

The AFCON Sentinel

Newsletter of the Academic Freedom Coalition of Nebraska

Volume 26, Number 6

December 2022

From the President
What's the Matter with Missouri?
Vicki Wood



As book challenges and bans sweep the country, PEN America has focused their attention on Missouri where 300 books have been pulled from the shelves in 11 school districts for removal or review. In August a new law went into effect that makes providing “sexually explicit material” to students a misdemeanor. Several such laws were introduced in statehouses throughout the country; some passed, some didn’t, but the chilling effect is real.

Though the title of this piece is focused on Missouri, know that a similar law was introduced in Nebraska in the past two legislative sessions and will certainly be reintroduced next year. This legislation, and others that impact free speech and expression, has been defeated here and in other legislatures across the country by advocacy supported by groups like AFCON, library associations, educators and, most importantly, committed individuals who show up and speak up, who take the time to learn about the issue, testify, write letters and be present.

Never underestimate your power to thwart bad policy and laws by being a concerned and informed citizen. In Nebraska it’s true that we the people are the “second house.” You can become

acquainted with the workings of the legislature by starting here, <https://nebraskalegislature.gov/>. Contact your representative and let them know you are concerned about threats to intellectual freedom at all levels of education. Then, when there is a specific bill, you can follow up with a quick email or phone call. The next Legislative session begins in January. Take a deep breath, enjoy the holidays, and stay informed.

For a report of AFCON activities since the 2021 annual meeting, and a link to a recording of the 2022 annual meeting, see page 2.

Ten years ago at its 2012 annual meeting, AFCON presented its annual academic freedom award posthumously to E. Benjamin Andrews, who defended academic freedom as president of Brown University in the late 19th century and chancellor of the University of Nebraska in the first decade of the 20th. See page 3.

JOIN OR RENEW

Rod Wagner, Treasurer

AFCON now accepts PayPal! Use PayPal to join or renew. We offer two ways to pay: you can use the PayPal button on our website <https://www.academicfreedomnebraska.org/join-afcon.html> or send us a check payable to AFCON at 3901 S. 27th St., #47, Lincoln, NE 68502. Memberships are \$120 for organizations, \$15 for individuals, and \$5 for students.

AFCON Annual Report

Vicki Wood

The National Coalition Against Censorship Statement on Schoolbook Censorship (December 2021) was endorsed by the AFCON Board, Dec. 11, 2021.

In February 2022, we sent a letter to the State Board of Education on behalf of AFCON expressing concern about the attacks on teachers and librarians, as well as censorship and removal of books and curriculum that address LGBTQ+ issues and race and history in America. Three members of the State Board of Education responded via email to the letter.

Also, in February 2022, AFCON provided written testimony on several bills, including a statement against LB1077, which sought to limit a long list of ideas related to sex and race in schools and universities across the state. AFCON also wrote in strong opposition to LR278CA, which sought to eliminate the State Board of Education and place control K-12 education in the hands of the governor.

AFCON worked with the Nebraska Library Association and the Nebraska School Librarians Association on advocacy around legislative bill LB1213 designed to limit young people's access to library databases and to hold liable teachers and librarians if students were to access content deemed "obscene" or "pornographic."

All three of these bills failed to pass during this legislative session.

AFCON sent a letter of support to Paul Smith, a teacher in Crete, who was teaching the Freedom Writers curriculum. A citizen in Crete complained about the curriculum and the school board slated a discussion about it for the summer. In a follow-up email Smith said that the issue has not been resolved.

Brief questionnaires on attitudes toward academic freedom were created and sent to the eight candidates for the State Board of Education. Two candidates responded.

Our annual meeting was held on Saturday, October 22, 2022. Keynote speaker was Randy Moody, who spoke on the legacy of Meyer v. Nebraska, followed by Mindy Rush Chipman, Legal Director of ACLU Nebraska, and Harrison Rosenthal, litigation fellow at the Foundation for Individual Rights and Expression (FIRE) who continued the discussion. There were 48 people in attendance.

