

WARREN COLLEGE JUDICIAL BOARD

Herrick v. WCSC

Mathew A. Herrick,)	
Warren College Freshman Senator)	
Complainant,)	November 23, 2004
)	
v.)	
)	Opinion of the
)	Warren College Judicial Board
Warren College Student Council,)	
Respondent.)	C
)	
)	

Chair KHANNA, who had no vote in the outcome, delivered the Opinion of the Board. Vice-Chair DOKRAS, Member MARTENS, Member MILLER, Member RAAM, and Member YETTER joined.

I: Background

On Monday, November 8, 2004, Warren College Freshman Senator Mathew A. Herrick filed a Rules Violation Grievance against Warren College Student Council (WCSC) alleging that on Thursday, October 28, 2004, WCSC violated several provisions of the *WCSC Financial Bylaws* in appropriating US\$150.00 to the *APSA High School Conference*. Three charges of violations have been filed against WCSC:

1. *WCSC Financial Bylaws*: Article I §A
2. *WCSC Financial Bylaws*: Article IV §A
3. *WCSC Financial Bylaws*: Article V §E-1

Mr. HERRICK asked for and was granted a preliminary injunction, having demonstrated probable cause and greater harm, freezing the \$150 appropriation to the *APSA High School Conference*. He asks for the permanent suspension of funds allocated to this program and a corresponding precedent set by this Board.

II: Jurisdiction

It is without contention that the instant case is a question of whether or not the aforementioned action of WCSC violated its own rules. We establish that a question of whether or not a motion adopted by the Legislative Board violates its own bylaws is a question of parliamentary procedure. With that in mind, we have determined that this Judicial Board has the authority to rule on the instant case, given that “questions of parliamentary procedure” are within our jurisdiction (*WCJB Bylaws*, Art. III §E-1).

Legislative Board voted in favor of funding; clearly, their interpretation was that no violation of the bylaws had occurred. Respondent argues that because a majority of members on the Legislative Board believe there is no violation, that itself should settle

the question, and Judicial Board should not get involved. We hold that that is a very dangerous argument; the assembly that writes the rules should never be charged with interpreting them or those rules will have little meaning. Certainly, Legislative Board can use discretion when acting so that they attempt to remain within the confines of their rules; it is, however, the right and responsibility of the Judicial Board to ultimately determine whether or not those rules were violated and enforce them appropriately. If Mr. HERRICK truly believes that the action taken by the Legislative Board was in violation of their rules, he has done the correct thing in filing a grievance and this Board praises his initiative.

III: First Charge

Complainant first charges WCSC with violating Article I §A of the *WCSC Financial Bylaws*. The title of Article I is “Statement of Purpose” (*WCSC Financial Bylaws*, Art. I). Can a statement, which is supposed to articulate the purpose for powers and restrictions, be itself used to establish violable restrictions? We hold that the true office of a “Statement of Purpose” is to expound the nature of, reasons for, and extent of the powers and restrictions conferred by any particular set of bylaws, not to substantively create them. We therefore cannot examine complainant’s argument dealing with the first charge, as we have established that statements of purpose, *ipso facto*, cannot be used to cast restrictions on the Legislative Board in any way. On the first charge, we find in favor of the respondent.

IV: Second Charge

The second charge leveled by complainant gets to the heart of the argument at hand. Does the event in question “benefit Warren students or the Warren community” and is the event in question “open to Warren students” (*WCSC Financial Bylaws*, Art. IV §A)? According to evidence submitted by complainant, the central purpose of the high school conference is to “address the questions and concerns of San Diego’s youth regarding college and to initiate or foster an upcoming transition from high school to University [*sic*]. It is designed to high school students [*sic*] about issues APSA recognizes a pertinent [*sic*]” (*The APSA Constitution*, Art. IX §2). Although the cause is clearly a noble one, its benefit to current Warren students, *prima facie*, is not so clear. It is the opinion of this Board that in the practice of judicial restraint, a great deference should be given to the Legislative Board. We consequently establish the ‘least restrictive interpretation’ test. In the context of this test, we examine whether or not the event benefits Warren students.

We refuse to establish a critical mass of Warren students a program must benefit before it qualifies as benefiting Warren students. With that in mind, the least restrictive interpretation of “benefit Warren students” means if the program benefits one Warren student, it satisfies the requirement of benefiting Warren students. In the instant case, respondent presented a witness, Joseph A. R. Ramirez, a Warren student, who testified that he gained leadership and community service experience through this high school conference program. The central purpose of this program may not be to benefit Warren students, but nowhere in the bylaws does it say that this is required. It only says that the event must benefit Warren students, irrespective of what the program’s central purpose is. Although the program itself is geared to serving and outreaching to high school students, it is clear that at least one Warren student, Mr. Ramirez, benefited.

