



THE

# AFCON

SENTINEL



Volume XX, Number 3

A Quarterly of the Academic Freedom Coalition of Nebraska

September 2016

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## Purpose:

To promote academic freedom, defined as intellectual freedom in educational and research contexts. This includes freedoms of belief and expression and access to information and ideas.

## MESSAGE FROM THE PRESIDENT—Linda Parker



*Linda Parker*

Libraries are always on my mind. This fact should not be a surprise for one who is a retired librarian. The library profession has various professional standards and statements about the freedom to read, intellectual freedom, and privacy. Links to new strategies for privacy guidelines can be found at <http://www.ala.org/news/press-releases/2016/08/new-library-privacy-guidelines-offer-strategies-protecting-patron-data>.

With the library profession's dedication to providing access to information in all formats—print, visual, audio, electronic—how do libraries protect users' rights to privacy? How does privacy interact with academic freedom? Where does privacy end and public accountability begin in the context of academic freedom?

A personal example of the privacy dilemma may be in order. One of my responsibilities when I worked at the University of Nebraska at Omaha was to serve as the library liaison to the Criminal Justice Department in the College of Public Administration and Community Services. A professor who taught a course about terrorism and terrorist groups asked me to do a presentation on library resources. He especially wanted me to show the students the web sites for terrorist groups. This request followed the passage of

the Homeland Security Act which allowed warrantless searches/seizures of library computers. I assumed that the IP address for any computer that I used would be logged every time I accessed a terrorist web site. This assumption certainly had a chilling effect on my preparation for the class, but I had an obligation to provide the best teaching experience for the students.

Libraries are not the only entities concerned about online privacy. In the August 7, 2016 *Omaha World-Herald* (p. 3D), the head of the Federal Communications Commission (FCC), Tom Wheeler, expressed concerns "that the Internet risks becoming divided into privacy haves and have-nots if companies such as AT&T and Comcast can dangle discounts in front of consumers in exchange for slurping up their search and browsing histories for advertising purposes." Organizations such as AFCON, FIRE (Foundation for Individual Rights in Education), and the Electronic Frontier Foundation (EFF), will monitor privacy issues as students and faculty rely heavily on web-based resources such as Google and Wikipedia,

When academic employers use a person's social media posts to refuse employment or dismiss faculty, privacy and the freedom to express one's opinion comprise an explicit concern for academic freedom. The Thomas Jefferson Center for the Protection of Free Expression (<http://tjcenter.org>), a non-profit organization based in Charlottesville, VA, with close ties to the University of Virginia, supports academic freedom and free speech,

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## Upcoming Events

The next AFCON Board Meeting will be **September 10, 2016, 10 AM**  
Loren Eiseley Library, 1530 Superior, Lincoln, Nebraska

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including aspects not covered by the First Amendment. Each year the Thomas Jefferson Center awards Jefferson Muzzles to individuals and institutions responsible for “egregious or ridiculous affronts to free speech during the preceding year.” In April 2016 the Jefferson Center awarded 50 Jefferson Muzzles. In previous years, 8-12 awards were presented. The awards were divided into 5 categories: Censorship of Students, Limiting Press Access on Campus, Threats to Academic Freedom, and Silencing Outside Speakers (<http://jeffersonmuzzles.org/>).

The University of Illinois Urbana-Champaign received a 2015 Jefferson Muzzle award for rescinding a job offer to Professor Steven Salaita for tweets he made regarding Israel’s 2014 bombing of Gaza. An October 27, 2015 Jefferson Center article about the aftermath of the

U of I decision to fire Professor Salaita (<http://tjcenter.org/unmuzzled-steven-salaita-vs-university-of-illinois/>) ended with the following Q&A with Steven Salaita:

### Q & A with Steven Salaita

#### What does your case reveal about freedom of speech in this country and in higher education in particular?

*That it’s tenuous, often subsumed to the interests of the donor and managerial classes. It also shows that many universities dislike unorthodox opinions because those opinions have the ability to interfere with the mythmaking so important to brand equity.*

#### Do you think social media plays a role in creating an environment in which free speech is threatened?

*I don’t know if any empirical research has been conducted, but my suspicion is that social media makes it easier for managers to threaten free speech. That is to say, social media make our*

*thoughts public and accessible. I don’t think social media increase suppression per se, but they do offer greater opportunities for discovery or controversy.*

#### Describe the best possible outcome of your suit. Beyond reinstatement and financial compensation for you, do you believe it has larger implications?

*I do think it has larger implications—some of those implications are already visible. Some universities, for example, are cutting, or attempting to cut, governing boards from the process of academic hiring. And, this is speculation, but I can’t imagine that a university administration will move to fire a faculty member for controversial speech without thinking seriously about the trouble it caused at UIUC. In any case, I very much want the case to have positive implications for university employees, particularly adjunct faculty and graduate students.*

## SUMMARIES of AFCON Board of Directors’ Meetings — Peggy Adair



Peggy Adair

**July 9, 2016**  
**Loren Eiseley**  
**Library,**  
**Lincoln, NE**

**(There was no board meeting in June, 2016.)**

**PRESENT:** Russ Alberts, Frank Edler, Bob Haller, Laurie Thomas Lee, Lora

Leibrandt, and Linda Parker.

Meeting was called to order at 10:15 a.m. Saturday, July 9th.

Agenda approved with Haller adding the Wayne State situation to Old Business.

