

The AFCON Sentinel

Newsletter of the Academic Freedom Coalition of Nebraska

Volume 22, Number 4

August 2018

SAVE THE DATE

Free Speech and Academic Freedom at the University of Nebraska

AFCON 2018 Annual Membership Meeting

Saturday, October 13, 10:00 AM to 1:00 PM

see page 4 for more information

What does AAUP Censure mean for UNL?

Bob Haller

[Editor's note. After the AAUP censured UNL in June for penalizing speech without due process, Bob Haller was quoted in the Omaha World Herald about the meaning and effects of censure and subsequently wrote this article for The Sentinel.]

The University of Nebraska-Lincoln is on the "Censure List" of the American Association of University Professors. So, what are the consequences for the University--and how can AFCON help the University get off the list?

A University (or college) gets on the list when a complaint is filed with the national AAUP; when the national office judges that it is flagrant enough a violation of Academic Freedom and academic due process to warrant the forming of an investigating committee to go to the campus, interview all relevant parties and examine all relevant documents as the basis of a report to Committee A, Academic Freedom and Tenure; when Committee A determines that the violations are severe enough (and no remedy has been applied by the institution) to justify a recommendation for censure at the National Meeting of AAUP; and when the delegates vote to approve that recommendation.

This is a process which is very careful in determining the facts and in applying the principles involved. The visit to the campus allows the institution to make its case or to alter its decisions relevant to the case. As reported, the UNL administration held fast to a narrative which insists that the wronged party had not been denied "due process"—she had an opportunity to take her case to a faculty committee and turned it down—and claimed that she was not dismissed because she was paid to the end of her appointment.

So what are the consequences of Censure?



The AAUP does not forbid its members from accepting an appointment at a censured institution, but it does warn those who decide to do so about the flaws in the protection of Academic Freedom and faculty due process. And of course it hopes that the administration of the censured institution will work with its faculty and with the AAUP national office and other helpful organizations to correct its policies and procedures. An institution on the censure list that takes no steps to be removed is accepting an unflattering notoriety.

The institutions now on the list are mostly of two sorts: private institutions branded by a religious and/or political ideology (some of which may well regard their listing as an honor) and public institutions that are small, outlying parts of a state system, subject to local religious or political pressure. There are two major public universities currently on the list: the State University of New York; and our neighbor, the University of Missouri. SUNY is on the list from the 1970's, and since the censure was imposed on the central administration and not the individual campuses there has been no effort on SUNY's part to seek removal from the list. The Missouri censure arose from the 2016 dismissal of Prof. Melissa Click by the Board of Curators for alleged misconduct related to a tent city protest, without allowing her any procedural due process. [I don't know what efforts Missouri is making to get off the list.]

It should be noted that the standards which the AAUP measures institutions by are not its standards alone. The *1940 Statement on Academic Freedom and Tenure* was promulgated in conjunction with the National Association of Colleges, and it has been endorsed by more than 250 educational and scholarly organizations. Any college or university on the censured list is thus out of step with its peers and in conflict with most of the formal entities concerned with education, and higher education in all of its manifestations.

So what does an institution do to get itself off the Censure list? Here is what the AAUP reports in its book of policies:

The annual meeting is similarly responsible for the removal of a censure. In preparation for this decision, the assembled AAUP members hear a report from Committee A about the case which led to the censure, about relevant institutional policies, and about current conditions at the institution relating to academic freedom and tenure. The Association celebrates the removal of censure as a sign of an institution's academic health and of the continuing vitality of the principles and standards to which it has committed itself.

What this tells us is that the University of Nebraska must convince Committee A that in any future case, a faculty member removed from a classroom assignment will have "due process" rights. And further, must show that the policies which played some part in the violation of due process will be adjusted to assure that the campus operates to support faculty, student and citizen rights in a manner consistent with the applicable legal and procedural standards. The incidents belonging to the narrative that ended with the removal of a faculty member from her teaching duties to the end of her employment raised questions about free speech zones, regulation of organizations seeking to set up tables on campus, regulation of speech in classrooms and on campus, recognizing the citizen rights of teachers and students, assessing the legitimacy of formal and informal pressure by Legislators in the governance of the University and inconsistent application of procedures in the By-Laws to administrative decisions.