Also at the annual meeting, Academic Freedom Awards were presented to the Nebraska School Librarians Association and the Nebraska Library Association for their ongoing work supporting and protecting academic freedom and specifically for working to defeat LB1213 in the last legislative session.

AFCON sent a letter to the State Board of Education for their November meeting in support of academic freedom and against the censoring of books and curriculum based on the complaints of a group of parents. The meeting was held but public comment was not allowed. The letter was submitted to the board by email.

Missed the Annual Meeting?

Watch it here:

<https://drive.google.com/file/d/1XY9reyVlygMCyoEPTAuiCTWbBBSW10XN/view>

AFCON

www.academicfreedomnebraska.org

The Academic Freedom Coalition of Nebraska was founded in 1988 to promote intellectual freedom in Nebraska education and research, including freedoms of belief and expression and access to information and ideas.

This article by David Moshman was originally posted on his HuffPost blog on November 14, 2012.

A University Administrator Who Supported Academic Freedom

Sometimes administrators do the right thing. One who supported intellectual freedom on multiple occasions was E. Benjamin Andrews, who was honored November 3 by the Academic Freedom Coalition of Nebraska (AFCON) at its 25th annual membership meeting.

Andrews, who headed both Brown University and the University of Nebraska, could not be present, having died in 1917. The award was accepted by Peterson Brink, assistant archivist at the University of Nebraska–Lincoln (UNL), for inclusion in a new historical exhibit.

Elisha Benjamin Andrews was born in 1844 in Hinsdale, New Hampshire. After being severely wounded in the Civil War, permanently losing his sight in one eye, he continued his education, graduating from Brown in 1870. He was subsequently ordained as a Baptist minister but returned to Brown in 1882 as Professor of History and Political Economy.

Andrews left for Cornell in 1888, to the great disappointment of students, but the following year was chosen unanimously to become Brown's next president. His presidency is noted for a rapid growth in graduate studies and the transformation of Brown into what he called "a true University."

In 1896, Nebraska populist William Jennings Bryan won the Democratic nomination for the presidency after advocating "free silver" in a speech famously proclaiming "you shall not crucify mankind upon a cross of gold." He lost the general election to Republican William McKinley, who supported the gold standard.

Andrews had supported free silver in personal letters that were published in 1896 without his knowledge or permission. In July 1897, members of Brown's governing "Corporation" expressed their concern that his views on what had become a highly controversial political issue were so

upsetting to friends of the University that they were costing gifts and legacies.

Andrews resigned immediately, but Brown faculty, students, and alumni sent petitions on his behalf, as did other college presidents. Faculty warned the Corporation that to accept the resignation "would stamp this institution, in the eyes of the country, as one in which freedom of thought and expression is not permitted when it runs counter to the views generally accepted in the community or held by those from whom the University hopes to obtain financial support."

Andrews noted that he had not "been loud, a declaimer, parading my views, ambitiously or otherwise" but insisted as a matter of academic principle that he could not surrender his freedom of speech. The Corporation asked him to withdraw his resignation, which he did.

Nevertheless, he left the following year for Chicago where, as Superintendent of the Chicago Public Schools, he freed the schools from external political controls. Then, in 1900, he was appointed Chancellor of the University of Nebraska, which he transformed over the next eight years from a rapidly growing college into a genuine university.

Along with Wisconsin and Cornell, Nebraska was known at the turn of the 20th century as a haven of dissent. Andrews immediately reinforced that reputation.

In November 1900, Edward A. Ross, who was to become one of the founders of modern sociology, was fired by Stanford University for addressing issues of social injustice. The powerful Mrs. Stanford especially objected to his concern with Chinese railroad labor, the source of the Stanford family fortune. Andrews promptly hired Ross at Nebraska.

Other Stanford professors resigned in protest of the firing, including former Nebraska professor George Howard, a staunch supporter of civil liberties who had been hired by Stanford to found its history department and had in turn hired Ross. Andrews invited Howard back to Nebraska.

Andrews also rehired Harry Kirke Wolfe, the founding father of philosophy, psychology, and education at the University of Nebraska, who had been fired in 1897 for speaking out about falsification of student enrollment data. Wolfe returned in 1906 to found the department of educational psychology and later resumed his former position as chair of philosophy.

