



STUDENTS INC.

**A NEW PATH FOR CLUBS, SOCIETIES, AND STUDENT CIRCLES AT
DURHAM COLLEGE STUDENTS INC.**

By

The Commissioner to conduct

an Independent Review of Clubs and Societies at Durham College

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Commissioner

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The Independent Review of Clubs and Societies at Durham College Commissioner
2000 Simcoe Street N.
Oshawa, Ontario

June 19, 2018

Members of the Board of Director
Durham College Students Inc.
2000 Simcoe Street N.
Oshawa, Ontario

Honourable members:

It is my pleasure to present the report of the Independent Review of Clubs and Societies at Durham College Commissioner, entitled A New Path Forward for Clubs, Societies, and Student Circles at Durham College Students Inc. This report presents the findings of over 60 hours of review and consultation with over 25 stakeholders and analogous groups.

It represent the best way forward for clubs and societies at Durham College Students Inc.

Yours sincerely,

Charles Wilson
Commissioner

RESOLUTION 2018-4-6

CERTIFIED TO BE PASSED AT THE BOARD IN OPEN SESSION ON MAY 30, 2018

That the Board directs the Chairperson to conduct an independent review of the clubs and societies program having regards to the following matters:

(a) a review of the current Clubs and Societies shared agreement, including usage data, complaints, and the joint operations of clubs and societies;

(b) a review of other campuses in similar situations as the Durham College-UOIT, including campuses with federated colleges, institutions with multiple locations, and joint campuses and other best practices in the clubs and societies programs;

(c) a review of the legal liabilities regarding clubs and societies in consultation with the Corporation's Solicitor and Insurance Agent of Record;

(d) make recommendations regarding how the clubs and societies program at Durham College and University of Ontario Institute of Technology should operate, and this report should be forwarded to the Board and Executive Committee no later than June 20, 2018.

-CARRIED 2018-4-6

EXECUTIVE SUMMARY

The Commissioner, having consulted with various groups, and reviewing analogous cases, presents seven recommendations for the Board of Durham College Students Inc. to consider.

I find the following:

- That the shared provision of clubs and societies fail Durham College Students;
- That analogous cases provides guidance on how to deal with multi clubs on one campus and commuter campuses;
- That special attention must be given to liability and risk associated with clubs and societies; and
- That the joint operation of clubs and societies is not in the best interest of Durham College students.

In short the recommendations are:

- That DCSI should have its own clubs, societies and student circles system, with a joint operation agreement which would allow certain clubs to be jointly recognised with the University of Ontario Information Technology Student Union;
- That the clubs and societies program should have special policies in place to deal with high risk clubs;
- That the clubs, societies, and student circles policy should have be specific as to the record keeping and governance model of the clubs; and
- That indigenous student circles be created to provide a special governance model and promote participations of the Indigenous Peoples of Canada.

INTRODUCTION

1. Durham College and the University of Ontario Institute of Technology both have their main campus in Oshawa, Ontario, located on the traditional territory of the Mississaugas of Scugog Island First Nation. Durham College has second campus at Whitby and a learning site in Pickering. The University of Ontario Institute of Technology has an additional site in downtown Oshawa.
2. Durham College was founded in 1967 and occupied a campus in Oshawa since that time. The University of Ontario Institute of Technology was founded in 2002. At first the two intuitions had the same president but separate board of governors, however as time progressed, the two intuitions became more intuitionally separate. In the words of Meri Kim Oliver, the Vice President of Student Affairs of Durham College, "both intuitions evolved away from each other over the years, and the decoupling process continues".¹
3. In specific regards to the Student Association, the former student association was incorporated on December 3, 1993 as a corporation without capital share under the Corporations Act (Ontario), RSO 1990 under name of the Student Association of Durham College.
4. However, with the creation of the University of Ontario Institute of Technology, the student association name and mandate changed on December 21 to the Student Association of Durham College, University of Ontario Institute of Technology, and Trent University in Durham. The mandate reflected service to those three institutions.
5. Trent University withdrew in 2010 and the name was changed to the Student Association of Durham College and the University of Ontario Institute of Technology on November 12, 2010.
6. The former student association was to a large degree dysfunctional with countless human resources, legal, and financial issues. Further, of the 16 joint presidents since combining with the University of Ontario Institute of Technology, only four have been from the Durham College membership.
7. A plan to separate the corporation into two student association was created in 2016 and due to governance issues was placed into the Corporation was placed into receivership and dissolved in the winter and summer of 2017.
8. Durham College Student Incorporated was incorporated by Articles of Incorporation on July 10, 2018 under the Canada Not-for-Profit Corporations Act, 2009. Further 10182214 Canada Association d/b/a as the University of Ontario Institute of Technology Student

