



Judgment of the USC Appeals Board in the matter of:

Speak Western v Clubs Governance Board, 2024:5 Clubs

Hearing Date: February 13, 2024

Judgment Released: February 20, 2024

Panel: William Fawcett (Chair), David Vallillee, Stephen Warner

Reasons: Fawcett (Vallillee, 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 Speak Western (the “**Club**”).
2. As detailed below, this Board finds both that the Club does not duplicate a service already provided by the USC or Western University and that the Club’s mandate is not students mentoring students.
3. Accordingly, the appeal is allowed. The Club’s application for ratification will be resubmitted to the CGB for consideration in light of these reasons.

PART II: FACTS

4. The Club submitted an application for ratification as a USC club in accordance with the *Clubs Ratification Procedure* (the “**Procedure**”).

5. On January 15, 2024, the CGB provided the Club with its notice of ratification decision (the “**Notice**”), in which the CGB identified three reasons why the CGB found that the Club was not suited for ratification. Those reasons were as follows.

- a. The Club duplicated a service provided by the USC or Western University, contrary to section 2.4.6 of the *Procedure*.
 - b. The Club’s mandate was students mentoring other students, contrary to section 2.4.2 of the *Procedure*.
 - c. 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*.
6. The Club appealed the Notice under section 5 of the *Procedure*.

PART III: ISSUE

7. The issue on this appeal is whether the CGB’s decision not to ratify the Club was reasonable.

8. The third reason for the CGB’s decision – the alleged violation of section 2.1.6 of the *Procedure* – has been rendered moot as a result of the decision in *Western Students Offering Support v Clubs Governance Board*, 2024:2 Clubs. As found in that decision, section 2.1.6 does not require that the proposed events be unique from one another.

9. Accordingly, the issue on this appeal is whether the remaining two grounds for not ratifying the Club – the alleged violations of sections 2.4.6 and 2.4.2 of the *Procedure* – are reasonably supported.

PART IV: SUBMISSIONS

10. The Club's submissions with respect to the two remaining grounds may be summarized as follows.

- a. Regarding section 2.4.6, the Club asserts that its purpose and target audience is distinct from that of the Pre-Business Students' Network (the "PBSN"), the club the CGB held was duplicative. The Club asserts that the PBSN is focussed on business, while the Club's focus is on teaching and developing oral communication skills. For example, while PBSN networking events are for the purpose of allowing business students to network with members of the business community, the Club intends to focus on the skills that assist in networking.
- b. Regarding section 2.4.2, the Club acknowledges that one of its aims is for its members to learn skills but denies that this will be carried out through a mentoring process.

11. The CGB's submissions with respect to these two grounds may be summarized as follows.

- a. Regarding section 2.4.6, the CGB asserts that one of the "big domain" of events hosted by the PBSN revolves around sharpening its members' professional speaking and presentation skills, which it accomplishes through holding workshops, competitions, and networking events. The CGB asserts that this overlaps with the events proposed by the Club.
- b. Regarding section 2.4.2, the CGB focussed on the teaching and learning inherent in the Club's proposal, submitting that this teaching and learning entailed that there

would be mentoring. The CGB also stressed the potential liability issues that may arise if USC-ratified clubs were to foster mentoring relationships among their members.

PART V: ANALYSIS

12. 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).

13. 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).

14. 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).

A. *The Club is not Duplicative of the PBSN*

(i) Under the Procedure, a Prospective Club that Duplicates a Service Provided by Another Club Cannot be Ratified

15. Section 2.4.6 of the *Procedure* reads as follows.

2.4.6 The club cannot duplicate a service already provided by the USC or Western University.

16. On first blush, it is not clear whether this section is intended to include duplication of other USC-ratified clubs, as it is unclear on the wording of this section if events run by USC-ratified clubs are services offered by the USC.

17. The history of the *Procedure* suggests that the issue of the duplication of provision of services is separate from the issue of the duplication of clubs. The *Procedure* was significantly revamped in August 2023. Prior to this revamp, it included the following relevant sections.

2.04(a) Uniqueness and Distinctiveness the organization must not have the same or a similar mandate to other existing clubs and must be readily distinguishable from all other clubs and services.

2.04(4)(b) Duplications of services with groups and/or services that exist in some capacity on Western University's campus or in the city of London, Ontario will be critically reviewed.

18. It appears that the prior section 2.04(4)(b), which focussed on the duplication of services, has been maintained in the current section 2.4.6. At the same time, it appears that the prior section 2.04(a), which focussed on the need for a prospective club to be distinct from existing clubs, has not been maintained in the revamped *Procedure*. This suggests that the intention in the current section 2.4.6 is to compare prospective clubs with other services, not with other clubs.

