

APPENDIX B

1 PHIL LEWIS: [REDACTED]

2 STUDENT: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

7 PHIL LEWIS: Yea, I was telling Robbie, I told  
8 you about the, you know, the Colin deal. If he was as smart  
9 as he thinks he is, we'd be okay.

10 STUDENT: [REDACTED]

11 PHIL LEWIS: Oh, he's a nice guy. Oh, we get  
12 along with him, but it's just he threw us a bunch of curve  
13 balls and he very much - one thing that we are trying to do  
14 is trying to change what's going on at East Carolina where  
15 the students are - everything's been - I mean, our - right  
16 the fee increase last year for athletics was \$75. They knew  
17 it was going to be \$75 this year. Colin knew it. We pretty  
18 much told him, "Look, Colin. If you vote with us, we won't  
19 do it." It costs the students 1.3 million.

20 STUDENT: [REDACTED]  
[REDACTED]

22 PHIL LEWIS: No, listen, he's on athletics, 12  
23 million dollars.

24 ROBBIE MOORE: Twelve million dollars this year.

25 PHIL LEWIS: And you know, they why other - just

APPENDIX B

1 [REDACTED]  
2 PHIL LEWIS: I know that [REDACTED] and Colin were real  
3 close.

4 STUDENT: [REDACTED]

5 PHIL LEWIS: I mean, I like - we like Colin. I  
6 mean, I don't really know him. I don't really care. All I  
7 know is that the students are paying a million - over a  
8 million dollars more than they didn't have to pay if he had  
9 just (inaudible). At that point, when he said something to  
10 us about going up on fees, to be honest with you, we didn't  
11 give a damn.

12 STUDENT: [REDACTED]

13 PHIL LEWIS: Because he - he voted against us; we  
14 didn't care.

15 ROBBIE MOORE: And we didn't.

16 PHIL LEWIS: You know, just to punish him if  
17 nothing else.

18 STUDENT: [REDACTED]  
[REDACTED]  
[REDACTED]

21 PHIL LEWIS: He knew that they were going to - he  
22 knew that the \$75 was going to be again this year was going  
23 to be voted on.

24 STUDENT: [REDACTED]

25 ROBBIE MOORE: It's going to be \$50 next year.

11 B2  
B6  
C1  
D1  
D2  
D3

APPENDIX B

1 I mean, they - they don't want you to do anything.

2 STUDENT: [REDACTED]

4 (speaking to waiter)

5 ROBBIE MOORE: The Executive Council to the Vice  
6 Chancellors, Provost, the Chancellor (inaudible)

7 STUDENT: [REDACTED]

8 ROBBIE MOORE: Without - unless the trustees get  
9 involved, they make it without any input.

10 STUDENT: [REDACTED]

11 ROBBIE MOORE: (inaudible)

12 PHIL LEWIS: So. I mean, I heard so many  
13 different stories. I heard about Cecil, some people liked  
14 him, some people didn't like him. Then I heard about, then  
15 dan, we liked Dan, but Dan was everything Cecil wasn't.

16 STUDENT: [REDACTED]

17 PHIL LEWIS: I mean, they were polar opposites,  
18 but it kind of would help if we had somebody who could, I  
19 mean, and I don't know how this chancellor search is going to  
20 work. I mean, it's ---

21 STUDENT: [REDACTED]

22 PHIL LEWIS: Well, we have an interim.

23 ROBBIE MOORE: We have the Provost.

24 STUDENT: [REDACTED]

25 PHIL LEWIS: He's 70 years old.

111C2



APPENDIX B

1 STUDENT: [REDACTED]

2 [REDACTED]

3 PHIL LEWIS: Yeah, Ron Mitchelson is 70 years  
4 old. He's a good guy. He was the Provost. Good guy and  
5 it's probably who they should've chose to start with. Just  
6 like Dan. The reason why Dan didn't keep his job wasn't  
7 because he was down drinking, is they caught him driving.

8 STUDENT: [REDACTED]

9 PHIL LEWIS: That was - that's what got him.

10 STUDENT: [REDACTED]

11 [REDACTED]

12 PHIL LEWIS: Yeah, I can see why it would be, you  
13 know? Hell, it was confusing to us.

14 ROBBIE MOORE: Yeah, because we were kept in the  
15 dark the entire 30 days when this law firm did an  
16 investigation.

17 STUDENT: [REDACTED]

18 [REDACTED]

19 PHIL LEWIS: They had some law firm, but BOG is  
20 the heavy hand up in Chapel Hill and they hired some law firm  
21 out of Raleigh to do an investigation and anybody could - I  
22 mean, a 10-year-old could've done better than what they did.  
23 All they were trying to do was come up with the answer to  
24 what they wanted to come up with.

25 STUDENT: [REDACTED]

1112

1111  
D3



1 people running?

