

# The AFCON Sentinel

Newsletter of the Academic Freedom Coalition of Nebraska

Volume 23, Number 5

October 2019

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## From the President

Laurie Thomas Lee

Please join us for our annual meeting and program, Saturday morning, October 12<sup>th</sup>, at the UNL College of Journalism and Mass Communications, Andersen Hall. This year's program is "*Hazelwood* Revisited: Restoring Free Expression Rights of Student Journalists." We're looking back at the events that led up to the 1988 case of *Hazelwood School District v. Kuhlmeier* with a dramatic reading by the Angels Theatre Company. Then we'll hear from the real-life plaintiff of the case, Cathy Kuhlmeier Frey, who will tell us about her fight before the Supreme Court and how this important decision ultimately limits the First Amendment rights of student journalists by allowing school administrators to censor school-sponsored speech, such as student newspapers. You'll then learn about a Nebraska bill that would restore protections for Nebraska student journalists. Senator Adam Morfeld, sponsor of LB206, will be joined by an amazing panel of student journalists and media advisers who will share their stories and discuss their support of the bill.

The event will kick off with a presentation of our 2019 Academic Freedom Awards. Senator Julie Slama will be recognized for her work on LB399, a bill that created a civics education law that greatly improves upon an existing Americanism law that infringed on the academic freedom of teachers and students. Senator Adam Morfeld will also receive the Academic Freedom Award for his sponsorship and support of LB206, a bill to "Protect Free Speech Rights of Student Journalists and Student Media Advisers."



*AFCON President Laurie Thomas Lee (r.) with Cathy Kuhlmeier Frey in February at the Unicam, where both testified in support of LB206, which would protect student journalists and their advisers.*

Following the event, AFCON will hold a short business meeting. Members and guests are welcome.

This event is free and no registration is required. Andersen Hall is at the southwest corner of 16<sup>th</sup> and Q. Although the adjacent parking lot is limited to faculty and staff, metered street parking around the building should be available as well as nearby city parking structures.

See you then!

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**See Program on Page 2**

*Free to all*

*No registration required*

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**Academic Freedom Coalition of Nebraska  
32<sup>nd</sup> AFCON Fall Program/Annual Meeting**

***“Hazelwood Revisited: Restoring Free Expression Rights of Student Journalists”***

**Saturday, October 12, 2019**

Andersen Hall, UNL College of Journalism and Mass Communications  
16<sup>th</sup> and Q, Lincoln

It was 1988 when the U.S. Supreme Court rendered its decision in *Hazelwood School District v. Kuhlmeier*, limiting the First Amendment rights of student journalists by allowing school administrators to censor school-sponsored speech, such as student newspapers. A dramatization of the events leading up to this landmark case will be performed by Angels Theatre Company. Then Cathy Kuhlmeier Frey will share her real-life experience as the editor of that Hazelwood East High School student newspaper who took this case to the U.S. Supreme Court. Some states have since passed laws restoring free expression protection for student journalists. A panel will discuss LB206 aimed at protecting the First Amendment rights of Nebraska student journalists.

*Program*

9:00-9:30. Coffee Reception

9:30-9:50. Welcome—President Laurie Thomas Lee  
2019 Academic Freedom Awards to  
Senator Julie Slama, LB399  
*Bob Haller, presenter*  
Senator Adam Morfeld, LB206  
*John Bender, presenter*

9:50-10:30. “A Tangled Issue: Student Freedom of Expression”  
Readers Theatre performed by Angels Theatre Company

10:30-11:00. Keynote Speaker—Cathy Kuhlmeier Frey  
Plaintiff, *Hazelwood School District v. Kuhlmeier*, 1988

11:00-12:00. “Protecting First Amendment Rights of Nebraska Student Journalists—LB206”  
*Panel:*  
John Bender, Moderator  
Senator Adam Morfeld, LB206 Sponsor  
Cathy Kuhlmeier Frey, Plaintiff, *Hazelwood v. Kuhlmeier*  
Kaitlynn Johnson, Journalism student, UNL and formerly Millard West High  
Stephenie Conley, Publications Adviser, Bellevue East High School

*A short business meeting of AFCON members will follow. All are welcome.*

## From Americanism to Civics Education

David Moshman

In March 2017, as president-elect of AFCON, I provided the Education Committee of the Nebraska Unicameral with written testimony concerning AFCON's opposition to LB308, a bill designed to activate the Americanism committee of every school district across Nebraska. These committees were established by a 1949 Nebraska law driven by the rising anti-communist hysteria that later came to be called McCarthyism.

