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October 4, 2013

Laura Rasar King, MPH, MCHES  
Executive Director  
Council on Education for Public Health  
1010 Wayne Avenue, Suite 220  
Silver Spring, MD 20910-5600

Dear Ms. King,

I am hereby filing with the Council on Education in Public Health (CEPH) a formal complaint that the UCLA School of Public Health (SPH) selectively and illegally retaliated against me and wrongfully terminated my long career at the SPH. I allege that this retaliatory termination was directly due to my politically incorrect environmental epidemiology research and my successful whistleblowing against a powerful fellow faculty member who has engaged in substantial unethical conduct. This retaliation violated my academic freedom and provides substantial documentation of the lack of academic diversity and scientific integrity at the SPH. Furthermore my termination violates the SPH Mission “to enhance the public’s health by conducting innovative research. . . .” (<http://www.ph.ucla.edu/pdfs/SPHStrategicPlan.pdf>) and violates the UCLA Mission Statement, which states “UCLA is committed to academic freedom in its fullest terms . . . . In all of our pursuits, we strive at once for excellence and diversity. . . .” ([http://www.wasc.ucla.edu/cpr\\_endnotes/Mission\\_Statement.pdf](http://www.wasc.ucla.edu/cpr_endnotes/Mission_Statement.pdf)).

1) Violation of two CEPH accreditation standards for Schools of Public Health:  
“1.8 Diversity” and “4.2 Faculty Policies and Procedures”  
(<http://ceph.org/assets/SPH-Criteria-2011.pdf>)

Below I have presented substantial evidence that the SPH violates the CEPH criteria “1.8 Diversity” because it has does not “demonstrate a commitment to diversity” and does not “recruit, develop, promote and retain a diverse faculty.” In particular, the SPH has essentially no conservative faculty members and does little to promote or support conservative faculty members and their politically incorrect research. The current SPH faculty does not reflect the academic and political diversity of California. This lack of diversity does not “enhance the public’s health” and puts serious limits on the conduct of “innovative research.” In addition to the evidence below, I have other prima facie evidence on the lack of political diversity.

Also, the SPH violates portions of the CEPH criteria “4.2 Faculty Policies and Procedures,” specifically regarding “Policies, procedures and operational guidelines related to conditions of employment should be established and available to all faculty. Procedures should provide for fair and equitable treatment of faculty and should be consistently applied. . . . Required Documentation: b. Description of provisions for faculty development, including identification of support for faculty categories other than regular full-time appointments. c. Description of formal procedures for evaluating faculty competence and performance. . . .” I did not have and was never able to obtain a “regular full-time appointment” and the existing procedures do not “provide for fair and equitable treatment of faculty” and are not “consistently applied”.

## 2) Documentation That Appropriate Administrative Processes Have Been Exhausted

Retaliation and termination actions against me began February 10, 2010. When my efforts within the SPH to reverse these actions were unsuccessful, I filed a formal whistleblower retaliation complaint against UCLA on August 27, 2010. My UCLA complaint was never fully or properly addressed and was ultimately unsuccessful. All UCLA administrative processes were exhausted on August 30, 2011 and my research faculty appointment, which began on July 1, 1976, ended on June 30, 2012. I have been improperly and illegally forced into retirement and I currently have only a few rights granted to retired faculty members.

A Federal lawsuit against UCLA was filed in California on my behalf by the American Center for Law and Justice (ACLJ) on June 13, 2012, alleging violation of my first amendment right to free speech and my fourteenth amendment right to due process (<http://aclj.org/free-speech-2/lawsuit-against-ucla-after-professor-fired-for-blowing-whistle-on-junk-science>). I received a favorable ruling by a Federal Judge on March 18, 2013 and my lawsuit is now proceeding against six UCLA defendants, including a former and a current Vice Chancellor for Academic Personnel, as well as the SPH Dean, Associate Dean, and Department Chair responsible for my termination. My lawsuit provides strong evidence that counters the disingenuous claim in a June 14, 2013 UCLA news release that “UCLA zealously protects the intellectual independence of members of our academic community and has long maintained that Enstrom's political and scientific views and outside activities were not considered during his reappointment process.” (<http://newsroom.ucla.edu/portal/ucla/ucla-statement-regarding-environmental-235208.aspx>).

In addition to the ACLJ lawsuit cited above, extensive details regarding the scientific, academic, and administrative aspects of my case against the SPH are presented in the following four documents that are attached at the end of this letter:

January 23, 2012 Enstrom Letter to UCLA Epidemiology Program Review Team

(<http://www.scientificintegrityinstitute.org/EnstromA012312.pdf>)

May 21, 2012 ACLJ Attorney David French Letter to UC President Mark G. Yudof

(<http://www.scientificintegrityinstitute.org/French052112.pdf>)

March 26, 2013 FIRE Article “Encouraging Ruling in Whistleblowing Scientist’s Suit Against UCLA” (<http://thefire.org/article/15587.html>)

September 27, 2013 UCLA Faculty Association “Reminder that Your Emails Aren't Private”

(<http://uclafacultyassociation.blogspot.com/2013/09/reminder-that-your-emails-arent-private.html>)