2 STUDENT: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

PHIL LEWIS: So, talking about signs and things  
14 like that, name recognition is big, right?

15 STUDENT: [REDACTED]

E 16 PHIL LEWIS: So, what do they - Robbie is in the  
17 billboard business, so he's in the sign business so that's  
18 why I asked this question. [REDACTED] - how big could  
19 your sign be and [REDACTED]?

20 STUDENT: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

25 PHIL LEWIS: [REDACTED]

1110

30

MEETING OF UNKNOWN STUDENT BY PHIL LEWIS AND ROBBIE MOORE  
Public Meeting on 01/13/2020

Page 33

1 [REDACTED] [REDACTED] able to get a list of all the

2 presidents so that I could contact them [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 PHIL LEWIS: Uh-huh.

6 STUDENT: [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 ROBBIE MOORE: We can do that. We can do that.

10 STUDENT: Yeah, that's - it's pretty easy to  
11 get the information.

12 PHIL LEWIS: I mean, we could get that through  
13 Virginia.

14 STUDENT: Virginia?

15 PHIL LEWIS: Virginia Hardy.

16 STUDENT: Dr. Hardy?

17 PHIL LEWIS: Yeah.

18 STUDENT: But have you - have you spoken to  
19 the lady that ran for us - what's her name? I keep  
20 forgetting. That's on the board with you?

21 PHIL LEWIS: Angela Moss

22 STUDENT: Yeah, did you speak to her about  
23 meeting with me?

24 PHIL LEWIS: Um hum, um hum.

25 STUDENT: Okay. Gotcha.



APPENDIX B

1 ROBBIE MOORE: She's great. Angela's fantastic.

2 PHIL LEWIS: Really, she's very smart and she -  
3 she's kind of got it - I mean, we kind of want to keep this  
4 quiet because like Colin told Angela, "I'm going to vote for  
5 you for chair."

6 STUDENT: [REDACTED]

7 PHIL LEWIS: Up until five minutes before the  
8 vote and he had - she - I said, "Get your butt over there and  
9 talk to that guy."

10 ROBBIE MOORE: That was the morning of the  
11 trustees.

12 PHIL LEWIS: Morning of the trustees. And this  
13 little jerk, he never - he wasn't going to tell her.

14 ROBBIE MOORE: No.

15 STUDENT: [REDACTED]  
[REDACTED]

17 PHIL LEWIS: Vern Davenport.

18 ROBBIE MOORE: Current chair now.

19 STUDENT: [REDACTED]

20 PHIL LEWIS: Which Vern is okay. The problem is,  
21 all these guys are for Raleigh and they have all these  
22 meetings in Raleigh, and they want to keep, you know ---

23 ROBBIE MOORE: They come into town for the trustee  
24 meetings and they're over there writing in their pads, yes,  
25 and what time are we going to get out so we can get out and

11 C1



APPENDIX B

1 go back to Raleigh.

2 PHIL LEWIS: It's all for the show.

3 ROBBIE MOORE: It's all for show.

4 STUDENT: [REDACTED]  
[REDACTED]

6 ROBBIE MOORE: That's what it is.

7 STUDENT: [REDACTED]

8 PHIL LEWIS: Yeah. We didn't realize it until we  
9 got on it. So, that's why we don't want Vern, that's why we  
10 don't want Max. I mean, most of these guys don't want - I  
11 mean, we got these problems that they don't want to talk  
12 about.

13 STUDENT: [REDACTED]

14 PHIL LEWIS: I mean, just like athletics. I  
15 mean, we've got all these problems in athletics and the  
16 athletic director is like who can I talk to?

17 ROBBIE MOORE: He just - he wants - he wants help.

18 PHIL LEWIS: He wants some help.

19 ROBBIE MOORE: He wants to cut three sports.

20 STUDENT: [REDACTED]  
[REDACTED]

22 ROBBIE MOORE: Yeah, you have to balance them out,  
23 so it would probably be ---

24 PHIL LEWIS: Tennis?

25 ROBBIE MOORE: Tennis is probably one.

11C1

11C1  
C2  
D2  
D3

APPENDIX B

1 STUDENT: [REDACTED]

2 ROBBIE MOORE: I know. I do, too. And tennis and  
3 then one of the track and fields because indoor season and  
4 outdoor season counts as two separate sports.

5 STUDENT: [REDACTED]

6 ROBBIE MOORE: So - yep, there's been some talk and  
7 he's got all the numbers of what it would cost - what it  
8 would save us to cut three sports.

9 STUDENT: [REDACTED]

10 PHIL LEWIS: But Colin really likes where he is  
11 because he's - he was the game changer.

12 STUDENT: [REDACTED]

13 PHIL LEWIS: And you know, I'm a big boy. Just  
14 tell me you're not going to vote for this and we're fine, but  
15 don't sit here and lie to us and ---

16 ROBBIE MOORE: But since then, he really hasn't -  
17 he's done nothing. He doesn't speak at any of the trustee  
18 meetings.

