



THE

AFCON

SENTINEL



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David Moshman
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Barbara Cornelius
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Tom Black
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Purpose:

To promote academic freedom, defined as intellectual freedom in educational and research contexts. This includes freedoms of belief and expression and access to information and ideas.

MESSAGE FROM THE PRESIDENT—David Moshman

At its May meeting, the AFCON Board of Directors heard from Dr. Druann Durbin, an assistant professor of English at Peru State College, who was abruptly terminated from a tenure-track position after the student newspaper, for which she serves as advisor, published an article raising questions about administrative decisions to terminate coaches. We see in this case, as in so many others, that the rights of students, the rights of teachers, and the quality of education, far from being at odds, are closely intertwined. The Board was appalled and unanimously authorized me to write a letter to the State College Board of Trustees. A copy of that letter appears in this issue of the Sentinel. (See Page 4.)

At the same meeting, the Board approved a plan

to hold our annual meeting in Lincoln on Saturday, November 5. The previous evening, November 4, the Lied Center will be presenting "The Great Tennessee Monkey Trial," a radio play based directly on the transcripts of the 1925 Scopes Trial. In cooperation with the Lied Center, AFCON will present a panel discussion on November 5, probably early in the day, concerning the academic freedom issues associated with the creation/evolution controversy, including the authority of teachers over the curriculum and the right of students to hold and express beliefs of their own. We have decided to make this panel discussion the centerpiece of our annual meeting. You will hear more about this in the fall, but for now HOLD THOSE DATES!

FREEDOM ALERT

American Library Association opposes bill to federally mandate school library purchases

(WASHINGTON) The following is a statement from the American Library Association (ALA) President Carol Brey-Casiano:

"The American Library Association is deeply concerned about H.R. 2295, which would deprive schools of much-needed funding unless the community adopts a federally mandated review panel to judge books purchased for classrooms and school libraries.

According to the bill's sponsor, Rep. Walter Jones (R-NC), the legislation is designed to restrict children's access to information by establishing review boards that would recommend for or against the acquisition of particular books and materials based on the panel's view of "appropriateness." This effort to limit access violates ALA's long-held principles of intellectual freedom and parental involvement by denying every parent the ability to choose what materials are appropriate for their children according to their own family's values. Instead, it empowers a small review board to decide for all families in a community what materials will be available.

This legislation is also unnecessary. Communities already elect parent and community representatives to local school boards, and these boards empower parents by providing ample opportunities to participate in their children's education. This legislation is a solution in search of a problem. There is no need for federal interference in a local community's decisions about its education needs."

Write your Congressman?

Jeff Fortenberry, 1517 Longworth Bldg, Washington D.C. 20515 (202) 225-4806

Lee Terry, 1524 Longworth Bldg, Washington D.C. 20515 (202) 225-4155

Tom Osborne, 507 Cannon Bldg, Washington. 20515 (202) 225-6435

Summaries of AFCON Board of Directors' Meetings—Karen Buckley

March 11, 2005—

Present: Peggy Adair, Dwayne Ball, Joanne Chapuran, Anne M. Cognard, Barbara Cornelius, Bob Haller, Dick Herman, Mel Krutz, Laurie Lee, Cathi McMurtry, Dave Moshman, Doug Paterson.

Minutes: Minutes of the February 12, 2005 board meeting were distributed. Motion to approve: Paterson. Second: Herman. Approved unanimously.

Treasurer: (Cathi McMurtry) \$2464 in account. As of today, there are 29 individuals and 10 member organizations with paid dues (or excused dues) for 2005. The previous month saw \$240 in income and \$169 in expenses, mostly due to the annual meeting. Motion to approve: Herman. Second: Ball. Approved unanimously.

President's Report: deferred to "Other cases and issues," below. Moshman mentioned an issue in the Beatrice Public Schools, in which an openly gay 8th grade boy brought gay pride posters to the school (apparently only in his locker or backpack). The posters were confiscated by the administration, which provoked about a dozen of the boy's friends to stage a sit-in. When they refused to return to class, they were given various levels of suspension. The confiscation raises a First Amendment issue, but AFCON will wait to see if someone complains to us. Moshman and others discussed the Ward Churchill case at the University of Colorado. CU's investigation into Churchill's writing regarding the events of 9/11 continues; there were no recent developments except the resignation of CU's president. There was a discussion of the Lawrence Summers case at Harvard.

