



September 21, 2022

Center for Cultural Equity and Empowerment
4469 Aquia Creek Ln
Fairfax, Virginia, 22030

Black African Heritage and Caribbean Coalition
4400 University Drive
Fairfax, VA 22030

By email to: ccee@gmu.edu; twashi3@gmu.edu; sfuruya@gmu.edu; gdavis@gmu.edu; ssincere@gmu.edu; cdavids9@gmu.edu; blacc.gmu@gmail.com; gmubsa@gmail.com; gmunaacp1090@gmail.com; mbryanba@gmu.edu.

Re: Unfounded Letter to Students for Life at GMU Violates the Law

Dear Leaders of the Center for Cultural Equity and Empowerment and the Black African Heritage and Caribbean Coalition:

I write as General Counsel of Students for Life of America (“SFLA”) to demand that George Mason University (“GMU”) and associated persons hold the Black African Heritage and Caribbean Coalition (“the Coalition”) and the Center for Cultural Equity and Empowerment (“Equity Center”) accountable for their actions against Students for Life at GMU. Specifically, the Coalition and the Equity Center must delete all unfounded posts, print retractions and apologies, and cease further harassment and shaming.

On September 7, 2022, Students for Life at GMU engaged students on the GMU campus with a display regarding the evils of abortion through a campus tour entitled *Abortion is Not Right*. The display included information demonstrating that life is a human right, positing that a human right is violated when groups of humans are dehumanized. The display also observed that abortion, like slavery, defines humans as property, to be used and disposed at the convenience of other people. SFLA staffers attended the event at the request of the leaders of Students for Life at GMU.

Two days later, the Coalition posted a letter (“Coalition Letter”) to its Instagram page, blacc.gmu. A copy of the post is attached for your reference. The Letter accused Students for Life at GMU of “offensive insinuations,” “oppressive implications” and of using slavery as a “pawn in a game of woke chess.”

Thereafter, the GMU Equity Center shared a response to the Coalition Letter on its Instagram story, stating that the Equity Center was “working closely with black student leaders to repair harm” without first investigating the underlying facts of the situation for accuracy, or engaging with Students for Life at GMU for potential reconciliation. Both the Coalition and the Equity Center, an administrative arm of GMU, skipped all steps toward reconciliation and opted for immediate public shaming and unfounded accusations against Students for Life at



GMU. It is incredibly telling that the Equity Center would, in a reflexive fashion, with no investigation into the situation, affirm comments made by the Coalition. It suggests that diversity of skin color is the only type of diversity that matters to the Equity Center.

While the Coalition Letter requested a meeting between Students for Life at GMU, the Coalition, and various administrators to discuss the complaints by September 15, 2022, the Coalition Letter was *not* directed to Students for Life at GMU or sent to the accused in an effort to have a productive dialogue. Instead, it was posted online and addressed to “the BLACC Family and Greater Mason Nation” as a smear campaign of Students for Life at GMU. While the Coalition Letter purports to show an attempt to discuss alleged harms, the fact that it was neither addressed to Students for Life at GMU nor sent to any leaders of the group shows that its real purpose was for a public denunciation, rather than helpful dialogue regarding the issues. The Coalition Letter is an attempt to undermine Students for Life at GMU by making unfounded accusations in the public sphere with no prior attempt at discussion or understanding. Moreover, it constitutes defamation against Students for Life at GMU.

Furthermore, the president of Students for Life at GMU was accosted in his campus apartment building by the Vice President of the Student Body, who sought to ask questions about the situation. Multiple Instagram pages, including many owned by GMU students, made harassing posts and comments regarding various students involved in Students for Life at GMU, even tagging its president’s personal Instagram page. On September 15, 2022, the deadline requested by the Coalition, Students for Life at GMU posted to its Instagram page (sflgmupatriots),

Students for Life at GMU is dedicated to advancing human dignity and fighting human rights violations. We are working on clarifying recent absurd accusations privately and professionally.

On September 7, 2022, our group was publicly shamed as racist because we were conducting pro-life outreach and discussing past social rights injustices, along with abortion, a current social rights injustice. Each injustice is different; each is wrong; each injustice needs to end.

A copy of this post is attached hereto. That same day, Students for Life at GMU privately emailed the leadership of the Coalition requesting answers to three questions regarding the demand and purpose of the requested meeting. Thereafter, the Coalition privately retracted its public request for a meeting, further demonstrating that its true intentions were not to facilitate meaningful dialogue, nor to work toward reconciliation. Apparently, the Coalition requested a meeting in order to further publicly shame Students for Life at GMU, and upon learning that such an ill-defined meeting would not be tolerated, the Coalition retracted the request.

The failure to investigate the events and enforce proper procedures for disputes violates due process and the fundamental rights of both Students for Life at GMU and the student members of that group, and ignores the facts surrounding the evils of abortion.

First, the Equity Center has violated due process by failing to investigate the events.



The Coalition is not an administrative body and has no authority over Students for Life at GMU, yet it has acted in a capacity that suggests it does have such regulatory authority, demanding a meeting with Students for Life at GMU leaders. Furthermore, the Equity Center, by sharing the Coalition Letter on its Instagram story, validated the contents of the Coalition Letter and further spread the unfounded accusations made against Students for Life at GMU. Again, this post was shared with a complete disregard of the facts and of how it would affect Students for Life at GMU. In posting the Coalition Letter and then sharing it, and GMU's failure to require those posts be removed, Students for Life at GMU has been shamed and publicly humiliated without a chance to defend itself in the public sphere.