**PRESIDENT’S REPORT (Linda):** Linda found a venue for the annual meeting at the UNO student center. UNO Criss Library agreed to co-sponsor the meeting so we

will not be charged for the room. It will have AV, etc. Because the student center is currently under construction the room may not be ready. If so we can use a room at the library. The date for the meeting will hopefully be Oct. 22, a Saturday. All publicity can go through UNO social media. The library department in the School of Education will be contacted to see if their students may want to attend. James LaRue, director of the ALA Office for Intellectual Freedom will be in town for the NLA convention and is a possible AFCON keynote speaker.

We need to discuss transferring the AFCON archives from the State Historical Society to the UNO library. A vote is necessary at the next meeting. Need suggestions for a theme for the annual meeting dealing with intellectual/academic freedom.

### NEWSLETTER (Frank):

Since Frank will be away in September, a discussion was had about whether to put out the Sentinel on August 31 or on October 15. We agreed that the September Sentinel should come out on August 31. That means that the deadline for September submissions will be August 15.

### OLD BUSINESS:

**Advancement of Goals:** Hopefully one more institutional membership (UNO Library). Maybe more individual memberships at the annual meeting. We can recruit student members at the meeting.

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## SUMMARIES of AFCON Board of Directors' Meetings

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### STUDENT VIDEO CONTEST

(Laurie): It was suggested that we create a submission form online to upload or a URL to YouTube, etc. There is probably not enough time to hold the contest before this year's annual meeting. Our goal could be next year's meeting. If the legislative bill changes to include high school students we can include them too in the contest. Although the bill only references public schools, the contest can include both public and private school students.

**2017 ANNUAL MEETING:** Dave Moshman's idea about centering the theme on the transgressions of academic freedom which took place during the UNL Professor's Trial of 1918 was met with approval.

**ACADEMIC FREEDOM AWARDS:** It was agreed that Bob Haller should pursue the issue of governance in state colleges in rela-

tion to bylaws, especially Wayne State College, with legislators. Frank Edler was tasked with finding out more about the student journalism bill.

A motion was approved to select Michael D. Kennedy, executive director of the Nebraska Collegiate Media Association, as one recipient of the AFCON Intellectual Freedom Award. The other recipient is Dr. Max McElwain and *The Wayne Stater*, the student newspaper at Wayne State College. Edler informed both of their awards (Kennedy subsequently declined the award).

**TREASURER'S POSITION:** Accounts need to be transferred. Meeting was adjourned at 12:00.

(Minutes taken by Lora Leibrandt for Peggy Adair.)

[www.academicfreedomnebraska.org](http://www.academicfreedomnebraska.org)  
[afcon.nebraska@gmail.com](mailto:afcon.nebraska@gmail.com)



**“If you tell people the truth,  
make them laugh, otherwise  
they’ll kill you.”**

— *Oscar Wilde*

## GREAT NEWS FOR STUDENT JOURNALISTS

Governor Bruce Rauner of Illinois signed a bill on Friday, June 24, 2016, which takes effect immediately and extends legal protections for college journalists to public high school students. The bill passed unanimously through the Illinois house and senate.

Evelyn Andrews in her article for the Student Press Law Center (SPLC) explained that “Students in public high schools will now have a legally protected right to choose what content will be part of their publications, even those produced for credit as part of a class” (SPLC, July 29, 2016, <http://www.splc.org/article/2016/07/illinois-new-voices-bill-signed>). This makes Illinois the

tenth state to pass such protections for high school student journalists. Besides Illinois, North Dakota and Maryland recently passed similar laws.

The bill “will reverse the effects of *Hazelwood School District v. Kuhlmeier*,



**“The forbidden  
things were a  
great influence  
on my life.  
I was forbidden  
from reading *A  
Catcher in  
the Rye*.”**

— *Amy Tan*

a 1988 Supreme Court case that gave high school administrators a free hand to censor school-sponsored publications so long as there was a justification ‘reasonably related to legitimate pedagogical concerns.’” (Ibid). The national New Voices campaign to strengthen legal protections for student journalism is spearheaded by the SPLC.

In addition, the American Society of News Editors has put forth a unanimous resolution in support of such laws (see Frank LoMonte, <http://www.splc.org/article/2016/07/illinois-new-voices-bill-signed>).



## AFCON Annual Meeting To Be Held at UNO on October 22, 2016

### **They Shoot Journalists, Don't They?** The future of the free press in a divided America

During the 2016 election cycle, professional journalists have been collectively booed at political events. They have been mocked by politicians, accused of bias by those who disagree with their reports, have been physically accosted, arrested and jailed while reporting public events, and have had their very lives threatened on social media and in person.

The “fourth estate,” that historical watchdog over our three branches of government, now finds itself under siege, challenged by reduced budgets, an explosion of social media competition, splintered tribes of ideology among citizens, and a corporate focus on ratings over substance.

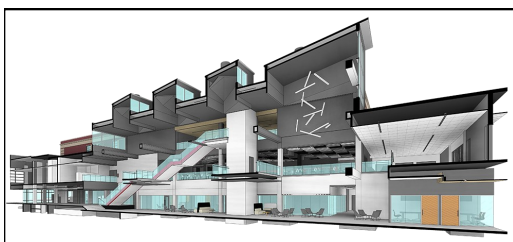
In such trying times it is vital to protect the future of the free press in America, beginning with protecting the academic freedom of journalism students and their advisers to incorporate the fundamentals of ethical, professional journalism into student publications and productions.

Learn what the present student journalism climate looks like in Nebraska, with an action plan for statutory free press protections.