Newsletter: Spring Sentinel was developed by Black, printed by Haller, and will be distributed by McMurtry. Next newsletter deadline will be in late May.

Legislative: Adair presented a list of 14 current legislative bills with potential educational or academic freedom implications. There are 3 bills that deal in some way with human cloning or embryonic tissue research: LB 437, 580, and 750. LB 437 prohibits human cloning, 580 LB 437 prohibits human cloning but allows stem cell research, and 750 prohibits non-therapeutic research that destroys a human embryo. Violation of the latter bill is a felony with a civil penalty of at least one million dollars. AF-

CON will monitor their progress.

Membership: Ball mentioned that the ACLU is monitoring the UNL speech zones issue. Krutz mentioned that Nebraska Wesleyan University will host the 2005 the Nebraska Center for the Book Book Festival on October 8. Cognard mentioned that the LEA Advocate of February 28 had an article on the academic freedom issues regarding assignment of books to read in literature classes. Haller reported that the UNL AAUP was investigating a requirement that UNL student organizations give 14 days notice to the UNL Police for certain meetings and demonstrations and the issue of UNL speech zones.

Old Business: Banned Book Week, 2005: Lee discussed a number of opportunities and collaborations with other organizations, authors, etc.

New Business: AFCON tax Exemption: Ball checked with the State of Nebraska's Revenue department, which confirmed that our federal 501 (c) (3) exemption does not confer an exemption from state and local sales tax.

Incident: one member brought forward an issue at a Nebraska public school involving the possible firing of a teacher. AFCON will monitor.

April 9, 2005—

Present: Peggy Adair, Dwayne Ball, Karen Buckley, Jim Bunstock, Anne Cognard, Dick Herman, Mel Krutz, Cathi McMurtry, Dave Moshman, Doug Patterson.

Minutes: Buckley distributed the March 12 minutes. Motion to approve: Herman. Second: Krutz. Approved unanimously.

Treasurer: McMurtry distributed the treasurer's report, showing a balance of \$2229.96 as of April 8. AFCON has 29 individual members and 10 member organizations (current with dues.)\ Motion to approve: Herman. Second: Bunstock. Approved unanimously.

President's report: Moshman said that the Ford Foundation has sent letters to 3,000 college presidents regarding applications for grants on academic freedom on campus.

Legislative Update: Adair said action had been taken on three bills AFCON had been monitoring. LB 39 (Forester Bill) had passed. LB126 (school district reorganization) and LB 129 (formula for state aid to schools) have been designated "Education Priority bills." The other bills remain in committee as non-priority bills.

Membership: Krutz said she will represent Nebraska Center for the Book this year at the annual Idea Exchange for the states'

Centers for the Book at the Library of Congress in D.C., in early May..

Bunstock said the Nebraska Writers Guild's spring conference is scheduled for April 23.

Ball and Moshman introduced discussion of "No Child Left Behind-But Some Expelled." The ACLU suspects that increased expulsions might be one way schools or districts are using to improve their schools under "No Child Left Behind." While the national organization is interested, action needs to be on the state level and data is needed to support this theory.

The ACLU's annual Bill of Rights dinner will be Friday, May 20 at Misty's in Have-lock. AFCON approved a motion by Ball, and seconded by Adair, to purchase a half-page ad in the program, using the same ad that appeared in last year's program but adding AFCON's website.

Discussion was also held regarding the "free speech" areas at UNL. Case law tends to support universities in establishing such areas but UNL has no official policy.

Paterson said there was some concern among UNO Faculty Senate members that the review process for faculty might be flawed. Reviews are held each year; and the process begins immediately. Terminating a person prior to a tenure hearing circumvents the process.

Other Cases/Issues: Moshman brought up a report by Sam Walker of UNO on the Afghan Studies Program at UNO, which claims that this political and grant getting program is not an academic program. Paterson said that after the Soviet invasion of Afghanistan, enormous amounts of money was funneled into the UNO program. After the Soviet withdrawal, the money disappeared. In 2001 money again began flowing through the UNO program.

Another issue brought up by Moshman for the UNL chapter of AAUP concerned economic department issues and the fact that faculty involvement in the hiring process was marginalized. The nationwide trend towards fewer tenure positions at universities and colleges was discussed.

An administrative review of the Ward Churchill controversy at the University of Colorado resulted in the decision that the professor could not be fired for his remarks and directed all charges found in the investigation be referred to the faculty committee.

