

The AFCON Sentinel

Newsletter of the Academic Freedom Coalition of Nebraska

Volume 26, Number 5

October 2022

Academic Freedom Coalition of Nebraska
2022 Annual Membership Meeting

The Legacy of Meyer v. Nebraska for Academic Freedom and Parental Rights

*Co-sponsored by ACLU Nebraska
and by the American Constitution Society (UNL Law Chapter)*

Saturday, October 22
10:00 a.m. to Noon
via Zoom
free and open to all

Keynote Speaker: Randy Moody

Meyer v. Nebraska

Expanding the Meaning of “Liberty” in the Fourteenth Amendment

Following the keynote, **Mindy Rush Chipman**, Legal Director of ACLU Nebraska, and **Harrison Rosenthal**, litigation fellow at the Foundation for Individual Rights and Expression (FIRE) will elaborate on the legacy of Meyer, focusing especially on parental rights, after which there will be questions from the audience and open discussion.

In addition, President Vicki Wood will present Academic Freedom Awards to the Nebraska School Librarians Association and the Nebraska Library Association for their ongoing work supporting and protecting intellectual freedom, and specifically for working to defeat LB1213 in the last legislative session.

See page 2 for more about Meyer v. Nebraska and subsequent constitutional history.

[Register Here](#)

Participants in the program speak only for themselves unless they indicate otherwise. AFCON (a) supports intellectual freedom in academic contexts regardless of what constitutional protections may apply; (b) supports parental authority with regard to their own minor children in matters of education; (c) takes no position on other issues such as rights to marital choice, contraception, or abortion; and (d) supports the right to teach, learn, read, think, and do research about all of these topics.



Meyer v. Nebraska

A Very Brief Constitutional History

In 1919, during an upsurge of anti-German sentiment throughout the United States, Nebraska passed a law specifying that

[n]o person, individually or as a teacher, shall, in any private, denominational, parochial, or public school, teach any subject to any person in any language [other] than the English language.... Languages, other than the English language, may be taught as languages only after a pupil shall have attained and successfully passed the eighth grade....

In June 1923 the U.S. Supreme Court found the Nebraska law inconsistent with the 14th Amendment's general guarantee of liberty. Without invoking the First Amendment, the Court ruled in *Meyer v. Nebraska* (1923) that the law was an unconstitutional attempt "to interfere with the calling of modern language teachers, with the opportunities of pupils to acquire knowledge, and with the power of parents to control the education of their own."

About the same time, the Ku Klux Klan attempted to eliminate Catholic schools in Oregon by persuading the state to pass a law requiring that all children attend public schools. In *Pierce v. Society of Sisters* (1925), again without reference to the First Amendment, the U.S. Supreme Court found this law unconstitutional:

The fundamental theory of liberty upon which all governments in this Union

repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.

In the decades after *Meyer* and *Pierce*, subsequent decisions established fundamental rights to liberty and autonomy in personal and family matters, including marital choice, reproductive freedom, and freedom to raise one's own children.

In June of this year, 99 years after *Meyer*, the U.S. Supreme Court ruled in *Dobbs v. Jackson* that the 14th Amendment guarantee of liberty does not include a right to abortion, thus raising questions about other rights protected by the 14th Amendment guarantee of liberty as interpreted in *Meyer*, *Pierce*, and cases since. These include not only matters of contraception and marital choice, which have been much in the news, but also the right of parents to raise and direct the education of their own children.

As we approach the centennial of *Meyer v. Nebraska* and consider the implications of *Dobbs v. Jackson*, AFCON is devoting its annual meeting to the legacy of *Meyer*, focusing especially on parental rights in relation to education and intellectual freedom. Join us on October 22! See page 1 for further information.

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.