19. That said, section 2.1.1.2 of the revamped *Procedure* provides helpful clarity. That section requires a prospective club to submit a written statement indicating, *inter alia*, how the club is “unique and distinct from existing USC Clubs or other USC Services” (emphasis added). In order to make grammatical sense of the wording of this section, a USC-ratified club must be considered to be a USC services, otherwise the qualifier “other” in connect to “USC Services” would make no sense.

20. Accordingly, section 2.4.6 requires that a prospective club cannot duplicate a service already provided by another USC-ratified club. Therefore, on this appeal, the question to be answered is whether the Club would duplicate a service provided by the PBSN.

(ii) A Review of the Relevant Prior Decisions of the Appeals Board

21. Although the wording of the relevant sections of the *Procedure* has changed, the decisions of this Board under the prior wording remain helpful.

22. In *Western International Students Club v Clubs Governance Committee*, 2017:9, this Board considered the decision of the CGB – then known as the Clubs Governance Committee – not to ratify a prospective club that proposed to facilitate a smooth transition for international students coming to Western. The proposed club acknowledged that Western offered services to help international students integrate and offered opportunities for socialization, but argued that these were “not sufficient to truly integrate international students” into their new community. In upholding the CGB’s decision, this Board agreed with the CGB that Western “offered many academic and social programs catered to international students.”

23. In *Sick Kids Club Western v Clubs Governance Committee*, 2017:6, this Board upheld a decision of the CGB not to ratify a prospective club that would have supported SickKids Foundation in Toronto. This Board agreed with the CGB that this was duplicative of other clubs that supported London's Children's Hospital.

24. In *Aim to Educate Western v Clubs Governance Board*, 2022:1, this Board agreed with the CGB that the prospective club would duplicate services with other clubs and groups within the London community. The prospective club's written statement had indicated that there were numerous local organizations performing similar work with which it hoped to partner.

25. In *Craft Lover Club v Clubs Governance Board*, 2020:2 Clubs, this Board upheld the CGB's decision not to ratify a prospective club that sought to provide an opportunity for Western students who love handmaking to share their experience with each other. The mandate of the existing Western Art Club was to provide all undergraduate students with an opportunity to participate in multiple art and craft workshops throughout the year.

26. That said, not every decision where the CGB denied ratification to a prospective club duplicating some part of an existing club's mandate has been found to be reasonable. Two decisions of this Board are illustrative.

27. In *Trek for Teens v Clubs Governance Committee*, 2018:4, the CGB denied the ratification of a prospective club that sought to address youth homelessness. The CGB held that this would be duplicative of the Rotary Club. On appeal, this Board held that this decision was unreasonable. While the Rotary Club focussed on the general welfare of the community, the prospective club intended to focus specifically on youth homelessness.

28. In *Preventing Abuse In Neighbourhoods Club v Clubs Governance Committee*, 2017:8, the CGB denied ratification for a prospective club that sought to reduce various types of abuses by raising awareness and bringing together students from various backgrounds. The CGB held that there were various professional resources on and off campus for students with respect to abuse. This Board held that the CGB's decision was unreasonable because the prospective club would provide additional resources for students that were unique and distinct.

29. This review of the past decisions of this Board illustrates two things. First, where there is clear and significant overlap between a prospective club and an existing club, community group, or locally available service, a prospective club is likely to be found to be duplicative. Second, where a prospective club is able to distinguish itself in a meaningful way from its comparators, the fact that there is some duplication will not be grounds to deny ratification. What is sufficient for a prospective club to distinguish itself from its comparators in a meaningful way will be dependent on the facts of each case.

(iii) In this Case, the Decision that the Club is Duplicative of the PBSN was Unreasonable

30. Turning to this case, there is overlap between the Club and the PBSN insofar as the PBSN offers some degree of communication training and facilitates networking. Additionally, the Club does mention business in its written materials, e.g., the Club's proposed pitch perfect workshop describes its target audience as "aspiring entrepreneurs, startup founders, small business owners, students, educators, and professionals". There is an overlap between this event and the PBSN's stock pitch competition.

31. However, an overlap between one event held by one club and a proposed event by a prospective club is not, *prima facie*, sufficient to establish duplication. Otherwise, for example, a

prospective club that intended to hold a year end formal for its members would be duplicative of any number of existing clubs that hold year end formals for their members, despite no other overlap between the prospective club and the existing clubs.

32. The description of the PBSN found on WesternLink clearly sets out the club's focus on business. Given that this was the club identified by the CGB as the comparator in this case, it is appropriate to consider this description, although, admittedly, neither party referred to this description in their submissions.¹

The Pre-Business Students Network (PBSN) is the largest general business club on campus. We are committed to enhancing the experience for students interested in business through workshops, competitions, mentorship, networking sessions, and much more. PBSN is the umbrella organization for all business areas; we host events relevant to Consulting, Finance, Accounting, Entrepreneurship and Business Information Technology. We welcome students from all faculties and backgrounds to join our network of like-minded students and alumni. Get involved with PBSN to build meaningful connections and gain hands-on experience!

