

# The AFCON Sentinel

Newsletter of the Academic Freedom Coalition of Nebraska

Volume 24, Number 3

June 2020

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## From the President

John R. Bender

The U.S. Supreme Court heard oral arguments May 6 in a First Amendment case that may profoundly affect people with cellphones – meaning just about everybody. And if the court rules in favor of the appellants, most of us might be angry.

The case, *Barr v. American Association of Political Consultants*, involves a challenge to a 1991 law, the Telephone Consumer Protection Act, and a 2015 amendment to that law. The law prohibits robocalls to cellphones with two exceptions: emergency purposes, such as tornado warnings, or calls with the express consent of the party called, like a call from your pharmacy telling you a prescription is ready. In 2015, Congress added another exception, calls made to collect debts owed to or guaranteed by the U.S. government.

The challenge to the law comes from the American Association of Political Consultants, who would love to flood your cellphones with solicitations for donations to candidates or calls promoting one candidate or denigrating another. The AAPC says the whole law violates the First Amendment. This case may seem mildly interesting, especially if you are a cellphone user, but you may wonder what connection this has to academic freedom. Bear with me and I'll explain that eventually, but first I need to discuss the legal basis for the AAPC's challenge to the law.

The political consultants argue that the ban on robocalls to cellphones violates the First Amendment because it is a content-based regulation of speech, and content-based regulations are presumptively unconstitutional.

The law is content-based, the AAPC says, because it allows some robocalls but not others on the basis of content.

A federal district court upheld the law and the amendment, saying the government had sufficient reason for the regulation. However, the 4th U.S. Circuit Court of Appeals invalidated the 2015 amendment while upholding the original statute. The AAPC appealed, saying the whole statute is unconstitutional.

At the crux of the case is the concept of content-based regulation. Garrett Epps, a professor of constitutional law at the University of Baltimore, called it “one of the most powerful and elusive concepts in First Amendment law” in an article he wrote for *The Atlantic* this month.



The doctrine that content-based regulation of expression is unconstitutional has been around since 1972, but the Supreme Court has greatly expanded it since 1991. In the 2015 case of *Reed v. Town of Gilbert*, the court applied the concept to an ordinance regulating temporary signs. *Gilbert, Arizona*, grouped temporary signs into three categories based on their content and regulated all three differently. In finding the ordinance unconstitutional, Justice Clarence Thomas declared that any regulation of expression was unconstitutional unless it could be “justified without reference to the content” of the speech.

Such a broad definition of “content-based regulation” threatens laws on many issues. For instance, advertising regulation is based on whether the content is commercial or noncommercial speech.

Nevertheless, skepticism toward content-based regulation is generally reasonable. So how does this bear on academic freedom? I think the problem may arise in the flip side of the content-based regulation doctrine. While courts presume content-based regulations are unconstitutional, content-neutral regulations are more easily justified. This is the approach the 5<sup>th</sup> U.S. Circuit Court of Appeals took in the 2009 case of *Palmer v. Waxahachie, Texas, Independent School District*.

The *Palmer* case involved a school district ban on students’ wearing shirts with any kind of message or wording on them except for shirts promoting school-approved organizations or athletic teams. The student who challenged the rule originally wanted to wear a shirt saying “San Diego.” Later he and his father submitted for school approval shirts promoting presidential candidates and even one bearing the text of the First Amendment. All were rejected.

The federal appeals court upheld the school’s ban on the grounds that it was content neutral; it banned all shirts with any messages. The court said the exception for school-approved groups and athletics was reasonable and did not render the regulation content-based.

By the same logic, broadly phrased regulation of academic activities might satisfy the definition of content-neutrality. For instance, a state might pass a law requiring high school teachers to submit lists of readings to parents at the start of the school term. Students could be required to read only those materials their parents had approved. Such a law would be content neutral, but it would disrupt the teacher-student relationship and threaten to make school curricula anodyne.

Regulation of some teaching methods might also be justified on content-neutral grounds. When I studied biology in high school one of our assignments was to dissect a live mouse. Some animal rights groups might find that highly objectionable. A state or district might respond by prohibiting all instructional exercises that threatened the life or welfare of any animal. Such a ban might affect only biology classes, but it would be content neutral. It also would hamper the ability of schools to teach basic anatomy.