The scientific issue underlying my UCLA termination involves the seminal research findings on fine particulate air pollution (PM2.5) and total mortality that I published in 2005 and 2006, which have upset an extreme environmental agenda in California. Although my null findings were considered to be a politically incorrect anomaly when first published in 2005, there is now overwhelming evidence supporting my conclusion that there is no relationship between PM2.5 and total mortality in California. My findings have been consistently misrepresented and/or ignored by the US Environmental Protection Agency (EPA) and the California Air Resources Board (CARB). EPA and CARB instead have primarily relied upon “secret science” findings from two specific studies that show a small positive relationship between PM2.5 and total mortality. The inability to independently verify these “secret science” findings has led to the August 1, 2013 US House Science Committee subpoena of the Harvard University and American Cancer Society data that provide the primary scientific basis for multibillion dollar PM2.5 and ozone regulations. The subpoena should finally make it possible to independently verify these “secret science” findings and this process will improve the scientific basis for EPA and CARB regulations. Recent developments regarding the subpoena, including my specific involvement, are described in the final attached document:

August 10, 2013 Article "Dispute Continues Over House Science Committee Subpoena to EPA for Secret Science" (<http://www.globalwarming.org/2013/08/10/dispute-continues-over-house-science-committee-subpoena-to-epa-for-secret-science/>)

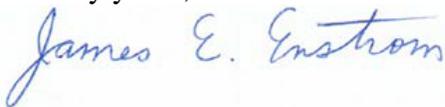
For a complete and proper understanding of my complaint, please read all of the pages in this letter and the attachments, as well as all of the web links that these pages contain.

### 3) Identification of the Outcome Sought

I request that CEPH carefully and fully evaluate my complaint following your specified procedures (<http://ceph.org/assets/Procedures.pdf>). In particular, I request that CEPH focus on my evidence that the SPH has very little academic and political diversity among the faculty, has flawed faculty policies and procedures, and does not properly protect the rights of all faculty members. I have a very strong case that the SPH has retaliated against and wrongly terminated a highly accomplished faculty member who has uncovered major scientific misconduct and has engaged in successful whistleblowing. Finally, I request that CEPH arrange, or attempt to arrange, a meeting involving CEPH, myself, and current leaders of the SPH. The purpose of this meeting would be to discuss all of the issues raised in my ongoing Federal lawsuit against UCLA, with the goal of reaching an equitable settlement. If the SPH does not agree to a meeting, I request a meeting with the CEPH site visit team when it comes to UCLA.

Thank you very much for your consideration and assistance.

Sincerely yours,



James E. Enstrom, Ph.D., M.P.H.



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January 23, 2012

Catia Sternini, Ph.D.  
Department of Neurobiology  
Chair, Academic Senate Review Team  
for Department of Epidemiology  
University of California, Los Angeles  
Los Angeles, CA 90095-1408

Dear Dr. Sternini:

I am writing regarding the current UCLA Academic Senate Program Review of the Department of Epidemiology (EPI) within the School of Public Health (SPH) (<http://www.senate.ucla.edu/programreview/2011-12ProgramReviews.htm>). I want to express my serious concerns about academic freedom, academic diversity, and ethical conduct in EPI. Although I am not currently affiliated with EPI, I am an accomplished epidemiologist who has been at UCLA since December 1, 1973 and I currently hold an epidemiology-related research faculty position in the SPH Department of Environmental Health Sciences (EHS). I have extensive knowledge that is highly relevant to the EPI Program Review. I request that you give my comments full consideration.

My comments are focused primarily on the following two aspects of the Program Review:

**1) ACADEMIC SENATE GUIDELINES FOR THE SELF-REVIEW**

(<http://www.senate.ucla.edu/programreview/documents/GuidelinesfortheSelf-Review.pdf>)

**“4. Sections of the Self-Review Report G. Diversity.** Describe specifically the department’s efforts to foster diversity among faculty and staff.”

**2) ACADEMIC SENATE GUIDELINES FOR THE SITE VISIT**

(<http://www.senate.ucla.edu/programreview/documents/GuidelinesfortheSiteVisit.pdf>)

**“Section 6. Special Concerns B. Evidence.** The review team needs to be sensitive to evidence, particularly for allegations of inadequate performance, misconduct, or wrongdoing.”

I have substantial evidence that EPI has violated basic University of California (UC) policies regarding mission statement (specifically academic freedom), academic diversity, and ethical conduct. The relevant portions of these policies are shown below, with key phrases in bold:

1) *UCLA Mission Statement* ([http://www.wasc.ucla.edu/cpr\\_endnotes/Mission\\_Statement.pdf](http://www.wasc.ucla.edu/cpr_endnotes/Mission_Statement.pdf)).

This statement says “UCLA’s primary purpose as a public research university is the creation, dissemination, preservation, and application of knowledge for the betterment of our global society. To fulfill this mission, **UCLA is committed to academic freedom in its fullest terms: we value open access to information, free and lively debate conducted with mutual respect for individuals, and freedom from intolerance.** In all of our pursuits, we strive at once for excellence and diversity, recognizing that openness and inclusion produce true quality.”