19 STUDENT: [REDACTED]

20 ROBBIE MOORE: He has really zero input since then.

21 PHIL LEWIS: Yeah.

22 ROBBIE MOORE: They kind of used him as a pawn to  
23 get the chairmanship.

24 PHIL LEWIS: The only time I heard him speak was  
25 on the student fee.

11 C1  
C2  
D2  
D3

11 B2  
B6

36

A  
B

APPENDIX B

B  
A

C  
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D  
H

H  
D  
E

1 ROBBIE MOORE: Well, he spoke. He passed out the  
2 resolution to - the student fees, and then, he spoke on it.  
3 And the chairman was like, "You got anything else?" And he's  
4 like, "No." And the vote was passed 12 to 1.

5 PHIL LEWIS: But we would've voted the other way,  
6 it's just that ---

7 ROBBIE MOORE: Yeah, we would've voted with him for  
8 sure.

9 PHIL LEWIS: I just wasn't going to - I wasn't  
10 going to support him. I mean, he - you gotta work together  
11 and we just want to see some change.

12 STUDENT: [REDACTED]

13 PHIL LEWIS: I mean, it's just so much. And  
14 look, we probably, on the other side, we think Max is  
15 probably the better one on the other side.

16 STUDENT: [REDACTED]

17 PHIL LEWIS: And we get along with Max. The  
18 problem is - and Max is a mess. Max has probably got three  
19 credit hours of all ECU.

20 STUDENT: [REDACTED]

21 PHIL LEWIS: I mean, he never graduated.

22 STUDENT: [REDACTED]

23 PHIL LEWIS: But he ---

24 ROBBIE MOORE: Oh, yeah. So, we've got three  
25 trustees that didn't graduate.

III B 2  
B 6  
C 1  
D 1  
D 2  
D 3  
D 4

III C 2  
C 6  
D 3

Lee Fanning



APPENDIX B

E  
D  
H

1 STUDENT: [REDACTED]

2 ROBBIE MOORE: From any university.

3 PHIL LEWIS: Nothing against it, I'm just ---

4 STUDENT: [REDACTED]

5 PHIL LEWIS: --- but he's one - he's supporting -

6 he wants to support the old guard, which, you know, we

7 understand, but we just want some change and whoever wins,

8 the term will start July 1.

9 STUDENT: [REDACTED]

[REDACTED]

11 (speaking to waiter)

12 PHIL LEWIS: So, we're just out trying to - we

13 appreciate you meeting with us and I want to make sure you

14 and Robbie got y'all's contact ---

15 ROBBIE MOORE: Yeah.

16 PHIL LEWIS: --- you know, y'all get these other

17 contacts and maybe, I guess, in the next 10 days you're going

18 to make a decision.

19 STUDENT: [REDACTED]

[REDACTED]

[REDACTED]

22 PHIL LEWIS: I mean, I'm not going to - I would

23 love for you to talk to Angela Moss.

24 STUDENT: [REDACTED]

25 ROBBIE MOORE: We can line that up and you can talk

11 C2  
C6  
D3

APPENDIX B

1 to her over the phone.

2 PHIL LEWIS: I can line that up and you can talk  
3 to her by phone or she'll come down here. And - and  
4 confidentially, as long as you don't have to show where you  
5 get the money - I mean, we have no problem - I don't have any  
6 problems supporting you.

7 ROBBIE MOORE: Yeah.

8 PHIL LEWIS: Robbie can help you with signs and  
9 things like that. I mean, we - Robbie is really in with the  
10 legislature.

11 STUDENT: [REDACTED]

12 PHIL LEWIS: Like the guy that's probably going  
13 to be the next speaker of the house is one of his best  
14 friends, John Bell and we'd love to - and you know, if you  
15 get run in - I think - I don't - I don't think if I - if we  
16 go to Virginia and say, "Okay. We know - [REDACTED] running.  
17 We might have some" - I think she would do what she could.  
18 She wants to see us win, too, but she can't say it.

19 STUDENT: [REDACTED]

20 ROBBIE MOORE: She can't - she can't really get  
21 involved.

22 STUDENT: [REDACTED]

23 ROBBIE MOORE: But, you know ---

24 PHIL LEWIS: Her and Max (inaudible)

25 ROBBIE MOORE: --- she wants some changes bad.

11 C1  
D2

11 D2  
D4

APPENDIX B

1 PHIL LEWIS: They hate each other. We just, you  
2 know, but we, you know, we just want to make a change. We  
3 want to make a change and our - I think Robbie is the one  
4 that should be the chair. He's got time - number one, you've  
5 got to have the time and he's owns the billboard company, if  
6 he - if he goes to work one day fine he doesn't go to work  
7 one day, fine he does what he wants to do. Not bad at 48  
8 years old to be able to do that.