The content-based/content-neutral dichotomy is indeed a powerful and elusive concept, as Epps said. If courts are to use this as a tool for distinguishing constitutional from unconstitutional regulations of speech, it must be defined more clearly.

As for the challenge to the ban on robocalls to cellphones, we probably won’t know the Supreme Court’s decision until late June. But Amanda Shanor, who summarized the oral arguments in the case for *Scotusblog*, said the justices seemed to be leaning toward upholding the 1991 law while striking down the 2015 amendment. If she’s right, you won’t have to face a flood of robocalls every time you turn on your cellphone.

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**2020 AFCON Annual Meeting**  
Todd Schlechte, President-elect

Although plans are subject to change due to COVID-19, AFCON is currently planning to hold its annual meeting October 17. The planned theme is “Current Topics in Intellectual Freedom in Libraries.” Vicki Wood, the keynote speaker, will talk about “Avoiding Bias and Censorship in Library Programming.” In addition, a panel will address concerns about access to digital resources, especially eBooks. Currently, public libraries are able to make available only a relatively small collection of eBooks due to various restrictions and high publisher pricing for libraries (in contrast to print books, which are much cheaper for libraries than eBooks).

## Understanding the Right to an Education

Robert S. Haller  
aka “Dr. Bob”

You might have noticed that earlier this year our Governor regularly used the phrase “government schools,” notably in a statement he released about school funding, but on other occasions as well. He should abandon that practice.

Not just because he annoyed public school teachers, school board members, and public school advocates, who sent letters to newspapers and put out their own statements, claiming that he was showing his support for those who think that public schools are ruined by government incompetence and need to be replaced by “Charter,” “Parochial” or “Private” schools. They knew that our President referred to “failing *government* schools” in his State of the Union address, that his Education Secretary Betsy DeVos has showed herself an opponent of “Public” schools, and that other opponents of public schools were pleased to hear him use the phrase.

The Governor compounded his mistake by trying to claim (disingenuously) that he had no ulterior motive in his use of the phrase. He sent his spokesperson Taylor Gage to defend it with this logic. “Schools that receive their funding from taxes collected by state and local government entities are by definition units of government. Hence, the reference to them as ‘government schools’ is accurate.” Mr. Gage seems to say that being “accurate” erases any political bias—or is allowable no matter what departures it takes from the standard practice of Nebraskans. So can we expect that the Governor will start talking “accurately” about “the government State Patrol” or “the Government University of Nebraska,” or will give his daily Covid 19 updates on “Nebraska Government Radio”?

--continued on page 4

## Democracy, Expertise, and Science Denial

David Moshman

One central feature of the U.S. response to COVID-19 has been the marginalization and rejection of scientists and scientific advice. American science denial has perhaps become more obvious now that it is literally killing us. Such denial, however, is far from new. To the extent that it continues to control public policy, its consequences will only grow more deadly in coming decades.

In my forthcoming book, *Reasoning, Argumentation, and Deliberative Democracy*, I discuss the crucial role of expertise in democratic decision making. Fortunately, the U.S. has many institutions and practices designed to coordinate expertise with democracy, including traditions of intellectual and academic freedom. Unfortunately, our rational democratic functioning has been substantially and increasingly undermined by science denial.

### A Century of Science Denial

In the early 20<sup>th</sup> century, despite consensus among scientists that species evolve over very long periods of time, most Americans believed that God created a finite number of fixed “kinds” of organism and many believed the earth was just 6,000 years old. After John Scopes was convicted in 1925 for teaching about evolution, contrary to Tennessee law, evolution education remained illegal in many states and was widely deemed too controversial for the curriculum.

In 1957, the Soviet Union launched Sputnik, the earth’s first artificial satellite, leading to calls in the U.S. for better science education. Beginning in the early 1960s, biology curricula increasingly recognized the central role of evolution in explaining life. In 1968, the U.S. Supreme Court ruled that laws banning the teaching of evolution had no scientific basis and were thus an unconstitutional establishment of religion.

