

February 7, 2021

Adam Steinbaugh
Director, Individual Rights Defense Program
Foundation for Individual Rights in Education
510 Walnut Street, Suite 1250
Philadelphia, PA 19106

(sent via electronic email to: adam@thefire.org)

Dear Mr. Steinbaugh:

As you know from FIRE's previous endorsement of the University of Colorado's policies addressing academic freedom and freedom of expression, our campus respects and protects the ability of our faculty to express their views. Our actions with respect to Professor Eastman are consistent with those policies, and I respectfully disagree with your assertion that university actions taken against Professor Eastman "exceed the boundaries permitted by the First Amendment."

I have spoken clearly that Professor Eastman's statements in Washington, D.C., were protected by the First Amendment, and I did not discharge him from his employment because of them. To the contrary, I exercised my right to voice my opinion that his statements were harmful to our country and contrary to our campus values.

Turning to the question of whether the campus has taken any inappropriate action against Professor Eastman, each of our actions is completely consistent with University of Colorado policy and the standards for public employers:

- Professor Eastman's two spring courses were cancelled because of low enrollment in accordance with the [policies](#) of the College of Arts & Sciences. Any students who wished to study with Professor Eastman could do so as independent studies. A public employer's application of its normal policies does not constitute retaliation.
- Professor Eastman's visiting scholar position was for a period of one year. The Benson Center followed its normal processes to recruit the next visiting

scholar and made a decision to not extend Professor Eastman's position before January 6, 2021. An action that precedes an employee's speech cannot be retaliatory.

- Professor Eastman's activities were not sufficiently disruptive to the campus to merit the termination of his employment. Provost Moore, however, determined that having Professor Eastman serve in a representational and outreach capacity would likely be detrimental to the center's ongoing interests. Relieving an employee of particular duties when the employer reasonably believes he cannot perform them without injuring the employer's interests not an adverse employment action.

To be clear, Professor Eastman can continue his scholarship, and he can continue to speak without university censorship. The university has taken no action that would deter a reasonable person from engaging in free speech, and Professor Eastman continues to express his views in writing, [John Eastman's Statement on His Retirement from Chapman University's Fowler School of Law - The American Mind](#), and on television [Now-Retired Law Professor John Eastman Says His Words at Trump's 'Save America' Rally Did Not Incite U.S. Capitol Siege \(msn.com\)](#). The university, however, is not constitutionally obligated to have him serve in a representational capacity when he exercises his right to free speech.

Sincerely,



Philip P. DiStefano
Chancellor
University of Colorado Boulder