Numerous outside agencies and organizations besides the AAUP have had their say about University policies—the ACLU, FIRE and AFCON itself—and the

AAUP chapter and State Conference as well as the Faculty Senate and the Student Senate at UNL. But it is certainly most important that the Regents and University Administration be more assertive of their rights as established by the Nebraska Supreme Court in 1974. That decision affirmed the autonomy of the University as governed by the Regents. The By-Laws of the University, adopted also in the 1970's, are still in accord with sound Academic Freedom provisions; taking care to see that polices are consistent with these is the simplest and most effective way to start the process of reform. Obviously, the outcome must also be seen as protecting the full range of political opinion. Not so obviously, the regulations should anticipate the possible arrival to the campus of some of the more radical attempts to stifle free speech now happening around the country.

Our duty as members of AFCON is to focus on making the process of reform an opportunity to put policies in place that will last. If the process is open and cooperative, it will educate the public about the connection of Academic Freedom to the effectiveness of teaching and research and to the health of a society which encourages speech and regulates only behavior that threatens its freedom.

Bob Haller served as AFCON's first president in 1988 and has served on its Board of Directors ever since, including two more terms as president.

JOIN OR RENEW

Ally Halley, Treasurer

AFCON now accepts PayPal! Use your PayPal account to join or renew. We have two ways to pay: send a direct payment to us at afcon.freedom@gmail.com or use the PayPal button on our website <https://www.academicfreedomnebraska.org/join-afcon.html>. The button on the website will auto-renew your membership each year so you don't have to manually submit a payment when it's time to renew.

If you do not have a PayPal account, send us a check at 3015 S 35 Ave, Omaha, NE 68105. Memberships are \$120 for organizations and \$15 for individuals.

NLA award

The Intellectual Freedom Round Table (IFRT) of the American Library Association (ALA) announced that the Nebraska Library Association Round Table for Intellectual Freedom (IF) is the 2017 recipient of the [Gerald Hodges Intellectual Freedom Chapter Relations Award](#).

The [Nebraska Round Table for Intellectual Freedom](#) published a new [Intellectual Freedom Manual](#) in 2016. Throughout 2017, they traveled the state giving numerous presentations. Their work led to increased awareness of the importance of intellectual freedom in the state and spurred much discussion regarding specific issues such as computer access policies, use of meeting rooms, and labeling collections. They will continue this great work in 2018 and continue to help provide intellectual freedom to all our library patrons.

Brenda Ealey, branch manager of Gere Library in Lincoln and long-time intellectual freedom advocate, traveled to the [ALA Annual Conference in New Orleans, LA](#) and was present on behalf of IF to receive the award at ALA's IFRT Awards Breakfast and Fundraiser on June 23..

The Hodges Award recognizes an organization that has developed a strong multi-year, ongoing program or a single, one year project that exemplifies support for intellectual freedom, patron confidentiality, and anti-censorship efforts. The award is named after Gerald Hodges, an ALA staff member from 1989 to 2006. Chapter relations and intellectual freedom were his passions and he willed a portion of his estate to support those efforts. The award consists of \$1,000 and a citation and has been given since 2013.

SAVE THE DATE

Free Speech and Academic Freedom at the University of Nebraska

AFCON 2018 Annual Membership Meeting

Saturday, October 13, 10:00 AM to 1:00 PM

Nebraska Union, UNL city campus

(right by the proposed free speech zone)

open to all, no charge

Keynote Address

UNO Professor Emeritus Sam Walker

Walker will also receive AFCON's annual academic freedom award for his protest against the new Regents free expression policy and his lifelong work defending and promoting intellectual freedom in academic and other contexts.

Panel Discussion

Panelists will include **Nebraska state senator Steve Halloran** and **ACLU Nebraska Legal Director Amy Miller**. Sen. Halloran introduced a bill in the 2018 Unicam to promote free expression in public higher education. Miller has written to UNL, UNO, and UNK about their free speech policies. The panel will also include several individuals affiliated with the University of Nebraska as Regent, administrator, faculty, or student.