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*Right to Education, continued from page 3*

We will probably not hear Nebraskans adopt his “accuracy” and start saying their kids go to the neighborhood “government schools.” For most of us, “government school” would be one imposed on the citizenry for the enforcement of government control. But the experience of most citizens would reject that implication. Most of us, whether or not we went to public schools and enrolled our children in them, think of these public schools as overseen by elected school board members, promoting a PTA or equivalent, encouraging parent–teacher conferences, welcoming family and friends to be fans (“Go Links”) of the sports teams, inviting people to admire science projects and applaud musical and dramatic performances. And we continue to identify the neighborhood with the school. Even those who have had no direct experience of the public schools have understood that they are a feature of our nation as essential to big-city neighborhoods as to rural communities. In Nebraska very few people feel that schools are a “government” imposition. Schools are taken for granted as an integral part of our culture.

But there is a more definitive reason why no one, and especially not the Governor, should use the term “government schools.”

The Nebraska Constitution VII-1 reads “The Legislature shall provide for the free instruction in the **common** schools of this state of all persons between the ages of five and twenty-one years.” If we looked, we would find that the constitutions of the various states of the union have an almost identical provision, using other terms, such as “general,” “universal,” “uniform,” “thorough,” “efficient” and “public” to identify the system, but all of them with the familiar American concept of schooling. By making schools a Constitutional mandate, we, the electorate, lay on our Legislatures the obligation to provide us with our “common” schools. The Governor, who took an oath to “support ... the Constitution of the State of Nebraska” and to “bear true faith and allegiance to the same,” cannot substitute “government” schools for the “common” schools that the Constitution mandates.

The “common” or “public” school grew out of many proposals, experiments, and negotiations in the early 18th century. Many states (including Nebraska) adopted some form of “common” schools after the Civil War (or shortly after attaining statehood). With further developments over next hundred years, and with the abolition of “separate but equal” by the *Brown v Board of Education* Supreme Court decision, the schools in every state have been mandated and developed, based on a common understanding of what a school does and how it works. (The story of how our country reached this consensus has been often told. A good brief source is <https://education.stateuniversity.com/pages/1871/Common-School-Movement.html>)



Through all the negotiations, experiments and changes, these school systems finally came to be defined by three essential features: the schools are to be free, universal and compulsory. Free, so that education does not become an entitlement of the well-off; universal so that no young persons are denied access to knowledge and programs that will enhance their adult lives; and compulsory so that no family can be tempted to withdraw their children from school for reasons of poverty, religion or ignorance. Because our First Amendment protects free exercise of religion, and because we implicitly recognize the higher right of parents to control the education of their children, we allow parochial and private schools and home schooling to co-exist with public schools. But the education of students is still “compulsory,” and these alternatives must meet the standards of the “common” school curriculum, standards which assure that students share an understanding of the knowledge and values that are shared in common by adult citizens in our states.

Those same three features of the common school have another important effect: they turn education into a human right.

This fact is widely, but not universally, acknowledged. But consider this: an institution that is “free, universal and compulsory” would be tyrannical—like programs to “re-educate” dissenters—or corrupting—like Hitler Youth—without the understanding that students will, while required to be in school, be provided with the essential components of their human dignity. And our U.S. Constitution in the Bill of Rights, gives us good reason to call it a “Right.” Our Bill of Rights Article 9 says that there are rights not “enumerated”, and in Article 10, that any such rights are reserved to the **states** or to the **people**. We should be glad that the States have individually provided us the people with the right to an Education in their Constitutions, because “education” is nowhere mentioned in U.S. Constitution. (That should make us regard Federal educational policy with suspicion, as potentially undermining education as a human right. For instance, why should students be required to take standardized tests in order to provide schools with numbers determining levels of federal funding?)



And here is another reason to claim that our schools give us a Human Right.

Our country is not all in with respect to the Universal Declaration of Human Rights (UDHR). We have ratified the International Covenant on Civil and Political Rights (ICCPR)—rights largely compatible with our Bill of Rights—but have never ratified the Covenant on Economic,

Social and Cultural Rights (CESCR), including guarantees based on the UDHR’s Article 26, the right to an education. But Article 26 shares with the U.S. “common schools” the requirements that education be “free, compulsory and universal.” It also shares with our states the acknowledgement that “parents have a prior right to choose the kind of education that shall be given to their children.” The inclusion of these two provisions were probably not accidental. Eleanor Roosevelt, Chair of the Committee that wrote the UDHR, seems to have placed the provisions of many U.S. state constitutions into Article 26, with the belief that they adequately defined the universal human right that could be enjoyed in every nation state .