¹ Affidavit of Meri Kim Oliver, February 14, 2017 in Durham College v. the Student Association of Durham College and the University of Ontario Institute of Technology, Court File: CV-17-00011668-00CL, paragraph 17.

Union was incorporated under the Canada Not-for-Profit Corporations Act, 2009 at that time.

THE FORMER SYSTEM

9. Upon review of all the data available to me, I find that that the former system of clubs and societies failed Durham College students. The joint system was created with the assumption of a four year university undergraduate course of study, the system was therein created to the benefit of UOIT students. This was through the creation of system with a faulty assumption underlying it. This created a system where the leadership of clubs and societies was biased against Durham College students. While data regarding the exact lack of participation of Durham College students are not available, it has been estimated that only 1 in 4 executives were Durham College students, and the list of clubs and societies from the pervious academic years shows that Durham College students were further underrepresented in academic societies.
10. The former system differentiated between Clubs and Societies. Clubs were general interest groups devoted to furthering that specific interest on the joint campus, while societies were academically focused groups to create events specific to an academic program of study. The list of the societies available clearly demonstrates the systematic challenges faced by Durham College students in the societies system.
11. The system did allow for joint clubs to operate with a simplicity of operations. Given the integration of the Durham College and University of Ontario Institute of Technology Oshawa Campus, this is an advantage for that campus only. These clubs largely did not operate out the Whitby Campus or the Pickering Campus.
12. The former Student Association had over 150 clubs and societies. According to the operating agreement, the College was to be provided a list of clubs and societies, a provision the former student association was in breach of. Upon examination it was found that only two clubs had more than fifty percent membership from Durham College students.²
13. Upon dissolution of the former Student Association, an agreement was reached wherein Durham College Students Inc. would operate outreach services and 10182214 Canada Association d/b/a as the University of Ontario Institute of Technology Student Union would operate clubs and societies. No conclusive data was available for clubs and societies program during this time, however, it should be noted that there seems to be no evidence that the system has changed to benefit Durham College students.

^{2 2} Affidavit of Meri Kim Oliver, February 14, 2017 in Durham College v. the Student Association of Durham College and the University of Ontario Institute of Technology, Court File: CV-17-00011668-00CL, paragraph 30-31.

ANALOGOUS CASES

14. There are a number of analogous cases of multiple clubs systems operation on one campus. The most similar analogous case is that of Nipissing University and Canadore College in North Bay, however the affiliated university system at Western University is another analogous case which should be noted.
15. The case of Nipissing University and Canadore College is the most convincing analogous case, both Nipissing University Student Union (NUSU) and Canadore College Student Administrative Council (CCSAC) were standalone entities, however due the operation of joint student centre, a joint service corporation begun in the mid 1990s. The staff, executives, and operations of both student associations were to a large degree combined into the joint service corporation. In 2014, the operations agreement with the College and University expired and the operations of the joint service corporation ceased.
16. With both institutions largest campus being shared, a push for joint clubs and societies would be natural. However, the decision was made to create separate clubs and societies for both institutions. In my interview with the Director of Services for NUSU, Warren Lindsay, commented that the two intuitions were separate and any attempt to join them would be not in the best interest of either association or their membership.
17. The NUSU operation structure does allow for joint clubs, however both funding is based solely on Nipissing University membership.
18. While clubs are funded through the general operating fund of NUSU, societies are funded through an ancillary fee. This was a legacy fee from when Nipissing was a federated university of Laurentian University where a similar system exists for professional program student councils exists.
19. The second analogous case which worth exploring is the affiliated university system at Western University. Western University is a affiliated university system, wherein each of the three affiliated university has their own clubs systems in addition the system operated by the University Students' Council.
20. While each Affiliated University student association has different rules and regulations surrounding club, generally speaking clubs can be associated with each other, but independent executive must exist.
21. Further, what would be considered societies at in the Durham College system is done at the faculty level where the executive for each faculty is elected at the General Election for the University Student Council.