2) *UC Diversity Statement*

(<http://www.ucop.edu/ucophome/coordrev/policy/PP063006DiversityStatement.pdf>). This statement says “Diversity – a defining feature of California’s past, present, and future – refers to the **variety of personal experiences, values, and worldviews** that arise from differences of culture and circumstance.”

3) *UC Standards of Ethical Conduct*

(<http://www.universityofcalifornia.edu/compaudit/ethicalconduct.html>). These standards state “Pursuit of the University of California mission of teaching, research and public service requires a shared commitment to the core values of the University as well as a commitment to the ethical conduct of all University activities. In that spirit, the *Standards of Ethical Conduct* are a statement of **our belief in ethical, legal and professional behavior in all of our dealings inside and outside the University.**”

November 30, 2011 EPI Self-Review Report by Chair Roger Detels and Vice Chair Beate Ritz ([http://www.senate.ucla.edu/programreview/documents/SelfReview\\_Epidemiology.pdf](http://www.senate.ucla.edu/programreview/documents/SelfReview_Epidemiology.pdf)) states on page 11 “Another issue is the lack of diversity in the faculty, there being no Hispanic and only one African among the department’s FTE (regular-series) faculty. On the other hand, 4 of the 9 current FTE faculty are women.” The issue of diversity involves much more than the race and sex of the FTE faculty. Particularly troubling is the fact that EPI as a whole (the 43 FTE and non-FTE faculty listed in Table 1) is dominated by liberal faculty members who have a liberal approach to public health issues.

This lack of academic diversity has existed for the entire 38 years that I have been at UCLA. There is a tremendous emphasis in EPI on the health risks associated with AIDS and HIV and environmental factors like air pollution, pesticides, and low level radiation. However, among the 235,000 annual deaths in California, AIDS accounts for fewer than 1,000 deaths and air pollution, pesticides, and low level radiation account for essentially no deaths, based on my assessment. EPI does not focus on the positive aspects of health in California, such as, the fact that California currently has third lowest total (all cause) age-adjusted death rate of the fifty states (<http://www.cdc.gov/nchs/data/databriefs/db64.pdf>) and the fact that Los Angeles County has the lowest total age-adjusted death rate of any large American county, a rate that is even lower than the California rate.

My openly conservative approach to public health issues is not acceptable to EPI, although the importance of my research findings has been widely recognized outside of UCLA. My research has focused on California populations that are at low risk of major diseases and on lifestyle factors that result in improved health and reduced mortality rate, such as, religiosity, marriage, education, and no cigarette smoking. For instance, I have studied the health benefits of the Mormon lifestyle since 1973 and have documented that this lifestyle is associated with a long-term 50% reduction in total death rate and is generalizable to non-Mormons who follow the same lifestyle. The latest findings are described in my 2008 *Preventive Medicine* paper with Dr. Lester Breslow (<http://www.scientificintegrityinstitute.org/PM2008.pdf>). Also, I have done extensive epidemiologic research which shows environmental factors like low level radiation, environmental tobacco smoke, and air pollution have essentially no impact on mortality. I have made significant findings on several important epidemiologic issues and all of my findings have held up over time. However, several of these findings are “politically incorrect” and have not been received well by liberal SPH faculty members, particularly SPH Dean Linda Rosenstock.

For the past six years I have been engaged in a successful scientific effort to document that fine particulate matter (PM<sub>2.5</sub>) and diesel PM does not kill Californians. This effort has confirmed the validity of the findings in my December 2005 *Inhalation Toxicology* paper on PM<sub>2.5</sub> and mortality in California (<http://www.scientificintegrityinstitute.org/IT121505.pdf>). My effort directly counters the 22-year effort of several liberal activist scientists in California, including EHS Chair Richard J. Jackson, who played a prominent role in getting diesel exhaust classified as a carcinogen in 1990, and EHS Professor John R. Froines, who played a prominent role in getting diesel exhaust, specifically diesel PM, classified as a toxic air contaminant in 1998. These classifications subsequently lead the California Air Resources Board (CARB) to enact draconian regulations to reduce diesel PM levels in California. Many of these multi-billion dollar diesel vehicle regulations have gone into effect as of January 1, 2012.

My efforts regarding PM<sub>2.5</sub> and diesel PM epidemiology have been most recently described in my November 28, 2011 UCLA Institute of the Environment and Sustainability Seminar (<http://www.environment.ucla.edu/calendar/showevent.asp?eventid=667>) and in my December 13, 2011 comments to the California Office of Administrative Law (COAL) requesting suspension of the CARB diesel vehicle regulations ([http://www.arb.ca.gov/lists/gmbond2011/2-enstrom\\_letter\\_to\\_coal\\_cornez\\_re\\_suspend\\_carb\\_diesel\\_regs\\_121311.pdf](http://www.arb.ca.gov/lists/gmbond2011/2-enstrom_letter_to_coal_cornez_re_suspend_carb_diesel_regs_121311.pdf)). There is now overwhelming evidence that there are NO premature deaths due to PM<sub>2.5</sub> and diesel PM in California and no public health justification for the CARB diesel regulations. Unfortunately, my comments have been ignored by CARB and COAL. More California epidemiologists need to make their own assessment of this important environmental science and regulations issue.

