

The AFCON Sentinel

Newsletter of the Academic Freedom Coalition of Nebraska

Volume 24, Number 5

October 2020

**AFCON Annual Meeting
(via Zoom)
October 17, 2020 at 10 AM**



Current Topics in Intellectual Freedom in Libraries

AFCON will this year have as its theme for the Annual Meeting “Current Topics in Intellectual Freedom in Libraries.” The careful reader of the session descriptions on the next page will notice that they all approach topics of intellectual freedom from the angle of patron access. What sort of library programs are available to patrons, and what process should librarians use in deciding what to program? In the digital realm, are library materials limited or are they available in such quantity that the hungry and curious mind has all it needs? We invite you to join us in this exploration at our Annual Meeting on October 17 (via Zoom)! See page 2 for more information.

--Todd Schlechte

**Register by October 15 at
<https://bit.ly/2020afcon>**

From the President

Potpourri
John R. Bender

The death of Ruth Bader Ginsburg last week shocked the nation and set off a political battle over whether President Donald Trump should fill the vacancy on the Supreme Court created by her death. That appears increasingly likely.

Ginsburg will be best remembered for her work to end gender discrimination. One of her most famous contributions was her majority opinion in *United States v. Virginia*, which found that Virginia Military Institute’s refusal to accept women violated the 14th Amendment’s equal protection clause.

Her contributions to First Amendment law were less notable, although she strongly supported the rights protected by that amendment. For instance, she joined Chief Justice John Roberts’ majority opinion in *Snyder v. Phelps*, upholding the right of members of the Westboro Baptist Church to protest at a fallen serviceman’s funeral. She also joined Justice John Paul Stevens’ partial dissent from the court’s ruling in *Citizen’s United v. Federal Election Commission* which opened the door to massive corporate spending on elections, a decision that has split First Amendment advocates.

My thoughts about Ginsburg are primarily shaped by the opportunity I had to meet her in 2006. She visited the UNL campus and spoke to students at the College of Journalism and Mass Communications during the mass media law class

--see President’s Potpourri, p. 3

Current Topics in Intellectual Freedom in Libraries

AFCON Annual Meeting (via Zoom)

October 17, 2020

Register at <https://bit.ly/2020afcon> by October 15 to receive a Zoom link

10:00 AM Introduction by President John Bender

10:05 AM *Public Library Programming: Achieving the Balance* with Vicki Wood.

Public Libraries strive to be inclusive in their program and event offerings. Community pushback and protests can lead to self-censoring and fear of offering programs considered controversial by some members of the community. How does the Library decide what programming to include, and how does it protect the rights of all community members to be seen, heard, and to feel safe in the library, while staying true to the ideals of Intellectual Freedom? *(Includes 10 minutes for questions)*

10:45-10:50 Presentation of Academic Freedom Award to Brenda Ealey

10:50-10:55 Break

10:55 *Balancing the Books* with Devra Dragos.

There are difficult challenges to be faced in building and maintaining a collection of popular eBooks and digital audiobooks for public libraries due to numerous, expensive, and constantly changing publisher models for selling to libraries. *(Includes 5 minutes for questions)*

11:15-11:20 Break

11:20 *The Electronic Academic Library: Licensing Resources Versus Ownership and Implications for Access* with Jim Shaw.

College and university libraries commonly spend 75% to 85% of their acquisition's budgets on electronic resources. That is how they provide access to many thousands of electronic books, research journals, historical archives, and other resources. Many may not appreciate, however, that libraries do not actually own electronic resources, but instead purchase licenses which permit use within certain parameters. For example, academic licenses typically permit off-campus use only to current faculty and students. Non-affiliated persons may usually access resources on computers at the library, but that is not guaranteed. Spending so much on electronic resources necessarily implies that when budgets are cut, some of those licenses will not be renewed and access for everyone is lost. Libraries have been able to leverage electronic resources in ways that provide more to their users than ever, but this new era could prove volatile and create further separation between the haves and have-nots. *(Includes 10 minutes for questions)*

11:50 Annual Meeting

--President's Potpourri, continued from page 1

I teach. I remember little of the substance of her remarks, but I vividly recall one moment during her presentation.

A student asked a question that raised some point of constitutional law. Rather than immediately answering, she raised a finger and said, "Just a moment." She turned from the lectern and went to her purse on a chair behind her. From her purse, she pulled a slim paper-bound copy of the Constitution. She returned to the lectern, read a section from the Constitution that was germane to the question, and then elaborated on it to answer the student's question.