33. In contrast, the Club was clear in its application materials that it is not focussed on business.

As the Club wrote in its written statement:

Speak Western is not a business or a social club. The club's purpose is to be supportive and educational in helping students gain experience in social skills and situations; students need a platform to learn on how to be confident in social interactions. Our sole focus is on teaching and helping students at Western University to thrive in personal, professional, and academic scenarios.

34. This Board finds that the Club is able to meaningfully distinguish itself from the PBSN. The PBSN is a club for business students, which, in part, offers some communication skills training geared toward business students. In other words, the focus of the PBSN is on business, and

¹ That said, the Club did make extensive submissions asserting that the PBSN was focussed on business, which is consistent with the description of the PBSN found on WesternLink.

communication skills are secondary. The Club is intended to be a club for all students interested in learning to improve their communication skills. This may be of interest to those interested in business, but the Club intends to address communication skills more broadly: in personal, professional, and academic scenarios. In other words, the focus of the Club is on communication skills, and any applicability of those skills in a business context is secondary.

35. For the reasons laid out above, this Board finds that the degree of overlap between the Club and the PBSN cannot reasonably support the conclusion that the Club is duplicative of the PBSN. The CGB's decision to deny ratification based on section 2.4.6 of the *Procedure* was unreasonable.

B. The Club's Mandate is not Students Mentoring Students

(i) Students Mentoring Students is not Permitted; Students Teaching Students may be Permitted

36. Section 2.4 of the *Procedure* reads, in part, as follows.

2.4 The CGB shall not ratify a club with any of the following conditions;

[...]

2.4.2 A club's mandate is students mentoring other students.

2.4.3 A club's mandate is to teach, train, or tutor any specific academic skills, academic content or other relevant material.

37. Sections 2.04(4)(iv) and (v) of the prior version of the *Procedure* contained similar language.

iv. Mentorship

a. Students mentoring other students will not be permitted.

v. Teaching and training

- a. A club's sole mandate or purpose should not be to teach or train any specific academic skills, academic content or other relevant material.
- b. Professional speakers are permitted and will be reviewed by the USC.
- c. If there is a learning component in the club, then it must be specified that the individuals providing advice are not professionals on the matter.
- d. Activity or interest-based teaching or training (examples: dancing, knitting, juggling) are permitted.

38. There is a clear distinction in the *Procedure*, both in its current form and in its prior form, between mentorship and teaching. Mentorship of students by students is never permitted. Teaching may be permitted as long as certain conditions are met. In particular, teaching of academic skills, content, or other relevant material is not permitted.

39. Given the nature of many USC-ratified clubs, it is necessary that student to student teaching will occur. A juggling club that could not teach beginning members how to juggle, a dancing club that could not teach its members new dances, or a knitting club that could not teach members new knitting techniques would not serve Western students well. Therefore, it would seem that part of the purpose of the clubs system at Western is to provide opportunities for students to try out new interests and to seek to build on existing interests. This necessitates that clubs be able to provide teaching to their members, and it is impractical to expect that clubs will have the resources to permit the regular hiring of non-students to provide that teaching.

40. To put this another way, the *Procedure* prohibits students from mentoring other students. It does not contain a similar blanket proscription against students teaching other. The only prohibition with respect to clubs offering teaching is that they may not teach any specific academic skills, academic content, or other relevant material. The wording of the *Procedure* entails that

students are permitted to teach other students as part of a USC-ratified club, which is consistent with the practicalities associated with the operation of USC-ratified clubs.

(ii) *The Distinction Between Mentorship and Teaching*

41. The CGB's written submissions focussed on the teaching aspect of mentorship. For example, the CGB's written submissions contained the following remarks.

In the first paragraph of their written statement, Speak Western state "Our mission is to make communication education accessible to everyone, from learning how to do interviews, speeches, or improving interpersonal relationships". Just from this short phrase, the words "education" and "learning" are indications of a club endorsing student-to-student mentoring. In the same written statement, they move in to say "We offer a wide range of activities, including educational meetings" and "the club's purpose is to be supportive and educational in helping students". Here, again, the word "educational" stands out, suggesting student-to-student mentoring.

42. With all due respect to the CGB, the problem with this analysis is that it conflates teaching with mentorship. The fact that a prospective club will have a teaching component does not entail that it will have mentoring as part of its mandate.

43. In oral submissions, the CGB acknowledged other components of mentorship: a mentor provides feedback, support, and guidance to a mentee, and there is regular contact between a mentor and mentee. This is of greater assistance, but it is not determinative of the issue. Teachers also provide feedback. Teachers also have regular contact with students.