9 ROBBIE MOORE: But just like Vern - Vern works for  
10 the man. He's traveling all the time. He doesn't have time  
11 to do that. We need someone in Eastern North Carolina to be  
12 the chair. We haven't had a chair in Eastern North Carolina  
13 in at least a decade.

14 PHIL LEWIS: Right.

15 STUDENT: [REDACTED]

16 PHIL LEWIS: And I think Angela would be a great  
17 one to work with and we got a guy over in Kinston that owns  
18 Jim Seagrave that owns (inaudible) Exclusive would probably  
19 be an officer. He's not that involved, but you would  
20 probably get his vote.

21 STUDENT: [REDACTED]

22 PHIL LEWIS: You would have to do some stuff for  
23 him.

24 ROBBIE MOORE: He's a long-time friend of ours. We  
25 helped him get on the trustees, but he's not been involved



APPENDIX B

1 STUDENT: [REDACTED]

4 PHIL LEWIS: One other thing that you - one other  
5 - one thing that Colin had that he got this year was he got  
6 to go up at the Chan- every - go up and stay at the  
7 Chancellor's suite every game.

8 STUDENT: [REDACTED]

9 ROBBIE MOORE: He was there every time.

10 STUDENT: [REDACTED]

13 ROBBIE MOORE: Well, he was there with his friends.

14 PHIL LEWIS: Yeah, he went with two or three of  
15 his friends. So, but if it's okay with you, we'd just like  
16 to keep this quiet.

17 STUDENT: [REDACTED]

18 PHIL LEWIS: And to see where it goes and whether  
19 you do it or not, we'd love to see you do it. We would do  
20 everything we could to work with you, but we've got to - you  
21 know, we've got to kind of be quiet about what we do and what  
22 we say and whatever. And like I said, we like Max, but ----

23 ROBBIE MOORE: Yeah, this will be Max's last year.

24 PHIL LEWIS: Yeah.

25 ROBBIE MOORE: He's not eligible to be reappointed

III D3

III C6

III C9

49

APPENDIX B

1 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

6 PHIL LEWIS: Well, I will tell you that we - Moss  
7 could help you put together something ---

8 STUDENT: [REDACTED]

9 PHIL LEWIS: --- that's really slick, that ---

10 STUDENT: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

14 PHIL LEWIS: [REDACTED] somebody who -  
15 who knew what he was talking about.

16 STUDENT: [REDACTED]

17 PHIL LEWIS: Even though he - I mean, he does.  
18 He does his homework.

19 STUDENT: [REDACTED]  
[REDACTED]

21 PHIL LEWIS: Right, right.

22 STUDENT: [REDACTED]  
[REDACTED]  
[REDACTED]

25 PHIL LEWIS: Well, one thing you can say is that

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51

APPENDIX B

1 we're spending 1.3 million for athletic fees more this year  
 2 than you were last year. I would try to do everything I  
 3 could to keep the last - and look, if you would run and win,  
 4 we'll help you. We'll give you seven votes to where they  
 5 won't screw *with you*

6 ROBBIE MOORE: Yeah, they won't be able to raise  
 7 them.

8 STUDENT: [REDACTED]

9 PHIL LEWIS: They won't - they won't (inaudible).

10 Look, for a million dollars, we don't give a shit. We don't  
 11 care.

12 ROBBIE LEWIS: It's a billion-dollar budget.

13 STUDENT: [REDACTED]  
 [REDACTED]

15 PHIL LEWIS: Yeah, (inaudible)

16 ROBBIE MOORE: The entire university is (inaudible)

17 PHIL LEWIS: We don't want to put it on the backs  
 18 of the students.

19 STUDENT: [REDACTED] --

20 -

21 ROBBIE MOORE: And if we raise them again this  
 22 time, we would be the highest in the system, athletic dues of  
 23 all the schools.

24 PHIL LEWIS: So, if nothing else, all you've got  
 25 to do is five different things like that and say ---

11B2  
 # C1

11 C1  
 D1  
 D4

52



APPENDIX B

1 STUDENT: [REDACTED]  
 2 PHIL LEWIS: --- why - why didn't Colin do a  
 3 better job of talking to the - of why we can't raise our  
 4 fees?

