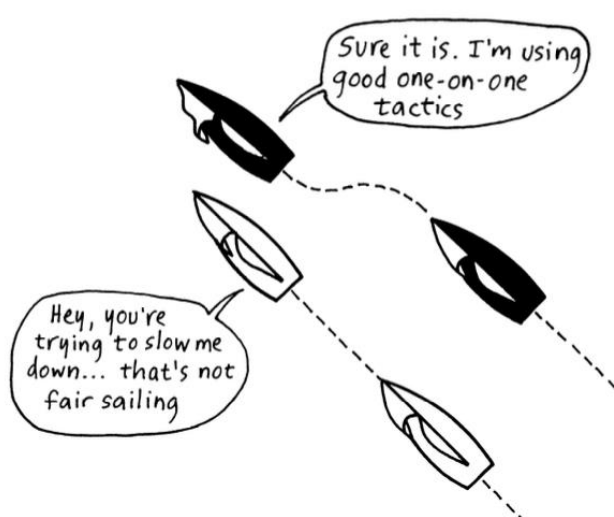


RULE 2 – FAIR SAILING

A boat and her owner shall compete in compliance with recognized principles of sportsmanship and fair play. A boat may be penalized under this rule only if it is clearly established that these principles have been violated. The penalty shall be a disqualification that is not excludable.



As was discussed in Chapter 3, Sportsmanship and the Rules, when we race we should all agree to hold ourselves to the highest principles of fairness and good sportsmanship. This is clearly stated in the Basic Principle, Sportsmanship and the Rules: “Competitors in the sport of sailing are governed by a body of rules that they are expected to follow and enforce. A fundamental principle of sportsmanship is that when a boat breaks a rule and is not exonerated she will promptly take an appropriate penalty or action, which may be to retire.”

Rule 2 gives these principles their teeth. When a boat or competitor clearly violates these principles, he or she breaks rule 2 and is liable to penalty.

Note that a penalty for breaking this rule is more severe than for most other rules. Rule 2 clearly states that if you are in a series that allows you to discard your worst race, a disqualification for breaking rule 2 cannot be discarded (see rule 90.3(b), Scoring). Notice also that a boat can be penalized under rule 2, even when another rule applies to the situation. Therefore, in any incident or situation where the principles in rule 2 have been clearly violated, regardless of what other *rules* may also have been broken, a boat is liable to disqualification under rule 2. This becomes very significant given that a boat has to count that disqualification in her final score.

“Could you give some examples of when you would consider the principles in rule 2 have been violated?”



Sure, recognizing that each protest committee is given the discretion to judge what they deem to be “recognized principles of sportsmanship and fair play.” In deciding whether a competitor has competed in compliance with the principles in rule 2, I feel it is important to consider the motive for their actions; i.e., was it an intentional violation of one of the principles?

In Case 47, “An experienced helmsman of a port-tack boat hails ‘Starboard!’ to a beginner who, although on starboard tack, not being sure of himself and probably being scared of having his boat holed, tacks to port to avoid a collision. No protest is lodged. One school of thought argues that it is fair game, because if a helmsman does not know the rules, that is his own hard luck. The other school rejects this argument, on the grounds that it is quite contrary to the spirit of the rules to deceive a competitor in that way. It is known that such a trick is often played, particularly where novices are involved. **Question:** In such as case, in addition to breaking rule 10, has the port-tack boat broken rule 2? **Answer:** A boat that deliberately hails ‘Starboard’ when she knows she is on port tack has not acted fairly and has broken rule 2. The protest committee might also consider taking action under rule 69.”

