

CONFLICT OF INTEREST

A *conflict of interest* exists if a person

- (a) may gain or lose as a result of a decision to which that person contributes,
- (b) may reasonably appear to have a personal or financial interest which could affect that person's ability to be impartial, or
- (c) has a close personal interest in a decision.

Rule 63.3 (Conflict of Interest) reads, “(c) A protest committee member with a *conflict of interest* shall not be a member of the protest committee for the hearing, unless (1) all *parties* consent, or (2) the protest committee decides that the *conflict of interest* is not significant.” The purpose of this rule is clearly to provide competitors with the fairest possible hearing without any taint of prejudice or self-interest among the protest committee members.

Persons who, in my opinion, **could** be considered to have a *conflict of interest* are parents (or offspring), instructors or coaches, employers or employees, and sponsors or financial contributors. Normally, members of the same yacht club or association or a fellow sailor with the same nationality are not considered to have a “conflict of interest.” However, in the right set of circumstances, any of these persons could be judged to have a *conflict of interest*.

“Can a person with a conflict of interest be on a protest committee?”



Yes, if all the *parties* are OK with the person being on the committee, or if the protest committee itself decides that the conflict is not “significant.” See the discussion of rule 63.3 (Conflict of Interest). This reflects the fact that often it is difficult to find qualified or willing people to be on the protest committee.

There are times when protest committee members will have witnessed an incident or will have initiated a *protest* against a boat; for example, under rule 31 (Touching a Mark) if they see a boat touch a *mark*. In this context they do not have a *conflict of interest*. However the US Sailing prescription in the preamble to Part 5, Section B, Hearings and Making Decisions, states: “US Sailing prescribes that: No person who brings an incident to the attention of the protest committee or who will give evidence regarding an incident shall, when practicable, be a member of the protest committee for a hearing involving that incident.” Therefore that person is not allowed to be **both** a member of the protest committee as well as the protestor or even a witness. However, if the sailing instructions specifically state that that prescription does not apply, the person **can** be a member of the protest committee and be the protestor or a witness. Note that rule 63.4(d) (Hearing Procedure) requires them to state that they saw the incident in front of the *parties* to the hearing. (See also rule 63.1(a)(4), Rights of Parties, and Appeal 39.)

“What can I do if I honestly feel a member of the protest committee might have a conflict of interest?”



If you feel any member of a protest committee has a *conflict of interest*, you may object. Rule 63.3(b) reads, “A *party* to the hearing who believes a protest committee member has a *conflict of interest* shall object as soon as possible.” The protest committee should then consider your objection before proceeding (Appendix M2.3, Recommendations for Protest Committees; Before the Hearing). In evaluating members of a protest committee as potentially having a *conflict of interest*, the important criterion is: will their hearing of the evidence, their finding of the facts and their application and interpretation of the *rules* be hindered by any prejudice or favoritism toward or against any of the *parties* to the hearing? If members of the protest committee honestly feel that any predisposition on their part will affect their decision in the hearing, they should respectfully decline to serve. Furthermore, rule 63.3(a) requires them to “declare any possible *conflict of interest* as soon as possible after becoming aware of it.”