44. For assistance in interpreting section 2.4.2 of the *Procedure*, we must turn to the definition of mentor. Merriam Webster defines mentor as "a trusted counselor or guide". The Oxford English Dictionary defines mentor as "a person who acts as guide and adviser to another person, esp. one who is younger and less experienced."

45. Mentorship therefore involves the providing of counsel, guidance, and advice, usually from someone in a senior position to someone in a more junior position.

46. It is clear why the CGB has an interest in prohibiting USC-ratified clubs from having mentorship as part of their mandate. Given the close, personal connection between mentors and mentees, the potential harm that could arise from untrained student mentors mentoring other students, especially junior students, is obvious. It would be far too easy for a mentor, intentionally or unintentionally, to abuse or to exploit the level of trust that forms between a mentor and a mentee. The prohibition against students mentoring other students is clearly understandable within the framework of the CGB's role as a manager of risk.

47. However, the concerns surrounding the potential for abuse or exploitation present in a mentoring relationship are not, *prima facie*, present in a teaching relationship. There does not exist the degree of trust, nor is there the degree of close personal connection, between someone teaching a skill like juggling, knitting, or dancing and his or her students as exists between a mentor and a mentee.

48. Accordingly, when applying section 2.4.2 of the *Procedure*, the CGB, and this Board, must consider whether a prospective club's mandate entails the creation of mentorship relationships between its members where students will act as counsellors, guides, and advisors to other students. If so, the prospective club will not meet the requirement of section 2.4.2. However, if a prospective club's mandate simply involves students teaching other students, then the applicable section of the *Procedure* is 2.4.3.

(iii) In this Case, the Decision that the Club's Mandate Entailed Students Mentoring Other Students was Unreasonable

49. In this case, the CGB fell into error by conflating teaching with mentorship. For example, the CGB considered the following passages from the Club's written statement and list of events.

Our mission is to make communication education accessible to everyone, from learning how to do interviews, speeches, or improving interpersonal relationships[.]

We offer a wide range of activities, including educational meetings[.]

[T]he club's purpose is to be supportive and educational in helping students[.]

[P]articipants will have the chance to put their learning into practice[.]

50. In making reference to education and learning, all of these passages refer to teaching, not mentorship. With all due respect to the CGB, and acknowledging that the CGB is entitled to deference from this Board, the CGB erred in considering teaching as mentorship. There is no indication in the Club's application that the Club's mandate would entail the creation of mentorship relationships between its members. The education and learning referenced in the Club's application materials does not entail that students will be acting as counsellors, guides, or advisors to other students. Accordingly, the CGB's decision to deny ratification on this ground was unreasonable.

C. Outcome

51. For the reasons outlined above, this Board finds that the CGB's decision to deny ratification was unreasonable. What remains to be decided is the appropriate remedy.

52. In past decisions of this Board allowing the appeals of prospective clubs that were not granted ratification, this Board has remitted the application back to the CGB for reconsideration

in accordance with the reasons contained in those decisions (*Bicycle Safety Awareness Club v Clubs Governance Committee (CGC)*; *Western Ski and Snowboard Club v CGC*, 2017:3; *Western Stem Cell Club v Clubs Governance Committee*, 2017:7; *Preventing Abuse In Neighbourhoods Club v Clubs Governance Committee*, 2017:8; and *Trek for Teens v Clubs Governance Committee*, 2018:4). This appeal presents an opportunity for this Board to comment on the appropriateness of this remedy.

53. Under the *Procedure*, the CGB is required to provide reasons for denying a prospective club's application for ratification. It is not required to provide all of its reasons for denying ratification. Having reached a conclusion, rightly or wrongly, that a prospective club is not suitable for ratification, the CGB is not obligated to consider other grounds on which the prospective club is not suitable for ratification. As a result, this Board may conclude that the reasons given by the CGB were not reasonable. This does not entail that the prospective club should be ratified.

54. In this case, section 2.4.3 of the *Procedure* prevents the CGB from ratifying a prospective club if that club would teach academic skills, academic content, or other relevant material. During oral arguments, mention was made of at least one Western course that teaches oral communication skills. This Board has no information on which to determine whether this course, or others like it, may inform the issue of whether or not the Club runs afoul of section 2.4.3. It is the CGB that is situated to make any necessary inquiries for making such a determination.

55. For this reason, and following this Board's past practice, this Board directs that the Club's application for ratification be remitted to the CGB for reconsideration in accordance with these reasons. Given the revision to the *Procedure*, it would be logical for the CGB to reconsider this application as part of the second batch of ratification applications, i.e., those to be decided by

March 1, 2024 pursuant to section 3.1.2 of the *Procedure*, although the CGB may reconsider this application sooner, at its discretion.

W. Fawcett

D. Vallillee

S. Warner