



Judgment of the USC Appeals Board in the matter of:

***Multiple Sclerosis Western v Clubs Governance Board, 2023:4 Clubs***

**Hearing Date:** April 27, 2023

**Judgment Released:** May 4, 2023

**Panel:** William Fawcett (Chair), Ann Sony, Stephen Warner

**Reasons:** Sony (Fawcett, Warner)

**PART I: INTRODUCTION**

1. This is an appeal by Multiple Sclerosis Western (“**MS Western**”) in response to the decision of the USC Clubs Governance Board (“**CGB**”) to de-ratify the club for not reaching the 30-member requirement under section 5.07(2) of the *Clubs Hearing and Sanctions Procedure*.
2. For the reasons below, this Board finds that the appeal should be dismissed.

**PART II: FACTS**

3. On March 12, 2023, a Written Notice of De-Ratification was sent to MS Western by the CGB on the basis that the club did not have 30 paid members by January 31, 2023, the last date for the purchase of memberships for clubs in the University Students’ Council’s club system.
4. The CGB sent all clubs, including MS Western, an email on January 11, 2023, reminding clubs of the risk of de-ratification if clubs were unable to meet the 30 paid member requirement by the end of day on January 31, 2023. The CGB sent a further email on January 30, 2023

reminding clubs that club membership closed on January 31, 2023, and a reminder regarding this deadline was also posted to the “clubsusc” Instagram page.

5. Once the January 31, 2023 deadline had passed, the CGB voted to de-ratify MS Western based on section 5.07(2) of the *Clubs Hearings and Sanctions Procedure*, which provides that de-ratification may be considered when a club is unable to meet the 30 member requirement. It is an agreed fact that MS Western had 29 members.

6. MS Western provided a written request for reconsideration to the CGB. On April 6, 2023 the CGB reviewed the request for reconsideration but did not alter its decision with respect to MS Western.

7. MS Western appeals.

### **PART III: ISSUE**

8. The issue is whether the CGB’s decision to de-ratify MS Western was reasonable.

### **PART IV: SUBMISSIONS**

9. In its oral submissions, MS Western emphasised the valuable contributions they have made to the Western community. They outlined their ongoing efforts in increasing membership and their projected membership growth into the future.

10. In support, of its submissions, MS Western submitted two documents:

- a. A screenshot of a survey posted on social media to gauge interest in joining MS Western. Out of the 52 respondents, 49 individuals indicated interest in joining the club in 2023-2024.
  - b. A screenshot of an Instagram message exchange occurring on Feb 1, 2023, after the club membership portal had closed, between the MS Western president and the VP of finance, in which a club member expressed interest in paying membership fees after the deadline had passed.
11. The CGB's submissions focussed on its responsibility to uphold University Students' Council policies, including section 5.07(2) of the *Clubs Hearings and Sanctions Procedure*, and the steps taken by the USC to notify clubs of both the 30-member threshold and the January 31, 2023 deadline.
12. The CGB was questioned by the Board if they were aware that their power to de-ratify a club was discretionary. They submitted that they were aware of their discretion and that de-ratification was not mandatory for clubs with fewer than 30 members.

## **PART V: ANALYSIS**

13. Section 5.07(2) of the *Clubs Hearing and Sanctions Procedure* states:

5.06 D-Ratification: Circumstances where de-ratification may be considered include, but are not limited to:

[...]

(2) the club does not have thirty (30) members[.]

14. In *Armenian Students' Association v. Clubs Governance Committee*, 2016:5 Clubs De-Ratification Appeal, the Appeals Board considered its past decisions in cases where club ratification had been denied, quoting from one of those decisions as follows:

Whether any of the proposed clubs *deserve* ratification is an all-together different matter outside the scope of these appeals. The role of the Appeals Board is to ensure the presence of fairness in USC decision-making and adherence to stated policies and by-laws. The discretionary power to determine whether a proposed club should or should not become a part of the USC community is ultimately within the purview of elected USC officials. To hold otherwise would be to ignore the democratic mandate of elected members on committees such as the CGC.

15. In *Armenian Students' Association*, the Appeals Board extended the same approach to decisions regarding club de-ratification. Where the CGB has made a decision to de-ratify a club based on low membership, the Appeals Board will not overturn that decision solely on the basis that the de-ratified club provides valuable contributions to the Western community. This approach was subsequently adopted in *Macedonian Students Association Western v Clubs Governance Committee*, 2018:1.

16. MS Western has undoubtedly been a valuable resource to students and faculty suffering from this debilitating disease. They not only raise awareness and share resources across campus but take proactive steps to organize initiatives to raise funds for MS research. In addition, MS Western has built connections with the Multiple Sclerosis Society of Canada. If de-ratified, MS Western fears “a detrimental impact on the well-being of those being affected by multiple sclerosis”.

17. However, it is not for this Board to determine whether a club deserves to exist or not. Rather, it is our job to evaluate the reasonableness of the CGB's decision. The question is not whether the club provides an important and valuable service to the Western community, but rather whether the decision of the CGB was reasonable.

18. In the written submission presented by both parties to the Board, it was not in dispute that MS Western had fewer than 30 members, as both parties agreed MS Western had 29 paid members by the January 31, 2023 deadline. While MS Western points to the survey of interest in future membership, this survey is speculative and membership for next year is not certain. In any event, section 5.07(2) of the *Clubs Hearings and Sanctions Procedure* only requires the CGB to consider current membership.

19. The CGB's acted fairly and reasonably. It gave active consideration to the reconsideration request by MS Western to remain a ratified club but ultimately upheld its decision to de-ratify the club on the basis of having fewer than 30 members. The CGB's decision to exercise its discretion in de-ratifying MS Western was in conformity with section 5.07(2) of the *Clubs Hearings and Sanctions Procedure*, and the decision was reasonable.

20. Finding that the CGB acted reasonably and fairly in accordance with the relevant policies and their discretionary power, the appeal is dismissed. It should be noted that the club is able to continue to operate, without ratification status, in the following school year and re-apply for ratification with the next cycle of ratifications.

A. Sony

S. Warner

W. Fawcett