### **Academic Freedom Coalition of Nebraska Annual Meeting**

Saturday, October 22, 2016 10:00am to 1:00pm  
University of Nebraska at Omaha, Milo Bail Student Center

Adults, \$20.00      Students, \$10.00  
Open to the public. Reservations are required.  
for further information: [lparkerlib@gmail.com](mailto:lparkerlib@gmail.com)



*3-D drawing of how the Milo Bail Student Center at UNO will look when the renovations are complete at the beginning of the fall semester.*

**“To be free is not merely to cast off one’s chains  
but to live in a way  
that respects and enhances the freedom of others.”**

**— Nelson Mandela**



## Integrity of NSCS Questioned at Wayne State College after the Removal of Faculty Advisor from the Student Newspaper Dr. Max McElwain



*Dr. Max McElwain*

My winning the AFCON Intellectual Freedom award could not have come at a better time.

In fact, shortly after learning on Sunday afternoon, July 10, that *The Wayne Stater* and I were recipients of this prestigious honor, I told my wife Karen that I couldn't have made up a scenario that might provide better support for my predicament at Wayne State College (WSC).

On June 29, campus security hand-delivered a letter from Steve Elliott, still the Dean of Arts and Humanities for one more day, ordering me to a "pre-disciplinary meeting" on July 6. The letter was copied to Dr. Michael Anderson—notably, the Vice-President of Academic Affairs for one more day also—and Candace Timmerman, the WSC Human Resources director. The reason given in the letter? "It appears that you disregarded my instructions and continued . . . the arrangement that you authorized without permission," Elliott wrote, regarding a student payment arrangement I had made in March 2015 to comply with federal guidelines for overtime pay.

"Please be advised," Elliott continued, noting the bargaining agreement between the Nebraska State Colleges Board of Trustees and the State College Education Association (SCEA), "that 'continuous disregard for established procedure' and 'insubordination' are grounds for disciplinary action."

Accompanying the letter was a page of four short emails from March 2015 confirming the arrangement concerning a staff member, whom I would have to pay overtime if she continued working for the paper because of her full-time campus job, and her training a student as a replacement for the 2015-16 year. Whoever accused me of "insubordination" didn't like that the trainer apparently did more work than the trainee, and the training process took almost a full year.

What was missing from the email was the chain of several other messages—from February 2015 to May 2016—that showed Elliott not only knew that the staff member was training someone else, but like me, never thought about it again. At least not until recently, when I was re-flagged for "fraudulent" actions.

The "arrangement authorized without permission" resulted in the student getting paid \$1,600 for academic year 2015-16. There are pay stubs to prove it. No student gets paid around here without someone higher up than me signing off on the paperwork.

So Elliott and Timmerman sat before an SCEA representative and me at the meeting, which ended shortly after I presented the chain of emails. The union rep said afterwards that I might get a letter placed in my personnel file, but this meeting was the likely end of this strange but predictable situation.

However, five days later, I received an email from Elliott, now the Vice President for Academic Affairs. On July 1, he had replaced

Anderson, whose forced resignation last fall was the result of his firing of a tenured psychology professor—a controversial event whose thorough coverage in *The Wayne Stater* resulted, at least partially, with the AFCON award.

The hand-delivered first letter arrived during Anderson's last week on the job. The second letter arrived by email during Elliott's first full week as VPAA, and it removed me as faculty advisor to *The Wayne Stater*, which I had served for 14 years (other teaching duties have been retained).

"Your lack of good judgment and your participation in this fraudulent wage payment was inappropriate. Your actions reflect poorly on the College," the letter read. "You will no longer . . . have any duties associated with *The Wayne Stater*."

"Any future acts of unprofessional conduct, unlawful conduct, disregard for established procedure, and/or insubordination may result in a recommendation for your dismissal from employment at Wayne State College."

Publication of this essay, of course, might likely trigger the dismissal process. If that doesn't, repeating conjecture from other WSC faculty—that these letters didn't originate in Elliott's office or perhaps not even Anderson's—may do the trick.

"Why not just let this go,

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## Links for Articles about Wayne State College

1. *Inside Higher Ed*, “Wayne State College dismisses student newspaper advisor” by Maxine Joselow, July 19, 2016, <https://www.insidehighered.com/news/2016/07/19/wayne-state-college-dismisses-student-newspaper-adviser>
2. Student Press Law Center, “Wayne State College dismisses two faculty from adviser positions” by Kaelynn Knoernschild, July 29, 2016; <http://www.splc.org/article/2016/07/wayne-state-college-dismisses-two-faculty-from-adviser-positions>
3. *The Wayne Stater*, Report on the irony of the NSCS board’s decision to raise student tuition by 9.3 per cent while simultaneously increasing Chancellor Stan Carpenter’s salary by 9 per cent, September 9, 2015; <http://thewaynestater.com/8192/archives/september-9-2015/>
4. *The Wayne Stater*, article on the termination of Dr. Karen Walker by President Rames after Walker’s appeal entitled “Pink slipped the modern way” (Derek Pufahl), January 20, 2016; <http://thewaynestater.com/8192/archives/september-9-2015/>
5. *The Wayne Stater*, the student newspaper made a Freedom of Information Act request to Chancellor Stan Carpenter about a meeting he had with Wayne State College presidential search committee and the request was denied, “FOIA request denied” (Justice Brundage), February 19, 2015; <http://thewaynestater.com/2810/news/foia-request-denied-2/>

## Other Links Relating to Academic Freedom

David Moshman’s *Huffington Post* piece entitled “Truth, Knowledge, and Academic Freedom” (July 2016) [http://www.huffingtonpost.com/david-moshman/truth-knowledge-and-acade\\_b\\_11170492.html](http://www.huffingtonpost.com/david-moshman/truth-knowledge-and-acade_b_11170492.html)