From the President
Both Sides Now—Banned Book Week
Vicki Wood

I'll never forget one of my earliest experiences with contradictions in censorship. As a newly-minted children's librarian, I was sitting at a desk close to our annual display of banned books at the public library. A woman approached and was sincerely shocked, incredulously noting titles she saw no reason to ban. Without missing a beat though, she picked up another book and said, 'Oh, but this one, it's terrible, no one should read this one.'

I told a coworker this story as an amusing anecdote but I've seen this scenario play out time and again over my 30-year career. Challenges can come from the most unexpected places, but follow a predictable pattern. I (or a group I represent) don't approve of the ideas or images in this work, and therefore no one should have access to them. Going beyond books and library materials, censors have now set their sights on library programming choices, displays, and even meeting room policy.

The private lives, foibles, and public opinions of authors and creators have led some to believe we shouldn't purchase or promote their work. Even library professionals aren't all in agreement about what we should provide. Misinformation is rampant and there are publishers willing to spread it. To purchase, or not to purchase, has become more than a question of budget.

Let's celebrate the freedom to read this month and all year, not just in the choices we make, but by protecting the right of others to decide for themselves too.

Latest Links

with moshmanic commentary

Grand Island Goes Global

Northwest High School (Grand Island): How do you keep student journalists under control? Censoring them is only a short-term solution. The long-term solution is to eliminate the journalism program. Then you never again have to worry about what students may write.

https://journalstar.com/news/state-and-regional/nebraska/grand-island-high-school-journalism-program-eliminated-after-lgbtq-topics-published/article_b351589f-c5df-5e35-ad2b-75557758758f.html

The *New York Times* takes notice of what's happening in Nebraska.

<https://www.nytimes.com/2022/08/29/us/nebraska-lgbt-school-newspaper-closed.html>

Across the Atlantic, so does the Guardian (thanks to Paul Olson for this link).

<https://www.theguardian.com/us-news/2022/aug/26/nebraska-student-newspaper-shut-down-lgbtq-issue>

"There were editorials that were essentially, I guess what I would say, LGBTQ."

ACLU Nebraska says the elimination of the journalism program is so unrelated to any legitimate pedagogical concern that it likely violates the First Amendment.

https://omaha.com/news/local/education/aclu-talks-of-legal-action-after-nebraska-high-school-axes-journalism-program/article_4361622a-27ef-11ed-a5a4-fb5c96db853a.html

An editorial published simultaneously in the *LJS*, *OWH*, and other Lee Enterprises newspapers supports student free press.

https://journalstar.com/opinion/editorial/editorial-9-4-press-freedom-under-attack-in-grand-island-with-shutdown-of-northwest-school/article_54b7b515-aa64-563c-a06d-8f11734c565a.html

Opinion column in *New York Times*

<https://www.nytimes.com/2022/09/05/opinion/nebraska-high-school-newspaper-shutdown.html>

Washington Post report

<https://www.washingtonpost.com/opinions/2022/09/07/nebraska-northwest-high-school-newspaper-lgbtq-canceled/>

New York Times editorial on school censorship begins its opening list of illustrative cases with the administrative elimination of a high school newspaper and journalism program in Nebraska, linking to its earlier article on Northwest H.S. <https://www.nytimes.com/2022/09/10/opinion/schools-banned-books.html>

A report in the *Columbia Journalism Review* about threats to student journalism in the United States starts off with a photo of Northwest High School in Grand Island.

https://www.cjr.org/the_media_today/the-threats-facing-student-journalism.php

Kearney Public Schools: Addressing a challenge to several books, the superintendent explains how KPS coordinates its respect for intellectual freedom in its libraries and curriculum with its respect for parental rights. <https://rivercountry.newschannelnebraska.com/story/47147943/kps-superintendent-responds-to-innis-comments-about-books-in-school-libraries>

Follow-up story

[KPS addresses LGBTQ+ books controversy following board meeting drama \(ksnblocal4.com\)](https://ksnblocal4.com)

Kari Bulgrin, who represents the Nebraska School Librarians Association on the AFCON Board, sent the Board this three-minute defense of one of the challenged books, “Looking for Alaska,” which she says is one of her favorite videos of all time.