Other examples:

- A *port-tack* boat is reaching by to *leeward* of a *starboard-tack* boat before the start. The *starboard-tack* boat does not change her course, but just as the boats are passing her boom suddenly flies out and hits the *port-tacker’s* shroud. Clearly there is no way for port to *keep clear* at that moment. If it is determined that S’s skipper let the boom out **intentionally to hit the boat on port**, I would penalize S under rule 2. If it is determined that S was simply sailing her boat, perhaps responding to a gust of wind, etc., I would penalize P for not *keeping clear*.
- Two boats come off the starting line side by side in very light air. Suddenly, the *leeward* boat rocks hard to windward, the tip of her mast hitting the tip of the *windward* boat’s mast. The *leeward* boat does not change course. Again, if it is determined that the action was done solely to try to touch the *windward* boat, I would penalize the *leeward* boat under rule 2. I would apply the same reasoning to a *leeward* boat whose crew goes out on the trapeze in light air or otherwise reaches out and touches the *windward* boat for the sole purpose of “fouling the other boat out.” (See Case 73.)
- A boat is on a heavy-air overnight race. Each time the boat tacks, the crew down-below move the sails back and forth to the windward side to increase the boat’s stability. Not only would I penalize this boat for breaking rule 51 (Movable Ballast), I would penalize her under rule 2 as well.

One common practice that is not a violation of rule 2 is the tactic whereby one boat tries to make it harder for another boat to do well in a race or series, including by trying to put boats between herself and the other boat at the finish, provided the boat tries to sail within the *rules* and provided her motive is to benefit her own series score. Case 78 says, “In a fleet race for one-design boats, boat A uses tactics that clearly interfere with and hinder boat B’s progress in the race. While using those tactics, A does not break any rule, except possibly rule 2 or 69.1(a). **Question:** In which of the following circumstances would A’s tactics be considered unsportsmanlike and a breach of rule 2 or of rule 69.1(a)?

(a) The protest committee finds that there was are as on able chance that A's tactics would benefit her final ranking in the event.

(b) The protest committee finds that there was areas on able chance that A's tactics would increase her chances of gaining selection for another event, but would not benefit her final ranking in the event.

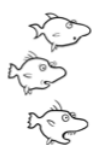
(c) The protest committee finds that there was a reasonable chance that A's tactics would increase her chances of gaining selection to her national team, but would not benefit her final ranking in the event.

(d) The protest committee finds that A and a third boat, boat C, had agreed that they would both adopt tactics that benefited C and that there was a reasonable chance that A's tactics would benefit C's final ranking in the event.

(e) The protest committee finds that A was attempting to worsen B's race or series score for reasons unconnected with sport.

Answer: In circumstance (a), A would be in compliance with recognized principles of sportsmanship and fair play. In circumstances (b) and (c), A would break rule 2, and possibly rule 69.1(a). In circumstance (d), both A and C would break rule 2, and possibly rule 69.1(a). In addition, by receiving help prohibited by rule 41 from A, C would also break rule 41. In circumstance (e), A would break rule 2, and possibly rule 69.1(a) because, with no good sporting reason, her actions would clearly break recognized principles of sportsmanship and fair play."

Though some may shiver at the notion that it is okay for one boat to actively try to hinder another boat's race, the racing rules themselves are in no way constructed to discourage, inhibit or prevent this. In fact, it is quite common for one boat to try to start close to leeward of another for the purpose of hindering the other's start, to intentionally tack on someone's wind on a beat, or to luff a boat downwind. In addition, it is quite common for sailors to be aware of "who their competition is" from the outset of a race or series and to actively seek opportunities to hinder them early on. As long as it's done within the racing rules, it breaks no rules including rule 2.



"What happens if a boat hinders my race and causes me to finish worse than I would have otherwise finished, and is found to have broken the Fair Sailing rule (rule 2) in the process?"

Then you are entitled to redress under rule 61.4(b)(5) (Redress Decisions)! You can request this yourself, or the race or protest committee can do it on your behalf (rule 61.1, Requesting or Considering Redress).

