


**Action required: What shall we do with a noncompliant senior faculty member?  
(especially if the "Employee Discipline Process" violates the Memorandum of Agreement.)**

Edward Vrscaj <ervrscaj@uwaterloo.ca>

Mon 11/15/2021 10:53 AM

To: Mark Giesbrecht <mwg@uwaterloo.ca>; Siv Sivaloganathan <ssivaloganathan@uwaterloo.ca>

Cc: UW President <uw.president@uwaterloo.ca>; Vice Pres Academic Provost <provost@uwaterloo.ca>; Cindy Forbes <cindy.forbes@uwaterloo.ca>; Karen Jack <kjack@uwaterloo.ca>; Marilyn Thompson <marilyn.thompson@uwaterloo.ca>; Charmaine Dean <cdean@uwaterloo.ca>; David DeVidi <david.devidi@uwaterloo.ca>; Jeff Casello <jcasello@uwaterloo.ca>; Jean Becker <j2becker@uwaterloo.ca>; Matthew Erickson <erickson@uwaterloo.ca>; Faculty Association President <fauwpres@uwaterloo.ca>; Erin Windibank <erin.windibank@uwaterloo.ca>; Roydon Fraser <rafraser@uwaterloo.ca>; Jasmin Habib <jasmin.habib@uwaterloo.ca>; Jean-Paul Lam <jplam@uwaterloo.ca>; UWSA President <uwsa.president@uwaterloo.ca>; Cupe Local793 <cupe793@uwaterloo.ca>; Greg Macedo <greg.macedo@uwaterloo.ca>; Sheila Ager <sager@uwaterloo.ca>; Mary Wells <mawells@uwaterloo.ca>

 7 attachments (7 MB)

Consequences for non-compliance with vaccine mandate UW October 8 2021.pdf; FROM THE MEMORANDUM OF AGREEMENT 8 DISCIPLINE.pdf; How Covid-19 Killed Academic Tenure Janice Fiamengo.pdf; Britz-McKibbin letter to Mossman McMaster University.pdf; Instructions issued by the Office of the Chief Medical Officer of Health for Universities-1.pdf; COVID-19 The Great Reset Klaus Schwab Thierry Malleret.pdf; The Silence of the Professors Janice Fiamengo.pdf;

**To:** Mark Giesbrecht, Dean, Faculty of Mathematics  
Siv Sivaloganathan, Chair, Department of Applied Mathematics

**Cc:** Vivek Goel, President, University of Waterloo  
James Rush, Vice President Academic and Provost  
Cindy Forbes, Chair, Board of Governors  
Karen Jack, University Secretary  
Marilyn Thompson, Associate Provost, Human Resources  
Charmaine Dean, Vice President, Research and International  
David DeVidi, Associate Vice President Academic  
Jeff Casello, Associate Vice President, Graduate Studies and Postdoctoral Affairs  
Jean Becker, Interim Associate Vice President, Human Rights, Equity and Inclusion  
Matt Erickson, Director, Conflict Management and Human Rights  
Lori Curtis, President, FAUW  
Erin Windibank, Executive Manager, FAUW  
Roydon Fraser, Jasmin Habib and Jean-Paul Lam,  
Academic Freedom & Tenure Committee,

FAUW

Kathy Becker, UWSA President  
Greg Macedo, CUPE President  
Sheila Ager, Dean of Arts  
Mary Wells, Dean of Engineering  
Jean Andrey, Dean of Environment  
Lili Liu, Dean of Health  
Bob Lemieux, Dean of Science  
Bill Power, Chair, Department of Chemistry  
Raouf Boutaba, Chair, David Cheriton School of Computer Science

**Re:** Action required: What shall we do with a noncompliant senior faculty member? (To be sung to

the tune, "What shall we do with a drunken sailor?" English traditional sea shanty)

**Date:** November 15, 2021

Dear Mark and Siv, as well as others who may be interested to know that the UW administration's "Employee Discipline Process" may violate the Memorandum of Agreement:

I find it necessary to continue our correspondence (cf. my e-mails of September 26, October 16 and October 29, 2021) and ask a few more questions which require an immediate response. These questions concern actions that may be taken against me in the not-too-distant future, perhaps as early as the beginning of the Winter 2022 term. The actions will probably follow the "Employee Discipline Process" described in the October 8, 2021 memo entitled, "Consequences for noncompliance to the vaccine mandates" (copy attached): (i) a 3-day paid suspension followed by (ii) a 42-day unpaid suspension with benefits and then, possibly, (iii) termination of pay and benefits at the end of the suspension (which presumably means that the University wishes to force me into retirement). Of course, I shall not be teaching during the Winter 2022 term: the PMATH 370 course, "Chaos and Fractals", that I was originally scheduled to teach will probably be taught by someone else "in person". Siv has also told me informally – but only informally – that my teaching duties for next term could be moved to the Spring 2022 term, which can help to delay the question of "work arrangements".

As you both know, I am currently supervising two graduate students. In the three separate letters to you mentioned above, I have raised questions and concerns about the effects that any disciplinary actions might have on my students. To date, the only replies that I have received from you in this regard are your acknowledgements that I am committed to my students and interested in their welfare.

It must be emphasized that each of my students will be entering a most crucial period in her respective program in the Winter 2022 term. My Ph.D. student will be starting to write her thesis. Naturally, it is important that I be able to provide feedback during the writing of the thesis. (As I have written in previous e-mails, I am the only person on campus that could provide such feedback given the nature of the research.) There is also some collaborative research work that needs to be completed during this time. (She and I are currently writing a research paper with an end-of-January deadline for submission.) Winter 2022 will be the second term of my M.Math. student, which is usually the period in which I work with my students to develop a preliminary framework for their thesis research – obviously an important step. As I wrote in a previous e-mail, my M.Math. student's choice to come to Applied Mathematics was based on her desire to work with myself, and no one else but myself, as research supervisor. (I state this as a fact and not out of pride.)

My first question to you, Mark, and possibly Siv (and others who may have to work with UW's disciplinary policy): What happens if I am disciplined with the 42-day unpaid suspension next term? In particular, how will it affect my students? (We'll deal with the question of termination later.) 42 days is a long time. Who will be there for them? Are they expected to continue on their own, during my "exile"? Now you – or perhaps the UW senior administrators – may well respond as follows: "Wouldn't you continue to provide supervision out of good faith, the goodness of your heart or, if nothing else, your dedication to your academic vocation? After all, you can continue to supervise them while suspended. Do you really need to be paid and "unsuspended" to do this? Would you let such a petty concern as salary destroy the bond of trust that you have developed with your

students? Would you really do this to them?"

You were probably raising your eyebrows and smirking while reading the above, thinking to yourselves, "That does it! Ed has really lost it this time!" My question to you: What other response than "shifting the blame" would one expect from a University that is more interested in (or obsessed with?) making a faculty member bend (break?) and comply to a policy that he judges to be immoral, unlawful, medically unsound and discriminatory (cf. my letter to you of September 26, 2021) than in the welfare of his students? Especially when everything could be left alone and allowed to proceed normally and quite successfully, as has been the case since the pandemic came to our campus?

This matter is of supreme importance and requires your attention as soon as possible. In the case of my M.Math. student, it may be necessary to discuss a change of supervisor (possibly even a change in university). My Ph.D. student needs to be assured that she will be able to finish her thesis and defend it with proper supervision. There also remains the question of how I could continue to provide any further financial support from my NSERC Discovery Grant if I am suspended. Mark, in your November 1, 2021 e-mail reply to my e-mail of October 29, 2021, you suggested that such support could "be continued through an Adjunct Professorship." Such a strategy would, of course, have to be verified with NSERC. (I have a feeling that this will not be acceptable to NSERC so I shall contact them.) That being said, there also remains the question of whether I would be willing to submit to a rather insulting procedure, i.e., essentially being "fired" and then given permission to participate once again in University activities.