David Moshman’s *Huffington Post* piece entitled “Are Professors Too Liberal?” (August 2016) [http://www.huffingtonpost.com/david-moshman/are-professors-too-liberal\\_b\\_11366980.html](http://www.huffingtonpost.com/david-moshman/are-professors-too-liberal_b_11366980.html)

Student Press Law Center’s Roxann Elliott on the Florida trial court ruling that University of Central Florida must turn over records to student news outlet, August 12, 2016 <http://www.splc.org/article/2016/08/update-florida-trial-court-rules-ucf-must-turn-over-records-to-student-news-outlet>

## Moshman on Education Talk Radio

Policy Coordinator David Moshman was interviewed in July 2016 by Larry Jacobs on Education Talk Radio. The 35-minute interview, which can be heard at the link below, covered (in order) of-  
fensive speech; the firing of Steven Salaita at U. of Illinois; high school student T-shirts, the Wayne State College newspaper (*The Wayne Stater*); perils of teaching about

democratic protest; the power of administrators; limits on First Amendment rights since Hazelwood; civility, and the incivility of censorship; social media, including bullying and harassment; college speech codes and chilled speech, including the work of FIRE; the vulnerability of K-12 teachers; sexuality education; teaching controversial issues; evolution education and student rights; the importance of

academic freedom for teachers and students at all levels of education; the role of educational administrators in protecting academic freedom; problems of political polarization; and the educational value of argumentation.

<http://www.blogtalkradio.com/edutalk/2016/07/22/intellectual-freedom-for-students-and-teachers>

## Evolution Education Without Indoctrination

David Moshman



David Moshman

position.

In fact, they take two uncompromising positions: We must not compromise on evolution education and we must not compromise the rights of creationist students. Recognizing the fundamental principles at stake, their goal is to show how we can fully respect both considerations. The key is to distinguish understanding from belief.

Published by the University of Chicago Press, *Teaching Evolution in a Creation Nation* provides a scholarly treatment of a complex issue. The book is short and readable, however, reaching conclusions that can, and should, be implemented in all biology courses. And it may reassure creationists that their children will be treated fairly.

The first half of the book details the history of the anti-evolution movement in the United States over the past century. Then comes a careful and systematic analysis of the scientific status of evolutionary theory and of various creationist alternatives, including intelligent design. Finally, the authors present and justify an approach to teaching evolution that is scientifically and educationally responsible and fully respects all students and cultures.

A century ago most Ameri-

cans saw the teaching of evolution as a threat to the Christian conception of divine creation. The 1925 trial of John Scopes for teaching evolution brought the matter to national consciousness but for decades after that there was little teaching of evolution and thus little need to oppose such teaching.

In the early 1960s, however, as part of the post-Sputnik cold war mandate to enhance science education, biology education recognized the central role of evolution in explaining life. Creationists objected but the U.S. Supreme Court ruled in 1968 that laws banning the teaching of evolution were an unconstitutional establishment of religion. Subsequent efforts to legislate equal time for “scientific creationism” or “intelligent design” were also struck down in court.

In addressing evolution education, the authors argue, we should be clear that evolution is a well-established scientific theory with strong empirical support. The same cannot be said for any creationist alternative. Depending on exactly how we define science and what version of creationism we consider, creationist theories are either bad science (because they have been disconfirmed) or not science at all (because they make no testable predictions).

It might appear, then, that science classes should simply require students to believe in evolution, because this is simply a matter of believing the truth. But science education is not a matter of instilling beliefs. Evolution education ought to be aimed at *understanding* evolution, including the evidence that supports it. This may be expected in most cases to lead to belief in evolution, because the evidence is so strong, but it is ultimately for students to determine what they believe.

Creationism, the authors remind us, is not a scientific doctrine in competition with evolution. Even if some posit what they call “scientific creationism,” creationist beliefs are a matter of religion and culture. Science educators want students to understand science, including evolution, and should aim for scientific understanding. They need not and should not require belief. On the contrary, they should acknowledge the limits of science and respect student beliefs.

Science education, thus conceived, is fully consistent with respect for the right of students to determine their own beliefs and with respect for diverse cultural belief systems. Understanding science, a crucial part of education, need not entail indoctrination in particular beliefs or pressure to abandon alternatives. Even if creationism is now the dissenting belief of a minority culture, public schools must respect cultural and religious minorities, including creationists.

The key to evolution education, then, is to aim for understanding, not belief. Students should learn what scientists believe, and why, but the school cannot require them to change their own beliefs. Helping students understand evolutionary explanations, and the associated evidence, is fully consistent with respect for their ultimate right to believe as they will.

(This article originally appeared in The Huffington Post on June 13, 2016 at

[http://www.huffingtonpost.com/david-moshman/evolution-education-without\\_b\\_10430928.html](http://www.huffingtonpost.com/david-moshman/evolution-education-without_b_10430928.html).)



## Integrity of NSCS

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relax, and enjoy your last year at Wayne State?" some friends have advised, mindful that I was hoping to retire after one more year anyway. "Advising a college paper is so stressful. You can coast your last year."

My answer: the "fraudulent" arrangement was a silly, cherry-picked retaliation for the news coverage for which *The Wayne Stater* won the AFCON award: thorough, consistent reportage of The Nebraska State College System and the actions of Chancellor Stan Carpenter.

*Freedom of the press is guaranteed only to those who own one.* — A.J. Liebling

Why *wouldn't* Carpenter and the NSCS office in Lincoln want us to go away?