Since 2008 I have made formal and/or informal requests to EPI Chair Detels, EPI Vice Chair Ritz (also an EHS Professor), former EPI Vice Chair Zuo-Feng Zhang (also an EHS Professor), and EPI Professor Sander Greenland regarding the serious issues of scientific integrity and ethical conduct surrounding PM<sub>2.5</sub> epidemiology. These four EPI professors have expressed no concern to me about these issues and other EPI faculty members have expressed no concern either. Also, there has been no concern expressed about the actions taken during the past two years to end my research faculty appointment in EHS for reasons that are clearly related to my outspokenness on the PM<sub>2.5</sub> epidemiology issue. The essential elements of my currently pending

termination from UCLA and its relationship to the PM<sub>2.5</sub> epidemiology issue has been described in the attached December 5, 2011 National Association of Scholars article “Why UCLA’s Firing of a Lone Dissenting Voice Should Worry Us” by Dr. Geoffrey C. Kabat ([http://www.nas.org/polArticles.cfm?doc\\_id=2303](http://www.nas.org/polArticles.cfm?doc_id=2303)).

I have made detailed requests regarding PM<sub>2.5</sub> epidemiology to Dr. Ritz, who is the EPI and EHS epidemiologist with the most expertise in air pollution epidemiology during the past decade, based on her publications and funding. However, she has failed to address my extensive evidence about the exaggerated mortality risks of PM<sub>2.5</sub> and diesel PM in California, as stated in my December 10, 2008 CARB public comments ([http://www.arb.ca.gov/lists/truckbus08/897-carb\\_enstrom\\_comments\\_on\\_statewide\\_truck\\_regulations\\_121008.pdf](http://www.arb.ca.gov/lists/truckbus08/897-carb_enstrom_comments_on_statewide_truck_regulations_121008.pdf)). She signed December 4, 2008 CARB public comments which support CARB diesel science and regulations. These comments include statements which have now been shown to be documentably false, such as, “The state of California estimates that diesel pollution from trucks and buses alone will be responsible for 4,500 premature deaths in California in 2008. . . . these pollutants are taking a serious toll on California’s public health. Much of this morbidity and mortality can be avoided by cleaning up heavy-duty trucks. . . .” (<http://www.arb.ca.gov/lists/truckbus08/426-public-health-letter--truck-and-bus-rule-dec-2008.pdf>).

Dr. Ritz has never corrected her 2008 CARB comments, which were also signed by EHS Chair Jackson, EHS Professor Arthur E. Winer, and Dean Rosenstock. Instead, Dr. Ritz stated in an August 2010 newspaper article about my then pending determination from EHS that she knows Enstrom “for letting his interpretations go beyond the data and his personal biases to be strong enough to not allow for a balanced and appropriately cautious interpretation of the numbers.” However, she has refused repeated requests to provide specific evidence supporting this defamatory claim (<http://www.scientificintegrityinstitute.org/Ritz100610.pdf>). My 2010 email messages to her are attached.

Her lack of response to these requests is further compounded by the fact that she, along with Dr. Zhang and Dean Rosenstock, participated in the April 15-16, 2010 EHS Program Review Site Visit, knowing that I had been entirely omitted. Furthermore, I was entirely omitted from the 650-page January 29, 2010 "UCLA Department of Environmental Health Sciences Self-Review Report" (<http://www.senate.ucla.edu/programreview/documents/SelfReviewEHScomplete.pdf>). These three individuals, who will participate in the February 16-17, 2012 EPI Program Review Site Visit, should be asked about the PM<sub>2.5</sub> epidemiology issue and the omission of me from the 2010 EHS Program Review. Dr. Ritz has refused to address my October 6, 2011 request about these matters (<http://www.scientificintegrityinstitute.org/Ritz100711.pdf>). Our 2011 email correspondence is attached.

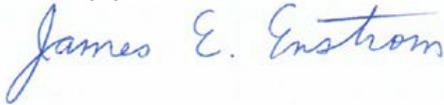
Having received no explanation from Dr. Ritz, I have made further attempts to get an explanation for my omission from the EHS Program Review. I sent an October 8, 2011 email request to Dr. Robert C. Spear of UC Berkeley, who was a member of the EHS External Review Team (<http://www.scientificintegrityinstitute.org/Spear100811.pdf>). Then I sent an October 10, 2011 email request to Dr. Robert G. Frank, Jr. of UCLA, who was Chair of the EHS Review Team (<http://www.scientificintegrityinstitute.org/Frank101011.pdf>). My request to Dr. Frank is attached. I have received no response to these requests from either Dr. Spear or Dr. Frank.

The complete lack of response to my requests raises serious concerns about academic freedom and ethical conduct in EPI. I believe this has occurred primarily because of the lack of academic diversity in EPI. Thus, I request that you and the other members of the EPI Review Team carefully examine and address my above concerns about academic freedom, academic diversity, and ethical conduct in EPI. Also, I request the opportunity to speak with the EPI Review Team directly about my concerns during the February 16-17, 2012 Site Visit at UCLA. At that time I will provide additional evidence that supports my concerns expressed above.

