

March 18, 2024

Senator Ghazala F. Hashmi
Chair of the Senate Education Committee
Virginia General Assembly
1000 Bank St, Richmond, VA 23219

Delegate Sam Rasoul
Chair of the House Education Committee
Virginia General Assembly
1000 Bank St, Richmond, VA 23219

Senator Mamie E. Locke
Chair of the Senate Higher Education
Subcommittee
Virginia General Assembly
1000 Bank St, Richmond, VA 23219

Delegate Briana Sewell
Chair of the House Higher Education
Subcommittee
Virginia General Assembly
1000 Bank St, Richmond, VA 23219

Dear members of the Virginia General Assembly:

We write to you as a coalition of groups concerned about the politicization of George Mason University (GMU), Virginia's largest public research university. Recent reporting has called into question whether highly political figures such as Leonard Leo have had undue influence over the activities of GMU's Antonin Scalia School, and whether the law school is being used as a tool to promulgate partisan ideologies within the government.¹

Leonard Leo has increasingly appeared in headlines for his role in the Supreme Court ethics scandals.² But over the years, publications such as the *New York Times*, the *Washington Post* and *The Nation* have also investigated Leo, a longtime Federalist Society member, for his larger efforts to influence judicial selections and entrench conservative doctrines in the judiciary.³

While to our knowledge Leonard Leo is not a direct donor to GMU, *ProPublica* described the leaders of GMU as "indebted" to Leo for his role in brokering \$30 million in donations to change the law school's name in honor of Antonin Scalia in 2016.⁴ A *New York Times* report confirmed that Leo, as a Federalist Society representative, was an intermediary between an anonymous

¹ Andy Kroll, Andrea Bernstein and Ilya Marritz, "We Don't Talk About Leonard: The Man Behind the Right's Supreme Court Supermajority," *ProPublica*, October 11 2023,

<https://www.propublica.org/article/we-dont-talk-about-leonard-leo-supreme-court-supermajority>

² See, e.g., Emma Brown, Shawn Boburg and Jonathan O'Connell, "Judicial activist directed fees to Clarence Thomas's wife, urged 'no mention of Ginni'," *Washington Post*, May 4 2023,

<https://www.washingtonpost.com/investigations/2023/05/04/leonard-leo-clarence-ginni-thomas-conway/>

³ See e.g., Kenneth P. Vogel, "Leonard Leo Pushed the Courts Right. Now He's Aiming at American Society." *New York Times*, Oct 12 2022, <https://www.nytimes.com/2022/10/12/us/politics/leonard-leo-courts-dark-money.html>,

Robert O'Harrow Jr. and Shawn Boburg, "A Conservative Activist's behind-the-scenes campaign to remake the nation's courts," *Washington Post*, May 21 2019,

<https://www.washingtonpost.com/graphics/2019/investigations/leonard-leo-federalists-society-courts/> and Jeet Heer,

"How Leonard Leo Weaponized the Courts Against Democracy," *The Nation*, October 13 2023,

<https://www.thenation.com/article/politics/leonard-leo-federalist-society-courts/>

⁴ Kroll, Bernstein and Marritz, "We Don't Talk About Leonard"

donor and the school.⁵ Perhaps even more critically, the *Times* also reported that Leo and other Federalist Society representatives “discussed faculty selection and recommended at least one student for admission” with the law school while handling the donation to the school.⁶

Recent reports indicate that Leo has maintained his relationship with the law school. In October 2023, *ProPublica* detailed a party hosted by Leo in Maine, attended by both Scalia Law School leaders as well as federal and state judges, who were in the area “for a weeklong, all-expenses-paid conference” hosted by the law school.⁷

The Antonin Scalia Law School often hosts all-expenses-paid conferences for government officials, including federal and state judges. A recent report found that throughout 2021 and 2022, GMU “paid for federal judges’ transportation, meals, or lodging at least 152 times.”⁸ That the conference coincided with Leo’s party is too great a coincidence to ignore. The General Assembly must investigate whether Leo influenced the school in order to gain access to the judges.