An editorial cartoon portrayed Stan, easily identifiable with his bow tie and mustache, as Seinfeld's "Soup Nazi," telling a student reporter "no scoop for you" in a lunch line. The cartoon appeared about the time we filed a FOIA request—denied—concerning a closed presidential search committee meeting that we believed violated the state open meetings law. ("No Scoop for You!!" *Wayne Stater* cartoon, February 18, 2015, p.4, [http://thewaynestater.com/3282/archives/february-18-2015/#prettyPhoto\[1\]/3/](http://thewaynestater.com/3282/archives/february-18-2015/#prettyPhoto[1]/3/); "FOIA Request Denied," *Wayne Stater*, February 18, 2015, p. 1, <http://thewaynestater.com/3282/archives/february-18-2015/#prettyPhoto> ).

The WSC presidential search process conducted almost two years ago provided particularly ripe material for investigative student reporters. They discovered that Carpenter had worked 15 years for the Vermont State



"I want you to have all the academic freedom you want as long as you wind up saying the bible account [of creation] is true and all others are not"

— *Jerry Falwell*

College System chancellor, Charles Bunting, who was hired by Carpenter in 2015 as lead consultant for the WSC presidential search. But only after Carpenter persuaded the NSCS Board of Trustees to increase the usual fee paid consultants by several thousand dollars ("Stan Carpenter, Search Consultant Go Way Back," *Wayne Stater*, March 4, 2015, p.1, <http://thewaynestater.com/3347/archives/january-28-2015/> ; "Better Call Stan," *Wayne Stater*, March 4, 2015, p. 16, [http://thewaynestater.com/3233/archives/march-4-2015/#prettyPhoto\[1\]/14/](http://thewaynestater.com/3233/archives/march-4-2015/#prettyPhoto[1]/14/) ).

In September 2015, readers of *The Wayne Stater* were jolted by a front page with the number "9" filling most of it. "In June," the accompanying headline read, "NSCS board raised tuition 9 percent at same meeting it gave chancellor 9 percent raise" ("In June, NSCS Board Raised Tuition 9 Percent at Same Meeting It Gave Chancellor 9 Percent Raise," *Wayne Stater*, September 9, 2015, p. 1, <http://thewaynestater.com/8192/archives/september-9-2015/> ).

And, of course, there was the Walker fiasco. Dr. Karen Walker was a popular, tenured psychology professor who was escorted from campus last Oct. 6 after a confrontation with then-VPAA Michael Anderson, who resigned later in the semester ("Stu-

dents Rally Today for Dismissed Professor," *Wayne Stater*, October 28, 2015, p. 1, <http://thewaynestater.com/8960/archives/october-28-2015/> ).

In December, a full-color, two-page spread presented an 18-wheeler parked in front of the WSC administration building with 18 questions concerning the Walker situation ("Truckload of Questions: An 18 Wheeler Full of Them," *Wayne Stater*, December 9, 2015, p. 9, [http://thewaynestater.com/9610/archives/december-9-2015/#prettyPhoto\[1\]/7/](http://thewaynestater.com/9610/archives/december-9-2015/#prettyPhoto[1]/7/) ). "Pink slipped the modern way," read the headline when *The Wayne Stater* reported this past January that Walker had received her termination letter via email from WSC President Maryz Rames, who said she couldn't confirm the firing because of a confidentiality clause in the SCEA union contract ("Pink Slipped the Modern Way," *Wayne Stater*, January 19, 2016, p. 1, <http://thewaynestater.com/10178/archives/january-19-2016/> ).

Yes, under my tutelage, the newspaper closely covered the NSCS, and students regularly

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## Wayne State College Contract Agreement Blocks Transparency in Dismissal Procedure

Frank Edler



Frank Edler

Faculty dismissals can be nasty affairs. The reputation of faculty and administrative officials not only can be tarnished, but also severely damaged. How colleges and universities deal with issues of transparency, freedom of speech, publicity, and fairness during a dismissal procedure is always a test of their integrity. Hopefully the procedures in place call out the best practices so that institutional integrity and faculty rights can be maintained. As we have seen, the University of Illinois at Urbana-Champaign paid a high price for its dismissal of Dr. Steven Salaita {see David Moshman and Frank Edler, “Civility and Academic Freedom after Salaita,” *AAUP Journal of Academic Freedom*, Vol. 6, 2015, pp. 1-13, <https://www.aaup.org/sites/default/files/MoshmanEdler--JAF6.pdf> ).

The 2015-2017 contract agreement for faculty between the Board of Trustees of the Nebraska State Colleges and the State College Education Association at Wayne State College (WSC) contains a separate article on dismissal (text of the full agreement is online at <http://www.nscs.edu/Contracts/2015-17%20SCEA%20AGREEMENT.pdf> and the dismissal section is Article XVII on page 39). A section of that article dealing with “Public Disclosure” reads as follows:

### Section 17.14 Public Disclosure

*Except for such simple announcements as may be required, covering the time of the hearing(s) and similar matters, public statements about the case by either the faculty member, the Advisory Committee*

*members or College administrators should be avoided. As a personnel proceeding, the hearing proceedings should be treated in a confidential manner.*

Much of the language of the above section is taken word for word from the eighth procedural recommendation on publicity in the AAUP’s Statement on Procedural Standards in Faculty Dismissal Proceedings. Here is the AAUP statement:

### Publicity.

*Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements about the case by either the faculty member or administrative officers should be avoided so far as possible until the proceedings have been completed. Announcement of the final decision should include a statement of the hearing committee’s original action, if this has not previously been made known ( <https://www.aaup.org/report/statement-procedural-standards-faculty-dismissal-proceedings> ).*

Notice how the WSC contract agreement follows the AAUP statement word for word until the last part of the sentence where it leaves out “so far as possible until the proceedings have been completed.” Why is that part left out? Because the Wayne State contract treats all personnel proceedings as confidential from beginning to end. Not so the AAUP statement. In fact, the AAUP statement does not even use the word ‘confidential.’ The reason it does not use the word ‘confidential’ is that the AAUP statement does not intend the proceedings to remain completely confidential. Not only does it say that

an announcement of the final decision should be made publicly regarding the dismissal (or reinstatement), but that the announcement “should include a statement of the hearing committee’s original action, if this has not previously been made known.”