That small moment illustrated for me the reverence she and other members of the Supreme Court and the judiciary have for the Constitution. They often disagree with each other, and I find some of their rulings wrongheaded. But I believe they all are trying to be faithful to the words of the Constitution and the ideals of its framers.



Rats!

Big rats! Rats 12 feet tall or taller!

The National Labor Relations Board has declared war on these rats. And they're all named Scabby.

Scabby the Rat has been a prominent part of labor protests and strikes for 30 years or more, but Donald Trump's NLRB has been suing to prevent unions from using him.

Scabby, an inflatable rat, is imposing. You can find scores of pictures of him in his various

incarnations on Google Images. NLRB general counsel Peter Robb is contending that deploying Scabby at protests against "neutral" businesses, ones that are doing business with the primary target of the union's protest, amounts to a coercive secondary activity. Generally courts have held that so long as the protest consists of peaceful non-picketing activities, such as distributing handbills or wearing sandwich boards, they are protected by the First Amendment. Picketing and other actions that might interfere with business are not protected.

So far, the NLRB's attack on Scabby has been unsuccessful. Federal courts in Illinois and New York have said the inflatable rat is more akin to distributing handbills than to picketing.

The controversy over Scabby reminds us of the role that labor disputes have played in shaping and strengthening free speech rights. Laura Weinrib's "The Taming of Free Speech" follows the development of First Amendment theory along with the progress of the labor movement. Both labor and free speech were feared early in the 20th century, but as the American Civil Liberties Union pursued a litigation strategy that emphasized the First Amendment rights of all, both gained wider acceptance.

In January, I mentioned that the UNL Faculty Senate and the NU Board of Regents seemed to be nearing an agreement on changes to university policies that would guarantee due process for faculty accused of misconduct and facing punishment or dismissal. The proposal from the Faculty Senate has been tied up in Varner Hall for several months now, but Kevin Hanrahan, the past president of the Faculty Senate, said he expects a revised version will be released to the public soon.

Hanrahan said the revision will be about 90 percent the same as the one that was circulated late last year. If the substance of the new policy is unchanged, it may help UNL get off the censure list of the American Association of University Professors.

Is Banned Books Week Still Relevant?

Nancy Comer

Recently asked to write about Banned Books Week, I wondered what the Nebraska State Literacy Association (NSLA) was doing this year. Turns out they are trying a blog to see what NSLA readers have to say about their experiences with intellectual freedom issues. This appears to be a great idea during this year of the coronavirus pandemic.

Let's begin with a little background information. Banned Books Week is an annual event celebrating the freedom to read. It is promoted by the American Library Association, the International Literacy Association and others to call attention to banned and challenged books. In the case of Amnesty International, the focus is on individuals persecuted because of their writings or what they read.

Banned Books Week was launched in 1982 in response to a substantial increase in the number of challenges to books in schools, libraries and bookstores. Nebraska was right in the middle of this. In 1987, The People for the American Way recognized the state for being #1 in attempts to censor books that came to completion!

Since 2011, the [American Association of School Librarians](#) (AASL) has designated the Wednesday of Banned Books Week as Banned Websites Awareness Day. Their goal is "to bring attention to the overly aggressive filtering of educational and social websites used by students and educators. In the AASL's 2012 national longitudinal survey, 94% of respondents said their school used filtering software, with the majority of blocked websites relating to social networking (88%), IM or online chatting (74%), gaming (69%), and video services like YouTube (66%). The AASL's position is that "the social aspect of learning" is important for students and that many schools go "beyond the requirements set forth by the [Federal Communications Commission](#) in its [Child Internet Protection Act](#)."

The American Library Association's web site identifies cases studied annually. A good many of the challenges are brought by parents saying the books are age-inappropriate for children. In perusing the lists over the past 10 years, the topics most challenged in recent history deal with LGBTQIA, race and violence.



Like most things these days, even the notion of Banned Books has become controversial, with educators, librarians and booksellers on one side and groups like Focus on the Family on the other. Some allege that Banned Books is misleading because most books are only challenged and never actually banned or removed from shelves, and because these books can be purchased in book stores the government hasn't banned the books. Tom Minnery, vice president of public policy for Focus on the Family said "The ALA has irresponsibly perpetrated the 'banned' books lie for too long...Nothing is 'banned,' but every year this organization attempts to intimidate and silence any parent, teacher or librarian who expresses concern about the age-appropriateness of sexually explicit or violent material for schoolchildren." Of course, the counter-argument to no books have been banned is that educators, librarians and the public have developed plans and policies to defend the right to read and freedom to choose.

The American Library Association's Office for Intellectual Freedom (OIF) is a valued source for librarians, teachers and others to find resources and support to address censorship. Some are copied on the next page.