Panelists will discuss current intellectual freedom issues at the University of Nebraska, including restrictive speech zones, unconstitutional speech codes, the new Regents policy warning teachers against introducing controversial matters, and the recent censure of UNL by the AAUP for penalizing speech without due process. The focus will be on what needs to be done, and what supporters of intellectual freedom should do.

For further information, email AFCON President David Moshman at dmoshman1@unl.edu

June and July Board Minutes

**Academic Freedom Coalition of
Nebraska**

Board of Directors Meeting

Eiseley Branch Library, Lincoln, Nebraska

June 9, 2018

Present:

John Bender, representing UNL Faculty
Senate

Nancy Comer, representing Nebraska
State Reading Association

Ally Halley, Treasurer, representing Fine
Lines

Bob Haller, representing AAUP

Laurie Thomas Lee, representing ACLU
Nebraska

David Moshman, President; Policy
Coordinator

Todd Schlechte, Director at Large

Rod Wagner, Immediate Past President;
representing Nebraska Center for the
Book

President Dave Moshman called the meeting to order at 10:10 a.m.

Minutes: Todd Schlechte moved and Nancy Comer seconded to approve the minutes of the May 12, 2018, meeting as recorded by Rod Wagner. Passed without dissent.

In Peggy Adair's absence, Dave noted that Laurie Thomas Lee agreed to record minutes of this meeting.

Treasurer's report: Ally Halley presented the Weebly account status. She is working on renewing our account with Pay Pal.

President's report: Dave Moshman reported that while he had not heard from FIRE, he has heard from the UNL Student Services Representative who seemed open to changes suggested by AFCON and FIRE to the proposed revision of the Student Code of Conduct.

Dave also discussed the UNL censure by AAUP. John Bender moved and Laurie Thomas Lee seconded to have AFCON stand in support of the AAUP report to censure UNL. Motion passed unanimously.

AFCON Policy on Public

Statements: Dave Moshman presented the draft policy and suggested a different, shorter version that he suggested could serve as an AFCON guideline instead of policy. Additional language was added to the third sentence of this Board Guidelines on Public Statements: "Board members should take reasonable steps to avoid any perception that they are speaking or writing on behalf of AFCON, unless authorized to do so."

John Bender moved and Nancy Comer seconded to approve the Board Guidelines on Public Statements as amended. Motion passed unanimously.

Todd Schlechte asked how the guidelines would be made known. Dave said they could be included in a packet of materials to new board members.

Newsletter: July 24th is the next newsletter deadline for submissions.

Website: The current webmaster is no longer a member representative and therefore on the AFCON board, so a new webmaster is needed. Todd Schlechte volunteered.

Bob Haller moved and Rod Wagner seconded to approve the appointment by Dave Moshman of Todd to the position of Webmaster. The motion passed unanimously.

Facebook page: It was agreed to retire the inactive AFCON Facebook page until there is renewed interest in resurrecting it.

Annual Meeting 2018: Dave Moshman presented for consideration specific dates (non-game days) for the annual meeting. Board members stated a preference for a date in October. A date will be selected at the July board meeting based on availability of panelists.

The theme for the meeting will be AFCON's opposition to the Regents' January 2018 policy and associated campus regulations. The meeting will be at the UNL Nebraska Union. Dave proposed having two panel presentations, with the first panel focusing on the policy and campus implementation and the second panel

focusing on what can be done. Potential panelists were discussed.

The recipient of the annual Academic Freedom Award—presented at the annual meeting—will be selected at the July board meeting.

Survey of Regents candidates on academic freedom: Prior to the meeting, President-elect Russ Alberts distributed online a draft set of questions to ask the Board of Regents their views on academic freedom prior to the November election. Additional questions were suggested and will be sent to Russ to be finalized and approved at the July meeting.

Other Business: Bob Haller has been the AFCON representative for the UNL chapter and state conference of AAUP. With both now fully active, Bob pointed out that AAUP should formally designate its representatives to the AFCON board. AAUP will be contacted. In the meantime, John Bender moved and Rod Wagner seconded Dave Moshman's appointment of Bob to a position of Director At Large.

