtual hearings and arbitration meetings must use audio and video in the presence of the hearing committee unless otherwise advised by the hearing committee. If a party or witness does not comply with this rule, the hearing committee may nevertheless decide the protest or request for redress as if the person did not come to the hearing [See RRS 63.3(b)], or take such action as is provided in rule 69 for a misconduct hearing [See RRS 69.2(f) and 69.2(k)].
4. On the date of the hearing, and at least 10 minutes before the hearing is scheduled to begin, the parties, party representatives for misconduct hearings, and any witness a party intends to have testify during the hearing, are to join the virtual hearing.
5. The parties to a virtual hearing are responsible for having their witnesses, if any, and party representatives for misconduct hearings, present in the virtual hearing at least 10 minutes before the time of the hearing on the date of the hearing.
6. At that time, the hearing panel will review the procedure for having parties, party representatives for misconduct hearings, and witnesses participate in the hearing. Note: Parties and witnesses must be in separate locations when party testimony is being given: if a witness is present when party testimony is being given, the witness will not be permitted to testify.
7. No audio or video recording of the hearing is to be made by anyone other than the hearing committee; the hearing committee will advise the parties if a recording of the proceeding will be made.



8. Parties and witnesses shall not communicate or share information with anyone other than the hearing committee by any means or technology from the time the hearing begins until the hearing is closed except to testify or question a party or a witness.

9. For VIRTUAL ARBITRATIONS conducted in accordance with Appendix T (T1 and T2), the following additional rules apply:

a. On the date of the arbitration, and at least 10 minutes before the meeting is scheduled to begin, each party [represented by one person who was on board at the time of the incident] is to join the virtual meeting. No witnesses will be permitted.

b. All party representatives to an arbitration are to be the sole person in their virtual room.

c. Party representatives shall not communicate or share information with anyone other than the arbitrator by any means or technology from the time the arbitration begins until the arbitration is closed except to testify.

d. A party who accepts a scoring penalty in arbitration shall send an email to the jury coordinator using the address below stating that he or she does so. A party withdrawing a protest shall send an email to the jury coordinator using the address below stating that he or she does so.

10. Notices of Hearings and Arbitrations will be posted on the official notice board (see below) as soon as practical after a request for hearing is filed to inform competitors of hearings/arbitrations in which they are parties or named as witnesses.

11. Hearings and arbitrations will be held virtually online on the day and time posted on the official notice board using Zoom links to be provided by the hearing committee (by email) before the hearing time.

12. Competitors must contact the Chief Judge or Jury Co-Ordinator by email should there be any questions regarding information posted.

13. Decisions will be communicated to the parties in person at the hearing, by email or cell phone and they will also be posted on the Official Notice Board.

Finding and submitting forms:

- **Location for forms:** [website link]
- **Email for submitting forms:** [chief judge; jury coordinator]
- **Notice Board [hearing schedule]:** [notice board location/link]
- **Chief Judge:** [name; email address]
- **Jury Co-Ordinator:** [name; email address]

[Date]