In other words, the reason why faculty members and administrative officers should refrain from making public statements is to allow the appeals procedure to progress fairly without interference. Once the process has been completed, however, the final decision should be made publicly, and it should include a statement of the findings of the appeals committee (called the Advisory Committee at WSC). That statement should also be public. The point of the AAUP statement is that although transparency may be curbed during the appeals process, transparency should be restored at the end of that process with a public notice of termination (or reinstatement) with reasons and a statement of the findings of the appeals committee.

The question that arises with dismissal proceedings is the following: why are dismissal procedures the only proceedings deemed confidential? Section 17.14 above states that “As a personnel proceeding, the hearing proceedings should be treated in a confidential manner.” The implication is quite

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## Wayne State Contract

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clear. Dismissal and appeals proceedings should be confidential because they are classified as personnel proceedings. But why should dismissal proceedings be the only personnel proceedings banned from making public statements? If all personnel proceedings are confidential, then all public statements relating to personnel proceedings should be banned. This means that when a new faculty member is hired, he or she as well as administrative officials should not make any public statements about the new hire or the hiring process.

The WSC contract agreement has been used by administrators as a double-edged sword. For example, when Dr. Karen Walker, a tenured psychology professor at WSC, was fired and very publicly escorted off the college campus by security guards in October of 2015, WSC Vice President of Academic Affairs Michael Anderson invoked the above clause to say that college officials could not comment on the matter because it was confidential and no public statements could be made about it. That's one edge of the sword. The other edge is that Dr. Walker could not make any public statements about her being fired either. And so during the appeals process, no word was said about why Dr. Walker had been fired, and Dr. Walker herself said nothing about it. One could argue that the college up to this point had been following AAUP procedural recommendations.

Dr. Walker appealed her dismissal to an advisory committee, composed of two tenured faculty members chosen by the local SCEA president and two tenured faculty members chosen by the college president. Although the advisory committee is supposed to meet within thirty days from the time of appeal, it had



“Can teachers successfully educate children to think for themselves if teachers are not treated as professionals who think for themselves?”

— Diane Ravitch

not set a date for a hearing nearly two months after her appeal. The advisory committee finally held a hearing on December 17 and 18 (after the Faculty Senate unanimously called for such a hearing) well over two months after the appeal was made. The hearing proceeded behind closed doors; no students were allowed to testify on behalf of Dr. Walker. Many questions still exist about the fairness of the hearing process.

After the hearing, the advisory committee made its recommendation to the new WSC president, Dr. Marysz Rames. When Dr. Walker was notified via email on January 13, 2016, by Rames that she was officially terminated, “[n]either Rames nor the director of human resources, Candace Timmerman, were able to confirm that Walker was sent the letter of termination, stating that it is a personnel issue and should be treated with confidentiality in accordance with the SCEA union contract” ( *The Wayne Stater*, “Pink slipped the modern way,” January 20, 2016, <http://thewaynestater.com/9708/news/pink-slipped-the-modern-way/> ).

This is the worst form of evasion. It is almost beyond belief that a college president who has the power to terminate a tenured professor would not have the integrity to take responsibility for it publicly. Rames went on to say that “at some point in the future she might send out a notification about the situation to the campus commun-

nity” (Ibid). I guess one has to bow in supplication to President Rames in the hope that she will find it in her heart sometime in the future to send out a notification that may (or may not) address the issue.

At the University of Nebraska-Lincoln, for example, regent bylaws authorize complaints to be considered by Special Grievance Committees “established under the aegis of the [Faculty Senate’s] Academic Rights and Responsibilities Committee (ARRC)” (Code of Procedures for Special Grievance Committees, 1.3.1, “Authority and Jurisdiction of Special Grievance Committees,” p. 1, <http://www.unl.edu/facultysenate/Grievance%20procedures%202012.pdf> ). After the hearings have been held and the final report of the Special Grievance Committee is made, a copy of that final report is delivered “to each party, to the Chancellor (or, if the Chancellor is a party, to the President), to the Chair of the ARRC, and to the President of the Faculty Senate,” not to mention archiving a copy of the final report in the Faculty Senate Office as well as the University Archives (both under specified conditions of access) [Ibid, 8.3.1 and 8.3.2, pp. 14-15]. In addition, a copy of the Chancellor’s (or President’s) response to the final report “shall be sent to the

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## Integrity of NSCS

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won awards for their hard work and later found jobs. Somebody has to do it. Commercial newspapers—daily or weekly—rarely report on such situations as mine, for these are framed as “disgruntled “ fired-professor stories. Only one side of the story gets told when faculty (as I’m doing here) sings like a bird and administration refuses to talk because of “personnel issues.” It is easiest for the news media to simply ignore such problems.

But what happens is that one disgruntled professor follows another, and soon there’s a witch hunt on the loose. That is the case at Wayne State College, where another mass communications professor is presently mired in the dismissal process. Her fraud: an incomplete on college transcripts more than 28 years ago, during which time the college has seen fit to promote and tenure her. Like me, Walker and others, my colleague is outspoken, and we messy people are being made to disappear.