Furthermore, in their investigation of GMU’s funding of trips taken by federal judges, journalists at *The Lever* explained their perspective on what else conservative donors gain from these events: “the trips effectively function as a reward system for judges who espouse and maintain hardline conservative legal views.”⁹ The possibility that the Scalia Law School’s activities are in service of a politicized agenda, rather than to fulfill an academic mission, is extremely concerning. We call on the Virginia General Assembly to investigate the full extent of Leo, and other donors’, influence over any such conferences and the Scalia Law School’s larger operations.

It is also worth noting that the Scalia Law School was recently found to be out of compliance with the American Bar Association’s accreditation standards. The law school “did not meet requirements of Standard 202(a), which requires law schools to have sufficient current and anticipated financial resources to carry out a legal education program.”¹⁰ Though school officials maintained that enrollments and fundraising are in good shape, the noncompliance notice is concerning. A public institution that is reliant on a handful of politically-motivated donors may take on responsibilities without the kind of sustained support necessary to keep that institution thriving for the people of Virginia. Alternatively, expansion funded by ideologues may make the public institution hostage to the whims of ideological funders without whom the law school may not be solvent. The General Assembly’s inquiry should determine if the law school is relying too heavily on Leonard Leo-connected donors, threatening the long-term stability of the school.

⁵ Erica L. Green and Stephanie Saul, “What Charles Koch and Other Donors to George Mason University Got for Their Money,” *New York Times*, May 5 2018,

<https://www.nytimes.com/2018/05/05/us/koch-donors-george-mason.html>

⁶ *Id.*

⁷ Kroll, Bernstein and Marritz, “We Don’t Talk About Leonard”

⁸ Andrew Perez, “Billionaires Are Bankrolling Judges’ Luxury Travel,” *The Lever*, December 15 2023,

<https://www.levernews.com/billionaires-are-bankrolling-judges-luxury-travel>

⁹ *Id.*

¹⁰ Julianne Hill, “George Mason University Antonin Scalia Law School hit with noncompliance notice,” *ABA Journal*, December 7, 2023,

<https://www.abajournal.com/web/article/george-mason-law-school-hit-with-noncompliance-notice>

These concerns are not unfounded, because this would not be the first time conservative figures have clearly sought to leverage donations to the university to further their own politicized agenda. In 2018, the Associated Press reported that as part of a multi-million dollar agreement to fund salaries of one or more professors at the libertarian think tank Mercatus Center, GMU “granted the conservative Charles Koch Foundation a say in the hiring and firing of professors.”¹¹ The Mercatus Center is privately funded and purports to be independent of the university, yet its employees often tout their affiliation with GMU, giving the think tank an “imprimatur of academic research,” as described by the *Intercept*.¹² According to the *New York Times*, GMU “gave donors decision-making roles in selecting candidates for key economics appointments at the Mercatus Center,” and the appointments were consequently “steered to professors who, like the Kochs, embraced unconstrained free markets.”¹³ Then-President of the GMU Chapter of the American Association of University Professors Bethany Letiecq said the controversy proved GMU had “ceded our authority and autonomy to one of the wealthiest industrialists in the world.”¹⁴

We urge the General Assembly to investigate Leonard Leo’s ties with George Mason University. To this end, we suggest questions the following questions be sent to the GMU administration:

- Please identify all conditions placed on the 2016 donation to rename GMU’s law school, which public reports indicate that Leonard Leo and other Federal Society representatives brokered?
- What communications took place between the donor, Leonard Leo and associates, and GMU administration at the time of the donation? Please share them in full.
- Did GMU disclose the full terms of the donations to other parties, and if so to whom? Please share them in full.
- Please share all documents to date containing information on the relationship between Leo and his associates and associated organizations (including, but not limited to, the Federalist Society,¹⁵ the Concord Fund or Judicial Crisis Network,¹⁶ Barre Seid,¹⁷ the 85

¹¹ Matthew Barakat, “Documents Show Ties Between University, Conservative Donors,” Associated Press, April 30 2018, <https://apnews.com/general-news-0c87e4318bcc4eb9b8e69f9f54c7b889>

¹² David Dayen, “Koch-Funded Think Tank Linked To George Mason University Is Now Pretending It’s Not Part Of George Mason University,” The Intercept, September 19 2018, <https://theintercept.com/2018/09/19/the-mercatus-center-is-a-part-of-george-mason-university-until-its-not/>

¹³ Green and Saul, “What Charles Koch and Other Donors to George Mason University Got for Their Money”

¹⁴ Id.

