



February 21, 2023

To: University Senate Chair Sydney Faught, Vice Chair Alec Dawson, Senator Dwight Williams, Senator Roxana Moslehi, and Senator Malcolm Sherman (CAFFECOR Chair)
University Senate, University at Albany, State University of New York

RE: Complaint of Academic Freedom and Freedom of Expression Violations on behalf of Professor David O. Carpenter

This complaint is submitted by Public Employees for Environmental Responsibility (PEER) on behalf of our client, Dr. David Carpenter. Dr. Carpenter is a long tenured faculty member, former Dean of the School of Public Health, and the current Director for the Institute for Health and the Environment at the University at Albany, State University of New York (“University at Albany” or “University”).

This complaint focuses on restrictions on Dr. Carpenter’s Freedom of Expression and Assembly, including academic freedom, as provided for in section 2.4.2 of the Faculty Bylaws. As detailed below, this complaint charges that President Havidán Rodríguez and individuals in the University Counsel’s office and Human Resources office have engaged in conduct that has restricted his academic freedom and freedom of expression.

This complaint urges the Senate, through the Committee on Academic Freedom, Freedom of Expression, and Community Responsibility (CAFFECOR) to investigate the wrongful retaliatory actions by the University against Dr. Carpenter in violation of University at Albany’s academic and expressive freedom guarantees, and to pursue disciplinary and other ameliorative action.

Dr. Carpenter has been a tenured professor with the University since 1998, was the founding Dean of the School of Public Health in 1985, and is the founder and Director of the Institute for Health and the Environment. For over eight months now, since May 27, 2022, Dr. Carpenter has been banished from the campus and not permitted to teach classes or advise his PhD and Masters students in his office, based on a purported “disciplinary investigation” recently described by the Office of Human Resources as “focused on the business and financial transactions of the Institute.” Until a “counseling meeting” held on February 6, 2023, by Human Resources and University Counsel, Dr. Carpenter had never been told the specific subject matter of the investigation, was never interviewed in connection with the investigation, and never asked to speak to any allegations that may have been made against him. He was, nevertheless, placed in an alternate assignment (his home) since last May, which, included until recently, a restriction on his presence on campus and his lead investigator status on his federal grants.

While University personnel refused, for many months, to provide information concerning the nature of the investigation, it appeared to be related to Freedom of Information Law (“FOIL”) requests for records related to Dr. Carpenter’s testimony as an expert witness submitted by attorneys representing some of the producers of the chemicals that are the subjects of Dr. Carpenter’s research and expert testimony. Dr. Carpenter’s work has drawn the ire of chemical companies because it provides scientific evidence of the toxicity and health impacts of their products and supports compensation for those who have been injured. It appears that the actions taken against Dr. Carpenter make the University complicit in an effort to silence him and undermine the credibility of his research and expert testimony regarding the health impacts of toxic chemicals. The University’s actions in preventing Dr. Carpenter from carrying out the duties essential to his academic freedom of teaching classes and being available to consult with his doctoral and master students at his office have damaged his academic career and professional standing to a substantial degree. He has suffered social, emotional and reputational harm. Professional colleagues, students and potential clients are aware that Dr. Carpenter has been suspended from teaching and barred from the campus, and assume he must have done something seriously wrong to occasion such drastic restrictions for such an extended period. Dr. Carpenter has no way to defend himself or clear his name from unknown accusations. Despite repeated requests, University administrators in the University Counsel’s office and the Office of Human Resources declined to provide Dr. Carpenter any information about the allegations against him or give him any opportunity to respond to them.

Without any information concerning the allegations against him, there is no basis to justify the restrictions on Dr. Carpenter’s activities. It is in fact difficult to even imagine any such transgressions or misconduct that could justify preventing him from coming to the campus or teaching for the last eight months. Dr. Carpenter has previously attempted to resolve this matter internally through his union and his private counsel; however, these efforts were to no avail.

Most recently, Dr. Carpenter was summoned to a counseling meeting by the Office of Human Resources at which it was implied no misconduct was found and that the alternate assignment could be lifted prospectively if he agreed to a series of restrictions relating to his outside activities. This meeting still did not supply any information concerning what the allegations against him were or what the investigation had found. The University has failed to make any public or even private statements to clear Dr. Carpenter’s name.

Summary of Violations

President Havidán Rodríguez and the University administration have infringed upon the academic freedom of Dr. Carpenter in the following ways:

1. Refusing Dr. Carpenter access to his office and lab on the University’s campus;
2. Barring Dr. Carpenter from teaching classes; and
3. Placing additional unnecessary restrictions on Dr. Carpenter as a condition to allowing his alternate assignment to end.