Produced by the National Coalition Against Censorship, the [Book Censorship Action Kit](#) provides basic information on censorship in public schools and details the steps that educators and librarians can take when facing a challenge.

- The ALA provides a [host of resources](#), including infographics, social media tools, classroom activities, and the [Rebel Reader Twitter Tournament Toolkit](#) of website banners, printable bookmarks, a coloring sheet, and suggested hashtags.
- TeachHUB's list of "[12 Banned Books Week Classroom Activities](#)" offers discussion questions, First Amendment lessons, debate templates, and other learning activities.
- The [Banned Books Week YouTube channel](#) features videos of readers "exercising their First Amendment right to read a banned book."
- The *New York Times* compilation of "[Ways to Celebrate Banned Books Week](#)" includes lesson plans, infographics, writing prompts, and more.

Banned Books Week 2020 will be held September 27 – October 3. The theme of this year's event is "Censorship is a dead end. Find your freedom to read!"

The OIF's most recent Top Ten List of Challenged Books for 2019 is copied below:

1. ***George* by Alex Gino**
Reasons: Challenged, banned, restricted, and hidden to avoid controversy; for LGBTQIA+ content and a transgender character; because schools and libraries should not "put books in a child's hand that require discussion"; for sexual references; and for conflicting with a religious viewpoint and "traditional family structure"
2. ***Beyond Magenta: Transgender Teens Speak Out* by Susan Kuklin**
Reasons: Challenged for LGBTQIA+ content, for "its effect on any young people who would read it," and for concerns that it was sexually explicit and biased
3. ***A Day in the Life of Marlon Bundo* by Jill Twiss, illustrated by EG Keller**
Reasons: Challenged and vandalized for LGBTQIA+ content and political viewpoints, for concerns that it is "designed to pollute the morals of its readers," and for not including a content warning

4. ***Sex is a Funny Word* by Cory Silverberg, illustrated by Fiona Smyth**
Reasons: Challenged, banned, and relocated for LGBTQIA+ content; for discussing gender identity and sex education; and for concerns that the title and illustrations were "inappropriate"
5. ***Prince & Knight* by Daniel Haack, illustrated by Stevie Lewis**
Reasons: Challenged and restricted for featuring a gay marriage and LGBTQIA+ content; for being "a deliberate attempt to indoctrinate young children" with the potential to cause confusion, curiosity, and gender dysphoria; and for conflicting with a religious viewpoint
6. ***I Am Jazz* by Jessica Herthel and Jazz Jennings, illustrated by Shelagh McNicholas**
Reasons: Challenged and relocated for LGBTQIA+ content, for a transgender character, and for confronting a topic that is "sensitive, controversial, and politically charged"
7. ***The Handmaid's Tale* by Margaret Atwood**
Reasons: Banned and challenged for profanity and for "vulgarity and sexual overtones"
8. ***Drama* written and illustrated by Raina Telgemeier**
Reasons: Challenged for LGBTQIA+ content and for concerns that it goes against "family values/morals"
9. ***Harry Potter series* by J. K. Rowling**
Reasons: Banned and forbidden from discussion for referring to magic and witchcraft, for containing actual curses and spells, and for characters that use "nefarious means" to attain goals
10. ***And Tango Makes Three* by Peter Parnell and Justin Richardson illustrated by Henry Cole**
Reason: Challenged and relocated for LGBTQIA+ content

Look for ALA's Top Challenged Books of 2020 list in April 2021!

Nancy Comer, a former president of AFCON, serves on its Board of Directors as representative of the Nebraska State Literacy Association.

Links



Westside Middle School (Omaha) student First Amendment case: 8th Circuit Court of Appeals rules that the case has sufficient merit that the district court must provide the student with a court-appointed lawyer.

<https://reason.com/2020/09/24/court-appointed-lawyer-ordered-for-junior-high-schoolers-first-amendment-lawsuit/>

UNL efforts to remove AAUP censure

https://journalstar.com/news/local/education/compromise-language-on-disciplinary-procedures-puts-unl-one-step-closer-to-removing-censure/article_50db56ac-5bac-54d0-a330-6ad281623857.html

Press freedom on campus: A new report by John K. Wilson.

<https://academeblog.org/2020/07/29/my-report-about-freedom-of-the-press-on-campus/>

More on student press

<https://academeblog.org/2020/09/04/activists-versus-the-student-press/>

Can students be punished for inappropriate search topics?

