



Judgment of the USC Appeals Board in the matter of:

Western Students Offering Support v Clubs Governance Board, 2024:2 Clubs

Hearing Date: February 7, 2024 (Written Submissions Only)

Judgment Released: February 13, 2024

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

Reasons: Warner (Fawcett, Vallillee)

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 Students Offering Support (the “**Club**”).
2. On the consent of the parties, this appeal was heard by written submissions only.
3. For the reasons that follow, I would deny the appeal and uphold the CGB’s decision.

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 four reasons why the CGB found that the Club was not suited for ratification. Those reasons were as follows.

- a. Section 2.1.6 of the *Procedure*, requiring a detailed itinerary of at least four proposed events or activities, was not met.
 - b. The Club did not demonstrate a feasible model of operations, contrary to section 2.5.1 of the *Procedure*.
 - c. The Club's mandate is students mentoring other students, contrary to section 2.4.2 of the *Procedure*.
 - d. The Club did not submit an external affiliation form, contrary to section 2.1.7 of the *Procedure*.
6. The CGB has since clarified that the Club did in fact submit an external affiliation form. Therefore, reason (d) is moot.
7. The Notice also included a paragraph devoted to duplication of services. The CGB has also since clarified that the language regarding duplication of services was included with all notice of ratification decisions. Duplication of services was therefore not an issue in this appeal.
8. The Club appealed the Notice under section 5 of the *Procedure*.

PART III: ISSUE

9. The issue is whether the CGB's decision not to ratify the Club was reasonable.

PART IV: SUBMISSIONS

10. For its part, the Club submitted that it met the requirements of the *Procedure* in all respects.
11. With respect to section 2.1.6, the Club noted that in its application, it had submitted four events and provided detailed logistical explanations regarding those events.

12. Regarding section 2.5.1, the club highlighted that its proposed fiscal structure and proposed operations were feasible based on its experience running events in prior years as a non-USC recognized club.

13. Finally, regarding section 2.4.2, the Club submitted that, in response to questions from the CGB, the Club had clarified its mission was to “develop lasting relationships between local students and Latin American students” and that its interpersonal and professional development related events focused on “virtual exchanges and workshops.” The Club submitted that this does not constitute a mandate of students mentoring other students. Although not argued as such by the Club, this information also speaks to the CGB’s submissions regarding feasibility.

14. The CGB made submissions on each of *Procedure* sections 2.1.6 (requirement to provide an itinerary of four events), 2.5.1 (requirement that the club’s operations be feasible), and 2.4.6 (requirement that a club’s mandate not involve students mentoring other students).

15. Regarding section 2.1.6, the CGB submitted that the section does not simply require a club to submit four events, but that each of those events be “unique.” In determining whether an event is “unique,” the CGB submitted that it considers not simply the title of the event, but also “the formatting of it, the setting, the audience it may attract, and the outcome of it.”

16. Applying this criterion to the Club, the CGB submitted that the Club’s four proposed events – a Hackathon, a Workshop, a Guest Speaker event, and a Craft Night – were in fact two events: a Hackathon and a Craft Night. Specifically, the CGB submitted that since the Hackathon would include both the opportunity for guest speaker(s) to present, as well as a workshop component, the dedicated Guest Speaker and Workshop events would be a duplication of the Hackathon event and therefore not unique.

17. Regarding section 2.5.1, the CGB submitted that, in assessing feasibility, it considers factors such as financial and logistical feasibility, as well as whether the club's mandate is meaningful and cohesive. The CGB submits that, when those criteria are applied to the Club, it is clear that the Club's mandate is ambiguous, both in terms of what activities the Club would be working towards, and how it would achieve those activities.

18. Specifically, the CGB pointed to the following excerpts of the Club's mandate as evidence of ambiguity:

- a. "Our primary focus converges on the socio-economic and cultural awareness of Latin American nations ... extending also to any countries grappling with similar educational challenges."
- b. "Our on-campus activities [would] pivot towards key milestones of professional development, including but not limited to, networking, job hunting preparedness, and leadership cultivation."
- c. "Our sole objective is not anchored in fundraising or charity but extends towards creating a symbiotic relationship between students at Western and those in Latin American communities. We aspire to weave a network that bridges the Western community with students in Guatemala."

19. The CGB submitted that these excerpts of the Club's mandate raise key questions about what, exactly, the Club would be doing, including: (1) whether the club would be raising awareness about Guatemala, Latin American countries generally, or other countries in the world; (2) whether the club has merely a humanitarian focus or whether it is also focused on professional development and, if so, how it would accomplish both goals simultaneously; (3) how it would effect a

”symbiotic” relationship with certain countries; and (4) whether the club is intending to fundraise and, if so, how.

