

GUIDELINES FOR PROTEST MEDIATORS

Protest mediation will decrease the number of right-of-way rule protests which must be heard by a protest committee. This can result when you either:

- conclude that the protest is invalid (not in accordance with rule 61) and would probably not be heard by the protest committee,
- conclude there was no rule broken and would probably be dismissed by the protest committee, or
- conclude there was a rule broken and give the protested boat its chance to accept a penalty which will be less severe than a protest room DSQ.

When you receive a protest form –

FIRST Notify both parties as soon as possible and proceed with the mediation as soon as possible.

SECOND Check it for validity. Those parts of the protest form concerning “notifying the protestee” and “protest time limit” are good check. If you believe the protest committee will decide it is invalid then tell the protesting skipper and let him withdraw it.

THIRD Check to see it involves a rule that is in either Part 2 or Part 4. If not, return it for protest committee attention and tell the parties.

Your hearings must be conducted in this way:

1. The hearing must last 10 minutes or less - not a second longer. A mediation hearing is not intended to become a full hearing, and speeding up the process is one of the objectives of mediation. The moment it goes longer than 10 minutes the mediation has not worked and it should be terminated and returned for the protest committee.
2. Hold the hearing in a secluded area, perhaps at a table with three chairs. Have a current rule book and some boat models, and if you wish, the appeals (Cases) book. The books are for your use only and should not be consulted while you are with the parties.
3. Explain to the skippers the procedure, the time limit, that no witnesses will be allowed, and what their alternatives will be at the conclusion of the hearing.
4. In simplified form, follow protest room procedure by letting protestor then protestee present their cases, ask any questions of your own, then let them both ask any *pertinent* questions (but strictly under your control).

5. If you have seen the incident it may be best to first describe what you have seen. If you have a tape recording then play it. Explain that you will be giving evidence at any protest hearing.
6. Give them your conclusion. If you first wish to refer to your rules books, excuse the parties while you do your research. Do not do it in front of them.
7. Make only one of the following conclusions:
 - a. No rule was broken. The protesting skipper can then agree to withdraw his protest. If he does not agree, the protest is returned for a full hearing.
 - b. A rule was broken and the offending skipper may accept the prescribed penalty. If the offending skipper accepts the penalty then the protest must be withdrawn. If he does not accept, the protest is returned for a full hearing.
 - c. There is such conflicting evidence, or the matter is so serious, that it is your decision to return the protest for a full hearing.
8. If your conclusion (a or b) is not accepted, then make no further comments. Your role is not to assist either party to prepare their case for the full protest hearing.
9. If your conclusion is accepted, you may then refer the parties to specific rules or cases and explain your conclusion in detail.
10. If the matter is returned for a full protest hearing, all that is said at the mediation hearing must remain private until that hearing. Do not discuss it further with the parties and certainly do not discuss things that were said with anyone on the protest committee or anyone likely to be called as a witness.
10. If the matter is returned for a full protest hearing you can be a member of that protest committee or you could be called as a witness, but anything you say in regard to the incident or the mediation must be said only when the parties are present at the hearing.

REMEMBER

At the hearing	KEEP IT SHORT - 10 MINUTES OR LESS KEEP IT FRIENDLY EXPLAIN THE ALTERNATIVES LISTEN A LOT. TALK LITTLE KEEP IT SHORT !
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If your conclusion
is not accepted

DON'T EXPLAIN YOUR CONCLUSION
DON'T DISCUSS THE INCIDENT OR THE EVIDENCE
DON'T YET TALK TO THE PROTEST COMMITTEE