Let us turn now to the question of whether this program benefits the Warren community. The high school conference program aims to outreach to underprivileged students and educate them about the university. Ultimately, this program aims to increase diversity, racial and otherwise, at UC San Diego, among other colleges. We hold that diversity is beneficial to all communities, and the Warren community is no exception. However, we recognize that the communal benefits of diversity may take time to manifest. But we establish no time limit by when a program must benefit the community; if it is reasonable to assume that the program will ultimately benefit the Warren community, then it satisfies the requirements of the bylaws. Mr. Ramirez testified that he utilized what he gained from this outreach program in his work as a Warren College orientation leader, and Warren community thusly benefited. We affirm that programs such as this one and outreach in general clearly and unequivocally benefit the campus community. The *APSA High School Conference* thus satisfies the condition of ‘benefiting the Warren community.’

Finally, we look at whether or not this event is open to Warren students. We are hard-pressed to find an instance where a program benefits a particular group of students but is not open to them. We have established that the program benefits Warren students. If such programs exist, the *APSA High School Conference* is certainly not among them. Clearly, Mr. Ramirez was able to attend the conference, even if it was simply to volunteer. We hold then that the event is open to Warren students.

The *APSA High School Conference* has satisfied all three components of the second charge: benefit Warren students, benefit Warren community, and open to Warren students. Warren College Student Council did not violate *WCSC Financial Bylaws*, Art. IV §A in funding this program. On the second charge, we find in favor of the respondent.

V: Third Charge

Curiously, complainant did not address the third charge in his testimony during the hearing. It is the assumption of this Board that Mr. HERRICK cedes the charge to respondent, and we will not examine it further.

VI: Ruling

By a preponderance of the evidence, all three charges put forth by Mr. HERRICK have been found in favor of Warren College Student Council. We find that WCSC has not violated any of its bylaws in the instant case, and their action to fund the *APSA High School Conference* may come into effect. The preliminary injunction is vacated, and the \$150 funding to the *APSA High School Conference* is fully and immediately restored.

So ordered.

Warren College Judicial Board

Member MILLER, with whom Member MARTENS joins, concurring.

I join with the opinion of the Board on everything except Section IV: Second Charge, paragraph 3. I am of the opinion that while the overall conclusion of the majority opinion is valid, the theory behind it is flawed.

It is agreed that if at least one Warren College student benefits from an event, then that event has satisfied the requirement set forth in the bylaws (*WCSC Financial Bylaws*, Art. IV §A) that Warren College students benefit from the event. As with the majority opinion, I will not quantify the number of students that must be involved for the event to qualify.

This event however does not benefit the “Warren Community.” The Warren Community is all currently enrolled students, staff, and faculty as a whole. This does not include high school students who may or may not attend the university in the future. Something that benefits the community may be an indirect benefit, however it must be something that is felt in the short term in addition to the long term. While diversity in the future may help benefit future Warren College communities, it does not help this year’s community, the community which is supposed to be supported by the WCSC and their funding. While some on-campus organizations may have funding for future benefit as a goal, WCSC does not. The current 2004-2005 council’s job is to benefit the 2004-2005 Warren College community, not the future ones.

It is therefore my opinion that there is benefit to Warren students but not to the Warren community. Being that at least one of the two requirements set forth in the financial bylaws Art. IV §A for funding the event has been satisfied (benefit to Warren students or the Warren community) I find in favor of the respondent.

Member ALEX MILLER

Member KATRYNA MARTENS

Member BRONIN, with whom Member CHRISTOPHER joins, dissenting.

After much deliberation, it is my decision that in the case of *WCSC vs. Herrick*, the complainant's first charge, funding APSA is in violation of the Warren College Council Financial By-Laws Article I, Section A, is valid. APSA's project does not and did not "benefit the Warren community". The consequent charges are not, however, in violation of the Warren College Council Financial By-Laws. The second charge states that funding APSA is in violation of Article IV, Section A, Part 1 of the Warren College Council Financial By-Laws; it is unequivocal from these By-Laws, however, that: "WCSC shall not fund the following types of events: 1. Those that do not benefit Warren College students or the Warren Community." Thus, I bring your attention to the "or" part of the above statement and contest that at least one individual from the Warren College, the last witness in the *WCSC vs. Herrick* hearing, has directly benefited, in one way or another, from the APSA project and consequently from the funds that it has received. Subsequently, however, I would like to urge Legislative Council of the Warren College to review their Financial By-Laws and clarify to an extent what is meant by the funds ability to "benefit Warren College students or the Warren Community." It is patent from the preceding case of *WCSC vs. Herrick* that the Warren College Council Financial By-Laws, as they stand, are not explicit enough to a point that a senator, a voting member of that council, is willing to argue his interpretation in front of the Judicial Board. I also advise the Warren College Legislative Council not to fund programs pertaining to social services and thus not benefiting the Warren community; if you choose to fund such programs, revise or clarify the By-Laws that guide your decisions. Furthermore, in regards to the final charge that has been brought against the *WCSC*, I find it irrelevant to the case at hand because it pertains to the organization being funded and is not, therefore, the responsibility of *WCSC* to enforce or be held accountable for. In light of all of this evidence, I still, however, strongly believe that APSA should be funded and should not be held responsible for the errata of the Warren College Council Financial By-Laws.

Member DIMITRIY BRONIN

Member MEGAN CHRISTOPHER

Member HUANG did not participate in the case.