



Judgment of the USC Appeals Board in the matter of:

Memory League Western v Clubs Governance Board, 2024:7 Clubs

Hearing Date: February 13, 2024

Judgment Released: February 28, 2024

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

Reasons: Sony (Fawcett, Warner)

PART I: INTRODUCTION

1. This is an appeal of a decision by the Clubs Governance Board (“**CGB**”) to deny the application for ratification submitted by Western Memory League (the “**Club**”).
2. For the reasons detailed below, this appeal is denied and the original decision of the CGB is upheld.

PART II: FACTS

3. The Club submitted an application for ratification as a USC club in accordance with the *Clubs Ratification Procedure* (the “**Procedure**”).
4. On January 15, 2024, the CGB provided the Club with its notice of ratification decision (the “**Notice**”), in which the CGB identified two reasons why the CGB found that the Club was not suited for ratification. Those reasons were as follows.

- a. The Club's mandate was students mentoring other students, contrary to section 2.4.2 of the *Procedure*.
 - b. The Club's application did not contain a detailed itinerary of at least four proposed events, contrary to section 2.1.6 of the *Procedure*.
5. The Club appealed the Notice under section 5 of the *Procedure*.

PART III: ISSUE

6. As a result of this Board's decision in *Western Students Offering Support v Clubs Governance Board*, 2024:2 Clubs, the second reason for finding the Club not to be suited for ratification is now moot.

7. Accordingly, the issue on this appeal is whether the decision to deny ratification on the basis of section 2.4.2 of the *Procedure* was reasonable.

PART IV: SUBMISSIONS

8. In its submissions, the Club raised concerns of the ambiguity of the *Procedure's* vague definition of "students mentoring other students" in section 2.4.2. The ambiguity of this wording prompted the Club to seek clarification from Student Organizations Advisor, Anna Pavicic. The Club's evidence to this Board was that the Club did not provide Ms. Pavicic with their ratification application materials, but they did ask Ms. Pavicic if they could use methods like PowerPoint to provide instruction to members. The Club's evidence is that Ms. Pavicic provided assurance that the Club's intention would not violate the *Procedure*. This conflicted with the CGB's interpretation of section 2.4.2, as the CGB found the Club's mandate involved students mentoring other students.

9. In their oral submissions, the Club emphasised that the focus of their proposed mandate was competition-based as opposed to mentoring. With respect to the parts of the ratification application package that suggested the Club “would transform its member’s lives,” the Club emphasised that the intent of their ratification application package was to express enthusiasm.

10. The CGB’s submissions raised concerns about the terminology used in the Club’s proposed mandate. These elements suggest a mentorship model, which violates section 2.4.2 of the *Procedure*. The CGB expressed concern regarding the potential liability issues that may arise from clubs that fostered mentoring relationships between their members.

PART V: ANALYSIS

11. The CGB has significant discretion with respect to the ratification of proposed student clubs (*AIM to Educate Western v Clubs Governance Board*, 2022:1, para 20).

12. In an appeal of a decision by the CGB not to ratify a club, the role of the Appeals Board is to ensure both the presence of fairness in the decision making process and the adherence to the relevant 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 the CGB. The Appeals Board does not determine whether any proposed club deserves ratification, as this lies beyond the scope of an appeal to the Appeals Board (*Western Clay Club v Clubs Governance Board*, 2023:6 Clubs, para 14).

13. Regarding the merits of a decision by the CGB not to ratify a club, the Appeals Board will look to see whether the CGB’s decision was reasonable based on the material that was before it at the time that the decision was reached (*AIM to Educate Western v Clubs Governance Board*,

2022:1, para 32). The Board must determine if the CGB’s decision was transparent, justified, and intelligible and fell within a range of acceptable and defensible outcomes (*AIM to Educate Western v Clubs Governance Board*, 2022:1, para 25).

14. Under section 2.4.2 of the *Procedure*, the CGB shall not ratify a prospective club if its “mandate is students mentoring other student.” The prohibition against students mentoring other students is not a prohibition against students teaching other students, but rather it is a prohibition against students acting as counsellors, guides, and advisors to other students (*Speak Western v Clubs Governance Board*, 2024:5 Clubs, paras 45 – 48).

15. The CGB has the authority to evaluate various factors to discern whether a more-than-teaching relationship will constitute mentorship. In this case, the CGB evaluated several components of the ratification application package to determine the existence of mentorship in the club structure, including the following passages from the Club’s written statement and list of events.

Our executives are extremely knowledgeable in memory and have been training with the memory techniques that are going to be explored in the club[...].