I am planning to meet with my students in a week or so to discuss this matter – the second such meeting concerning my possible suspension – and **ask that you do all that you can to help them by providing all necessary answers to the questions posed above.** Perhaps our senior administrators were hoping – or perhaps have decided – that nothing would be said about this matter until the day that my suspension would be declared. (After all, they do seem to like shock tactics, e.g., a proliferation of "Action required: You are not permitted on campus" memos.) And perhaps you are thinking the same. I, however, shall continue to do whatever necessary to prevent this. As you will recall, I have been the one who has been consistently taking the initiative to ask you relevant questions at each step of this process, often receiving very few, if any, answers. From my own experiences as well as those of the many other "refuseniks" on this campus, the enforcement of this entire vaccination mandate has been plagued with uncertainties, threats and conflicting messages from "line managers", "HR partners" and the like. (Staff members, in particular, have also had to endure silence, misinformation, rejection and even bullying.) And all of this in the name of "wellness"!

I presume that you, Mark and Siv, will have the responsibility of dealing directly with me when the time for suspensions comes. Let me make some recommendations in advance so that the mistakes made in dealing with Richard Mann (Computer Science) will not be repeated. I'm doing this to save time and frustration for both myself as you (e.g., a possible grievance). My recommendations are based on the "Employee Discipline Process" – which I shall refer to as "EDP" – which was outlined in the October 8 memo mentioned earlier.

1. First, I ask you to follow Point No. 1 of the EDP, that "in consultation with the individual", i.e., myself, "develop a plan for alternative work options if they are available". To the best of my knowledge, this was not done with Richard. Had there been any serious consultation, Richard would not have been suspended since it could have been easily established that no

“alternative work options” were necessary: (1) he is not teaching this term and (2) he can continue to pursue his research at home. (One naturally wonders if there may be grounds for a grievance in Richard’s case.) As such, I shall expect an exchange of e-mails – not simply a single “line manager-to-employee” e-mail from Mark (or perhaps Siv) – which will comprise a *bona fide* “consultation” so that a “plan” can be developed if, indeed, a plan is even necessary (see 2. below).

2. Regarding Point No. 2 of the EDP, I shall most certainly agree to being classified as “non-compliant”. I shall, however, dispute any judgement that “no alternative work options are available” since I can easily continue my research and supervision of my graduate students while away from campus – as I have been doing since the original lockdown. In my opinion, therefore, an imposition of the 3-day paid suspension contradicts the very EDP that you may try to enforce.
3. Everything written in 2. above will apply to Point No. 3 of the EDP since the matter of “no alternative work options are available” will not be applicable: I can easily continue my research and supervision of my graduate students while away from campus during the Winter 2022 term. Once again, an imposition of the 42-day unpaid suspension will contradict the EDP. But that being said, you/“they” may well decide, for whatever reasons “they” wish to concoct – reasons that I insist be stated in writing – that the “no alternative work options are available” phrase does apply, in which case I shall be removed as supervisor of my students – temporarily, I assume, with the idea of permanent removal. If this be the case, then I assume that you will inform my graduate students and provide the names of their new supervisors.
4. We now come to a point which could, in fact, nullify 3. above. Unless the UW administration has other ideas, **all disciplinary actions by the University – EDP or otherwise (if the EDP applies only until January 4, 2022) – should be performed in accordance with the Memorandum of Agreement (MOA) between UW and the Faculty Association of UW – see, in particular, Article 8, Discipline** (copy attached). In fact, Article 8 raises a number of rather serious questions regarding the EDP.
5. According to Section 8.4(b), “Suspension is the act of relieving a Member, without her/his consent, of some or all university duties and/or privileges.” As such, you must explicitly state all duties and privileges from which I shall be relieved. (I don’t think that this was done for Richard Mann.) For example, shall I be relieved of my graduate student supervisory duties? If so, then we’re back to 3. above, in which case you must definitely inform my graduate students. If not, then why would you suspend me?
6. Perhaps the most serious question of the EDP is with regard to its Point No. 4: “If the individual remains non-compliant 14 days before the end of the 42-day suspension, they will receive a letter indicating that their pay and benefits will cease as at the end of the suspension.” Is this to be considered a “dismissal”? If so, then there are potential problems. According to Section 8.4(c), “For Members with tenure or continuing lecturer appointments, dismissal means termination of appointment without the Member’s consent.” Sections 8.6-8.18 then describe the “disciplinary process.” Here I shall simply mention a couple of points: (i) According to Section 8.11, “The Dean shall convene a meeting within twenty-five working days of the date of notice to afford the Member an opportunity to make oral and/or written submissions before any disciplinary measures are imposed. The Member shall be given at least seven working days notice of the time and place of the meeting.” Clearly, the EDP makes no provision for such a meeting. (ii) According to Section 8.15, where the disciplinary action is dismissal for cause, suspension with reduced pay or a fine in lieu thereof, the Member shall retain full salary and benefits ... until the time limit for filing a grievance under Article 9 has expired. If the disciplinary action is grieved, the Member shall retain full salary and benefits for a period of one year from the date of the disciplinary decision in 8.12, or until the grievance and