<https://www.youtube.com/watch?v=69rd-7vEF3s>

Grand Island Public Schools superintendent defends students (Northwest High School, though in Grand Island, is not part of the Grand Island Public Schools).

<https://www.klkntv.com/nebraska-superintendent-says-students-must-be-protected-from-politics/>

Bob Kerrey on school censorship as a threat to democracy

<https://flatwaterfreepress.org/bob-kerrey-censorship-in-schools-dangerous-to-democracy/>

Protect Nebraska Children protects students from learning about race, sex, and gender.

https://omaha.com/news/state-and-regional/govt-and-politics/protect-nebraska-children-emerges-as-political-force-in-culture-battles-over-schools/article_c356b572-0399-11ed-8850-c7b3ada8bf4f.html

UNL: An August 17 message to all faculty from the Associate Vice Chancellor for Faculty and Academic Affairs included a link to this UNL “Tipsheet,” which gives lip service to free speech while providing myriad vague excuses for classroom censorship.

<https://executivevc.unl.edu/faculty/leadership-development/tipsheets/facilitating-safe-civil-discourse>

Lincoln Journal Star advocates free speech and active debate in higher education.

https://journalstar.com/opinion/editorial/editorial-9-18-campuses-need-to-embrace-healthy-debate/article_9ef3a2ad-7784-53f4-8e6e-c821de378dd1.html

Lincoln Public Schools: Investigation announced into claims about presentation for staff on serving LGBTQ students.

https://journalstar.com/news/local/education/watc-now-lps-looking-into-claims-made-about-presentation-to-staff-on-how-to-serve/article_4e5c88d3-38ae-5a51-8402-6f6749fbda2a.html

Investigation finds no support for claims about content of presentation.

https://journalstar.com/news/local/education/superintendent-claims-made-about-lps-workshop-on-how-to-serve-lgbtq-students-simply-untrue/article_a63728b5-f916-51a4-8089-e7402545861d.html

PEN America issued a major new report in August on legislative efforts to restrict teaching at all levels of education.

<https://pen.org/report/americas-censored-classrooms/>

PEN America also released a September report on censorship of schoolbooks.

<https://pen.org/report/banned-usa-growing-movement-to-censor-books-in-schools/>

Coverage of most recent PEN report

<https://www.edweek.org/leadership/whos-behind-the-escalating-push-to-ban-books-a-new-report-has-answers/2022/09>

Butt Books Banned in Texas

Excerpts from an article in the Sunday *New York Times Magazine*:

The group began convening around lunchtime last summer, inside of the rose-beige conference room at the Llano Library.... They grew fixated on a series by Dawn McMillan and Ross Kinnaird, which included “My Butt Is So Noisy!” “I Broke My Butt!” and “I Need a New Butt!”

“A new butt! Mine’s got a crack,” one book begins. “I can see in the mirror a crack at the back.” The character then tries to figure out how it happened. Did he get the crack from going down the slide, or riding his BMX bike, or from a fart? He imagines all the new butts he could have: spotted purple and yellow, or a mural of watercolors, or an alien butt made from titanium that is fireproof, bulletproof and bombproof. “Kids loved it,” says Tricia Dwyer-Morgan, a member of Llano’s technology-services staff at the time.

...

By early August, two of the butt books and several more that had been called out by the group vanished from Llano Library’s shelves and online catalog listings, including Jane Bexley’s “Larry the Farting Leprechaun,” “Gary the Goose and His Gas on the Loose,” “Freddie the Farting Snowman” and “Harvey the Heart Had Too Many Farts,” along with “My Butt Is So Noisy!” and “I Broke My Butt!” Amber Milum, the Llano County Library System’s director, handles purchasing books for all three of the county’s public libraries. In early October, she wrote an email with the subject “Butt Books” to the commissioners explaining that the situation had been handled: “All of the

books have been in my file cabinet in the office.”