5 STUDENT: [REDACTED]

6 PHIL LEWIS: And you know what, all that matters,  
 7 you can say maybe by that time you've talk to five or six  
 8 board of trustee people and say, "I want to go and talk to  
 9 people about not raising fees." That's the ---

10 ROBBIE MOORE: See the vote was 12 to 1.

11 PHIL LEWIS: Yeah.

12 ROBBIE MOORE: Colin was the only one that voted  
 13 against the fees.

14 PHIL LEWIS: But we - hey, but we've got our six  
 15 pretty strong.

16 STUDENT: [REDACTED]

17 PHIL LEWIS: So, we - we just weren't going to  
 18 fight over it.

19 STUDENT: [REDACTED]

20 PHIL LEWIS: I mean, we could've won 7 to 6.

21 ROBBIE MOORE: Yeah.

22 PHIL LEWIS: But I'd be giving Colin a victory,  
 23 what in the hell do I want to do that for?

24 ROBBIE MOORE: He didn't give me one.

25 STUDENT: [REDACTED]

B2  
B6

B1  
P1  
P2  
D3

53

APPENDIX B

C 1  
1 PHIL LEWIS: When he walked in that day - when I  
2 watched him walk in that day, he was as white as I mean ---

3 ROBBIE MOORE: I was upstairs in the Student Union  
4 and he walked in just minutes before the meetings was to  
5 start. He walked in with Virginia and they walked in and  
6 went up the elevator to our meeting and he didn't talk to  
7 anyone. He wasn't - he didn't have any intention of talking  
8 to anyone.

9 STUDENT: [REDACTED]  
[REDACTED]

11 ROBBIE MOORE: Oh, yeah.

12 STUDENT: [REDACTED]  
[REDACTED]

CX 13 [REDACTED] PHIL LEWIS: No, look. No, I - it's hard to  
15 believe that he is a kid.

16 ROBBIE MOORE: The thing about is though that on  
17 that Mond- so, we met on Thursday. On Monday, he wasn't  
18 going to vote for her. On Tuesday, he said, "I'm solid. I'm  
19 going to vote for you." So, he let her go Tuesday,  
20 Wednesday, up to Thursday morning thinking, hey, I'm with  
21 you. She had met with him on multiple occasions. And then,  
22 he changed again.

23 STUDENT: [REDACTED]  
[REDACTED]  
[REDACTED]

III C I

C I

APPENDIX B

1 are at Eastern Carolina. I got a guy that works with me,  
2 he's got his MBA. He's got a lot of kids all day. You could  
3 - there's a lot of people that could go and help you with  
4 your platform and ---

5 STUDENT: [REDACTED]

6 PHIL LEWIS: --- doing the campaign or whatever.

7 STUDENT: [REDACTED]  
[REDACTED]

9 PHIL LEWIS: And I can understand your fear ---

10 [END OF RECORDING]

11 [END OF TRANSCRIPT]

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February 4, 2020

David Powers, Chair  
Committee on University Governance  
UNC Board of Governance  
PO BOX 2688  
Chapel Hill NC, 27515

Dear Governor Powers,

Please let this letter serve as our response to the complaint and supplemental complaint filed with the Board by Vern Davenport, Chair of the ECU Board of Trustees.

First, as you are aware we acknowledged in our January 24, 2020 letter that we regret certain actions and comments involved in the meeting with the former ECU student. We stand by all statements and concerns set forth in that letter.

We have reviewed in detail the complaint and supplemental complaint dated Jan 30, 2020 which contain many allegations. We have addressed some of the allegations below. We made the decision that it would not be constructive to address all of the allegations and contentions. However, for those allegations and contentions that we have not addressed, it should not be construed as an admission that the allegations are factually correct or the conclusions of unethical conduct are correct.

In the second paragraph of the first page of the letter, Mr. Davenport, Mr. Miller and Mr. Smith affirmatively state that they are submitting the supplemental information "With a majority of board support." This is a misrepresentation and is an example of their willingness to take unilateral actions to attack board members who have disagreed with their positions and who refused to vote for Davenport as Board chair. At no time did Davenport bring any of these allegations before the board to discuss or any action which should or should not be taken as a result thereof. As we understand it, the Board may not take any action on any matters unless a public meeting has been held and a majority of the board members vote for the action. This was simply not done and represents the continuing dysfunctional nature of the board.

We now will address certain allegations and contentions set forth in Section I. The numbered paragraphs below correspond with the paragraphs of that section.

1. We have previously acknowledged in our January 24 letter that the conversation we had with former the ECU student could be construed as inappropriate and have expressed our regret for those actions. In scheduling the meeting with the former student, our intentions were a good faith attempt to address overriding problems which we now believe the BOG should address. The structure of the ECU Board puts the SGA President in a position of breaking a deadlock on the board which has been recurring for at least the past year. The result has been that current and past



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We now will address certain allegations and contentions set forth in Section I. The numbered paragraphs below correspond with the paragraphs of that section.