Second, the Equity Center has violated Students for Life at GMU's fundamental rights, and the rights of students who are active in Students for Life at GMU. The Equity Center has allowed Students for Life at GMU to be treated as second-class citizens, unworthy of the same benefits, protections, and privileges that other student groups enjoy. Under the First Amendment of the Constitution of the United States of America, a student has rights of freedom of speech and association. This includes the rights of students to express their opinions, even religious and political opinions, at school. *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503 (1969). Importantly, in judging whether a student club will cause disruption, a school cannot look to those who would oppose the club. Doing so would result in an unconstitutional "heckler's veto," where a student's right to free speech is abridged because of his potential opponents. School officials "are not permitted to restrict[students'] speech and association as a means of preventing disruptive responses to it." *Boyd Cty. High Sch. Gay Straight All. v. Bd. of Educ.*, 258 F. Supp. 2d 667, 690 (E.D. Ky. 2003). Putting up warning signs to direct traffic away from a person engaged in free speech is a violation of that person's freedom of speech. Here, the Coalition and the Equity Center have put up the digital equivalent of warning signs around Students for Life at GMU's free speech. It is a violation of the law to shut down speech that the university, or subsets of it, disagrees with. While Students for Life at GMU was permitted to have a table and display, it was thereafter harassed and publicly shamed by the Coalition, with no ascertainable repercussions for the offending group. By circulating unfounded and false public accusations, the Equity Center is committing a due process violation.

Furthermore, the law regarding fundamental rights such as free speech is clearly established. Where the law is clearly established, "the immunity defense ordinarily should fail." *Harlow v. Fitzgerald*, 457 U.S. 800, 818-819 (1982). As such, university actors can be held personally liable for such free speech violations. Recent cases apply this rule against administrators in the college student group context. *See Thompson v. Ragland*, 23 F.4th 1252 (10th Cir. 2022); *Bus. Leaders In Christ v. Univ. of Iowa*, 991 F.3d 969, 980 (8th Cir. 2021).

Third, the Equity Center has ignored the facts related to abortion and racism. Margaret Sanger, a widely celebrated pro-abortion advocate, has a racist past and was an advocate for eugenics. For instance, she wrote in a letter to a friend and supporter, Dr. C.J. Gamble in 1939, "we do not want word to go out that we want to exterminate the Negro population," as she oversaw "The Negro Project," a calculated strategy to exterminate African Americans using birth control and abortion. Today, abortion disproportionately affects minority communities, as black women have the highest abortion rate by far. In New York, more black babies are aborted than born. Eighty percent of Planned Parenthoods across the nation are located in minority communities, which ultimately reduces the number of babies born to such minority communities.



The Coalition, without dialogue, immediately took offense to the fact that pro-abortion groups target black and brown communities, even though the group is dedicated to “facilitating unity and organization among organizations of the African diaspora.” (blacc.gmu). On top of that, the Equity Center simply jumped onboard in alleging that Students for Life at GMU is racist, even though abortion has reduced the black population by over 25% since 1973. Please see the attached letter from minority pro-life leaders, including Alveda King, the niece of Dr. Martin Luther King, Jr., explaining that the abortion industry is racist, positing that abortion is the greatest injustice of our time, and supporting the *Abortion is Not Right* display.

As a result of these events and GMU’s failure to investigate and discipline students and organizations that ignore the rules, Students for Life at GMU has been harmed. While the Coalition accused Students for Life at GMU of making the Coalition feel uncomfortable and harassed, it is actually the Coalition that has caused harm and harassment to Students for Life at GMU by posting the Coalition Letter. Students for Life at GMU was making observations and drawing examples from other human rights injustices to what it firmly believes is a human rights violation. At any point, student members of the Coalition could have engaged in conversation. Instead, they said nothing and then posted publicly online to suggest that Students for Life at GMU has little regard for the black community. The Equity Center then affirmed the unfounded accusations through an Instagram story. These events have impermissibly chilled the speech of Students for Life at GMU and other pro-life students. Now, pro-life students at GMU fear that when they engage in discourse regarding the pro-life issue, they may be publicly shamed days later, with no forewarning or justification. The character of Students for Life at GMU and its student leaders have been publicly defamed without any efforts on the part of the Coalition or the GMU administration to reconcile the differences peacefully and privately.

We demand that GMU reprimand the Coalition. We demand that the Coalition take down the Letter, posted September 9, 2022, from Instagram and all other sites where it has been posted. We further demand that a retraction and apology be posted to those same platforms. We demand the Equity Office post an apology and retraction to Instagram and all other platforms where this issue was shared or re-posted. We demand that the Coalition and the Equity Center cease all harassment and shaming of Students for Life at GMU, and hold students and employees in those groups accountable for their actions. We request compliance and proof of compliance within the next five (5) calendar hours.



Please contact my office upon receipt of this letter should you have any questions about the above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Zachary S. Kester".

Zachary S. Kester

STUDENTS FOR LIFE OF AMERICA

cc: Office of University Counsel, ouc@gmu.edu

Enclosures:

- Letter posted by the Coalition
- CCEE Story Post
- SFL GMU's Response Post
- Pro-Life Leaders Support Letter