Let us congratulate ourselves and recognize that the U.S. consensus of the states served as a model for the “public schools” in all nations which have adopted Article 26, the “right to an education.”

Article 26 shares the three essential features of that Right, and the priority of parental choice, with U.S. state constitutions; but, lacking the history that our country went through to define the “common” or “public” school, replaces the American consensus with language that makes the most sense by its place within the UDHR. It mandates that education “shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.”

What that means in practice can be discovered by looking at the other twenty-nine Articles of the UDHR. They deal with civil rights, marriage, property, work and leisure, cultural and intellectual activity, citizenship, travel, social security, discrimination and other features of life in human society. Students who explore history, economics, government, art, science and the ways of the world put themselves into the world and will imagine how they will take advantage of the rights they can claim—whether or not they are aware of doing so as it happens. The “full development of human personality” comes through familiarity with the range of activities and enterprises that individuals have undertaken as their right, a model for what those now students may pursue as members of the larger community.



It is unfortunate that many public issues concerning schools seem to assume that the benefits provided by schools come after graduation, when students enter the workplace or advanced studies. In fact, the status of education as a human right makes it its own reward. It provides for those in its pursuit the satisfactions of discovery and accomplishment which together develop human personality. We often read of a person highly admired in the community having been inspired by a teacher or an experiment or a performance at school. But in fact all students can have had many such experiences with smaller effect but in the long term that becoming part of their personality. Learning is its own reward.

Recognition of this possibility has led us as a community to, for instance, provide school children with in-school food, with school buses, with after-school safe times—hoping to in part make up for the fact that not every student is in a household that provides for the UDHR Article 25 “standard of living.” School systems like Lincoln provide every student with a Chrome for much the same reason. Every school strives to be accessible for students with disabilities so that they also can obtain the benefits of education. We don’t want any student to miss out on the satisfactions of research, performance and discovery which become a component of personality.

By the same token, schools providing education as a human right invoke a range of human rights in their operation. We carefully limit the amount and kind of physical punishment and restraint applied to a student. We limit or forbid in schools any disparagement of persons for their color, ethnic or national origin, religious affiliation, and (in our day) sexual identification, wealth or any feature that could be the occasion for unequal treatment. Our schools try to assure that bullying (physical and psychological) does not disable a student’s right to be educated. The schools are exemplary of an institution where there is equality of “dignity and rights” and the “spirit of brotherhood” set down in Article 1 (UDHR) and the equality of “dignity and rights” of Article 2. The attention to these governing principles of human rights are applied without an explicit

announcement that the UDHR must be everywhere evident in the operation of a school.



So to conclude, this is another reason not to refer to “government schools.” In the past 300 years the peoples of the world have recognized that the formalized modes of intellectual life that have become the common base for human enterprises must be taught to each generation as effectively as possible in order to facilitate the continuity of our culture. We have agreed that a world where our arts and sciences are a possession of the few is incompatible with democracy and with the solving of existential problems. The “common schools” operate in a system that trains teachers in some number of arts or sciences or technology and in the effective ways to teach them. Oversight and facilitation are placed in elected Boards, but the system as designed is intended to preserve the integrity of the content which makes up the substance of what happens in the classroom.

UDHR Rights 18 and 19 protect a student or a teacher’s right to freedom of thought and religion and freedom of opinion and expression, but do not guarantee a favorable outcome of a peer review. The common schools thus recognize these rights while modelling and explaining what we have learned about how to think and express useful and enlightening understandings of the world and our culture.

*Bob Haller is a professor emeritus of English at UNL and past president of AFCON.*

### *Science Denial, continued from page 3*

Science deniers responded by developing a new version of creationism that said nothing about God or supernatural causation. New “balanced treatment” laws mandated that if public schools included evolution in the science curriculum they must devote equal attention to the new “scientific creationism.” Those laws were struck down in 1987 by the U.S. Supreme Court, which concluded that the new creationism still had no scientific justification.

Science deniers now developed a new theory known as “intelligent design,” which argued that some biological systems are so “irreducibly complex” they could not have evolved through natural selection. Although the postulated intelligent designer was not identified as God, a federal court ruled in 2005, on the basis of expert testimony, that intelligent design was no more scientific than earlier versions of creationism.