Poor health dogged Andrews throughout his life and finally forced him to retire at the end of 1908. After his death in 1917, the renowned college president and free speech advocate Alexander Meiklejohn, an 1893 graduate of Brown, eulogized him:

“Dear, gallant, stalwart, splendid Bennie Andrews. ... Oh, what a gallant fight he made, and what a hard one!”

At both Brown and UNL there is an Andrews Hall named for E. Benjamin Andrews. At Brown it is a residence hall; at UNL it houses the Department of English. Both students and academe were served well by his respect for intellectual freedom in higher education.

https://www.huffpost.com/entry/e-benjamin-andrews_b_2103947

Further developments in local issues previously reported:

The status of Grand Island Northwest High School’s student newspaper remains uncertain. ACLU Nebraska continues to monitor the situation.

https://journalstar.com/news/local/education/gin-w-student-newspaper-returning-digitally-following-controversial-elimination-after-lgbtq-edition/article_794050db-1a47-50be-8d04-2302c74abdde.html

The University of Nebraska and a UNL Christian student group have reached a settlement in a First Amendment case concerning funding for “speakers of a political or ideological nature.”

https://journalstar.com/news/local/education/nu-will-settle-lawsuit-with-christian-student-group-change-policy-for-fee-allocation/article_f550d9b7-08ca-5375-b69c-46581c269aba.html

Parental rights, a central focus of our annual meeting, continues to be in the news both locally and nationally. Here’s an interesting analysis of its complex legal status, including uncertainty as to whether and to what extent parental rights are constitutional rights. The article notes that the late Justice Scalia supported a constitutional amendment to protect parental rights because without such an amendment, in his view, they have the same constitutional status as abortion rights: unenumerated rights not protected by the 14th Amendment or any other provision of the current Constitution.

<https://www.edweek.org/policy-politics/what-do-parents-rights-mean-legally-for-schools-anyway/2022/10>

More on the complex and unsettled nature of parental rights, from a federal court in late October:

“[P]arents, not schools, have the primary responsibility to inculcate moral standards, religious beliefs, and elements of good citizenship in their children. With respect to important matters that strike at the heart of parenting (such as inculcation of religious beliefs or teachings contrary to the parents’ religious beliefs), the fundamental rights of parents might override the interests of a public school; the school would need to show its actions are narrowly tailored to achieve a compelling interest.

“At issue here are whether Parents have a right to expect that first-grade teachers will not expose their impressionable young children to sensitive gender identity topics against the parents’ instructions; will not tell children that parents make mistakes about important matters such as their children’s identity; will not tell children the teacher would never lie (implying that their parents may lie about a child’s identity); will not advise children they may dress or be groomed

as a different gender; and will not tell children not to talk to their parents about what they learn in school about those topics.”

For more, here is a post by Eugene Volokh with key excerpts from the decision regarding the facts of the case and the state of the law.
<https://reason.com/volokh/2022/10/28/court-holds-parents-have-right-to-opt-out-of-gender-identity-teaching-to-first-grade-children/>

Diverse conceptions of what parental rights mean and what they protect:
<https://www.edweek.org/leadership/these-groups-are-pushing-back-against-divisive-parents-rights-policies/2022/11>

Volume 13 of the AAUP *Journal of Academic Freedom*, released in November 2022, includes multiple articles on recent laws restricting education about race, history, gender, sexuality, and “divisive concepts.”
<https://www.aaup.org/reportspubs/journal-academic-freedom/volume-13>

In Florida, one such law is deemed an unconstitutional infringement on academic freedom:
<https://www.chronicle.com/article/conjuring-orwell-florida-judge-blasts-dystopian-ban-on-woke-instruction>

**Academic Freedom Coalition of Nebraska
Board of Directors Meeting**
Via Videoconference
October 8, 2022

Present:
Peggy Adair, secretary, legislative liaison
Nancy Comer, representing Nebraska State Literacy Association
Laurie Thomas Lee, representing ACLU Nebraska
Dave Moshman, newsletter editor, policy coordinator
Todd Schlechte, immediate past president, webmaster, director at large
Vicki Wood, president, director at large

MINUTES

President Vicki Wood called the meeting to order at 10:15 a.m.