And before now, there was the WSC professor—here for more than 20 years—whose letter from VPAA Anderson (in his first year on the job) castigated him for “ignoring colleagues when they greet you on campus” and “rolling your eyes during department meetings.” I kid you not. Emphasis mine. This letter, following a meeting similar to mine, was sent to the usual suspects, including the Human Resources director, who was “walkered” off campus herself a short time later. (Since the name has become a recent staple in the WSC lexicon, “Walker” and “walkered” are now used as generic terms.)

So what is the fallout following my removal as faculty advisor to *The Wayne Stater* (or as a colleague

euphemized, had my course schedule redesigned)?

The new advisor is the WSC director of the Technology Resource Center who, to his credit, held the job for most of the 1990s and is a popular figure on campus. Curiously, he will supervise the newspaper as an adjunct professor, which means he will work part-time outside his regular full-time job, which was the fraudulent arrangement with my student that got us here in the first place.

WSC President Rames has called an early-semester meeting with the newspaper staff, some of them responsible for the coverage that won the AFCON award as well as best-in-state this spring for investigative reporting.

Perhaps most importantly, an advisory board will be formed to “advise” *The Wayne Stater*. Why now? Hmm. My guess is that a 200-point “9” will no longer appear on

the front page.

As for me, the largest news writing class in 15 years was also taken away, because the course provides content for the newspaper. Because the advisor’s office sits adjacent to the newspaper and I’m forbidden to “have any duties associated with *The Wayne Stater*,” I’ve been moved to an office in the basement of the building.

Yes, I could coast this last year. But the fact that I lost my advising job because student journalists break stories on the cronyism and crass arrogance of the chancellor makes my blood boil.

I’m not ready to coast yet.

*Dr. Max McElwain is Professor of Mass Communication in the Department of Communication Arts at Wayne State College, Nebraska.*



*Portrait of Washington by Gilbert Stuart*

**“If the freedom of  
speech is taken away,  
then dumb and  
silent we may be led,  
like sheep to the  
slaughter.”**

**—George Washington**



## Wayne State Contract

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parties, to the President of the Faculty Senate, and to the Coordinator of the Faculty Senate for inclusion in the case files in the ARRC archives and in the University Archives” (Ibid, 9.1, p.15).

David Moshman takes a stronger position on this issue, one that goes even further than the AAUP ‘s Statement on Procedural Standards. According to Moshman, although “all employers should be required to respect the privacy of their employees about such matters [as dismissal],” the “employee (but not the employer) should be free to release to the public” written reasons given to them by the employer. For Moshman, “the bottom line is that

the employee has (or should have) a right to go public but the employer must respect the employee's privacy unless the employee voluntarily waives his or her right to privacy” (email from Moshman to the author on July 30, 2016).

To return to the contrast between the AAUP statement and Section 17.14 in the WSC contract agreement. It is now clear how the WSC contract agreement is being used by administration officials at WSC. Instead of using the ban on public statements as a temporary stay in order to let the review process work fairly, administration officials have taken the AAUP statement and twisted it into a complete muzzling of any public statement by faculty or administration on any personnel proceedings. This is not conducive to transparency, college integrity, or faculty-administration

relationships. Where the AAUP statement recommends a return to transparency at the end of the dismissal process so that the president has to be accountable for the dismissal and the hearing committee (in this case advisory committee) has to make a statement of its findings, WSC administration has opted to erect a wall to block any public statement about dismissal.

To date, the WSC president and the advisory committee have not made any statements relating to the dismissal of Dr. Karen Walker. By avoiding transparency at the end of the dismissal process, administration officials also avoid accountability.

It’s high time to correct the contract agreement!

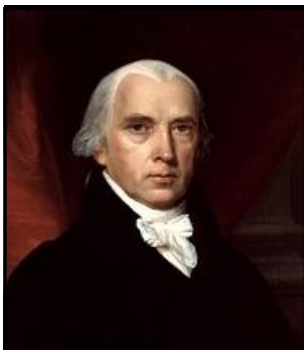
## ACLU Challenges South Carolina’s “Disturbing School” Law

In October of 1915, a black female student sitting in a math class at Spring Valley High School in Richland County, SC, refused to put away her cell phone and refused to leave the class when asked by her instructor. An administrator who was notified called on the sheriff’s deputy assigned to the school (the school law enforcement officer euphemistically called a school resource officer) who without provocation came into the classroom and picked up the student, desk and all, slammed her on her back and then dragged her and threw her against the wall.

Not only was the girl who was thrown against the wall arrested, but her classmate, Niya Kenny, was also arrested for standing up and shouting why no one was helping the girl being assaulted by the police officer. When asked at a press conference why Kenny was arrested, Sheriff Lott stated “She still disrupted class. You saw other students that did not disrupt class. They sat there, and they did what students are supposed to be, and that’s well-disciplined” (*New Yorker*, <http://www.newyorker.com/news/amy-davidson/what-niya-kenny-saw> ).

As Amy Davidson points out in her *New Yorker* article, “disrupting school is a crime in South Carolina, a misdemeanor carrying a possible penalty of ninety days’ imprisonment or a thousand-dollar fine” (Ibid). South Carolina lawmakers have enabled school administrators to outsource their responsibility for school discipline to the police by making any disruptive behavior a criminal offense.

The ACLU on behalf of Kenny has filed a law suit against South Carolina challenging the law.