I testified that AFCON saw the Americanism law as an infringement "on the academic freedom of teachers and students and on the academic integrity of Nebraska schools." More specifically, I argued: "For a state legislature to determine curriculum and set methods of instruction is micromanagement." I noted that in the present academic context, "micromanagement is indoctrination."

I added that "compulsory Americanism is, paradoxically, just plain un-American." Genuine patriotism "cannot be compelled or coerced" and "does not require Americanism committees." Quoting from *West Virginia v. Barnette*, the famous 1943 flag salute case, I argued that we should not underestimate "the appeal of our institutions to free minds."

So when I heard in January of this year that a new Republican state senator appointed by Governor Ricketts was once again dusting off Nebraska's Americanism law, I thought, oh no, here we go again. To my pleasant surprise, however, LB399, introduced by Senator Julie Slama, had some noteworthy positive features, and the final version, after several amendments, was a major improvement on Nebraska's existing Americanism law.

In fact, LB399 essentially repealed the Americanism law and replaced it with a civics education law. The new law eliminates the Americanism committees and requires instead that the school board of each school district appoint a "committee on American civics." The

difference is not just linguistic. The new committees must assure that civics education is taken seriously, but their mandate shows considerable respect for the autonomy of students, faculty, and school systems.



The final version of the bill was supported by senators spanning the political spectrum. It passed 44-2, with one senator abstaining and two absent, and was signed by Governor Ricketts on March 27. The new law is not perfect. It still micromanages curriculum, instruction, and assessment. But compared to the law it replaced, it is far more flexible in its requirements, far less indoctrinative in its language, and overall much more respectful of academic freedom.

So when board member Bob Haller, a founder and three-time president of AFCON, suggested Senator Slama to be a recipient of AFCON's academic freedom award, I enthusiastically supported his suggestion. Both in her original formulation of the bill and in her willingness to work with those seeking to amend it, Senator Slama enabled the legislature to reach near-consensus on a conception of civics education far more academically justifiable than the compulsory Americanism it replaced.

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*A brief article based on AFCON's 2017 testimony can be found in the March 2017 issue of the AFCON Sentinel (pp. 10-11) or at [https://www.huffpost.com/entry/activating-nebraskas-americanism-committees\\_b\\_58939e3be4b061551b3dfcc2](https://www.huffpost.com/entry/activating-nebraskas-americanism-committees_b_58939e3be4b061551b3dfcc2).*

## Russ Alberts 1951-2019

We are sorry to report that Russ Alberts died in April. Russ originally served on the AFCON Board of Directors in the 1990s as the representative of the UNL Faculty Senate (then known as the “Academic Senate”) and as president in 1994. He then served again in recent years.

During his presidential year in 1994, Russ organized a highly successful annual membership meeting featuring Marcia Pally. Pally was the founder and president of Feminists for Free Expression, an influential national group countering the feminist anti-pornography movement of that time, and had just published *Sex & Sensibility: Reflections on Forbidden Mirrors and the Will to Censor*. Her keynote address, entitled “Out of harm’s way: The soothing appeal of censorship,” was followed by a panel discussion featuring Nancy Hicks of the Lincoln Journal Star, Pat Shafer of the Nebraska State Education Association, and Charles Stephen, minister of the Lincoln Unitarian Church, which hosted the event.

Russ later served on the ACLU Nebraska Board of Directors and then returned to the AFCON Board in January 2016 as a director-at-large and served as president-elect in 2018. In September 2018, however, he informed the Board that he would be unable to assume the presidency in 2019 due to his declining health. A motion was made and approved at the October 2018 annual meeting to recognize Russ for his years of support for and contributions to academic freedom and AFCON.

Russ attended his final Board meeting in February, just two months before his death. We miss his enthusiasm for the work of AFCON and his enduring commitment to intellectual freedom for all.

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## Recent Links

An article at *InsideHigherEd* discusses recent state laws protecting free speech for college students and the controversies associated with such laws, including comments from Joe Cohn of FIRE, who testified in Nebraska in 2018 concerning Senator Halloran’s free speech bill. AFCON testified in a neutral capacity on that bill, as did ACLU Nebraska, for reasons generally consistent with FIRE’s position.