<https://reason.com/2020/09/04/8th-grader-suspended-for-searching-for-inappropriate-topics-such-as-worst-wwi-gun/>

Music theory journal investigated

<https://www.thefire.org/university-of-north-texas-investigates-music-theory-journal-for-defending-19th-century-composer-from-racism-charges>

More on music theory journal

<https://www.insidehighered.com/news/2020/08/07/music-theory-journal-criticized-symposium-supposed-white-supremacist-theorist>

Critique of proposal for panel to identify and penalize “racist” research.

https://www.realclearpolitics.com/articles/2020/08/23/chipping_away_at_academic_freedom_144012.html

History, Identity, Education, and Trump

<https://academeblog.org/2020/09/10/trumps-attack-on-1619-project-is-government-censorship/>
<http://blogs.edweek.org/edweek/campaign-k-12/2020/09/trump-left-wing-indoctrination-child-abuse-1619-project.html>

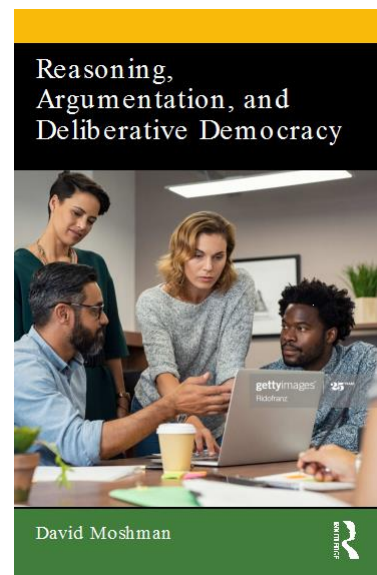
A new statement from the American Educational Research Association and others on anti-racist education proclaims the importance of intellectual and academic freedom

<https://www.aera.net/Newsroom/Statement-in-Support-of-Anti-Racist-Education>

Review of a new book on free speech

<https://www.aaup.org/article/worthy-primer-free-speech>

Coming October 2



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

1870: A dispute in Lincoln centered on whether teachers or the school board should control the choice of textbooks.

--from "This Week in Nebraska History"
Lincoln Journal Star, 8/16/20

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.



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.

--AFCON Constitution
Article I (1988)



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
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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.

AFCON

www.academicfreedomnebraska.org

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

Academic Freedom Coalition of Nebraska
Board of Directors Meeting
Via Videoconference
September 12, 2020

Present:

Peggy Adair, secretary, legislative liaison
John Bender, president, representing UNL Faculty Senate
Nancy Comer, representing Nebraska State Literacy Association
Bob Haller, chief baker, director at large
Laurie Thomas Lee, immediate past president, representing ACLU Nebraska
Dave Moshman, newsletter editor, policy coordinator, executive vice secretary
Todd Schlechte, president-elect, webmaster, representing Nebraska Library Association

MINUTES

President John Bender convened the meeting at 10:09 a.m.

MINUTES: A motion was made by Moshman, second by Schlechte, to approve minutes of the AFCON board meeting held on July 11, 2020. Motion carried on a voice vote.

TREASURER’S REPORT: Wagner submitted the September treasurer’s report via email. Wagner reported one personal membership renewal and no expenses incurred during the past month.

NEWSLETTER: Deadline for articles to be published in the October edition of the *Sentinel* is September 25, 2020.

WEBSITE: Schlechte will post annual meeting information and online registration instructions on the AFCON website.

ANNUAL MEETING: Schlechte provided the board with an agenda for the AFCON annual meeting that will be held via Zoom on October 17, 2020. Information about the annual meeting as well as how to

register/attend will be provided to interested parties via the AFCON email list, AFCON website, and outreach to library organizations.

NOMINATING COMMITTEE: The nominating committee reports the following slate of officers for 2021: President-elect, Bob Haller; Treasurer, Rod Wagner; Secretary, Peggy Adair. Haller noted he encourages the nominating committee to continue their efforts to recruit others for the position of president-elect.

POLICY COORDINATOR: Moshman reported an eighth grader in New York had been suspended for searching topics online that authorities disapproved of. His suspension was ultimately overruled. Much board discussion followed regarding the trials and tribulations of the new era of virtual school.

MEMBER ORGANIZATIONS: Nebraska State Literacy Association – Comer reported the NSLA has a new website and she has posted an article there about banned books and Banned Book Week (September 27 – October 3, 2020).

NEW BUSINESS: Board members discussed ways and means of expanding the board and also expanding organizational memberships. Bender will draft a letter to past and future organizations inviting their participation in AFCON.

There being no further business, the AFCON board meeting adjourned at 10:59 a.m.

Respectfully submitted,
Peggy Adair, secretary