Academic Freedom and Freedom of Expression Guaranteed to University Faculty

The University Faculty Handbook states that it is the policy of the University to “maintain and encourage full freedom, within the law, of inquiry, teaching and research. In the exercise of this freedom faculty members may, without limitation, discuss their own subject in the classroom.”¹ Moreover, the Faculty Handbook maintains that “In their role as citizens, employees have the same freedoms as other citizens.”²

It is also incumbent upon the University to remember its commitment to freedom of expression:

“The University reaffirms its commitment to the principle that the widest possible scope for freedom of expression is the foundation of an institution dedicated to vigorous inquiry, robust debate, and the continuous search for a proper balance between freedom and order.

The University seeks to foster an environment in which persons who are on its campus legitimately may express their views as widely and as passionately as possible; at the same time, the University pledges to provide the greatest protection available for controversial, unpopular, dissident, or minority opinions.

The University believes that censorship is always suspect, that intimidation is always repugnant, and that attempts to discourage constitutionally protected expression may be antithetical to the University's essential missions: to discover new knowledge and to educate.”³

As described below, there is no reasonable way to reconcile the conduct of the University at Albany administration with these requirements and provisions. The actions undertaken appear to be in flagrant violation of these principles.

Recent Instances of Improper Academic and Expressive Infringement

1. Refusing Dr. Carpenter access to his office and lab on the University's campus.

Since May 27, 2022, the University has refused to allow Dr. Carpenter to return to his office and lab on the University's campus. As a result, he cannot interact with his staff and students directly, resulting in a predictable decline in the quality of their work environment and education.

2. Barring Dr. Carpenter from teaching classes.

In addition to refusing Dr. Carpenter access to his office and lab on the University's campus, University at Albany has also barred Dr. Carpenter from teaching classes in the Fall 2022 and Spring 2023 semesters. To add insult to injury, President Rodriguez, individually, and his press office have untruthfully responded to public inquiries about Dr. Carpenter's status, stating that he was “was expected to teach this semester until the class was cancelled because it did not meet the minimum enrollment threshold.” In truth, Dr. Carpenter was not offered the chance to teach this

¹ University at Albany, State University of New York Faculty Manual, 2022 – 2023, <https://www.albany.edu/provost/faculty-handbook>.

² *Id.*

³ *Id.*

semester and, indeed, has remained on his alternate assignment – including a prohibition from being on campus – through today, midway through the semester.

3. Placing additional unnecessary restrictions on Dr. Carpenter as a condition to allowing his alternate assignment to end.

On February 6, 2023, Dr. Carpenter was summoned to a counseling meeting by the Office of Human Resources at which it was implied no misconduct was found and that the alternate assignment could be lifted prospectively if he agreed to a series of restrictions relating to his outside activities. The conditions are a clear attempt to prevent Dr. Carpenter from doing expert witness work, which faculty everywhere do without the kind of restrictions they are trying to impose on him.

Suspected Motives Behind the Adverse Actions taken by the University

To date, the University has failed to allege any sort of misconduct against Dr. Carpenter. The impetus for the University's adverse actions appears to be a FOIL request submitted in early 2022.

A law firm, which represents Monsanto Company, now owned by Bayer US, filed a FOIL request with the University seeking details on grants awarded to Dr. Carpenter and his use of fees earned as an expert witness. Dr. Carpenter's longtime public interest work and testimony in many lawsuits aiming to impose restrictions on human exposure to harmful chemicals have drawn the ire of the chemical industry.

Given the timing of the FOIL request and subsequent limitations on Dr. Carpenter's activities with the University, it seems likely that pressures from the chemical industry were the driving force behind Dr. Carpenter's continued banishment from the University.

The University's treatment of Dr. Carpenter is cause for alarm for any faculty member of University at Albany who cares about academic freedom and freedom of expression, because it renders them all vulnerable to University actions that cause major damage to their careers while leaving them no recourse. The actions against Dr. Carpenter are a demonstrative example of the University silencing its staff in the wake of self-interested, outside pressure and serve as a cautionary tale for other employees wishing to share their work and express their opinions.

Requested Relief

Dr. Carpenter has attempted to resolve this matter internally through his union and his private counsel but all attempts have failed to yield reasonable results. To redress these violations and avert litigation, Dr. Carpenter requests that University at Albany engage in the following corrective actions:

1. An investigative hearing exploring the genesis of the actions taken against Dr. Carpenter, the persons involved, any outside pressures that were brought to bear, the justification for the oversight and restrictions sought to be placed on Dr. Carpenter, and whether any other professors at the University have been subject to similar oversight or restrictions;
2. Immediate restoration of his teaching privileges and campus access;
3. Formal censure of the university administrators; and

4. Adoption of procedures requiring that subjects of university administrative investigations be informed of the nature of alleged misconduct at the outset, absent a public declaration that doing so would compromise the investigation; and that no restriction on academic freedom be placed on subjects during the course of an investigation unless they are shown to be necessary to protect the interests of the University .

We hope to reach an amicable solution in a timely manner. Please let us know to whom we should send any additional information and/or copies of referenced documents.

Thank you for your prompt attention to this matter.

Sincerely,



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