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Virginia Senate Leaders File Lawsuit Challenging Governor Youngkin and Attorney General Miyares' Unconstitutional Overreach on University Board Appointments

Legal action challenges unconstitutional actions by Governor and Attorney General

RICHMOND, VA – Virginia Senate President Pro Tempore L. Louise Lucas, along with all eight Democratic members of the Senate Privileges and Elections Committee, today filed a lawsuit in Fairfax County Circuit Court in the case of *Lucas v. Stimson*, et al., against the rectors of three Virginia public universities, seeking to defend the General Assembly's constitutional prerogatives regarding gubernatorial appointments to university boards.

The lawsuit comes in response to the Governor and Attorney General's refusal to honor the actions of the Virginia Senate. On June 9, 2025, the Senate Privileges and Elections Committee voted 8-4 to refuse confirmation of eight appointees nominated by Governor Glenn Youngkin to serve on the boards of the University of Virginia, Virginia Military Institute, and George Mason University.

Constitutional Authority at Stake

"This lawsuit is not about politics – it's about preserving the constitutional balance of power that has served Virginia well for centuries," said Senator Lucas. "The Virginia Constitution clearly grants the General Assembly authority to confirm or reject gubernatorial appointments. When university rectors ignore our constitutional role at the behest of the Governor and Attorney General, they undermine the very foundation of our democratic institutions."

The eight Democratic senators who voted to reject the appointments and are now plaintiffs in this lawsuit represent the institutional authority of the Senate itself. The lawsuit emphasizes that their committee vote carries the full weight of the legislative process and cannot be nullified by executive branch interpretation.

The lawsuit specifically challenges the assertions by Governor Youngkin, Attorney General Miyares, and Secretary of Education Aimee Guidera who have urged and advised university rectors to ignore the actions of the Senate of Virginia and seat the eight rejected members.

Defending Legislative Prerogatives

The plaintiffs, led by Senator Lucas who also serves as Chair of the Senate Finance and Appropriations Committee, emphasized the broader constitutional principles at stake: "Virginia's public universities operate under a framework established by the Code of Virginia and are subject to the ultimate authority and control of the General Assembly. This lawsuit seeks to ensure that constitutional provisions are respected and that no branch of government exceeds its proper authority."

The lawsuit argues that Article V, Section 11 of the Virginia Constitution explicitly states that no gubernatorial appointee "shall enter upon, or continue in, office after the General Assembly shall have refused to confirm his appointment." The complaint further notes that Virginia Code explicitly provides that university boards "shall at all times be under the control of the General Assembly."

Background on the Disputed Appointments

The eight rejected appointees include former Trump Administration Deputy Homeland Security Director and former Virginia Attorney General Kenneth Cuccinelli (UVA), along with seven others appointed to VMI and GMU boards:

VMI Board: Jonathan Hartsock, Stephen Reardon, and Jose J. Suarez **GMU Board:** Charles J. Cooper, William D. Hansen, Maureen Ohlhausen, and Caren Merrick

The appointees were nominated by Governor Youngkin between February and March 2025 and began participating in board meetings immediately, including controversial decisions such as VMI's refusal to renew the contract of the institution's first Black superintendent just two days after two rejected appointees joined the board.

Executive Branch Nullification

Despite the clear constitutional language, Governor Youngkin, Attorney General Jason Miyares, and Secretary of Education have advised the university rectors that the rejected appointees may continue serving. The Attorney General claimed that "the authority to refuse a confirmation rests with the General Assembly as a whole, not a Senate committee," fundamentally misunderstanding the legislative process.

Senator Lucas's complaint, filed on behalf of all eight Democratic committee members, argues this position "would mean that no appointment has been 'refused' by the Senate unless and until the full body votes it up or down. That is inconsistent with settled practice, and it is not how the Senate has chosen to conduct its legislative business."

Legal Claims and Relief Sought

The lawsuit seeks both declaratory and injunctive relief to:

Declaratory Relief:

- Affirm the General Assembly's exclusive constitutional authority to confirm or refuse gubernatorial appointments through committee action
- Establish that the June 9, 2025 committee vote immediately terminated the appointees' eligibility to serve
- Confirm that rejected appointees are unconstitutionally prohibited from continuing in office
- Clarify that board members who knowingly permit continued service by rejected appointees would violate their duties

Injunctive Relief:

- Prohibit defendants from allowing Kenneth Cuccinelli and the seven other rejected appointees to participate in any board activities
- Require immediate cessation of recognition of the rejected appointees as board members
- Ensure compliance with Virginia Constitution Article V, Section 11 and relevant state statutes

Broader Constitutional Concerns

The legal action reflects the constitutional crisis created when the executive branch refuses to accept legislative action. The complaint notes that allowing this nullification would undermine "the constitutional separation of powers and legislative authority over public institutions" and damage "public confidence in the rule of law and proper governance of taxpayer-funded institutions."

Procedural Context

The appointments were formally submitted to the General Assembly on May 30, 2025, and considered under the ongoing 2024-25 special session that began in April 2024 and has never been formally adjourned. Senate Joint Resolution 6001, which would have confirmed the appointments, was introduced on June 6 and rejected by the Privileges and Elections Committee on June 9 by a vote of 8-4.

The lawsuit emphasizes that this follows established practice, noting that "in the 2025 regular session of the General Assembly, 224 bills and resolutions failed in Senate committee without action on the floor of the Senate or transmission to the House of Delegates."

Next Steps

The case has been filed in the Circuit Court for the County of Fairfax as *Lucas v. Stimson*, et al. The defendants are sued in their official capacities only, and the plaintiffs do not accuse them of personal wrongdoing, noting they are caught in an "untenable position" created by the executive branch's constitutional defiance.

The Virginia Attorney General's office, which has publicly supported the rejected appointees' continued service, is expected to represent the defendants in the litigation.

The plaintiffs are represented by Mark Stancil of Wilkie Farr & Gallagher LLP.

A copy of the complaint can be viewed [here](#).

Case No. CL 2025_09205

CHARLES STIMSON, Rector of the Board of Visitors of George Mason University;
THOMAS E. GOTWALD, President of the Board of Visitors of Virginia Military Institute;
and ROBERT D. HARDIE, Rector of the Board of Visitors of the University of Virginia,

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