



Judgment of the USC Appeals Board in the matter of:

***Speak Western v Clubs Governance Board, 2025:3 Clubs***

**Hearing Date:** February 12, 2025

**Judgment Released:** February 18, 2025

**Panel:** William Fawcett (Chair), Anjali Kupchand, Paul Zhao

**Reasons:** Fawcett (Kupchand, Zhao)

### **PART I: INTRODUCTION**

1. Speak Western applied to the Clubs Governance Board (“**CGB**”) for ratification in accordance with the *Clubs Ratification Procedure* (the “**Procedure**”). The CGB declined to ratify Speak Western, and Speak Western appealed.

2. For the reasons detailed below, although there are aspects of the CGB’s decision we find to be unreasonable, we find the CGB’s decision not to ratify to be reasonable, and the appeal is dismissed.

### **PART II: FACTS**

3. This is the third appeal commenced by Speak Western with respect to the CGB’s denial of its applications for ratification. The earlier decisions are reported as *Speak Western v Clubs Governance Board, 2024-5 Clubs* (“**Speak Western I**”) and *Speak Western v Clubs Governance Board, 2024-5 Clubs* (“**Speak Western II**”).

4. The issues in *Speak Western I* centred on whether there was duplication between Speak Western and the Pre-Business Students' Network and whether Speak Western's mandate was students mentoring other students. Speak Western was successful on that appeal, and its application for ratification was returned to the CGB for reconsideration.

5. The issues in *Speak Western II* centred on whether Speak Western duplicated another service provided by Western University – specifically a course named Speech 2001 – and whether Speak Western's mandate included the teaching, training, or tutoring of an academic skill. The CGB was successful on that appeal. This Board held that teaching public speaking was the teaching of an academic skill that was the subject of instruction in Speak 2001. However, this Board also held that “it appears to be *prima facie* possible that a club could be devoted to the activity of public speaking among its members without having the teaching, training, or tutoring of public speaking as part of its mandate” (*Speak Western II*, para 32).

6. Speak Western submitted an application for ratification during the early 2025 club ratification cycle. Its application this year clearly has been revised in light of the decisions in *Speak Western I* and *II*. For example, Speak Western's mandate as identified in its written statement shifted from a focus on teaching or training its members on public speaking to a mandate “to empower youth to be able to practice communication skills in personal, professional, and academic social situations” (emphasis added).

7. On January 15, 2025, the CGB informed Speak Western of its decision not to grant ratification. In doing so, the CGB identified four concerns:

- a. contrary to section 2.1.2 of the *Procedure*, Speak Western's application did not include the Western University-provided email addresses for its executives;

- b. contrary to section 2.4.3 of the *Procedure*, Speak Western’s mandate was to teach, train, or tutor a specific academic skill, academic content, or other relevant material;
  - c. contrary to section 2.4.6 of the *Procedure*, Speak Western duplicated services provided by the USC or Western University, including, *inter alia*, Career Services Western; and
  - d. contrary to section 2.5.1 of the *Procedure*, Speak Western failed to demonstrate a feasible model of operations because of a reliance on “sizable, unsubstantiated donations from unnamed businesses”.
8. It is from this decision that Speak Western appeals.

### **PART III: ISSUE**

9. The issue on this appeal is whether the CGB’s decision to deny ratification was reasonable. In order for the CGB’s decision to be reasonable, it is sufficient for one of the four concerns identified to be a reasonable ground on which to deny ratification. In order for Speak Western to succeed, it must show that all four concerns were unreasonable.

### **PART IV: SUBMISSIONS**

10. Speak Western’s submissions on the four concerns may be summarized as follows.
- a. While it acknowledges that it did not submit Western email addresses for its executives, the online form did not indicate this was necessary, and the error is minor. It has submitted those email addresses as part of this appeal.
  - b. Rather than teaching public speaking, it has shifted its focus to supporting members in a variety of public speaking environments. Speak Western’s president has taken

Speech 2001, and he advises that the course is focussed on structured, formal speeches, which is different than the informal speaking that is the focus of Speak Western.

- c. Speak Western is distinguished from other Western and USC services in that it is less structured and more casual than these services.
- d. The donations in question are not unsubstantiated, but there was no clear location within the required application documents to indicate this.

11. In turn, the CGB's submissions on the four concerns may be summarized as follows.

- a. Section 2.1.2 of the *Procedure* requires the submission of Western email addresses, and both the CGB and the Appeals Board must uphold the requirements of the *Procedure*.
- b. Confidence in public speaking is an academic skill because a skill that helps students succeed in coursework or academics is an academic skill.
- c. The duplicative services are less formal than suggested by Speak Western.
- d. Speak Western could have included further details regarding its sponsorships in its written statement in the section related to financial risks or it could have included a section on assumptions in its financial statement.