Finally, I want to make clear that the sole purpose of this letter is to inform the EPI Review Team of my serious concerns about EPI. This letter is not to be treated by the EPI Review Team or the Academic Senate Program Review staff as a personal grievance that should be addressed by other UCLA officials.

Thank you very much for your consideration of this important matter.

Sincerely yours,



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Attachments:

December 5, 2011 National Association of Scholars article “Why UCLA’s Firing of a Lone Dissenting Voice Should Worry Us” by Dr. Geoffrey C. Kabat ([http://www.nas.org/polArticles.cfm?doc\\_id=2303](http://www.nas.org/polArticles.cfm?doc_id=2303)).

October 2010 Enstrom email correspondence with Dr. Beate Ritz (<http://www.scientificintegrityinstitute.org/Ritz100610.pdf>)

October 2011 Enstrom email correspondence with Dr. Beate Ritz (<http://www.scientificintegrityinstitute.org/Ritz100711.pdf>)

October 10, 2011 Enstrom email request to Dr. Robert G. Frank, Jr. (<http://www.scientificintegrityinstitute.org/Frank101011.pdf>)



May 21, 2012

VIA FACSIMILE AND FEDERAL EXPRESS

President Mark G. Yudof  
University of California  
President's Executive Office  
1111 Franklin Street  
Oakland, CA 94607  
Fax: 510.987.9086

**Re: *University of California's Discriminatory and Retaliatory Treatment of  
Dr. James E. Enstrom***

Dear President Yudof:

The American Center for Law and Justice (ACLJ) represents Dr. James E. Enstrom, research professor at UCLA, regarding UCLA's unlawful retaliation against Dr. Enstrom after Dr. Enstrom exercised his constitutional right to free speech by exposing "junk science," scientific misconduct, and improper political activities on the part of UCLA professors and significant California state agencies. Unless stopped, UCLA's retaliatory activities will culminate in Dr. Enstrom's termination on June 30, 2012.

As you may be aware, the ACLJ is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in a number of significant cases involving the freedoms of speech and religion. *See, e.g., Pleasant Grove City v. Summum*, 129 S. Ct. 1523 (2009) (unanimously holding that the Free Speech Clause does not require the government to accept counter-monuments when it has a war memorial or Ten Commandments monument on its property); *McConnell v. FEC*, 540 U.S. 93 (2003) (unanimously holding that minors enjoy the protection of the First Amendment); *Lamb's Chapel v. Center Moriches Sch. Dist.*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school's campus did not violate the Establishment Clause); *Bd. of Airport Comm'rs v. Jews for Jesus*, 482 U.S. 569 (1987) (unanimously striking down a public airport's ban on First Amendment activities).

The purpose of this letter is to inform you of the applicable facts relevant to Dr. Enstrom's situation at UCLA, encourage you to remedy the clear constitutional violations that have taken place to date, and request that you restore Dr. Enstrom's position at UCLA

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without further delay. The facts to be presented herein, taken together, present a picture of a university casting about for reasons to justify, in a highly selective manner, its termination of an accomplished and productive researcher who has held his faculty position at the UCLA School of Public Health since 1976 – a researcher whose effective public advocacy and respect for scientific integrity had made him vulnerable to, and eventually resulted in, retaliation in the form of termination.

## **FACTUAL BACKGROUND**

For much of the last four years, Dr. Enstrom has aggressively and effectively exposed comprehensive wrongdoing, flawed science, and procedural irregularities within the University of California (UC), the California Air Resources Board (CARB), and the Scientific Review Panel on Toxic Air Contaminants (SRP). Dr. Enstrom has published major peer-reviewed epidemiologic findings showing that there is no relationship between fine particulate air pollution and total mortality in California; developed strong evidence that this relationship has been systematically misrepresented by prominent UC scientists and CARB since 2000; exposed the fraudulent credentials of a key CARB “scientist” whose 2008 report on this relationship was the prime justification for a new and draconian (multi-billion dollar) regulatory scheme in California; and exposed the lengthy and illegal tenure of UCLA Environmental Health Sciences (EHS) Professor John R. Froines and other members of the SRP. Dr. Enstrom’s efforts clearly influenced the revision of both the 2008 CARB report and the new CARB regulations.

In addition, Dr. Enstrom met with you in Oakland on November 12, 2009, to discuss these serious matters, particularly regarding Dr. Froines and the need to make new SRP nominations. Your early 2010 nominations resulted in the replacement of five of the nine SRP members, including Dr. Froines. However, you renominated Dr. Froines to serve on the SRP on November 2, 2010, and again on February 7, 2012, and he continues to serve as SRP Chair to date.

Again and again, Dr. Enstrom’s scientific and policy critiques regarding the relationship between fine particulate matter and mortality in California have been vindicated. Dr. Enstrom’s research and critiques have had significant scientific and regulatory impact in California and the United States, as was amply documented by numerous scientific, business, and legal witnesses at his April 2011 APM 140 Step III-B Hearing. For example, Dr. Enstrom’s research was cited in a detailed November 15, 2011 critique of US EPA’s particulate matter science and regulations by Drs. Andy Harris and Paul Broun, two Congressmen who oversee the EPA.

