



Judgment of the USC Appeals Board in the matter of:

Lupus Awareness Club v Clubs Governance Committee, 2019:6 Clubs

Judgment Date: June 13, 2019

Panel: Maxwell Joseph Gill (Chair), Swapnil Sharma, Andrew Beney

Reasons for Judgment: Beney (Gill and Sharma concurring)

PART I: OVERVIEW

1. This is an appeal the Lupus Awareness Club in response to the decision of the USC Clubs Governance Committee (“CGC”) to de-ratify the club for not reaching the 25 member requirement under the Clubs Hearing and Sanctions Procedure. This appeal was heard by written submissions from both parties.

PART II: FACTS

2. On February 5, 2019 the CGC de-ratified the Lupus Awareness Club for not having the required 25 members needed to be a ratified club. The Lupus Awareness Club appealed the decision to this board.
3. The CGC had given all clubs under the 25 member requirement, including the Lupus Awareness Club an email in November of 2018 reminding clubs of the risk of de-ratification if clubs stayed under the 25 member requirement.
4. Once the January 31, 2019 deadline passed, the CGC met and voted to de-ratify all clubs including the Lupus Awareness Club for not meeting the 25 member requirement. As of January 31, the Lupus Awareness Club had 21 registered members.

PART III: ISSUES

5. There are 2 issues in this appeal:
 1. What is the appropriate standard of review?
 2. Was the CGCs decision to de-ratify the Lupus Awareness Club reasonable?

PART IV: ANALYSIS

What is the appropriate standard of review?

6. Currently under Canadian administrative law, there are two standards of review upon which administrative decisions are reviewed: reasonableness and correctness. To determine whether the CGC's decision should be upheld, the appropriate standard of review must first be determined. This Board has elaborated on these two standards in past decisions, see *Team DiBrina v Elections Governance Committee*, 2017:2 at paras 17-20.
7. In the present case, the CGC is interpreting its home statute. The CGC is considered an expert body on the interpretation of the Clubs Hearing and Sanctions Procedure. The CGC also has the sole authority to enforce the provisions under it. As the expert, a considerable level of deference should be granted to the CGC's interpretation and enforcement of section 5.07, De-Ratification. The standard of reasonableness achieves the necessary level of deference and the decisions of the EGC will therefore be evaluated under this standard. The standard of reasonableness requires deference to the decision-maker.
8. The standard of reasonableness requires the Appeals Board to determine whether the CGC reached a decision that falls within a range of acceptable and defensible outcomes (*Dunsmuir v New Brunswick*, [2008] SCR 190). The standard of reasonableness also looks to the existence of justification, transparency and intelligibility within the decision-making process. (*Dunsmuir*).

Was the CGC's decision to de-ratify the Lupus Awareness Club under s. 5.07 of the Clubs Hearing and Sanction Procedure reasonable?

9. Section 5.07(2) states:
De-Ratification: Circumstances where de-ratification may be considered include, but are not limited to: The club does not have twenty-five (25) members"
10. In the written submissions presented by both parties to the Board, it was not in dispute that the Lupus Awareness Club had less than twenty-five members. In their written submission the CGC wrote that all clubs, not just the Lupus Awareness Club, that had less than 25 members were de-ratified. This is a reasonable decision. The USC spends a considerable amount of money each year in the club system, and the reason they have a 25 member rule is for the health of the club system. Making a decision to de-ratify clubs under this member requirement is a decision that falls within a range of acceptable and defensible outcomes.
11. Additionally, the CGC provided ample opportunity for clubs to reach this 25 member requirement by providing resources during club week, and a reminder email in November. This makes the decision transparent and justified.
12. While the Lupus Awareness Club was only in their first year, and did not begin with any funding, the club system provides clubs the opportunities needed to reach the 25 member requirement, and a majority of newly ratified clubs during 2018-19 year were able to reach that number.
13. For the reasons outlined above this decision is reasonable.

PART V: DISPOSITION

14. The appeal is dismissed.