## PART V: ANALYSIS

### *i. The Framework for Appeals Regarding Decisions not to Ratify*

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).

### *ii. The Decision not to Ratify Pursuant to Section 2.1.2 of the Procedure was Reasonable*

15. Section 2.1.2 of the *Procedure* provides as follows.

2.1. To be considered for ratification, a club must submit an application package consisting of the following:

[...]

2.1.2. Executive List: A list of students to fill the President, VP Events, VP Finance, and VP Communications roles of the club, as well as their Western University-provided email. [Emphasis added.]

16. Section 5.1.2 of the *Clubs Governance Board Terms of Reference* provides as follows.

5.1. The responsibilities of the CGB shall be to:

[...]

5.1.2. Uphold and enforce all USC by-laws and club policies and procedures;

17. Section 11.1 of the *Appeals Board Terms of Reference* provides as follows.

11.1. The Appeals Board has the authority to adjudicate all appeals that pertain to the Clubs Governance Board or the Elections Governance Committee decisions.

18. The *Procedure* is a USC club procedure. The CGB is required to enforce USC club procedures. Moreover, the Appeals Board does not have jurisdiction to review USC procedures. It only has the jurisdiction to review decisions of the CGB and the Elections Governance Committee, and the *Procedure* is not a decision of either entity. The *Procedure* is clear that an application for ratification must contain Western University-provided email addresses for club executives in order for a club to be considered for ratification.

19. Accordingly, the CGB's decision not to ratify Speak Western because of a violation of section 2.1.2 of the *Procedure* was reasonable.

20. In addition, this Board notes that the *Procedure* is published on the CGB's website. The CGB also held at least one information session for prospective clubs, and the information presented included the indication that among the "Requirements for Ratification" was "a list of students to fill the President, VP Events, VP Finance, and VP Communications roles of the club as well as

their uwo.ca email addresses” (emphasis added). The requirement for club executive Western email addresses to be provided as part of the application was communicated to prospective clubs.

21. That said, it is unclear to this Board as to why a reminder of the requirement for including Western email addresses is not expressly stated on the online ratification application form. A reminder that a club must have “ONE of each position: President, VP Finance, VP Events, VP Communications” is already included. A similar reminder regarding the requirement for Western email addresses would seem likely to reduce the likelihood for future appeals related to this issue.

***iii. The Decision not to Ratify Pursuant to Section 2.4.3 of the Procedure was Not Reasonable***

22. As this Board has found that the decision not to ratify based on section 2.1.2 of the *Procedure* was reasonable, it is not strictly necessary to comment on the other grounds for denial of ratification. However, as Speak Western has now made multiple application for ratification and it is foreseeable that it may make a future application, it seems advisable to address two of the additional grounds for denial of ratification.

23. Section 2.4.3 of the *Procedure* provides as follows.

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

[...]

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

24. Section 2.4.3 does not prohibit a club from including teaching as part of its mandate. What is prohibited is teaching specific academic skills, academic content, or other relevant material.

Teaching related to non-academic activities, such as juggling, dancing, or knitting, is permissible (*Speak Western I*, paras 39 – 40; *Speak Western II*, para 24).

25. The CGB pointed to the fact that Speak Western’s mandate includes “practicing interviews, speeches, or interpersonal communications.” This Board accepts the evidence of Speak Western’s president, who indicated that he has taken or is taking Speech 2001, that the course focusses on formal, structured speeches. Accordingly, insofar as the making of speeches is expressly taught in Speech 2001, the making of speeches may reasonably be considered a specific academic skill or academic content.

26. However, the CGB indicated in its written submissions that “[w]hen evaluating a club’s mandate and objectives, the CGB conducts a holistic review of the club’s mandate and objectives as presented in their constitution and written statement, but also from their proposed event list” (emphasis added).

27. The “Events Breakdown” submitted by Speak Western as part of its application package makes no references to speeches. The events proposed by Speak Western were an interview practice workshop, a networking nexus workshop, a storytelling slam, and a flagship event. On their face, the descriptions of these events show that Speak Western is restricting itself from teaching, training, or tutoring content that is addressed in Speech 2001.

28. The CGB’s submissions on this point were that interview skills and networking skills were academic skills. It pointed to the fact that students attend university in order to secure employment, and interview skills and networking skills assist in obtaining employment. It also suggested that public speaking generally is an academic skill because it could assist students succeed in their



courses, and any skill that assisted students in succeeding in their courses was necessarily an academic skill, academic content, or other relevant material.