Makes me nostalgic for the good old days of banning Captain Underpants. Of course the censorship didn’t end with butt books. For more:

<https://www.nytimes.com/2022/09/08/magazine/book-bans-texas.html>

Academic Freedom Coalition of Nebraska Board of Directors Meeting

Via Videoconference

September 10, 2022

Present:

Nancy Comer, representing Nebraska State Literacy Association

Shee Covarrubias, communications coordinator, director at large

Bob Haller, director at large

Laurie Thomas Lee, representing ACLU Nebraska

Dave Moshman, newsletter editor, policy coordinator

Regina Werum, representing UNL AAUP

Vicki Wood, president, director at large

MINUTES

President Vicki Wood called the meeting to order at 10:08 a.m.

APPROVAL OF THE AGENDA: Motion to approve made by Moshman and seconded by Covarrubias. Motion carried on a voice vote.

MINUTES: Motion made by Moshman, seconded by Covarrubias, to approve the minutes of the AFCON board meeting held on July 16, 2022. Motion carried on a voice vote.

TREASURER’S REPORT: None presented. Wagner had distributed the report in advance of the meeting to be filed for audit.

NEWSLETTER: Articles for the October issue of the Sentinel are due by September 20th. The newsletter will focus on the upcoming annual meeting.

COMMUNICATIONS COODINATOR’S REPORT: Covarrubias provided an update on the academic freedom survey for political

candidates in advance of the November elections. She will also be creating a plan for how AFCON can bolster its social media presence with topics and engagement. There was also discussion over how and to whom the annual meeting will be promoted.

LEGISLATIVE UPDATE: None—the legislature is not in session at this time.

PRESIDENT’S REPORT: Wood reported on several issues. She had received a report about librarians being restricted from providing information pertaining to abortions. The shutdown of the Northwest Grand Island student newspaper was discussed; Wood will draft a letter on behalf of AFCON to inform students of their academic freedom rights. Wood discussed the growing issues affecting the treatment of transgender students in classrooms and the role of local school boards. She also mentioned that librarians are struggling with the issue of purchasing books that convey and promote misinformation.

POLICY COORDINATOR’S REPORT: Nothing more to report.

ANNUAL MEETING: Moshman reported on the annual meeting held in six weeks—October 22, at 10 a.m., via Zoom. Randy Moody will give the keynote address. A panel will follow, addressing parental rights, education, and intellectual freedom. The panel will include representatives from ACLU Nebraska and FIRE. Wood will invite a school administrator to join the panel. Wood will also formally notify the Nebraska School Librarians Association and the Nebraska Library Association that they will be recognized as the recipients of the 2022 AFCON Academic Freedom Award. She will also arrange for the two award plaques to be made.

ELECTIONS: Lee reported that the nominating committee of Lee, Adair, and Schlechte had not yet finalized a slate of officers for 2023 but would have a slate by the October meeting to announce at the annual meeting.

OLD BUSINESS: Members discussed the need for a permanent and secure Zoom account for

AFCON to use for all meetings including annual meetings with more than 100 registrants. Moshman moved and Lee seconded to authorize Wood to spend up to \$400 to make the purchase. Motion carried on a voice vote.

MEMBER ORGANIZATIONS: No reports.

The next meeting of the board will be October 8th. There will be no November meeting.

The AFCON board meeting adjourned at 11:46 a.m.

Respectfully submitted,
Laurie Thomas Lee, board member
(filling in for the much more awesome Peggy Adair, secretary)



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.

The AFCON Sentinel is the newsletter of the Academic Freedom Coalition of Nebraska, published bimonthly in February, April, June, August, October, and December. Unless otherwise indicated, articles represent the views of the authors.

Editor: David Moshman
email: dmoshman1@unl.edu