22. These two analogous cases establishes to me that student participation would not suffer by the creation of multiple systems of clubs on the same campus, but this would enhance the student experience. It should be noted that both the population of Nipissing and Canadore and the affiliated universities at Western are roughly around the size UOIT/Durham College population.
23. A third analogous case which should be considered is that of the Student Association of George Brown College. The College have four main campus, with one campus shared with Ryerson University. The college is a commuter school which like Durham College is diverse and have various levels of active engagement.
24. While there are some clubs which are shared among all campuses, this is the exception, and in many cases the same club may exists on multiple campuses, but typically the club is focused on one campus. Clubs are not expected to operate on every campus but it is encouraged. Further, some resources exists on one campus these resources are to be used regardless where the majority of the club's membership is located.
25. The clubs program at George Brown College is an example of placing resources into a clubs system and achieving results which both increases and expands the student experience. There is a full time clubs resource person who has a student assistant. Further, the clubs department has moved to becoming entirely electronic with all reports and request being submitted through a series of electronic forms.
26. The shared campus with Ryerson University has around 900 students attending. There is no agreement for joint clubs with Ryerson University, however some of these clubs do have close relationships with their Ryerson counterparts. It should be noted that the Ryerson University campus is located approximately 1.4 kilometres away from the biggest campus of George Brown College which has the largest student population. However, the shared campus does have active clubs present, and clubs which are specific to the academic program of study.
27. George Brown does not follow the distinction between clubs and societies.

RISK MANAGEMENT AND LIABILITY REGARD

28. Clubs are a special source of liability for the student association. While the independence of clubs are important for organic operation of clubs and societies, the ability of the Student Association to manage risk must be balanced with the required independence of the clubs and societies.
29. Generally speaking there can be three levels for risk for an event. High risk events are likely to have opportunity for high risk activities, this includes increase physical activity, operation of equipment or motor vehicles, use of alcohol or other intoxicating substances, access or interactions with vulnerable persons, or access to financial

resources or information. Medium risk activities are activities with slighter more risk than low risk activities but do not meet the requirement of high risk. Low risk activities are activities where there is little liability risk to the corporation due to nature of an event.

30. The risk level can vary due to a number of factors involved, for example a meeting is a low risk activity, however, if alcohol is being served at that meeting then it becomes a medium or high risk activity based on the specifics of the meeting in question.
31. A clubs and societies policy should create reporting mechanisms for all sorts and conditions of activities. While the University Student Council at Western University require staff to approve all clubs events, even on site meetings, before they occur, other student association only require notice for low risk activities and approvals of different natures for higher risk events.
32. For those who participant in high risk events, every step possible should be taken to mitigate the risk. Most student associations primary contact for clubs and societies have some form of training regarding risk mitigation and risk management.
33. Further, the current commercial operations policy and the umbrella liability policy for DCSI does not include coverage for clubs and societies. Should DCSI go ahead with a clubs and societies program, both the commercial operations and umbrella liability policy would need to add the club and societies program to the coverage and additional insurance would need to be attained.
34. Finally, should DCSI go forward with the clubs and societies program, staff members would have to attend additional risk management training in risk management for clubs and societies. Training of this nature is available from the Canadian Organization of Campus Activities (COCA) and Association of Managers in Canadian Colleges, University and Student Centres (AMICCUS-C). Further, this would be adapted in conjunction with the insurance agent of record and the Corporation's Solicitor.

GENERAL FINDINGS

35. After consideration of all the facts, I find that no evidence exists that student life and success would not be enhanced by the creation of a clubs and societies program administered by Durham College Students Inc.
36. I find significant analogous cases which demonstrate to me that two clubs and societies systems for multiple intuitions on one campus actually benefits student life and development.
37. I find that the history of the previous student association would suggest that a joint operating agreement for clubs and societies would benefit Durham College students.

38. With the findings set forth in the last three paragraphs in mind, I will now turn to the general shape and format which clubs and societies should take in my recommendations.

RECOMMENDATIONS

Recommendation 1 – Establishment

39. That Durham College Students Incorporated creates its own clubs system separate from the program offered by 10182214 Canada Association d/b/a UOIT Student Union, however a joint agreement should be in place for paralleled operations of special clubs which are joint between the membership of the two student associations.