20. Finally, with respect to section 2.4.6, the CGB submitted that the Club’s mandate included the provision of mental health information to students, and that doing so would constitute a violation of the prohibition against students mentoring other students.

PART V: ANALYSIS

21. 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).

22. 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 adherence to 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).

23. 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).

24. As the CGB has provided three distinct reasons for its decision to not ratify the Club, this Board need only find that any one of those reasons be reasonable in order to uphold the CGB's decision.

(i) The CGB's Requirement that the Club Submit Four Unique Events Was Not Reasonable

25. The exact wording of section 2.1.6 requires that a prospective club submit "a detailed itinerary of at least four (4) proposed club events/activities planned for the academic year." The section goes on to specify the required contents of the itinerary.

26. As noted, the CGB's position is that this section necessitates each event/activity submitted by a prospective club must be unique from the others.

27. The CGB's importation of a uniqueness requirement in its application of section 2.1.6 is unreasonable. There are two key reasons for this conclusion.

28. First, section 2.16 of the *Procedure* reads as follows.

2.1.6. Description and Schedule of Events/Activities: A detailed itinerary of at least four (4) proposed club events/activities planned for the academic year. The itinerary should include:

1. A description of the proposed events,
2. A brief explanation of how the event/activity will contribute to the mandate of the proposed student organization.
3. The mandatory AGM meeting will not be considered an event in this list.

29. Nothing in the wording of this section can reasonably form the basis for a requirement that the events be "unique". The section simply requires that a prospective club submit four events/activities, and that it include a description of each event/activity along with an explanation

of how the event/activity will contribute to the proposed mandate of the club. Reading the words of section 2.1.6 of the *Procedure* in their grammatical and ordinary sense, there is no requirement that the four proposed events/activities must be “unique”. Neither the word “unique” nor any synonym is present in this section.

30. Second, importing a requirement of uniqueness when the plain meaning of section 2.1.6 does not require it would be unreasonable on the basis that this would deny ratification to clubs that have a mandate limited in scope. Indeed, the section requires that a prospective club demonstrate how the events/activities submitted contribute to the club’s mandate, and there may well be situations where the mandate of a club necessarily limits the range of types of events it can hold that further the mandate. For example, a club that has a mandate to provide recreational sports programming would likely have many events in which club members participate in that sport. Those clubs would get captured by the uniqueness requirement, despite the fact that those events would be contributing to the mandate of the club as required by the section.

31. The CGB’s addition of a uniqueness requirement to the *Procedure* is therefore unreasonable.

(ii) The CGB’s Finding that the Club’s Operation was Not Feasible Was Reasonable

32. The CGB submitted that the Club’s mandate was ambiguous and that the ambiguity raises numerous questions about the feasibility of the Club’s operations.

33. It was prudent of the CGB to ask these questions as part of its evaluation of the Club. Asking these questions demonstrates the thought put into the CGB’s decision of whether or not to ratify the Club.

34. The CGB's consideration of the Club's mandate in addition to financial and logistical feasibility was reasonable. Whether a club can afford the events it proposes and handle their logistics is important, but so too is whether the Club has a clear vision for what it is doing. Indeed, whether the club's mandate is clear is a logical precondition to determining whether it can financially and logistically accomplish its mandate.

35. In deciding whether the CGB's conclusions regarding the Club's operational feasibility are reasonable, this Board does not have to decide whether it would come to the same conclusions. Rather, this Board seeks only to determine whether the CGB's conclusion falls within a range of reasonable outcomes based on the information available to it at the time of its decision.

36. In this case, it was reasonable for the CGB to be concerned about the feasibility of the Club's operation, including with respect to its proposed "symbiotic" relationship with other schools as well as how the Club would balance the dual goals of humanitarian support and professional development, both of which would involve significant effort to execute effectively. These are significant concerns, and the lack of clarity on these issues from the Club grounds the CGB's conclusion to not provide ratification.

37. In reaching this conclusion, I do not make any findings with respect to whether the Club could have a feasible model of operations in pursuing its mandate. I conclude only that, with respect to the specific materials filed by the Club on its application for ratification this academic year, the lack of clarity on these issues identified by the CGB supports the reasonableness of its decision. Should the Club decide to apply for ratification in future ratification cycles, nothing in my decision pre-judges the outcome of such an application.

38. The CGB's decision not to ratify the Club on this basis is therefore reasonable.

(iii) The CGB's decision regarding students mentoring other students

39. Having found that the CGB's decision to not ratify the club based on its operational feasibility was reasonable, I am not required to decide the issue of whether the club violated section 2.4.6, and decline to do so.

S. Warner

W. Fawcett

D. Vallillee