MINUTES: A motion was made by Moshman, second by Lee, to approve minutes of the AFCON board meeting held on September 10, 2022. Motion carried on a voice vote. Thank you to Laurie Lee for recording the September minutes.

TREASURER’S REPORT: Wagner presented the treasurer’s report via email. Balance on hand as of October 7, 2022, is \$3,694.03. Treasurer’s report will be filed for audit.

NEWSLETTER: Articles for the December issue of the *Sentinel* are due by November 24, 2022. The December newsletter will feature a review of the AFCON annual meeting.

LEGISLATIVE UPDATE: Adair reported the 2023 session of the Nebraska State Legislature will commence on January 4, 2023.

PRESIDENT’S REPORT: Wood continues to coordinate and prepare for the AFCON annual meeting that will be held via videoconference on October 22, 2022.

NOMINATING COMMITTEE: Lee reported the committee has secured the nomination of the following officers for 2023: President-elect, Shee Covarrubias; Secretary, Peggy Adair; Treasurer, Rod Wagner.

STUDENT MEMBERSHIP: Moshman made a motion to offer a student AFCON membership rate of five dollars per year. Adair seconded the motion. Discussion followed. Motion carried on a voice vote.

There being no further business, the AFCON board meeting adjourned at 11:40 a.m.

Respectfully submitted,
Peggy Adair, secretary

**Academic Freedom Coalition of Nebraska
Annual Membership Business Meeting**

Via Zoom

October 22, 2022

draft for approval at 2023 annual meeting

Welcome and Call to Order

Meeting was called to order at 11:35 a.m. by
Vicki Wood

Approval of Agenda:

Motion made and carried on a voice vote.

Approval of the 2021 Annual Meeting [Minutes](#):

Peggy Adair

Motion made by Lee, seconded by Covarrubias.

Motion carried by a voice vote.

Newsletter: David Moshman

Next *Sentinel* due date for content: November

24. Moshman has invited all annual meeting
speakers to contribute content for the newsletter.

Report from the Nominating Committee: Laurie
Lee and Todd Schlechte

The slate for 2023 includes, Peggy Adair as
Secretary, Rod Wagner as Treasurer, and Shee
Covarrubias as President–Elect.

Nominations from the floor; There were no
nominations from the floor.

Moshman moved that we close nominations.
Seconded by Schlechte.

Old Business:

None

New Business:

General discussion about the need to address the
State Board of Education on behalf of AFCON
regarding the inflamed rhetoric about LGBTQ+
books, and books dealing with racial inequality.
Wood agreed to write a statement that Werum
agreed to deliver at the meeting the first week of
November.

Adjourn: The meeting adjourned at noon.

Next Board Meeting is Saturday, December 10
at 10:00 a.m.

From the AFCON Constitution, Article I:

The purpose of AFCON shall be to promote
academic freedom in Nebraska, defined as
intellectual freedom in educational and research
contexts. This includes freedoms of belief and
expression and access to information and ideas. In
pursuit of this general goal, AFCON shall:

1. support application of the First Amendment in
academic contexts, including schools, colleges,
universities, and libraries.

2. educate Nebraskans in and out of academic
settings, citizens and professionals, parents and
students 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.

3. assist students, teachers, librarians, researchers,
and others confronted with censorship,
indoctrination, or suppression of information or
ideas in academic settings.

4. act as liaison among groups in the State of
Nebraska that support academic freedom.

***Wanted:** New editor, AFCON Sentinel, or
associate editor with potential interest in
becoming editor. Pay is zero, but Board is
generous about doubling the salary for good
work. Long grueling hours. No, actually it just
takes a few hours every two months. Well, maybe
more, but it's really up to you. Contact the editor
at email below to volunteer or get more
information.*

The AFCON Sentinel is the newsletter of the
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August, October, and December. Unless
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views of the authors.

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