But science denial continued and has expanded to include attacks on teaching about climate change. Science education is constrained by law, policy, politics, and administrative power. Sensitive topics are often avoided. Teachers are often required or pressured to present diverse viewpoints without regard to their scientific credibility. The message to students is that science, like everything else, is just a matter of opinion.

### **The Politics of Science Denial**

Science denial in the early 20<sup>th</sup> century was nonpartisan. The anti-evolution law in the Scopes case was defended by William Jennings Bryan, three-time Democratic candidate for president. Since the late 1970s, however, the Republican party has taken up science denial as a central focus in its party platforms, campaigns, and legislative efforts, including dozens of bills designed to undermine education about matters such as evolution, the age of the earth, and climate change.

In 2016, Donald Trump was elected president on a platform of ignoring and denying science, especially climate science. He proceeded to

purge scientists from the government and eliminate research-based regulations. This included the elimination of key positions devoted to pandemic preparedness and monitoring in both the White House and China. The Trump administration’s contempt for expertise was widely seen as profoundly dangerous.

In September 2019, as Hurricane Dorian approached, Trump tweeted that it would likely hit Alabama much harder than anticipated. Responding to rising panic, the Birmingham office of the National Weather Service quickly noted the expert consensus that Alabama would not see any impacts from Dorian, which it didn’t. Nevertheless, Trump maintained he had been correct, even producing a weather map doctored with a sharpie marker to support his claim.

“Sharpiegate” was a rich source of material for comedians. But scientists weren’t laughing when the National Oceanic and Atmospheric Administration, under pressure from the White House, disavowed the statement from the National Weather Service and warned government employees not to contradict the president.



### **The New Coronavirus**

On December 31, 2019, China reported to the world an emerging epidemic of a disease caused by a newly evolved type of coronavirus. Scientists quickly recognized the possibility of a deadly pandemic, and over the next few weeks it became increasingly clear that the new coronavirus was highly contagious and caused a disease (COVID-19) much deadlier than the typical flu.

In the U.S., President Trump was initially briefed about the matter in January but spent the next several months first ignoring the danger, then denying it, and then minimizing it. Even when he seemed to get serious he focused on proposing his own solutions, which were at best wishful thinking (such as administering the antimalarial drugs chloroquine and hydroxychloroquine) and sometimes absurd and dangerous (such as ingesting disinfectants).

Consistent with its past practice, the Trump administration has greatly restricted public statements and testimony from government biomedical experts working on COVID-19. Officials sometimes “walk back” Trump’s comments but don’t dare contradict him directly. The Centers for Disease Control and Prevention (CDC) was forced by the White House to compromise its research-based guidelines for reopening following quarantine. Dr. Rick Bright was removed from his position directing an office responsible for developing countermeasures for infectious diseases after he repeatedly urged scientific, rather than political, responses to COVID-19.

In an extraordinary violation of academic freedom, the National Institutes of Health (NIH) abruptly revoked an ongoing (and recently renewed) grant for research on bat coronaviruses in China a week after President Trump, responding to a question, said “we will end that grant very quickly.” Dozens of Nobel laureates and scientific organizations expressed their dismay at this political override of a funding decision based on scientific merit.

Meanwhile, protesters wielding signs such as “Defy Fascist Science” have been organized and funded by conservative and Republican activists to demonstrate against governors who are following scientific advice. President Trump tweeted his support for such efforts to “liberate” Minnesota, Michigan, and Virginia.

Current figures indicate that the United States, which has less than 5% of the world’s population, has suffered over 25% of the world’s coronavirus deaths. The precise proportion will change over

time but it is clear the U.S. death rate is worse than that of most other countries. This may be due in part to the fact that other countries make health care more accessible to all. But the main reason most of the world’s countries addressed COVID-19 far more successfully than the U.S., it appears, is that their governments took expert recommendations more seriously and responded more quickly and effectively.

### **What Now?**

When will we get back to normal? I’m afraid I have bad news. COVID-19 will likely impinge severely on our way of life for years to come. Over the next few decades, moreover, climate change will render much of the earth too hot for human habitation, inundate islands and coastal areas where hundreds of millions presently live, produce killer storms of increasing severity, generate desperate refugees everywhere, and unpredictably alter the evolution and transmission of microorganisms. What we took for normal in the late 20<sup>th</sup> century will not be back.