<https://www.insidehighered.com/news/2019/09/16/states-passing-laws-protect-college-students-free-speech>



A new article by John K. Wilson in the *AAUP Journal of Academic Freedom* discusses the dangers in recent efforts to ban bullying on campus, including a paragraph about the UNL TPUSA case for which UNL remains on the AAUP list of censored institutions.

<https://www.aaup.org/JAF10/danger-campus-bans-bullying#.XYqakiZ2P1w>

The San Francisco School Board has voted to cover up rather than destroy the controversial historical murals at George Washington High School discussed in the previous Sentinel.

<https://www.nytimes.com/2019/08/14/arts/san-francisco-murals-george-washington.html?action=click&module=Well&pgtype=Homepage&section=Art%20%20Design>

<https://www.thenation.com/article/arnautoff-mural-life-washington/>



# ***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.

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### *AFCON Board of Directors*

- Laurie Thomas Lee, 2019 President*
- John Bender, President-Elect (2020 President)*
- David Moshman, Immediate Past President,  
Policy Coordinator, and Newsletter Editor*
- Peggy Adair, Secretary and Legislative Liaison*
- Ally Halley, Treasurer*
- Todd Schlechte, Webmaster*
- Nancy Comer*
- Bob Haller*
- Rod Wagner*
- Linda Parker, ex officio, Archivist*

### *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.

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### ***JOIN OR RENEW***

*Ally Halley, Treasurer*

*AFCON now accepts PayPal! Use your PayPal account to join or renew. We offer two ways to pay: You can send a direct payment to us at [afcon.freedom@gmail.com](mailto:afcon.freedom@gmail.com) or you can use the new 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.*

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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.

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

**Academic Freedom Coalition of Nebraska  
Board of Directors Meeting**  
Eiseley Library, Lincoln, Nebraska  
September 14, 2019

Present:

Bob Haller, chief baker, director at large  
Ally Halley, treasurer, representing Fine Lines  
Laurie Thomas Lee, president, representing  
American Civil Liberties Union of Nebraska  
Dave Moshman, immediate past president,  
newsletter editor, policy coordinator  
Todd Schlechte, webmaster  
Rod Wagner, representing the Nebraska Center for  
the Book  
Vicki Wood, Youth Services Coordinator, Lincoln City  
Libraries (guest)

**MINUTES**

President Laurie Thomas Lee convened the meeting at 10:12 a.m. The agenda was approved without dissent. The July minutes (as previously corrected) were approved without dissent. Halley reported a treasury balance of \$2,826.11. Moshman reported that the October Sentinel would be sent out about September 30, with all materials due September 24. Lee indicated that she would report on the annual meeting later in the agenda. Haller distributed ginger bread. Moshman noted with sorrow the death in April of Russ Alberts, who was president of AFCON in its early days and then president-elect in 2018 but was unable for health reasons to serve as president in 2019.

**POLICY COORDINATOR:** Moshman discussed the Trump administration's pressure on the National Weather Service to support President Trump's false claim that Alabama was at risk from Hurricane Dorian. The issue seemed silly at first but turned into a serious threat to the scientific integrity of the National Weather Service, which requires intellectual freedom to do its work.

**ANNUAL MEETING:** Lee provided a draft program for the October 12 annual membership meeting with the theme, "Hazelwood Revisited: Restoring Free Expression Rights of Student Journalists." The meeting will include presentation of academic freedom awards to state senators Julie Slama and Adam Morfeld, a Readers Theatre presentation by the Angels Theatre Company of a play about Hazelwood, a keynote address by Hazelwood plaintiff Cathy Kuhlmeier Frey, a panel discussion moderated by AFCON president-elect John Bender concerning legislation to protect student journalists, and a brief business meeting. It was agreed that Bob Haller would arrange plaques for the academic freedom award and present the award to Senator Slama, and that John Bender would present the award to Senator Morfeld.

**NOMINATING COMMITTEE:** Wagner reported on the progress of the nominating committee in finding candidates for president, secretary, and treasurer. The nominating committee will present its nominees during the business portion of the annual membership meeting.

**ORGANIZATION REPORTS:** Rod, Ally, and Todd reported on recent and upcoming events of the Nebraska Center for the Book, Fine Lines, and the Nebraska Library Association respectively.

The meeting was adjourned at 11:05 a.m.

Respectfully submitted,  
Dave Moshman, Acting Secretary