

26 April 2017

Chancellor Reappointment Committee  
c/o Jeff Todd, Executive Director, *alumni UBC* and Associate Vice President Alumni

***Sent via Email***

Dear Chancellor Reappointment Committee:

You are tasked with considering whether or not it is in the best interests of the University of British Columbia that Mr. Lindsay Gordon be reappointed for a further three-year term as Chancellor.

In this letter, I will outline several issues of concern that lead us to believe that Mr. Gordon should not be reappointed as Chancellor.

The key focal points will be

1. Mr. Gordon was a central and significant actor in improperly documented processes that led to the resignation of President Arvind Gupta, and
2. that Mr. Gordon was a central and significant actor in circumstances that contributed to a breach of a faculty member's academic freedom and that he demonstrated a fundamental disrespect for academic freedom.

I remind the Committee that the members of the Faculty Association passed an historic motion of non-confidence in the Board of Governors and that Mr. Gordon's personal role in the management of the University during the period following Dr. Gupta's resignation was an important consideration for the 800 faculty members who voted no confidence.

The fact that 800 faculty members, including some of the University's most respected scholars, voted no confidence in the Board should not be dismissed: one measure of the importance that faculty place on this issue may be gauged by the fact that 1294 faculty members cast votes, whereas only about 200 persons voted (in total) for the faculty representatives to the Board of Governors. The turnout of 1294 is by far the largest voter turnout by faculty on any issue whatsoever.

In order to be satisfied that proper processes had been followed by the Board in the matter of Dr. Gupta's resignation, the Faculty Association filed a number of Freedom of Information (Fol) requests in September 2015 around events in which Mr. Gordon was a key player. These Fol requests did not ask for confidential information.

Failures of the University to provide full and complete responses to these requests led to complaints being filed with the Office of the Information and Privacy Commission (OIPC). To date, there have been some resolutions to these complaints, but there are outstanding issues that involve Mr. Gordon that may be taken to inquiry to resolve.

Mr. Gordon and others made use of non-UBC email servers to conduct university business, which included discussions of personnel matters. The OIPC Investigator has ruled that UBC did not take reasonable steps to protect personal information in these instances and was in breach of Section 30.1 of the *Freedom of Information and Privacy Act* (FIPPA).

In September 2015, the Faculty Association requested information about any special or ad hoc committees struck by the Board of Governors to manage the resignation of Dr. Gupta. The University initially did not provide any information about such special or ad hoc committees in its responses. However, we were presented with incontrovertible evidence there were such committees, which emerged when there was an inadvertent release of documents by the University in January 2016. The University did not acknowledge the existence of these committees until January 2017 and did not provide the lists of their memberships until February 2017.

The University has thus far revealed the existence of two previously unacknowledged committees. Mr. Gordon was a member of both of these committees.

One of these committees consisted of only four members, including Mr. Gordon, but the University is unable to provide any records of its creation or of its meetings. The other committee, which consisted of 12 members, including Mr. Gordon, met once on July 23<sup>rd</sup>, but there is no record of its creation on or before this date. Nor has its mandate been included in the limited response to the FoI investigation from the University. We do not find these responses credible – surely Mr. Gordon and other members of these committees could provide this information – and the Faculty Association is considering pursuing this matter further.

I note that the OIPC Investigator has ruled that the University did not do an adequate search as required by Section 6 of FIPPA and that the University did not meet its “duty to assist” under Section 6. The 17-month delay in providing even the partial responses given by the University to the Faculty Association’s FoI requests in this instance was clearly unreasonable.

Such “secret” committees were a significant factor in the faculty non-confidence vote and Mr. Gordon was clearly a key player in both of these committees. It should be possible to provide such basic information as the mandates of Board of Governors committees and their meeting dates without breaching any confidentiality commitments. It is our opinion that Mr. Gordon’s credibility for reappointment as Chancellor is seriously undermined by this continuing secrecy.

The final point we considered was that of academic freedom, and the breach of academic freedom resulting from the collective actions of various university actors, including Mr. Gordon, as determined by the Honourable Lynn Smith, Q.C. One of Ms. Smith’s conclusions is that an important point of the University’s failure occurred when, “in the short period just after the resignation of President Gupta, Mr. Montalbano and Chancellor Lindsay Gordon worked with UBC staff on the communication of responses to the flood of inquiries and commentary from the university community and the media, without bringing in the academic leadership of the University.” (Remarkably, they did not include the Acting President in these conversations.)

The consequences of the mismanagement of the response are known to you all, and I will not reiterate them here, except to say that we have seen no indication that Mr. Gordon has learned from this situation and would in the future meet his clear obligation, as articulated by Smith, to *actively* support and defend academic freedom in the University.

Whatever Mr. Gordon's intentions were, faculty judge him on his actions with respect to governance and academic freedom, and these actions clearly contributed to one of the most turbulent and disruptive periods in the 100-year history of the University. He has been a focus of controversy and I believe that he lost the confidence of faculty members, who are members of the Convocation over which the Chancellor presides, and he has done nothing to regain it. Given his lack of reconciliation with the faculty of the University, I argue that it is not in the best interests of the University that he be reappointed as Chancellor. Reappointment would communicate both disregard for democratically expressed faculty concerns and acceptance of the flawed and secretive governance practices in which Mr. Gordon was centrally involved. As such the reappointment would threaten to exacerbate rather than enable moving on from the challenges of this period.

The Chancellor has an important role in our community. This position is undermined if the Chancellor trails controversy and questions of trust into that role. UBC needs a Chancellor the community as a whole admires and whose appointment to the position is cause for celebration rather than protest.

Sincerely,



Mark Mac Lean  
President