

The AFCON Sentinel

Newsletter of the Academic Freedom Coalition of Nebraska

Volume 22, Number 3

June 2018

From the President

David Moshman

Over the past two months there have been several developments related to free speech at UNL and UNO. Here's a quick summary, slightly updated from what I presented to the Board of Directors at its May meeting.

TPUSA incident

The August 2017 confrontation on the UNL campus involving a student recruiter for Turning Point USA was the topic of a major collaborative report published in April by the *Chronicle of Higher Education* and broadcast on National Public Radio's *This American Life*. The incident was presented as a microcosm of higher education today and a challenge to "Nebraska nice."

In May, the American Association of University Professors (AAUP) Committee A (Academic Freedom and Tenure) released the report of its investigating committee, which had visited the UNL campus in January. The Report found that UNL, succumbing to intense political pressure, had failed to follow its procedures in removing lecturer Courtney Lawton from the classroom. This could result in a vote to censure UNL at the AAUP National Meeting in June.

Anti-NRA protests in Virginia

Another round of political pressure on UNL followed protests by two UNL professors at the home of National Rifle Association lobbyist Chris Cox in Virginia.

One professor was charged with vandalism for spilling red paint (symbolizing blood) on the house and was found guilty in May.

An appeal is in progress but UNL has no authority or reason to take any action even if the conviction is upheld. Regents Bylaw 4.2 states, "Staff members who violate laws prescribed by civil authorities may incur penalties attached to such laws. The University should not impose sanctions to duplicate the function of these laws [unless] the University's interest as an academic community is clearly involved."



Speech zone policies

Implementing the new Regents free expression policy, both UNL and UNO have proposed new regulations restricting free speech on campus to small speech zones. UNO professor Sam Walker protested the UNO regulations in April in an area not zoned for free speech.

UNO professor Doug Paterson, a former president of AFCON, subsequently sent the senior vice chancellor an email message asking for clarification about where students and faculty could now speak with or without giving thirty days notice. He specifically asked what would

happen to a transgressor such as Sam Walker: “that person would be subject to ... what? Arrest? By campus security? By OPD? The National Guard?” His query was forwarded to other administrators, none of whom, apparently, had any answers. As Sam Walker put it, “Officials at the university do not know what their policy means, and don’t know what to say in response to a direct question.”

ACLU Nebraska Legal Director Amy Miller sent letters to both UNO and UNL questioning the constitutionality of their proposed regulations and urging reconsideration. In addition to its detailed analysis and legal citations, the letter to UNL concluded, “At this moment in history, with a renewed public interest in rallies, demonstrations, and active engagement by young and old in the issues of our times, the proposal is a misguided step away from the historical role of universities. Courts have continually held that free speech activities are the very crux of the University’s goal to promote education.”

Student Code of Conduct

We learned in April that UNL has been revising its highly problematic student code of conduct. The proposed revision is much less threatening to free speech and is intended to serve as a model for other NU campuses. I sent the proposed revision to the Foundation for Individual Rights in Education (FIRE) and forwarded their analysis to UNL, which appears to be taking it seriously.

UNL may also be revising sexual misconduct provisions in several policies that improperly threaten constitutionally protected speech. The status of these potential revisions is unclear but FIRE has provided an analysis of current provisions, which I also forwarded to UNL. AFCON will continue to press UNL to revise all speech-related policies as

needed to restore its green light status with FIRE.

Sedition

We were delighted to learn that the Angels Theatre Company, which staged readings of *Sedition* at our 2017 annual meeting and elsewhere last fall, will be performing the play in full October 25-28 at the Johnny Carson Theater. *Sedition* is based on the 1918 trial of University of Nebraska professors by the Board of Regents. Tickets can be ordered as part of the Lied season. Tickets to *Sedition* alone will be available in early August.

AFCON Annual Meeting

A century after the events of *Sedition*, AFCON’s 2018 annual meeting this fall will be held again at UNL and will focus on free speech at the University of Nebraska today. We will invite a diverse set of panelists to consider current policies and practices and to provide recommendations for better protection of free expression. Potential panelists include students, faculty, administrators, Regents, state senators, civil libertarians, and others.



Email me at dmoshman1@unl.edu if you have questions, would like additional information, or would like to get involved with AFCON.

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.

*--from the AFCON Constitution
adopted February 13, 1988*



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.

May Minutes

Rod Wagner

Academic Freedom Coalition of Nebraska

Board of Directors Meeting

Eiseley Branch Library

Lincoln, Nebraska

May 12, 2018

Present:

Russ Alberts, president-elect, director at large

Nancy Comer, representing Nebraska State Reading Association

Bob Haller, representing AAUP

Paula McClung, representing Nebraska School Librarians Association

David Moshman, president, policy coordinator

Todd Schlechte, director at large

Rod Wagner, immediate past president, representing Nebraska Center for the Book

MINUTES

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

Moved by Russ Alberts and seconded by Rod Wagner to approve the minutes of the March 10, 2018, meeting. Passed without dissent.