Reports from Member Organizations:

Nancy Comer said that the Nebraska State Reading Association annual meeting will be February 22-23 in Kearney with the theme of Shining Light on Literacy.

Rod Wagner said that the Nebraska Book Festival will be August 25th at the UNL city campus union. The Nebraska Center for the Book is a sponsor.

Ally Halley said that Fine Lines will host a summer camp for youth in July on the UNO campus.

Laurie Thomas Lee said that ACLU Nebraska will host its annual meeting June 23rd at the Thompson Alumni Center in Omaha. The event will feature a racial justice panel and an LGBTQ+ advocacy panel. Attendance is free.

Adjourn: Nancy Comer moved and Bob Haller seconded to adjourn. Meeting adjourned at 11:35 a.m.

Respectfully submitted,
Laurie Thomas Lee, secretary pro tem

**Academic Freedom Coalition of
Nebraska
Board of Directors Meeting**
Eiseley Library, Lincoln, Nebraska
July 14, 2018

Present:
Peggy Adair, secretary, legislative liaison
Russ Alberts, president elect, director at large
Bob Haller, director at large, still representing all things wise and wonderful
Ally Halley, representing Fine Lines
Laurie Thomas Lee, representing ACLU Nebraska
David Moshman, president, policy coordinator
Todd Schlechte, director at large

President Dave Moshman convened the meeting at 10:15 a.m.

MINUTES: A motion was made by Alberts, second by Halley, to approve minutes of the AFCON board meeting held on June 9, 2018, as corrected. Motion carried on a voice vote. Special thanks to Laurie Lee who recorded the June AFCON minutes in the absence of the AFCON secretary.

TREASURER'S REPORT: Halley reported balance on hand as of July 14, 2018, is \$2,669.27.

PRESIDENT'S REPORT: Moshman reported he has reserved the meeting room at Eiseley Library through March, 2019, for AFCON board meetings. Moshman noted his journalistic challenges writing for "The Conversation," a publication that solicits university professors to write articles on current events.

TREAT OF THE DAY: Bob the Baker took a well-earned day off. Hunger glazed the room, like doughnuts. Eyes were moist, like carrot cake. Madame Secretary resorted to sucking on cough drops. Bob the Baker, you own us.

NEWSLETTER: Moshman reported July 24 is the deadline to submit articles for the August edition of the *Sentinel*.

WEBSITE: Schlechte reported he continues to work on updating the long-neglected AFCON website. He invited input and suggestions from the Board.

ANNUAL MEETING: Moshman reported Sam Walker has agreed to be the keynote speaker. Senator Steve Halloran has been invited to participate but has not confirmed. The tentative date for the annual meeting will be Saturday, October 13, 2018. The annual meeting will take place on the UNL campus in a free speech zone.

ACADEMIC FREEDOM AWARD: Lee nominated Sam Walker as the recipient of the 2018 AFCON Academic Freedom Award. Haller seconded the nomination. The Board approved the nomination on a voice vote.

NOMINATING COMMITTEE: President Moshman appointed the following members to the AFCON nominating committee: Nancy Comer, Todd Schlechte, and Rod Wagner. A motion was made by Alberts, second by Lee, to approve the appointments. Motion carried on a voice vote. Moshman will confirm the appointments with those members who were absent.

QUESTIONS FOR BOARD OF REGENTS CANDIDATES: Alberts presented draft questions AFCON will ask of all candidates running for the office of University of Nebraska Board of Regents in the 2018 general election in November. A motion was made by Alberts, second by Lee, to authorize Alberts and Moshman to prepare final wording of the questions and a cover letter to send to the candidates. Motion carried on a voice vote.

OTHER BUSINESS: Moshman described conflicts of organizational purpose and priority between established and new members of the national ACLU, as they have quickly grown from 400,000 members to 1.8 million members after the 2016 elections. Discussion followed.

There being no further business, the AFCON board adjourned at 11:45am.

Respectfully submitted,
Peggy Adair, Secretary

The next meeting of the **AFCON BOARD OF DIRECTORS** will be held on **Saturday, September 8, 2018**, at Eiseley Library in Lincoln, Nebraska.

For more information, see our website:
www.academicfreedomnebraska.org