But the situation is not hopeless. We can learn from the present crisis to take science seriously. We can respect the academic freedom of researchers, teachers, and students and the intellectual freedom of government scientists and other experts. We can elect public officials who value expertise. We can insist that those who govern on our behalf listen to scientists, that they permit scientists to speak freely and directly to the public, and that they either follow expert advice or explain why they are not doing so.

Of course we must recognize that individual scientists are not like “the professor” on Gilligan’s Island, who knew everything about everything. Experts are only expert in their areas of expertise. But when experts on a topic have reached a consensus, we ignore them at our peril. We are paying a terrible price for our ongoing denial of science, and over the coming decades that price will keep increasing.

*Dave Moshman is a professor emeritus of educational psychology at UNL and past president of AFCON.*



## Links

### NIH Grant

In an extraordinary violation of academic freedom, the National Institutes of Health (NIH) abruptly revoked an ongoing (and recently renewed) grant for research on bat coronaviruses in China a week after President Trump, responding to a question, said “we will end that grant very quickly.” Dozens of Nobel laureates and scientific organizations expressed their dismay at this political override of a funding decision based on scientific merit.

<https://academeblog.org/2020/05/25/nobel-laureates-and-science-groups-demand-nih-review-decision-to-kill-coronavirus-grant/>

### UNO Anti-Terrorism Grant

UNO has received a \$36 million dollar grant from the U.S. Department of Homeland Security to establish a center geared toward helping the government stop terrorism, with publication in academic journals at best a secondary consideration. Will researchers have the academic freedom to define terrorism in consistent and scholarly ways? Will they be limited in what they can study and what conclusions they can reach? The article does not address these considerations.

[https://journalstar.com/news/local/education/largest-grant-in-history-to-bolster-uno-as-center-of-excellence-for-terrorism-prevention/article\\_01aff20a-fe63-5db9-9451-22078f869ce6.html](https://journalstar.com/news/local/education/largest-grant-in-history-to-bolster-uno-as-center-of-excellence-for-terrorism-prevention/article_01aff20a-fe63-5db9-9451-22078f869ce6.html)

### School Board Bans Books

“We’ve got five books here that are labeled as controversial and they’re controversial because of words like rape and incest and sexual references and language and things that are pretty serious problems, especially in our teenage world. Is there a reason that we include books that we even label as controversial in our curriculum? I would prefer that these were gone. For us to put them in front of teenagers as part of our curriculum that’s just something I can’t, I just don’t understand.” --School board member Jeff Taylor

<https://www.frontiersman.com/news/school-board-removes-books-from->

[curriculum/article\\_b3ede1b2-859e-11ea-9bbe-6f25edee4078.html](https://www.frontiersman.com/news/school-board-removes-books-from-curriculum/article_b3ede1b2-859e-11ea-9bbe-6f25edee4078.html)

NCAC response

<https://ncac.org/news/alaska-banned-books>

The decision was rescinded May 20 by a vote of 6-1, but the issue remains unresolved.

[https://www.frontiersman.com/news/school-board-rescinds-controversial-book-removal/article\\_d05556ca-9b22-11ea-ac97-f319bdd8ba05.html](https://www.frontiersman.com/news/school-board-rescinds-controversial-book-removal/article_d05556ca-9b22-11ea-ac97-f319bdd8ba05.html)

### Academic Freedom in Law School

Eugene Volokh’s law school dean apologized for Volokh’s use of the word “nigger” in class, but Volokh is not apologizing, and he wants you to know why.

<https://reason.com/2020/04/14/ucla-law-dean-apologizes-for-my-having-accurately-quoted-the-word-nigger-in-discussing-a-case/#more-8057104>

### Reasoning and Democracy

Dave Moshman’s new book to be published October 2.

<https://www.routledge.com/Reasoning-Argumentation-and-Deliberative-Democracy/Moshman/p/book/9780367312770>

### Right to Education

See also Dr. Bob’s column in this issue.