1. We have previously acknowledged in our January 24 letter that the conversation we had with former the ECU student could be construed as inappropriate and have expressed our regret for those actions. In scheduling the meeting with the former student, our intentions were a good faith attempt to address overriding problems which we now believe the BOG should address. The structure of the ECU Board puts the SGA President in a position of breaking a deadlock on the board which has been recurring for at least the past year. The result has been that current and past



Trustees have engaged in solicitation of students to run for the SGA President position who the members believe will support their particular faction. Additionally, current and past Trustees have held private meetings with the SGA President for the purpose of persuading the president to side with their particular agenda. By way of example, two nights before the vote on who would serve as Board chair, Davenport took the current SGA President to dinner at a local Greenville restaurant. This obviously gave the impression that Davenport was soliciting his vote because he was aware of the significant opposition to his election. Unfortunately, we were following this practice in meeting with the former ECU student, and have expressed our regret for doing so. It is our position that this practice should be prohibited and that specific rules be implemented which expressly prohibit Trustees from soliciting candidates to run for the SGA President and from having private meetings with the elected president. This is particularly true if the SGA President will continue to have the tiebreaking vote.

2. Prior to our meeting with the former student, we were informed by a reliable source that Trustee Max Joyner had secured a candidate for the SGA President to run in the Spring of 2020. Joyner has been a consistent ally of Davenport and Miller. Based on this information, we reached out to the former student because she had previously run for that position in 2019.

As now is universally known, the former student recorded the conversation and the recording was subsequently published to Davenport and others. Of significant importance, we have just learned that the former student was not enrolled at ECU after December 3, 2019. This is confirmed by an official statement dated February 4, 2020 from the university registrar which is attached to this response. Without excusing our actions as set forth in the January 24 letter, it is apparent to us that Davenport, Miller and perhaps others played a role in encouraging or facilitating the former student to meet with us with the ulterior motive to obtain information which they could use to help to publicly embarrass us and support their efforts to have us removed from the Board. This further illustrates the personal animosity and lack of tolerance which is demonstrated by the Davenport/Miller faction with other Trustees who do not support their agenda, including the election of Davenport as board chair.

3b. This allegation charges Trustee Moore with offering to assist the former student who was obviously not eligible to run for SGA President with his "billboard business" and "sign business." This is a misrepresentation of the statement which was made. SGA Candidates are only allowed to erect one sign for the campaign on campus. No billboards are allowed on campus. Trustee Moore is in the business of leasing billboard space, none of which is located on campus. His business does not print signs for any political campaign.



3c. The allegation of “a commitment from an experienced campaign manager who has worked and managed a variety of political campaigns in the state of North Carolina in various offices” is a gross exaggeration. The “experienced campaign manager” to whom reference was made is a 21-year old student at another university. He has had very limited experience with any campaigns and his experience has been primarily comprised of putting out signs.

3e. The referenced “ECU student information” is public information found online. Again, this allegation takes an innocent statement completely out of context.

3f. A review of the recording will demonstrate that the “you would have to do some stuff for him” is misrepresented. The recording does not say “you.”

3g. This is another example of Davenport and others fabricating an improper motive out of a simple comment. The ECU Chancellor and his staff make the decision on who is allowed in the Chancellor’s Box during football games.

## Gerlach Allegations

### Purpose

On November 8, 2019, The Board of Governors of the University North Carolina released a report provided by the Womble Dickson law firm concerning allegedly inappropriate conduct involving former Interim Chancellor Dan Gerlach. In the report, the investigators stated that the two of us told others that we were “doing our own investigation” of the allegations. The report could be read to imply our connection with Mr. Peter Romary’s effort to investigate the allegations. Additionally, the report indicated that we had refused to allow the investigators to have copies of communications from our phones relevant to the investigation. All of these allegations are simply false, and we write to point out the specific inaccuracies.

### Background

During his short tenure at ECU, Mr. Gerlach had become very popular. Students and faculty welcomed his warmth and humility. He was approachable and respected. We also respected Dan and wanted the best for him. With that being said, when we received troubling reports on September 28<sup>th</sup>, 2019, we could see that the alleged misconduct was not to be taken lightly. Before advising any definitive action, we strongly felt that our Board needed to have all the facts about the night in question.

Shortly after the publication of the allegations and Dr. Roper’s decision to place Dan on leave, the Board faced extraordinary pressure from students, alumni and faculty to advise that he be reinstated despite the investigation still ongoing. As members of the Board, we were most concerned about the possibility that the Board would take significant action without knowing all





Close

February 7, 2020 Special Meeting of the Board of Governors Save



January 24, 2020

VIA EMAIL

Mr. David M. Powers, Chair  
Committee on University Governance  
Board of Governors  
University of North Carolina System  
Post Office Box 2688  
Chapel Hill, NC 27515

Our File 200098-00001


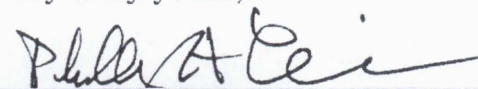
Dear David:

We are writing in response to recent events at East Carolina University.

