



VIA ELECTRONIC MAIL

May 10, 2016

Dr. Ángel Cabrera  
President  
George Mason University  
4400 University Drive  
Fairfax, Virginia 22030

Mr. G. Gilmer Minor III  
Chair, State Council of Higher Education for Virginia  
101 North Fourteenth Street, Tenth Floor  
James Monroe Building  
Richmond, Virginia 23219

Dear President Cabrera and Chair Minor:

Members of the faculty at George Mason University have advised our Association of recent developments at the institution that they believe carry serious adverse implications for academic freedom and tenure as well as for the role of the faculty in institutional governance. Of particular concern is the action taken by the GMU Board of Visitors at the end of March 2016 to approve renaming the university's school of law the Antonin Scalia Law School, as a result of the university's having received a combined gift of \$30 million from the Charles Koch Foundation and an anonymous donor. We understand that, in two resolutions adopted on April 27 and May 4, the university's faculty senate has expressed its "deep concern" about the renaming of the law school and, in particular, about the terms of the donor agreements under which the university will be obligated to create two new centers affiliated with the law school and to appoint twelve new faculty members, including several tenured full professors. The May 4 resolution calls upon the administration and board of visitors to "put the request for SCHEV [State Council of Higher Education for Virginia] approval and the enactment of the provisions of the grant proposals on temporary hold to allow for a more careful discussion of the many serious concerns expressed by faculty, students, staff, alumni, state legislators, and the general public."

We share these concerns. This Association has long held that decisions about a college's long-range objectives, faculty appointments, and changes in the structure of academic programs relate to the faculty's areas of professional competence and thus require their direct involvement. This fundamental principle is set forth in the Association's enclosed *Statement on Government of Colleges and Universities*, jointly formulated with the American Council on Education and the Association of Governing Boards of Universities and Colleges. The *Statement on Government*, which embodies standards widely upheld in American higher

education, rests on the premise of appropriately shared responsibility and cooperative action among governing board, administration, and faculty in determining educational policy and in resolving educational problems within the academic institution. It refers to "an inescapable interdependence" in this relationship which requires "adequate communication among these components, and full opportunity for appropriate joint planning and effort."

Section V of the *Statement on Government* defines the particular role of the faculty in institutional government, stating in pertinent part:

The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process. On these matters the power of review or final decision lodged in the governing board or delegated by it to the president should be exercised adversely only in exceptional circumstances, and for reasons communicated to the faculty. It is desirable that the faculty should, following such communication, have opportunity for further consideration and further transmittal of its views to the president or board.

Under these principles, the faculty should be meaningfully involved in decisions such as whether to accept the grant and its attached conditions, primary responsibility for those conditions related to the creation and filling of new faculty appointments.

According to the information in our possession, the May 4 faculty senate resolution also notes troubling details in the scholarship program established by the grant agreements, which

link funding of the promised scholarships to the ongoing service of the current [law school] dean, Henry N. Butler: 'if the individual holding the dean position changes the university shall immediately notify the donor.' This constitutes a violation of longstanding practices of faculty governance. It is the responsibility of the Law School Faculty and the GMU administration, not outside donors to determine who is appointed and continues to serve as Dean.

We agree. Under the standards set forth in *Faculty Participation in the Selection, Evaluation, and Retention of Administrators*, the faculty should play a primary role in selecting an academic administrator:

The role of the faculty in the selection of an administrator other than a president should reflect the extent of legitimate faculty interest in the position. In the case of an academic administrator whose function is mainly advisory to a president or whose responsibilities do not include academic policy, the faculty's role in the search should be appropriate to its involvement with the office. Other academic administrators, such as the dean of a college or a person of equivalent responsibility, are by the nature of their duties more directly dependent upon

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faculty support. In such instances, the composition of the search committee should reflect the primacy of faculty interest, and the faculty component of the committee should be chosen by the faculty of the unit or by a representative body of the faculty.

We understand that some of these matters were discussed by the Board of Visitors at its recent meeting, and that the administration is preparing a response to the resolutions. We would hope that these efforts might lead to a satisfactory resolution of the faculty's concerns—especially with regard to its proposal to delay the process in order to provide for broad, timely, and meaningful consultation with the faculty, and for due respect accorded its views, on key issues of central concern to the faculty.

Sincerely,

A handwritten signature in black ink that reads "Anita Levy". The signature is written in a cursive, flowing style.

Anita Levy, Ph.D.  
Associate Secretary

Enclosure by e-mail

Cc: Mr. Thomas M. Davis, Rector, Board of Visitors  
Professor Keith Renshaw, Chair, Faculty Senate