## **RETALIATION**

Unfortunately, however, just as Dr. Enstrom’s public criticisms were beginning to have a significant impact in early 2010, he abruptly received the first of *several* inconsistent notices that he was being terminated – that his 34 year research faculty career at UCLA was over.

First, in February 2010, the University attempted to terminate Dr. Enstrom by claiming his research funds were exhausted. However, after Dr. Enstrom documented that he had research funds, along with accrued vacation and sick leave, sufficient to pay his salary through 2011, the funding issue was withdrawn as justification for termination. What is more, EHS has refused to

provide Dr. Enstrom with an explanation for serious irregularities in the accounting of his funds at UCLA, including failure to provide monthly fund summaries, unauthorized use of his unrestricted research funds, and overcharging of indirect costs. In addition, Dr. Enstrom has not been able to submit applications for new funding through the University since early 2010. Finally, the University has failed to pay Dr. Enstrom any salary since June 2010, even though substantial salary funds would be available if Dr. Enstrom were allowed access to his accrued sick leave and the research funds that were incorrectly used by the University to pay indirect costs.

Next, in June 2010, the University sent a notice saying that Dr. Enstrom was being terminated because his research was “not aligned with the academic mission of the Department,” and his research and other contributions “did not meet the department requirements.” In the October 20, 2010 APM 140 Step II Review by Dr. Richard H. Gold, however, the University rejected its own assertion that Dr. Enstrom’s research wasn’t aligned with the department’s mission.

Regarding Dr. Enstrom’s research, the April 4-8, 2011 APM 140 Step III-B Hearing revealed a series of undeniable truths:

- Dr. Enstrom was given *no notice* of expected “department minimums” in research and productivity;
- Dr. Enstrom received no warning that his pace of research was allegedly inadequate;
- Dr. Enstrom’s productivity and research during 1976-2010 had actually increased in the last five years (2005 to 2010) compared to his average five-year research production in the twenty-nine (29) years prior. In other words, his productivity was *increasing*;
- Dr. Enstrom had been successfully reappointed based on direct evaluation by four Deans and two EHS Chairs prior to Dr. Jackson who suddenly and inappropriately changed the method of evaluation to a self-described “unusual” Departmental review that EHS “hadn’t done for another researcher;”
- While supposedly evaluating Dr. Enstrom’s scholarship, Dr. Jackson and other key professors (including Dr. Froines) *did not even bother to read* Dr. Enstrom’s publications and thus had no basis to objectively evaluate his work;
- Even as he refused to read Dr. Enstrom’s publications, Dr. Froines admitted that at least one of Dr. Enstrom’s influential external critics was so blinded by animosity against Dr. Enstrom that he could not read his work objectively;
- When Dr. Enstrom appealed his termination, Dr. Jackson disingenuously justified his claims about Dr. Enstrom by producing a 1995 document regarding expected publication rates for faculty members that Dr. Jackson *had not seen* and *did not even know existed* when he decided to fire Dr. Enstrom;
- Not only had Dr. Jackson not seen this 1995 document, neither had Dr. Enstrom, who was completely blindsided by its existence; and
- The 1995 document, by its own terms, *does not even apply* to an individual in Dr. Enstrom’s non-Senate research faculty position; it applies to advancement and promotion, not retention, of Senate faculty members.

In addition, during the Hearing, Dr. Jackson put forward yet another justification for firing Dr. Enstrom – one that was entirely omitted from his written non-reappointment notices. According to Dr. Jackson, he fired Dr. Enstrom because Dr. Enstrom allegedly misrepresented his title, calling himself a “Research Professor” rather than a “Researcher.” Yet Dr. Enstrom presented uncontradicted evidence that this was precisely the title that the University itself used to publicly describe him since the 1990s, long before Dr. Jackson arrived at UCLA in 2008.

Ultimately, in April 2011, during Dr. Enstrom’s APM 140 Step III-B Hearing, Hearing Officer Sara Adler failed to address critical evidence, ignored Dr. Enstrom’s First Amendment claims and UCLA’s mismanagement of Dr. Enstrom’s funds, and further set the stage for federal litigation. Despite Dr. Enstrom’s appeal of Hearing Officer Adler’s June 2011 decision to uphold his termination, in August 2011 Vice Chancellor Carole Goldberg also upheld his termination, but postponed the termination date to June 30, 2012.

It is important to note that the UCLA Academic Senate’s Academic Freedom Committee, comprised of professors from various disciplines within the University, has expressed its “unanimous concern” that the School of Public Health’s action “may represent a violation of academic freedom.” The Academic Freedom Committee was right to express its concern. While the Hearing Officer may refuse to consider the University’s financial misdealings, refuse to evaluate Dr. Enstrom’s First Amendment claims, and refuse to investigate Dr. Enstrom’s claims of misconduct and retaliation, federal courts will have no reluctance to examine the totality of the circumstances and no reluctance to refer credibility determinations to a jury.