When we met with a student concerning student government elections, it was with best intentions of furthering the higher interests of the University. In hindsight and upon further reflection, we now appreciate that the discussions during the meeting may not have been the best approach to governance at ECU. We regret that it has become a subject of controversy and an overall unnecessary distraction for both the ECU Board of Trustees and the Board of Governors.

As duly appointed members of the ECU Board of Trustees (by both the Board of Governors and the legislature), we realize that we have a responsibility to act in the very best interests of the University at all times. We also realize that we have a responsibility to the UNC Board of Governors, as the governing body of the University of North Carolina system, to conduct our affairs in an honorable and transparent manner. It is with sincere regret that we acknowledge our actions could have misrepresented this obligation.

We recognize that there are many exciting opportunities and important issues which will be presented to the Board of Trustees in the near future. The focus of the Board of Trustees should be on these important issues as opposing to petty infighting between Board members. We pledge to you, as the governing body of the best system of public higher education in the country, and to our colleagues on the East Carolina University Board of Trustees that we will move forward as Board Members with the best interests of University at the forefront, working together to help ECU realize its full potential.

 Very truly yours,  




Page 2

January 27, 2020

information confidential per UNC 200.7, C, 2 and his possible violation of FERPA? Did he have your approval to release this information to his other board? Considering the comments about Collin on the tape he obviously can't be unbiased either and should recuse himself from all of this as well. Regardless, it was not appropriate for this to be disclosed.

Have you looked into who advised this student to record the lunch meeting? Initial contact was made by the two members, but the actual request to set up the lunch meeting via text came from the student a few days later. Was she advised by a board member or a former board member to record the meeting? It seems fairly clear this was a "set-up". Wouldn't that be an important question to get answered? I am told Kel Norman advised the student. Wouldn't this be important information to confirm before moving forward? Max has recruited students to run for SGA President for 10+ years and proudly speaks of it often. Why has this been allowed? It feels like a double standard which also makes this look more like a political attack on two members who are antagonists of the leadership. If Kel Norman was the person who advised the student there is little question this was nothing more than a set-up you potentially unknowingly helped them execute.

We would appreciate an unbiased review of your summary of the call from a legal perspective. ~~To us it appears you were representing Mr. Davenport's objective more than the BOT and ECU boards.~~ We are not a legal experts, but we do not think the members who went to lunch with the student did anything illegal. They potentially unintentionally violated parts of 200.7, depending on your perspective. But these members firmly want what is best for ECU regardless of if you believe their actions lacked judgement or not. ~~The primary objective of the meeting was to recruit a new member who would help them change leadership they do not believe is effective.~~ Others may or may not agree with that objective of course, but that is why we vote.

We also request that you inform the board of your role in assisting and providing guidance to the Chairman and Vice Chairman in preparing the complaint which has been filed with the BOG to remove the two members. Did you have any communications or involvement with either of them or others, such as former board members about the complaint, and if so, why and what was your involvement? As you know, there is a January 29 deadline for Chairman and Vice Chairman to submit supplemental information to the Governance Committee in support of the complaints. Are you participating in any way or providing any guidance to them, and if so, why and what exactly are you doing in that regard?

We look forward to your response as our legal counsel. We believe you represent all of us as BOT members, not just the Chairman and Vice Chairman. We also believe that as our legal counsel, you should remain neutral and not take sides with one faction or another. None of us have retained outside counsel on this matter (other than the two members in question to defend themselves and their names). If it is helpful, we can request this be added to the agenda of our next meeting. We all would like clarity around these questions. The

Page 3

January 27, 2020

responsibility of counsel should be to advise all of us on the legal positions without political or personal bias.



Book: 3819 Page: 657 Seq: 4

Book: 3819 Page: 657 Page 4 of 4



## Faculty Senate

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## MEMORANDUM

Jeff Popke  
*Chair of the Faculty*  
 Department of  
 Geography, Planning  
 and Environment

February 4, 2020

Crystal Chambers  
*Vice Chair of the Faculty*  
 College of Education

We the ECU Faculty Officers are deeply disturbed by the actions of Board of Trustees members Phil Lewis and Robbie Moore on January 13, 2020 as documented in the transcript that has been released to the public. As faculty members, we believe that success in fulfilling ECU's mission requires that those in leadership positions act in the best interests of the University and "exercise authority honestly and fairly, free from impropriety and threats, favoritism, and undue influence" as mandated in Section 200.7 of the UNC Code.