29. This Board does not accept either submission. The fact that a skill may assist an individual in obtaining employment does not entail that such a skill is academic. For example, conventional wisdom suggests that having a neat appearance will benefit one's chances of success when hunting for a job. However, this does not entail that styling one's hair, tying a tie, ironing clothing, polishing shoes, or bathing are academic skills.

30. Similarly, any number of skills may assist one in their academic studies. Skills are transferrable and may benefit an individual in multiple facets of his or her life. The fact that a skill may help students in their coursework does not entail that such a skill is a specific academic skill. Memory skills are clearly of general assistance to students in their coursework, but memory is not a specific academic skill. Punctuality and regular attendance are also helpful to students in their coursework, but neither are specific academic skills. Rather, they are skills that are helpful in many contexts.

31. This Board finds that the CGB's decision that Speak Western's mandate was to teach train, or tutor any specific academic skills, academic content or other relevant material was unreasonable. *General* skills that may benefit students in their coursework are not *specific* academic skills, academic content or other relevant material.

***iv. The Decision not to Ratify Pursuant to Section 2.4.6 of the Procedure was Reasonable***

32. Section 2.4.6 of the *Procedure* provides as follows.

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

[...]

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

33. There is a subjective element inherent to the application of this section because some degree of overlap between a prospective club and USC or Western services, including other clubs, is almost inevitable. For example, more than one club may wish to hold a holiday-themed party for its members, or more than one club may host a movie night. The question is one of degree: how much duplication is too much?

34. In *Speak Western I*, this Board reviewed its past decisions related to section 2.4.6 of the *Procedure* and found as follows. Where there is clear and significant overlap between a prospective club and an existing club, a prospective club is likely to be duplicative. 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 duplication. 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 (*Speak Western I*, para 29).

35. Speak Western proposes to hold an interview practice workshop. Western Student Experience Career Education provides mock interviews with personalized feedback. Speak Western proposes to hold a networking nexus workshop. Western International Networking Services appears to have a similar objective, although it is unclear the extent to which such events may be restricted to international students. The CGB also points to university-led networking events, although details of these events are not clear.

36. Speak Western suggest that its events are less structured, more casual, and more relaxed than similar events and services offered by the USC or Western. It suggests that there is less of an

entry barrier for its members to come to its events, rather than Western Student Experience Career Education where students might not seek mock interviews unless they are already actively on the job market.

37. The CGB suggests that there is less of a distinction between Speak Western and these comparators as Speak Western suggests. For example, students need not be on the job market to make use of Western Student Experience Career Education's mock interview services. The CGB suggest that these services are not as "high stakes" as Speak Western claims.

38. Pursuant to section 2.3 of the *Appeals Board Terms of Reference*, this Board applies the reasonableness standard to all appeals. To reiterate what was stated above, a decision may be reasonable if it falls within a *range* of acceptable and defensible outcomes (*AIM to Educate Western v Clubs Governance Board*, 2022:1, para 25).

39. In this matter, it is not for this Board to reach a conclusion as to whether Speak Western is or is not duplicative of other services already provided by the USC or Western University. It is not for this Board to substitute its own judgment as to whether Speak Western has distinguished itself in a sufficiently meaningful way from the comparators identified by the CGB. The question this Board must answer is whether the CGB's decision was reasonable based on the evidence that was before it at the time it reached its decision.

40. Considering all of the above, this Board finds that, based on the evidence that was before it, the CGB's decision that Speak Western is duplicative of other USC and Western services was reasonable. It is intelligible and defensible based on the evidence.

41. However, this should not be interpreted as a finding that Speak Western is in fact duplicative of other USC and Western services. As indicated above, there is a subjective element in applying section 2.4.6 of the *Procedure*, and the question of duplication is a matter of degree. Other individuals might consider the specific facts of this specific case and conclude that the degree of duplication is not sufficient to trigger section 2.4.6 of the *Procedure* or that Speak Western has distinguished itself in a sufficiently meaningful way.

42. In any event, should Speak Western apply for ratification again in the future, whether or not it is duplicative of other USC or Western services would need to be evaluated on the specific facts of such an application.

**v. *Section 2.5.1 of the Procedure***

43. Given the reasons above, it is not necessary to decide whether the CGB's decision with respect to section 2.5.1 of the *Procedure* was reasonable, and this Board declines to do so.

**PART VI: OUTCOME**

44. For the reasons outlined above, this Board finds that the CGB's decision not to ratify Speak Western was reasonable, and this appeal is dismissed.

W. Fawcett

A. Kupchand

P. Zhao