In Peggy's absence Dave asked for help recording minutes. Rod agreed to fill in.

Moved by Russ Alberts and seconded by Paula McClung to approve Dave's appointment of Todd Schlechte as a board member at large. Motion approved unanimously (2/3 required).

Ally Halley was not able to attend the meeting but sent a treasurer's report. Moshman mentioned that organizational dues have been coming in.

President's report - Dave Moshman said that his report on free expression issues at the University of Nebraska would come shortly as a separate agenda item. He noted an unresolved question about who would be representing the UNO Faculty Senate.

Legislative report - no report at this time with the windup of the legislative session.

University of Nebraska - Free Expression

Moshman noted that *The Chronicle of Higher Education* and NPR's *This American Life* collaborated on an extensive report of the August 2017 freedom of speech incident at the UNL downtown campus. The issue was presented as a microcosm of what is going on around the country. Moshman recommended board members read or watch the report.

A national AAUP report criticized UNL for violations of due process in its actions in regard to Courtney Lawton.

The report provides extensive documentation that UNL didn't follow its own procedures. Instead, administrators followed a special process in response to intense political pressure. The next step could be censure.

Alberts suggested asking University of Nebraska Board of Regents candidates for their views on academic freedom. Moshman said there is time before the November election to do this.

A more recent incident involving UNL faculty resulted in further criticism of UNL and claims of a liberal campus bias by state senators and others. UNL faculty members Amanda Gailey and Patricia Hill protested in front of National Rifle Association lobbyist Chris Cox's Virginia home. Hill was accused of throwing paint on Cox's home and was charged with vandalism. Gailey's protest was obviously protected by the First Amendment. The UNL administration responded briefly to inquiries by noting that this action happened in Virginia and is not a UNL concern. This is a private matter, even if Hill is convicted of a crime.

UNO speech zone policies - Dave Moshman said that Sam Walker held his one-person protest on April 9 on the UNO campus and the incident was covered in local papers. Moshman mentioned former AFCON president and UNO professor Doug Paterson's inquiry regarding Walker's action. Paterson sent an email to a UNO senior vice chancellor asking for clarity on free speech zones. Paterson's request was passed on to other administrators, none of whom seemed to know what their policy means.

UNL issued regulations on use of campus space - one place on east

campus and one on city campus near the union were officially designated as free speech zones. The designated space on city campus is so small you almost need a microscope to see it on a map.

ACLU Nebraska reviewed the UNO and UNL policies and sent excellent critiques to both campuses.

Student code of conduct - Dave Moshman said that proposed revisions in the UNL student code of conduct are a major improvement. He sent the UNL proposal to FIRE, which responded with a detailed analysis of concerns that still need to be addressed. Dave has sent these on to UNL. FIRE also sent comments on several sexual harassment provisions, which Dave also sent on to UNL contacts.

Sedition - Dave Moshman said that Angels Theatre Company has arranged for David Wiltse's play, *Sedition*, to be performed at the Lied Center in the Johnny Carson Theater Oct 25-28 with four full performances. The play will be included as part of the Lied Center's 2018-2019 program.

Peggy's policy statement regarding public statements by board members will be deferred to next meeting.

Moshman said the next newsletter will be sent about June 1 and will include his report on free speech issues at the University of Nebraska. Send contributions to Dave.

AFCON Facebook page - Moshman reported that Linda Parker was leaving Facebook and had discontinued AFCON's Facebook page, which hasn't been actively monitored or updated. We could get back on Facebook later if anyone is interested.

Annual Meeting - Given the on-going issues related to University of Nebraska free expression policies and actions, Moshman suggested an annual meeting on the UNL campus, similar to last year's arrangements, featuring panel presentations and discussion. A variety of potential panelists were mentioned. It was agreed the focus should be on general policy issues rather than specific incidents. Nancy Comer moved that we make this our annual meeting plan and Russ Alberts seconded. Motion approved without dissent.

Organizations

Bob Haller - Today is Lincoln Unites with activity downtown. New citizens are being added to the city of Lincoln. Another event coming up is a celebration standing up for human rights - a meeting with speakers from a number of organizations to be held May 24.

Nancy Comer said that the Nebraska Reading Association has decided to put AFCON back in the organization's budget for next year.

Rod Wagner said that the Nebraska Center for the Book will hold its annual membership meeting and Celebration of Nebraska Books event on Saturday, October 27, at the Nebraska History Museum in downtown Lincoln.

Meeting adjourned.

Rod Wagner, secretary pro tem