[C]lub executives will be available to members for specific 1-1 assistance with their mnemonic systems in preparation for the competitions.

The dynamic environment, complete with practice resources and discussions on progress, encourages members to actively engage with memory techniques and further refine their skills.

The remaining time will be allocated for members to construct and utilize their mnemonic devices, with active support from the executives and a self-monitoring software to track their progress.

We want to create a community where with education, individuals can strive to reach the highest level of memory they can.

16. These statements support the CGB's reasoning that a mentorship-like model exists. The assurance that club executives possess extensive knowledge in memory techniques and have trained in the very methods to be explored in the club suggests a hierarchical relationship where students assume roles as experts in the subject matter.

17. Moreover, the offer of specific one-on-one assistance with mnemonic systems for competition preparation highlights a personalized, mentorship-oriented approach to skill development.

18. For example, the Club's proposed "discussions on progress," coupled with their statements with respect to 1-1 assistance from Club executives, and the utilization of self-monitoring software to track progress all exemplify a structured mentorship framework. The "discussions on progress" between executives and members mirrors the mentorship dynamic, wherein students not only receive instruction but also receive guidance and feedback from experienced peers to further refine their skills. While feedback is also a part of the teaching process, the one-on-one feedback and guidance may reasonably be understood as a form of mentorship relationship – especially when considered in the broader context of the Club's activities, as described in the following paragraph.

19. The Club's statements regarding the transformative nature the Club intends to have on its members' lives supports the CGB's decision that the Club's mandate would be students mentoring students. Among the proposed events were two "transformative" conferences "emphasizing the vast applicability and efficacy of mnemonic techniques beyond competition" including "personal life enhancement". The Club suggested that the conferences would "illuminate the unlimited potentials of mnemonic training, merging self-betterment with preventive health insights." The Club's written statement indicated the intention to help members "unlock the untapped potential

of their mind, while inspiring the student community.” Such statements may reasonably be understood as indicating that senior members of the Club would be assisting students in transforming their personal lives, going beyond mere teaching and straying into the realm of providing personal counsel, guidance, and advice.

20. On the basis of statements described above, which were made by the Club, it was reasonable for the CGB to conclude the Club’s mandate included students mentoring students.

21. When questioned about these statements throughout the oral hearing, the club asserted that such statements were merely hyperbolic expressions of enthusiasm, formally referred to as “puffery”. While it may be true that one could read these statements as hyperbolic enthusiasm, it is equally reasonable to take these statements at face value and understand that the Club intends to transform its members’ lives. The CGB is obligated to assess clubs based on their submitted materials. If the CGB’s reading of those materials is reasonable, a decision based on that reading is also reasonable, notwithstanding that a prospective club advocates a different reading.

22. The limited opportunities for club ratification necessitate careful scrutiny of each submission to ensure compliance with the *Procedure*. The CGB’s decision to deny ratification was based on its reasonable finding that the club’s mandate involved students mentoring other students, contrary to section 2.4.2 of the *Procedure*. That alone is sufficient to dispose of this appeal.

23. An additional aspect of this appeal involves the advice sought by the Club when they approached Ms. Pavicic, a staff member with the USC in the role of student organizations advisor and a non-voting member of the CGB. Without clear evidence as to what Ms. Pavicic was provided by the Club and what specifically she advised, it is difficult for this Board to make any findings, as the specifics of the interaction between the club and Ms. Pavicic are unclear. What is tolerably

clear from the Club's submissions is that the Club inquired as to the permissibility of some teaching activities and methods, but Ms. Pavicic was not provided with the Club's application for ratification. The CGB's decision is based on the application for ratification, which is separate from whatever communications were exchanged with Ms. Pavicic. The CGB's mandate is to thoroughly review the entire ratification application, focusing on compliance with the *Procedure*. The CGB fulfilled its mandate in this matter.

24. It should be noted that the Club has the opportunity to re-apply for ratification in future years and to amend their application materials. The Club's focus on competition seems to have been overshadowed by its transformative claims in the materials submitted this year. While not binding any future instantiation of the CGB, the CGB indicated during oral submissions that it had no issue with learning being a by-product within a club, and that the Club's application stripped of the passages quoted above, and others like them, would have been a very different application. In saying this, this Board is not prejudging any future application for ratification the Club may submit, which, if submitted, will be evaluated on its own merits by the CGB with the CGB's full discretion.

25. Finding that the CGB acted reasonably in denying ratification based the club's mandate involving students mentoring other students, contrary to section 2.4.2 of the *Procedure*, this appeal is dismissed.

A. Sony

W. Fawcett

S. Warner