



Judgment of the USC Appeals Board in the matter of:

***Western Stem Cell Club v Clubs Governance Committee,
2017:7***

Judgment Date: April 29, 2017

Panel: Danielle D'Alonzo, Robert Fung, Laura Lepine

Reasons for Judgment: D'Alonzo

PART I: OVERVIEW

1. This is an appeal by Western Stem Cell Club ("WSCC") in response to the decisions by the USC Clubs Governance Committee ("CGC") to deny ratification of WSCC. For the reasons below, the appeal is allowed.

PART II: FACTS

2. WSCC has two mandates: (1) to spearhead stem cell drives to improve the quality and quantity of membership on Canada's stem cell donor database, while increasing awareness of the need for stem cell donation; and (2) to provide students with experiential learning opportunities that will allow them to develop professional skills. The club proposes to organize three events to further this mandate: (1) stem cell swabbing drives; (2) off-campus service projects with the OneMatch Stem Cell and Marrow Network of the Canadian Blood Services; and (3) distributing informational brochures.
3. WSCC submitted an application for ratification. On February 10, 2017, the CGC denied WSCC's application for five reasons: (1) health risk for students to run stem cell drives; (2) Canadian Blood Services is already present on campus; (3) students are not able to 'teach' to other students; (4) not effective use of USC resources; and (5) club may be better suited within the Faculty of Science.

4. On February 16, 2017, WSCC submitted a Request for Reconsideration with comprehensive response to the CGC's concerns. The club addressed each individual reason for denial of their application. The club also included documentation from Stem Cell Club, a federal non-profit organization, of which WSCC wishes to become a chapter.
5. On April 3, 2017, the CGC denied WSCC's Request for Reconsideration. The CGC wrote the following in their letter to the club:

“CGC has reviewed your application, including the changes/clarifications you have made, and determined your organization is still **not** currently suited for ratification under the University Students' Council Club Community based as previously stated.

The documentation you have included is specific to the Stem Cell Club and would not extend to a Western Stem Cell Club.” (emphasis in original)

6. WSCC has appealed the CGC's denial of their application for ratification, including the denial of their Request for Reconsideration.

PART III: ISSUES

7. The central issue considered in this appeal is whether the CGC's decision to deny ratification of WSCC was reasonable.

PART IV: ANALYSIS

What is the appropriate standard of review?

8. There are two standards of review when reviewing administrative decisions: reasonableness and correctness. In the impugned decision, the CGC was interpreting its own statutes and procedures. Accordingly, the CGC is entitled to a significant degree of deference when acting within its area of expertise. Therefore, the appropriate standard of review is reasonableness.

Was the CGC's decision to deny ratification reasonable?

9. The CGC provided five reasons for denying WSCC's original application for ratification. The first reason was that it is a health risk for students to run stem cell drives. In its Request for Reconsideration, WSCC provided a detailed explanation of the process for obtaining a DNA sample for the purpose of finding a stem cell donor.
10. It was reasonable for the CGC to believe that the stem cell drives may pose a threat to the health of students since the CGC may not be familiar with the process of stem cell swabs. However, the Appeals Board finds that WSCC adequately addressed this concern such that student health is no longer a reasonable reason for denying ratification.
11. The second reason for denying the application was that Canadian Blood Services already has a presence on campus. This reason touches on the “uniqueness and distinctiveness” criteria for ratified clubs in section 2.04 of the USC Procedure for Ratification policy.

12. WSCC argued that Canadian Blood Services has limited available staff and cannot easily book space on campus; therefore, WSCC would provide much-needed manpower. WSCC also explained that if the club were ratified, Canadian Blood Services would not run stem cell drives on campus anymore as they could be run by WSCC. The Board finds that this does alleviate the CGC's concern to some extent, but perhaps not fully.
13. The third reason for denying ratification was because "students are not able to 'teach' to other students." WSCC argued that their members undergo a rigorous training program to prepare them for participation in stem cell drives.
14. However, the Board is concerned about the vagueness of this reason. It is unclear what the CGC means by "teach." Do they mean it in reference to the members "teaching" potential donors how to conduct a buccal swab? Or do they mean it in terms of "teaching" people about stem cell donation? It is also unclear what is meant by the word "able." On a plain text reading, this suggests that students do not have the ability to teach - they are not equipped. However, it is also possible that the CGC meant it in the sense that students are not allowed to teach. The lack of clarity in this reason for denial does not allow for proper analysis and does not enable WSCC to sufficiently understand the reason for denial. The Board finds that this reason was communicated unreasonably.
15. The fourth reason that the CGC provided for denying the application was that it is not an effective use of USC resources. In response, WSCC made it clear that they do not require any funding from the USC. The only resources that would be needed would be use of the USC atrium twice per semester for stem cell drives. Accordingly, the Board finds that this is an unreasonable reason for denial of ratification.
16. The final reason for denial of the original application is that the CGC believes that WSCC may be better suited within the Faculty of Science. It is not within the Board's expertise to evaluate whether the club is, in fact, better suited for the faculty of Science. The Board defers to the CGC on this point.
17. Notwithstanding the clarifications made by WSCC as described above, the CGC denied the club's Request for Reconsideration. The CGC provided the following explanation:

"CGC has reviewed your application, including the changes/clarifications you have made, and determined your organization is still **not** suited for ratification under the University Students' Council Club Community based as previously stated.

The documentation you have included is specific to the Stem Cell Club and would not extend to a Western Stem Cell Club." (emphasis in original)
18. The first paragraph of the above excerpt indicates that the Request for Reconsideration is being denied "based as previously stated." The Board finds this to be a vague statement. It is not clear whether the CGC is adopting all five of the reasons in the original denial, some of those reasons,

or is simply stating that, “as previously stated,” the club is not suited for ratification. The Board finds that this explanation is unreasonable.

19. The CGC also had a concern that the documentation provided by WSCC did not apply to the Western chapter of the Stem Cell Club. WSCC has provided additional documentation to clarify the partnership agreement between Stem Cell Club and WSCC.
20. Therefore, the Board finds that at least some of the CGC’s original five reasons for denial were unreasonable, and WSCC has adequately addressed some of the other reasons.

PART V: DISPOSITION

The appeal is allowed. WSCC’s application for ratification is remitted to the CGC for reconsideration in accordance with these reasons.