arbitration procedures set out in Article 9 have been completed, whichever is earlier.” Clearly, none of this is discussed in the EDP, most probably because the UW administration, in its “noncompliance memo”, wanted to issue a stern “one size fits all” warning to all employees of UW. Unfortunately, one size does **not** fit all since faculty members are represented by the Memorandum of Agreement. It seems that the EDP was drafted in haste, with insufficient thought devoted to proper procedure according to the MOA. (With regard to staff members, let us hope that they have a proper avenue for grievance, e.g., Policy 33, *Ethical Behaviour*.)

From the final point above, it seems to me - and I’m speaking as a non-expert as far as legalities are concerned - that **the EDP – at least its Point No. 4 – violates the Memorandum of Agreement between UW and the FAUW**. Frankly, I am surprised that nobody else – in particular, the FAUW itself - noticed this after the EDP was announced on October 8, 2021. (Given the fact that the “unvaccinated” – both on- and off-campus – are considered to be modern-day “lepers”, however, I am not surprised.) I have discussed this matter with a member of the FAUW Academic Freedom and Tenure Committee who, I understand, will be bringing it to the attention of the FAUW Board of Directors. Let us see what happens, especially since one faculty member, i.e., Richard Mann, is directly affected at this time.

Speaking of academic freedom and tenure, I recommend Prof. Janice Flamingo’s excellent article, “How COVID-19 Killed Academic Tenure,” with UW as its focus (copy attached):

<https://the-pipeline.org/covid-killed-academic-tenure/#>

Regarding the question of whether or not “natural law” still exists on this campus, I do believe that the very basis of the UW mandatory vaccination and testing policy has never been communicated to its community members. I find this surprising since the policy has clearly affected our campus in a monumental fashion. Indeed, it may well turn out to be responsible for the dismissal of several (many?) faculty and staff members as well as the termination of programs of students who refuse to comply. (When asked, I recommend students to apply to universities which have chosen NOT to impose such mandates.) But even more disturbing is permanent scar that it has left in our community with regard to the two castes that it created, i.e., the vaccinated and the unvaccinated or, more accurately, the “unwanted”. (Very recently, a staff member commented, “Last year I was ‘essential’ and now I’m only a safety hazard.”) To the best of my knowledge, the vaccine mandate was never discussed or passed in UW’s Senate or by its Board of Governors. Is UW’s President acting according to guidelines provided by the *UW Emergency Response Plan* (January 2020)? Was there an advisory body, composed of medical and other experts, to help in the development of the mandate? And if so, have the names of its members ever been communicated to the public? I find myself asking the same questions as Dr. Philip Britz-McKibbin in his powerful letter to the VP of Research at McMaster University – copy attached for your information. Perhaps one of the most important questions is why the UW administration chose to go above and beyond the recommendations of the Chief Medical Officer of Health of Ontario (copy attached):

<https://ontariosuniversities.ca/wp-content/uploads/2021/09/CMOH-Instructions-EN.pdf>

I have copied this e-mail to other administrators because they, and indeed many more, need to be aware of what is happening on our campus as a result of the administration's attempts to enforce the vaccine mandate. I sincerely believe that each of you, and many others, all the way up to President Goel, should be receiving **all** e-mails of frustration, anxiety, sadness and despair from faculty, staff and students. **These are not problems that can be simply filed away and ignored, or conveniently**

passed on to some “black box” called [coronavirus@uwaterloo.ca](mailto:coronavirus@uwaterloo.ca).