¹⁵ The Federalist Society, Leonard A. Leo biography, accessed January 25 2024, <https://fedsoc.org/contributors/leonard-leo>

¹⁶ Hailey Fuchs and Caitlin Oprysko, “Leonard Leo tied group registers to lobby,” Politico, October 19 2023, <https://www.politico.com/news/2023/10/19/leonard-leo-tied-group-registers-to-lobby-00122508>

¹⁷ Andrew Perez, Andy Kroll and Justin Elliott, “How a Secretive Billionaire Handed His Fortune to the Architect of the Right-Wing Takeover of the Courts,” ProPublica and The Lever, August 22 2022, <https://www.propublica.org/article/dark-money-leonard-leo-barre-seid>

Fund,¹⁸ and the Bradley Foundation¹⁹) and GMU. This includes all communications from GMU and Antonin Scalia Law School administration and faculty to Leo and associates.

- Please identify other donations to GMU and/or Antonin Scalia Law School which Leo has brokered or been involved in and share all conditions and communications related to those donations.
- Please identify donations to the Mercatus Center, which is affiliated with GMU but independent, which Leo has brokered or been involved in. Please share all conditions and communications related to those donations.

George Mason University and the General Assembly must not allow outside private interests to erode the school's academic mission and make a mockery of public higher education. The concerns here ought not to be thought of as ideological or partisan, as nationally the conservative movement has been aflame with stated concern that universities have become too political.²⁰ The General Assembly should investigate Leonard Leo's ties and influence over George Mason University, root out any conflicts of interest, and put in place systems to assure the public that such conflicts will not take hold of a Virginia public institution again.

Signed,

Revolving Door Project

Take Back the Court Action Fund

People's Parity Project

Freedom BLOC

George Mason University chapter of the American Association of University Professors

Copies sent to:

Nicholas J. Frietas

Delores L. McQuinn

Nadarius E. Clark

Amy J. Laufer

Laura Jane Cohen

Destiny L. LeVere Bolling

¹⁸ Emily Birnbaum, "Group Tied to Supreme Court Patron Leo Pours \$103 Million Into Conservative Causes," Bloomberg, November 29, 2023

<https://www.bloomberg.com/news/articles/2023-11-28/leonard-leo-group-pours-103-million-into-conservative-causes>

¹⁹ Accountable.us, "The Federalist Society Is The Central Node In Conservative Kingpin Leonard Leo's Corrupt Dark-Money Network Linking The Interests Of Wealthy Elites To The Federal Judiciary," November 7, 2023, <https://accountable.us/wp-content/uploads/2023/11/021123-Leo-Corruption-Narrative.pdf>

²⁰ See, e.g., George Will, "When colleges take political positions, they show who isn't wanted," Washington Post, January 20 2023,

<https://www.washingtonpost.com/opinions/2023/01/20/higher-education-political-stances-unserious/> ; Korie Dean,

"NC public universities must remain 'neutral' on political issues, lawmakers say," The News & Observer, June 9 2023, <https://www.newsobserver.com/news/local/education/article276218191.html>;

Pew Research, "The Growing Partisan Divide in Views of Higher Education," August 29 2019

<https://www.pewresearch.org/social-trends/2019/08/19/the-growing-partisan-divide-in-views-of-higher-education-2/>

Anne Ferrell H. Tata
Phillip A. Scott
Tom Garrett
Eric Zehr
Higher Education Subcommittee
House of Delegates

Todd E. Pillion
Christopher T. Head
Lashrecse D. Aird
Schuyler T. VanValkenburg
Higher Education Subcommittee
The Senate of Virginia