<https://theconversation.com/kids-have-a-right-to-a-basic-education-according-to-a-new-legal-milestone-137197>

Talking about Microaggressions at the University of North Texas

<https://www.thefire.org/fired-for-his-views-unt-math-professor-brings-free-speech-lawsuit>

### Antifa Professor Fired

<https://www.thefire.org/victory-college-settles-with-antifa-professor-fired-for-criticizing-president-trump-on-facebook-avoids-first-amendment-lawsuit-from-fire>

### BDS

<https://academeblog.org/2020/05/11/international-scholars-oppose-political-litmus-tests-in-germany/>

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*Links, continued from page 9*

College Student Self-Censorship

<https://www.insidehighered.com/quicktakes/2020/04/29/survey-identifies-‘dangerous’-student-self-censorship>

Survey of College Student Attitudes about Free Speech

<https://www.insidehighered.com/news/2020/05/05/gallupknight-foundation-survey-shows-students-conflicted-about-free-speech>

College Coronavirus Coverage Awards

<https://www.spj.org/ccc.asp>

AAUP on New Title IX Regulations

<https://academeblog.org/2020/05/18/executive-summary-of-aaup-response-to-final-title-ix-regulations/>

Banned Books 2020

[https://www.edweek.org/ew/articles/2020/04/20/handmaids-tale-harry-potter-on-challenged\\_ap.html](https://www.edweek.org/ew/articles/2020/04/20/handmaids-tale-harry-potter-on-challenged_ap.html)



## **AFCON**

[www.academicfreedomnebraska.org](http://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.

### **AFCON Board of Directors**

*John Bender, President*

*Todd Schlechte, President-Elect (2021 President) and Webmaster*

*Laurie Thomas Lee, Immediate Past President*

*Peggy Adair, Secretary and Legislative Liaison*

*Rod Wagner, Treasurer*

*David Moshman, Policy Coordinator and Newsletter Editor*

*Nancy Comer*

*Bob Haller*

*Linda Parker, ex officio, Archivist*



### **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 and \$15 for individuals.*

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**The AFCON Sentinel** is the newsletter of the Academic Freedom Coalition of Nebraska, published bimonthly in February, April, June, August, October, and December.

Editor: David Moshman

email: [dmoshman1@unl.edu](mailto:dmoshman1@unl.edu)

**Academic Freedom Coalition of Nebraska  
Board of Directors Meeting**

Via Videoconference  
April 11, 2020

Present:

Peggy Adair, secretary, legislative liaison  
John Bender, president, representing UNL Faculty Senate  
Nancy Comer, representing Nebraska State Literacy Association  
Laurie Thomas Lee, immediate past president, representing American Civil Liberties Union of Nebraska  
Dave Moshman, newsletter editor, policy coordinator, executive vice secretary  
Todd Schlechte, president-elect, webmaster, representing Nebraska Library Association  
Rod Wagner, treasurer, representing Nebraska Center for the Book

**MINUTES**

President John Bender convened the meeting at 10:00 a.m.

**AGENDA:** A motion was made by Schlechte, second by Moshman, to approve the agenda as presented. Motion carried without objection.

**MINUTES:** A motion was made by Wagner, second by Schlechte, to approve minutes of the AFCON board meeting held on February 8, 2020. Motion carried without objection.

**TREASURER’S REPORT:** Wagner submitted the April treasurer’s report via email. Wagner reported he and Adair updated the AFCON bank account to include Wagner as an authorized signer. Balance on hand as of April 10, 2020 is \$1,561.76. Treasurer’s report will be filed for audit.

**NEWSLETTER:** Deadline for articles to be published in the June edition of the *Sentinel* is May 24, 2020.

**WEBSITE:** Schlechte has updated the website to include the April edition of the AFCON newsletter.

**ANNUAL MEETING:** Schlechte reported the AFCON annual meeting is tentatively scheduled for October 17, 2020. The theme for the annual meeting is intellectual freedom in libraries.

Vicky Wood from Lincoln City Libraries will speak on avoiding censorship and bias in library programs. Eiseley Library was proposed as a possible meeting venue. The board discussed contingency plans due to uncertainty surrounding the current global pandemic.