I will not herein restate the application of governing law to this situation as previous letters to the University have thoroughly and adequately done. Please be advised, however, that it is clear that the University has been plainly looking for pretexts to fire Dr. Enstrom, all while denying him access to a single scrap of paper outlining the alleged requirements of his position or any pre-termination notice that his performance was deficient. While Chancellor Gene Block, Vice Chancellor Goldberg, and Hearing Officer Adler, among others, have chosen to look at the yawning absence of evidence in the University’s favor and believed every word of the University’s multiple and inconsistent denials, a jury may not be so forgiving.

## **CONCLUSION**

Please be advised that this letter serves as a final effort to avoid imminent litigation. Dr. Enstrom has provided considerable evidence that his termination is improper under APM 137 and is retaliation in direct response to his protected speech. This evidence is strong enough to cause the University’s Academic Freedom Committee to express “unanimous concern,” strong enough to reject the Hearing Officer Adler’s incomplete decision, and strong enough to take before a jury in federal court.

Good science requires dissent. A community of scholars cannot exist without debate. By acting to terminate the lone dissenter in EHS, the University cast a “pall of orthodoxy” on campus, violated its own Mission Statement, and defied the First Amendment. Dr. Enstrom requests that his termination be set aside and that he immediately be allowed to continue his research faculty position in an appropriate unit on campus, if not in EHS itself.

I respectfully request a written response to this letter and the requests herein by **June 1, 2012**. If the University ultimately chooses not to adequately protect Dr. Enstrom's academic freedom, then he will pursue all available legal remedies.

Respectfully,

**AMERICAN CENTER FOR LAW & JUSTICE**

A handwritten signature in black ink, appearing to read "D. French". The signature is written in a cursive style with a large initial "D" and a stylized "F".

David French  
Senior Counsel

cc: Dr. James E. Enstrom

## FIRE Article

# Encouraging Ruling in Whistleblowing Scientist's Suit Against UCLA

March 26, 2013

by [William Creeley](#)

After 35 years of employment, and many years of disagreement over research on air pollution and its implications for environmental regulations, Dr. James E. Enstrom, assisted by the [American Center for Law and Justice](#), [filed a federal lawsuit](#) against various University of California and UCLA administrators in June 2012. Enstrom's [complaint](#) alleged that UCLA had refused to reappoint him after he engaged in successful whistleblowing against a member of the Department of Environmental Health Sciences.

Last week, a federal district court issued an encouraging ruling in Enstrom's case. On March 18, United States District Judge Jesus G. Bernal signed an [order](#) denying some defendants' motions to dismiss Enstrom's First Amendment retaliation claims.



Specifically, Judge Bernal's ruling denies motions to dismiss Enstrom's First Amendment claims against former Vice Chancellor for Academic Personnel Thomas Rice and Vice Chancellor for Academic Personnel Carole Goldberg. The ruling further grants Enstrom leave to amend his complaint's First Amendment claims against UC President Mark Yudof, UCLA Chancellor Gene D. Block, Dean of the UCLA School of Public Health Linda Rosenstock, and UCLA administrator Barbara Housel. (Department Chair Richard Jackson and former School of Public Health Associate Dean of Academic Affairs Hilary Godwin did not challenge Enstrom's complaint, at least on the grounds that others did, which was that Enstrom had supposedly failed to plead specific facts to support his claims.) To sum this up, some of Enstrom's First Amendment claims are going forward, and none of them are permanently off the table.

Judge Bernal also found that Enstrom may have a due process right to an accounting of how UCLA spent the research and grant funds he brought into the university. Accordingly, the judge denied the motions by Jackson, Godwin, and Housel to dismiss Enstrom's due process claim and granted him leave to amend his complaint with respect to this claim against other defendants.

In other words, Enstrom's case will proceed, having cleared an important early hurdle. As former FIRE President and current ACLJ senior counsel David French [observed](#), this is an important step toward vindicating Enstrom's rights.

*Torch* readers will be familiar with Enstrom's case, which we've been covering since 2010, when Enstrom came to FIRE for help. FIRE [wrote](#) UCLA Chancellor Gene D. Block on August 26, 2010, pointing out that it is unconstitutional to refuse to rehire a faculty member because of his protected expression. FIRE also assisted Enstrom with internal grievances at UCLA and ultimately helped him [win](#) two additional years at UCLA.

Here's the full story of Enstrom's ordeal, as explained in the [press release](#) we issued after Enstrom filed suit last year:

Enstrom has worked at UCLA as a [researcher and professor](#) since 1976, being rehired consistently each year until his ordeal began. Beginning in 2004, he worked in UCLA's Department of Environmental Health Sciences (EHS). Over the years, he and a few of his colleagues have sometimes disagreed strongly about research on environmental health issues—for example, on the extent of the threat to public health posed by certain air pollutants, a topic of Enstrom's research which has been the subject of [intense debate](#) in California because of its implications for state environmental regulations.

Enstrom also was a successful whistleblower whose activism led to fellow EHS faculty member John Froines being replaced on a panel for the California Air Resources Board (CARB). Several members of the panel, including Froines, had been serving beyond the three-year legal limit on their terms of office, and Enstrom's whistleblowing provided part of the grounds for a June 2009 [lawsuit](#) on the issue. Enstrom also blew the whistle on a [fake Ph.D. degree](#) claimed by a CARB researcher.