I have also copied this e-mail to the Deans of all other Faculties at UW (as well as a couple of Chairs of Departments) since some of them may have to deal with their own “mandate resisters”, especially if the EDP is found to violate the MOA. Indeed, I have had the sincere pleasure of getting to know some of these critical thinkers – there are more than you may wish to believe. And what a fine and diverse group they are. Some may be able to obtain exemptions and do penance here. Others will leave, either voluntarily or by force – a great loss for UW. Let us hope that some will join the new and rapidly growing movement of independent-thinking scholars who are planning the establishment of new centers of learning and research. These “rejects” of our stagnating academic institutions, who think and question too much for their own good, thereby posing a threat to *Groupthink*, will hopefully attract the many critical-minded students who have decided to delay their education in the hope that the “vaccine mania” will eventually disappear – a mania destined to be recorded as another unfortunate episode in the history of humanity as well as the history of UW.

My own frustrating encounters with my “line managers” and “HR partner” are but a tiny drop in an ocean of confusion, frustration, fear, anxiety and depression being felt on this campus – by faculty, staff and students – as the administration tries to enforce its vaccination mandate. As I mentioned in previous letters, I have heard accounts, especially from staff members, that make my heart mourn and weep. I have seen letters from HR to faculty and staff treating them like pinballs. More recently, I saw a message from an academic advisor to students with regard to academic success – most probably directed toward those who are facing difficulties. The message began on a negative note, almost accusatory, ending with a “people are here to help you”. The advisor most certainly meant well but after reading the message I couldn’t help but feel that if students weren’t depressed before reading the message, they certainly would be afterwards. (My reaction was confirmed shortly thereafter by the following message from a student: “I wonder what kind of response I would receive if I responded to this e-mail and told them what’s \*really\* going on. These kinds of e-mails are upsetting.”)

Is UW truly the caring community that our fancy websites and e-publications promote – a community that is interested in the wellness of each and every member? I fear not, which is why I sincerely ask you, dear people, to do what you can to see that what is being preached is actually being practised! Of course, this may mean that you will have to overcome your fear of thinking and acting “outside the mob”! For many, that will be too much of a price to pay. That being said, I know that at least one of the recipients of this letter (an administrator) has spent much time and effort listening to the cries of a number of people (mostly staff) who have been marginalized because of the mandate. I also know, from a number of e-mails, that this person has made a significant impression on these unfortunate people, making all efforts to listen to them and understand what they are going through and why, as well as giving them hope that humane solutions can be found – even though this person has little or no power to change things on “their” own. I salute this unique and charitable individual and can only hope and pray such a warm and caring – yes, Christian – attitude will “diffuse” to others, including those at the top of the administrative chain.

That being said, I fear that if this “vaccine imbroglio” is but an initial glimpse of where and how this administration wishes to lead our institution, especially with its dedication to the “great reset” [1,2], then “this kind does not go out except by prayer and fasting” (Matthew 17:21). Those sufficiently familiar with the Bible will know the message contained in this quote. Others may wish to do a little “digging”. Those not at all interested (the majority?) can continue to be silent [3], enjoy the ride on the good ship *SS UWaterloo* – at least for the time being – and faithfully support, without question,

the UW administration in its relentless drive for coerced compliance. The penalty for noncompliance is exclusion (itself a product of colonialism [1]) but you are asked to rest assured in the promise that “everyone feels a sense of belonging at this institution, and can achieve their full potential” [1]. If, however, you do wake up some day to discover that more and more of your rights have been taken away, remember that the power of a university administration is directly proportional to the cowardice of the professoriate.

[1] UW President Vivek Goel’s Installation Address,  
<https://uwaterloo.ca/news/university-president/president-goels-installation-address>

[2] *COVID-19: The Great Reset*, by Klaus Schwab and Thierry Malleret. World Economic Forum Publishing (2020). Is this the unofficial “textbook” being adopted by government, NGOs and universities, including our own? Copy attached for your information.

[3] Janice Fiamengo, *The Silence of the Professors*, Epoch Times, September 2, 2021. Copy attached.

Edward R. Vrscaj  
Department of Applied Mathematics

[https://links.uwaterloo.ca/Repeal\\_UW\\_Mandatory\\_Vaccination\\_Policy/](https://links.uwaterloo.ca/Repeal_UW_Mandatory_Vaccination_Policy/)

“Schrodinger's Bat”: COVID vaccine mandates are necessary because the protected need to be protected from the unprotected by forcing the unprotected to use the protection that didn't protect the protected.