**PRESIDENT’S REPORT:** Bender asked if Nebraska Media receives the AFCON newsletter. Adair will check the email list.

**POLICY COORDINATOR:** Moshman reported that UNO has received a \$36 million dollar grant from the U.S. Department of Homeland Security to establish a center geared toward stopping terrorism, which is defined by the government in such a way that U.S. violence cannot count as terrorism. The center's purpose is to help the government; publication in academic journals will be at best a secondary consideration. He expressed concern that the center is not really an academic entity and its researchers will not have the academic freedom to define terrorism in a consistent and scholarly way and thus will be limited in what they can study and what conclusions they can reach. Moshman will invite Sam Walker to write an article for the AFCON newsletter regarding this issue.

**MEMBER ORGANIZATION REPORTS:** Comer reported, “Not much is going on.”

There being no further business, the AFCON board adjourned at 10:48am.

Respectfully submitted,  
Peggy Adair, secretary  
Dave Moshman, executive vice secretary

**Academic Freedom Coalition of Nebraska  
Board of Directors Meeting**

Via Videoconference  
May 9, 2020

Present:

Peggy Adair, secretary, legislative liaison, occasional conscripted host  
John Bender, president, representing UNL Faculty Senate  
Nancy Comer, representing Nebraska State Literacy Association  
Laurie Thomas Lee, immediate past president, representing American Civil Liberties Union of Nebraska

Dave Moshman, newsletter editor, policy coordinator,  
executive vice secretary  
Todd Schlechte, president-elect, webmaster, representing  
Nebraska Library Association  
Rod Wagner, treasurer, representing Nebraska Center for  
the Book

## MINUTES

President John Bender convened the meeting at 10:03 a.m.

AGENDA: A motion was made by Moshman, second by Schlechte, to approve the agenda as presented. Motion carried without objection.

MINUTES: A motion was made by Lee, second by Moshman, to approve minutes of the AFCON board meeting held on April 11, 2020. Motion carried without objection.

TREASURER'S REPORT: Wagner submitted the May treasurer's report via email. Wagner reported he has sent invoices to member organizations for which he has contact information.

Wagner reported Bank of the West has instituted a monthly account fee of \$25. Wagner negotiated with the bank for an alternate plan that omits a monthly fee if a deposit of any amount is made to the account. Wagner will monitor. Balance on hand as of May 9, 2020 is \$1,536.76. Treasurer's report will be filed for audit.

NEWSLETTER: Deadline for articles to be published in the June edition of the *Sentinel* is May 24, 2020.

WEBSITE: Schlechte continues to keep the website current. (Thank you!!)

ANNUAL MEETING: Schlechte reported libraries are not accepting room reservations at this time due to the uncertainty of the pandemic situation. Bender indicated Anderson Hall may be a venue possibility. Lee reported Anderson Hall seats 120 so social distancing is possible. Consensus of the board was wait and see regarding annual meeting plans. (See more below under "Nebraska Library Association.")

POLICY COORDINATOR: Moshman reported the CDC guidelines on safely reopening venues in the United States during the pandemic have been adulterated by the Trump administration. Moshman reports the concern is research-based scientific recommendations are being censored, which will lead to catastrophic outcomes.

Lee reported the University of Arizona has been told by Arizona politicians to stop disseminating their academic research regarding pandemic data. Moshman asked members of the board to report any similar academic freedom issues to him so he can investigate the facts.

### MEMBER ORGANIZATION REPORTS:

Nebraska Library Association – Schlechte reported the NLA is currently surveying members to get their input on whether or not to hold their annual conference in October. Moshman suggested if NLA decides to cancel their October annual meeting, AFCON should take their lead and also cancel.

Nebraska State Literacy Association – Comer reported they did hold their annual meeting in February. Comer reported nonprofit organizations are concerned with economic survival due to the disappearance of normal funding sources during the pandemic.

Nebraska Center for the Book – Wagner reported entries for the Nebraska Book Award are coming in. Nominations are also coming in for next year's One Book, One Nebraska selection. Wagner reported the Center for the Book is also weighing options for their upcoming October annual meeting.

ACLU Nebraska – Lee reported ACLU board meetings are taking place via Zoom. The ACLU annual meeting is scheduled for May 30, 2020.

UNL Faculty Senate – Bender reported financial concerns at the university may lead to cuts in staff and faculty. Bender will continue to monitor and report on academic freedom issues that could occur with reduction in workforce.

There being no further business, the AFCON board meeting adjourned at 10:33am.

Respectfully submitted,  
Peggy Adair, secretary