RULE 69 – MISCONDUCT

When a protest committee decides that an individual competitor may have acted in a way that is contrary to the sport, it can conduct a hearing under rule 69 (Misconduct). Rule 69.2(b) permits a protest committee to call a hearing when it believes that a competitor may have committed an act of misconduct which is conduct that is a breach of good manners or sportsmanship, unethical behavior, or conduct that may bring, or has brought, the sport into disrepute (see rule 69.1(b)). The protest committee may have first-hand knowledge of the situation, or it may have received a report from someone else — anyone else. Notice that a boat does not "protest" under rule 69; however, she can suggest in a *protest* or a letter to the protest committee that a hearing under rule 69 be considered.

If the protest committee decides that a competitor has acted improperly, it can warn them, change their boat's score in one or more races including a disqualification that may not be excluded, exclude them from the event or venue, or take other action available to it (see rule 69.2(h)). Notice that when it imposes a penalty greater than one DNE (disqualification that is not excludable) it must also report its action to the national authorities involved.

Rule 69 is to be used when the competitor's conduct is clearly a breach of rule 69.1(a). Generally the misconduct will be conspicuously obvious, flagrant, deliberate, offenses or errors so bad they cannot escape notice or be condoned, or actions exceeding reasonable or excusable limits.

In my opinion, any **deliberate infringement** of the *rules* is misconduct. For example: S deliberately rams P causing damage (perhaps because the skipper of S had been disqualified based on a protest by the skipper of P in a protest hearing the night before). Another example is when a competitor deliberately cuts a *mark* or *starts* ahead of the starting line for the purpose of hindering another competitor's race. (See Case 34.)

Further examples of a breach of good manners or sportsmanship include: **proven lying** in a protest hearing (as opposed to honest differences in recollection of the incident); **intentional cheating** (for instance, racing with an un-measured sail or removing mandatory ballast, as opposed to class or racing rule violations caused by ignorance or misjudgment); **intentional damage to another boat** afloat or on shore, (for instance, cutting someone's shrouds in the night); **fighting**, particularly where there is injury or damage; **stealing** from another boat or from private property at a club or elsewhere; and **foul or threatening language**, particularly if it is continued after receiving a clear warning. See also the US Sailing Code of Conduct.

Obviously rule 69 is an important rule, but its effectiveness relies on the integrity of the protest committee that chooses to invoke it. Each case must be carefully examined to determine, as accurately as possible, exactly what happened, what events led up to the incident, and what the probable motives of the individuals involved were. The hearing and deliberations should be conducted as objectively as possible with an effort to keep emotions out, and must follow rule 69.2's due process rules strictly. A competitor's previous actions should not be weighed in the case unless germane and accurately represented. Appeals and cases that are cited as precedent must be closely examined to be sure that they are truly nearly identical in all ways. And before imposing a penalty under rule 69.2(h), the protest committee must thoroughly consider if the weight of the punishment is justified by the competitor's action. See

the World Sailing and US Sailing *Judges Manuals* for guidance on holding rule 69 hearings.

Case 138 discusses when a protest committee should proceed under rule 2 or rule 69. Generally, an action that directly affects the fairness of the competition should be considered under rule 2, and an act of misconduct under rule 69. Disqualification from a series for misconduct is a strong penalty by itself, due to the effect it generally has on the individual(s) and from the adverse publicity it can create. But in addition, depending on the severity of the penalty, this penalty must also be reported to US Sailing or the appropriate national authorit(ies). In turn they can conduct an investigation and exclude the competitor(s) or boat(s) from the sport for a period of time. This is extremely strong as it will have an impact on the sailor's life beyond just their sailing, in ways that may extend beyond just the time period of their penalty.

Note that a sailor against whom an allegation of a breach of rule 69 is made, and a person bringing an allegation under rule 69, is a *party* to a hearing (see the definition *Party*), and as such has the right to appeal the decision of the protest committee under rule 70.1 (Appeals and Requests to a National Authority). U.S. sailors may also file a grievance under Regulation 15 of the US Sailing Regulations when they feel actions have been taken against them that are not in accordance with the *rules*.