“I believe there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments by those in power than by violent and sudden usurpations”

— James Madison



## AFCON SPEAKER'S BUREAU (As of August 2016)

Peggy Adair: "Banned Books, Black Arm-bands, and School Prayer: The Evolution of Children's First Amendment Rights in America"

impa@centurylink.net

Bob Haller: "Civics Education and the Practice of Freedom" and "How Books Can Harm You: Lessons from the Censors"

mshortt@inebraska.net

David Moshman: "Principles of Academic Freedom"

dmoshman1@unl.edu

John Bender and David Moshman: "Student Freedom of Expression/Student Rights"

jbender1@unl.edu  
dmoshman1@unl.edu

Laurie Thomas Lee: "Implications of the USA Patriot Act"

llee1@unl.edu

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### ADDRESS FOR THE AFCON WEB SITE

**[WWW.ACADEMICFREEDOMNEBRASKA.ORG](http://WWW.ACADEMICFREEDOMNEBRASKA.ORG)**

**Check it out and learn Who We Are and about Our Activities; read our Constitution; learn how to Join Us; see the where and when of our Meetings; meet our Members and Officers;  
Study our Publications, Principles, and Statements**

### REQUEST FOR NEWS FOR FUTURE ISSUES

The editor of the AFCON SENTINEL invites all AFCON individual and organizational members to send news about academic freedom issues in Nebraska or editorial comments for inclusion in this newsletter and/or announcements of organizational meetings for the UPCOMING EVENTS column.

**Due date for submissions to the December 2016 issue is November 24, 2016.**

Send to Frank Edler, 908 Elmwood Avenue, Lincoln, NE 68510 or email [frankhwedler@gmail.com](mailto:frankhwedler@gmail.com)



## AFCON Celebrates Banned Books Week

September 25 - October 1  
2016

American Library Assoc.  
(ALA)

Countdown: 40 more days until Banned Books Week

# SAVE THE DATE

September 25th - October 1st, 2016

Countdown: 40 more days until Banned Books Week!

- We've added new banned book-themed conversation prompts on our [free downloads page](#). Share them on social media with friends and followers, or print them out to add to your Banned Books Week [displays](#).
- Share your community's [Banned Books Week events](#).
- Check out the free recorded webinar "[Fifty Shades of Banned Books](#)" for creative programming strategies and resources.

## ACADEMIC FREEDOM COALITION OF NEBRASKA

### HELP AFCON PROMOTE ACADEMIC FREEDOM

As a member of AFCON, you can help us

- ♦ support applications of the First Amendment in academic contexts, including elementary and secondary schools, colleges, universities, and libraries.
- ♦ educate Nebraskans about the meaning and value of intellectual freedom, intellectual diversity, mutual respect, open communication, and uninhibited pursuit of knowledge, including the role of these ideals in academic contexts and in democratic self-government.
- ♦ assist students, teachers, librarians, and researchers confronted with censorship, indoctrination, or suppression of ideas.
- ♦ act as liaison among groups in Nebraska that support academic freedom.

**MEMBERSHIP** (To become a member, send dues, organization or individual name, address, and phone number to Linda Parker, 4718 N. 83rd Street Omaha, NE 68134 )

**Organizational Membership** (\$120) entitles the organization to one seat on the AFCON Board, one vote in the election of officers and at the annual meeting, eligibility for office and chairing standing committees, provides newsletter subscription for the board member to share with the organization's information director, and reduced rates to AFCON conferences for its members.

**Individual Membership** (\$15) provides newsletter subscription, eligibility for office and for chairing standing committees, reduced rates for AFCON conferences, and one vote at annual meetings.

**Student Membership** (\$5) entitles full-time students to the same privileges as provided by the Individual Membership.

**AFCON ORGANIZATIONAL MEMBERS, PLEASE DISTRIBUTE THIS NEWSLETTER TO YOUR MEMBERS.  
INDIVIDUAL MEMBERS, PLEASE SHARE THIS NEWSLETTER WITH YOUR FRIENDS IMMEDIATELY.  
ENCOURAGE THEM TO JOIN AFCON**



## 2016 NLA/NSLA Joint Conference

**October 19-21, 2016**

**Omaha, NE**

**Ramada Plaza Hotel Omaha**

# LIBRARIES TRANSFORM™

The Nebraska Library Association and the Nebraska School Library Association present the upcoming Annual Joint Conference with the theme of Libraries Transform™ created by the American Library Association.

The conference will take place October 19-21, 2016, at the Ramada Plaza Hotel in Omaha, Nebraska, where nearly five hundred librarians and other information professionals will gather for the annual convention.

Registration is now open, and early bird pricing ends on September 9, 2016. For hotel information and to register for conference, please visit the following website: <http://www.nebraskalibraries.org/page/Neblib2016>.

Pre-conferences sessions consist of a full tour of Do Space, Omaha's first digital library; a community engagement building exercise with local presenter Stuart Chittenden, of Squish Talks; and a storytelling tips and techniques seminar. Read about our other remarkable and motivational pre-conferences on the conference website.

A full listing of the program schedule is available for viewing. Thursday sessions will begin with nationally renowned key-note speaker, Jamie LaRue, Director of the American Library Association's Office for Intellectual Freedom. On Friday, Shannon McClintock Miller, a Teacher Librarian and Technology Integration Specialist from Colorado, will present midday on 'being the change' you want to see in the workplace.

Other conference highlights include the future of cataloging with BIBFRAME, the newest in library technology, transforming workplace culture and collaboration, and fostering children's creativity and imagination.

National vendors such as Biblionix, EBSCO, and Follett will be available to present their goods and services amongst nearly fifty vendors.

Conference festivities will continue into the evening with 'dine-arounds' and other activities where attendees can get to know one another more.