UCLA's retaliation against Enstrom first became apparent in December 2009, when Enstrom discovered that UCLA had cut off his salary fund and charged his salary against his research funds without his knowledge. In February 2010, Environmental Health Sciences Chair Richard J. Jackson told Enstrom that UCLA was [laying him off](#). Enstrom fought back and kept his job.

After UCLA's first attempt failed, Enstrom learned of further retaliation in June 2010 when the EHS faculty (including Froines) voted not to rehire him because his "research is not aligned with the academic mission of the Department." UCLA also invoked vague and previously unmentioned "minimum requirements," even though his research output was similar to or greater than that of other professors in his department. Enstrom learned he was going to be "[indefinitely laid off](#)" effective June 30, 2010.

Enstrom has demonstrated that his research on environmental health is fully aligned with EHS' research [mission](#) of furthering "extremely interdisciplinary" research "at the interface between human health and the environment."

And here's a video produced by ReasonTV last year focusing on Enstrom's case: [The Green Regulation Machine: Saving the Planet or Killing Jobs?](#)

Of course, we'll be following further legal developments closely.

<http://uclafacultyassociation.blogspot.com/2013/09/reminder-that-your-emails-arent-private.html>

**[UCLA Faculty Association](#)   [Home](#)   [About](#)**

***Friday, September 27, 2013***

## **Reminder that Your Emails Aren't Private**

The Daily Bruin carries a story today about a demand for a UCLA professors emails. Excerpt:

*Two state senators have accused UCLA of withholding the records of a professor in the Department of Environmental Health Sciences from the public [School of Public Health], the most recent development in a conflict that has lasted about three years. The two California senators – Minority Leader Bob Huff (R-Diamond Bar) and Jean Fuller (R-Bakersfield) – started corresponding with UCLA about Professor John Froines’s public records earlier this year, when they noticed UCLA had not disclosed all of Froines’s emails in a past records request. Controversy over the records dates back to July 2010, when insecticide and fungicide manufacturing corporation Arysta LifeScience filed a records request asking for communications between Froines and other scientists that might show he engaged in actions that constituted a conflict of interest...*

Full story at <http://dailybruin.com/2013/09/27/state-senators-accuse-ucla-of-withholding-professors-records/>

The underlying story, as the article notes, goes back to 2010, and has been picked up in earlier blog postings:

<http://uclafacultyassociation.blogspot.com/2010/08/faculty-from-ucla-and-other.html>

<http://uclafacultyassociation.blogspot.com/2010/08/ucla-researcher-firing-questioned-in.html>

<http://uclafacultyassociation.blogspot.com/2010/09/previous-posts-on-whistleblower-case.html>

<http://uclafacultyassociation.blogspot.com/2011/04/follow-up.html>

It's a complicated tale about a state environmental panel and a claimed whistleblower. However, one takeaway for UCLA and UC faculty is that your emails are not private. You probably won't avoid such non-privacy by using an outside email service such as gmail, since you are likely to be sending messages to other UCLA and UC faculty who are on the university system. (Even faculty at private universities - who therefore are not subject to requests for public records requests - might communicate with faculty at public universities such as UCLA and thus find their emails made public.) Just deleting old messages probably won't ensure privacy. Before you click on your mouse, think

<http://www.globalwarming.org/2013/08/10/dispute-continues-over-house-science-committee-subpoena-to-epa-for-secret-science/>

**GlobalWarming.org      August 10, 2013**

**May Cooler Heads Prevail**

## **Dispute Continues Over House Science Committee Subpoena to EPA for Secret Science**

by [Myron Ebell](#) on August 10, 2013

in [Blog](#)

The public fight that Representative Lamar Smith (R-Tex.), Chairman of the House Committee on Science, Space, and Technology, picked with the Environmental Protection Agency last week looks like it will [continue](#) into the August recess. On 1st August, the committee voted on a party-line vote to authorize the chairman to [subpoena the EPA](#) for the data underlying several major epidemiological studies that are used to justify Clean Air Act regulations. Chairman Smith then [executed the subpoena](#) and sent it to new EPA Administrator Gina McCarthy, who in September 2011 as Assistant Administrator for Air and Radiation had promised the committee to turn over the data.

Representative Eddie Bernice Johnson (D-Tex.), the ranking Democrat on the Science Committee, sent Chairman Smith [a letter](#) on 30th July objecting in lengthy detail to the proposed subpoena. In her [6th August] letter, Rep. Johnson attacked the credibility of Dr. James Enstrom, who was fired by [UCLA](#) after 36 years as a research scientist because his results have sometimes been politically incorrect. In particular, he has questioned the EPA's claims of hundreds of billions of dollars of health benefits from its Clean Air Act regulations.

Dr. Enstrom responded to Rep. Johnson's attack in a [letter](#) to Chairman Smith in which he demands that Johnson "immediately withdraw her defamatory statements about me. Furthermore, I request that the Ranking Member identify the person(s) who originated these defamatory statements." Since both the Chairman and the ranking Democrat are from Texas, the story has been [picked up](#) by the Texas media. Chairman Smith has also now replied to Rep. Johnson in an 8th August [letter](#).