Amanda Klein  
*Secretary of the Faculty*  
 Department of English

Purificación Martínez  
*Parliamentarian*  
 Department of  
 Foreign Languages and  
 Literatures

The attempt by Trustees Lewis and Moore to influence a student government election and trade favors for Board votes, in our view, represents a clear violation not only of UNC policy but also of the minimal expected standards for ethical and responsible leadership. We add our voices to those calling for the UNC Board of Governors to recommend that Phil Lewis and Robbie Moore be removed from the ECU Board of Trustees.

Jeff Popke

Crystal Chambers

East Carolina University is a  
 constituent institution of the  
 University of North Carolina.  
 An equal  
 opportunity/affirmative  
 action university, which  
 accommodates the needs of  
 individuals with disabilities.

Amanda Klein

Purificación Martínez



## Chapter 200 Board of Governors Affairs

### 200.7 Duties, Responsibilities, and Expectations of Board Members

I. Applicability and Purpose. This policy sets forth the duties, responsibilities, expectations, and standards of conduct for members of the Board of Governors of the University of North Carolina, the boards of trustees of the constituent institutions, and the boards of University-affiliated organizations where membership includes individuals appointed by the Board of Governors.

II. Definitions. For purposes of this policy:

- A. "Board" means the Board of Governors, a board of trustees of a constituent institution of the University of North Carolina, or a board of a University-affiliated organization with members appointed by the Board of Governors.
- B. "Board member" means any member of the Board of Governors, a board of trustees of a constituent institution of the University of North Carolina, or the board of a University-affiliated organization.
- C. "Institution" means the University of North Carolina or a constituent institution of the University of North Carolina.
- D. "University-affiliated organization" means an institution or organization that the Board of Governors is authorized to establish or to which it is authorized to appoint board members pursuant to statute, but does not include Associated Entities covered by Section 600.2.5.2[R] of the UNC Policy Manual or Centers or Institutes covered by Section 400.5[R] of the UNC Policy Manual.

III. Duties and Responsibilities. Board members are responsible for performing essential functions that are central to the governance of the University, as described in Chapter 116 of the North Carolina General Statutes, *The Code of the University of North Carolina*, the Policy Manual of the University, and the policies and by-laws of the constituent institutions. Board members shall adhere to the standards of conduct and fulfill duties and expectations set forth in this policy.

A. Attendance. Board members shall attend board meetings. If a member of the Board of Governors is, for any reason other than ill health or service in the interest of the State or nation, absent for four (4) successive regular meetings of the Board, his or her place as a board member shall be deemed vacant.<sup>[1]</sup> If a member of a board of trustees of a constituent institution is, for any reason other than ill health or service in the interest of the State or nation, absent for three (3) successive regular meetings of a board of trustees, his or her place as a board member shall be deemed vacant.<sup>[2]</sup>

B. Participation in Policy and Oversight Functions. Board members are expected to prepare for meetings; actively contribute to the work of the board; and act in accordance with the governance, oversight, and advisory functions allocated to the board by:

1. Reviewing and inquiring about materials that involve the institution or University-affiliated organization, such as board minutes and annual reports;
2. Understanding and participating appropriately in the oversight function allocated to the board with respect to the finances and effectiveness of the institution or University-affiliated organization;
3. Seeking information from and consulting appropriately with the chief executive officer of the institution or University-affiliated organization to gain additional context, make well-informed policy decisions, and carry out responsibilities for board-level oversight and monitoring of the affairs of the institution or University-affiliated organization;
4. Participating as requested in the preparation and revision of long-range plans for the institution or University-affiliated organization;
5. Serving on and contributing to the work of assigned committees;
6. Listening to and considering differing opinions, and otherwise making reasonable efforts to conduct oneself in accordance with the practices and customs of formality and decorum articulated in Robert's Rules of Order;<sup>[3]</sup>
7. Referring matters of administration and management to the chief executive officer of the institution or University-affiliated organization for handling;
8. Respecting and following executive leadership, management, and reporting lines when communicating with the University and the constituent institutions, and refraining from directing matters of administration or executive action except through the chief executive officer of the institution or University-affiliated organization; and
9. Recognizing that board members' authority is collective, not individual, and only arises from their participation with other members of the board when it is officially convened.

C. Ethical Conduct. Board members shall adhere to high standards of ethical conduct by complying with laws, regulations, and University policies applicable to their service as board members and public officials, which include the obligations to:

1. Exercise authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence, as required by the State Ethics Act.<sup>[4]</sup>
2. Keep confidential all information and records that are required by law to be kept confidential, including, but not limited to, personnel records and information, student records and information, attorney-client communications, and closed session deliberations and information;
3. Comply with North Carolina open meetings and public records laws;
4. Bring matters of concern, potential or real conflicts of interest, and reports of unlawful and/or noncompliant activity to the attention of the appropriate institutional or organizational officer, such as the president, chancellor, board chair, or committee chair;
5. Avoid any personal or business interest that may conflict with the member's responsibilities to the institution or University-affiliated organization;