40. Societies program for Durham College should also continue. It is my recommendation that during the 2019 election a auxiliary fee for societies through referendum be introduced.

Recommendation 2 – Joint Operations

41. For clubs and societies whose activities are uniquely joint in nature a joint agreement with the 10182214 Canada Association should be undertaken. This agreement should feature an apparatus of joint ratification and funding. This should not be seen as an contracting out of the clubs service for these clubs to 10182214 Canada Association, but as an joint ratification process. To this end, the agreement should recognise joint control over the expenditure of funds, and approval of programs. In every case, the funding of these clubs should only reflect the membership of that club in DCSI.

Recommendation 3 – High Risk Clubs and Activities

42. That special supervision be required for clubs and societies with high risk activities. The special supervision would be triggered when any of the following take place: (1) athletic activity; (2) the serving of alcohol or other intoxicants; (3) access to vulnerable persons or assets; or (4) other which risk management practices believe provides the need for additional supervision.

43. Legal counsel in cooperation with the insurance agent of record should be tasked to create specific wavers for high risk activities.

44. At no time should clubs and societies executives be seen as given permission to drive on business for the DCSI without the consent of the General Manager and a driving abstract review with acceptable proof of insurance.

45. As much as possible, high risk activity should take place at places which specify in that activity. For example, a licensed restaurant, a facility which specify in sporting events, etc.

Recommendation 4 – Club Founding and Governance

46. Clubs formation should take place throughout the year with by a petition for a probationary charter to the General Manager. The General Manager should have the ability to issue a probationary charter to a club. The probationary period should be six months. During the probationary period, the club should have to demonstrate that the club is active and well governed.
47. Upon the end of the probationary period, the general charter for the club should be issued. The general charter for the club does not expire, unless the clubs record keeping ability ceases or sanctions are imposed.
48. All clubs need to hold free and democratic election overseen by a DCSI staff member.
49. It is not recommended that each club has their own by-laws, but the general charter would function as the main governing document for the clubs. However, it is recommended that clubs who serve an indigenous population have special processes and governance structures which are unique to the traditions of the indigenous people (see recommendation 7).
50. Clubs should be dissolved for material breaches of the clubs policy of failure to comply with its duties under the clubs policy.
51. Societies should follow a similar process in terms of formation but with specific reference to procedures for linking to academic programs

Recommendation 5 – Clubs and Societies Recordkeeping

52. All clubs and societies are expected to keep the following records with the DCSI staff member who is the primary contact: (a) list of members; (b) list of officers; (c) proposed budget for the fiscal year; (d) a list of proposed activities for the year.
53. Clubs and societies should not have to get prior approval for low risk activities, but should have to complete a post activity report which would be kept on file in case there is a need for future use.
54. Clubs and societies will need to get prior approval for any medium or high risk activities and would have to complete post activity reports.

55. Clubs and societies should be given space to keep records and work out in the Student Centre.

Recommendation 6 – Clubs Staffing

56. The position for student life programming should also include clubs and societies. This positions should report directly to the Assistant General Manager.

57. A student staff member should work on part time hours on the clubs and societies program.

Recommendation 7 - Indigenous Student Circles

58. Indigenous students should have their own consideration in the clubs and societies program. In order to facilitate the special consideration of Indigenous students, a third broad category of student organizations should be created called Indigenous Student Circles.

59. Indigenous Student Circles should exist to support and uphold indigenous students right to gather in a traditional setting and using traditional governance models.

60. Indigenous Student Circles should not be seen as being political if they are advocating for reconciliation between indigenous and non indigenous Canadians.

61. Indigenous Student Circles should not be seen as religious if they are consistent with the traditional cultural practices of the indigenous peoples of this land.

62. Indigenous Student Circles should not be bound to any specific governance models, but should be encouraged to explore traditional governances models.

63. The recordkeeping requirements of clubs and societies are the same for Indigenous Students Circles.

64. Indigenous Student Circles can operate and advertise in traditional languages, however the operational language of the association should also be present during operations and advertisement.

65. Recommendation 8 should be interpreted in a manner which further the work of call to actions of the Truth and Reconciliation Commission.

Special Thanks to:

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