Old Business: Banned Book Week observance: Herman has drafted a letter requesting a staff person from the Department

(Continued to Page 3)

Summaries of AFCON Board of Directors' Meetings (Continued from Page 2)

of Education serve on the panel. It was also suggested that Ted Kooser, poet laureate, be approached for the panel.

Paterson wondered if there was interest in spawning AFCON affiliates around the region. Krutz said there are a number of anti-censorship groups in other states in our region, among them are those affiliated with the National Council of Teachers of English Committee Against Censorship, and the American Library Association's Intellectual Freedom Committee. There is also the National Coalition Against Censorship, which, by the way, lists its national member organizations. These groups were the ones we contacted at the state level to form the Academic Freedom Coalition of Nebraska. She agreed that it would be a good idea to go back to them and encourage expansion of AFCON and/or to spawn new affiliates.

May 14, 2005—

Present: Peggy Adair, Karen Buckley, Joanne Chapuran, Barbara Cornelius, Bob Haller, Mel Krutz, Cathi McMurtry, Dave Moshman. Guest: Dr. Druann Durbin

Minutes: Buckley) distributed the April 9 minutes. Motion to approve: Adair. Second: Krutz. Approved unanimously.

Treasurer: McMurtry distributed the treasurer's report, showing a balance of \$2404.33 as of May 13. AFCON has 30 individual members and 13 member organizations (current with dues.) Motion to approve: Krutz. Second: Haller. Approved unanimously.

Guest speaker: Moshman introduced Dr. Druann Durbin, assistant professor of English and newspaper advisor at Peru State College, who received a letter of termination following the publication of a college newspaper article critical of the PSC administration. She presented details of her situation and her perception of the academic climate of Peru State College, under a relatively new administration unwilling to listen to criticism. She also distributed a letter for AFCON members.

Upon a motion from Adair and seconded by Chapuran, board members approved having Moshman write a letter to the Board of Trustees in support of Durbin and to take other appropriate measures as deemed necessary. Haller said the Policy Statements of the Board of Trustees of the Nebraska State College system should be explored for what they say about Student Academic Freedom and about Faculty Rights of Appeal.

President's report: Moshman gave an update on the L.A. Theatre Works production of "The Great Tennessee Monkey Trial:" to be presented at the Lied Center November 4. Performed as a radio play with minimal sets, "The Great Tennessee Monkey Trial" is based on the original transcripts of the 1925 trial of John Scopes in Dayton, Tenn. Upon a motion by Adair and seconded by Krutz, board members voted to cosponsor a panel presentation as part of AFCON's annual meeting Saturday morning, Nov. 5. The Lied Center staff will work with AFCON in making arrangements.

Moshman reported that he had answered an internet filter query from Norris High School with a statement on academic freedom issues involved, including information from a statement AFCON had sent to Lincoln Public Libraries in regard to internet filters.

He has been invited to serve on a panel at Lincoln East, at the recommendation of former AFCON board member and East High School teacher Jane Holt.

The AFCON president also said that Educational Psychology faculty members suggested he resubmit a proposal this fall urging his department to sign on in support of ASUN Principals of Academic Freedom and address faculty concerns at that time.

Newsletter: The next edition of the Sentinel will be published in June. Articles should be submitted by May 23.

Legislative Update: Adair said there has been no further activity on the legislative bills on AFCON's "watch list."

Membership: Chapuran said that she

was concerned about self-censorship by journalism advisors, including herself. She plans to send a survey this summer to journalism teachers regarding the status of free speech in Nebraska and will report results to the NHSPA and AFCON.

Krutz attended the annual meeting of the Centers for the Book in Washington DC. She suggested that AFCON once again have an information table at the summers writers conference June 18-24 at the University of Nebraska-Lincoln. An e-mail will be sent so that AFCON members could sign up to staff the table.

Cornelius noted that the annual NLA/NEMA convention will be held Sept. 29-30 at the Cornhusker Hotel in Lincoln. Volunteers will be needed to staff an information table.

Old Business: Banned Book Week observance: Board members suggested the following as possible panel members: Nebraska's new first lady, Sally Ganem, a longtime public school teacher and administrator; Ted Kooser, US poet laureate; and Charleyne Berens, associate professor in UNL's college of Journalism and Mass Communications and published author.

New Business: Krutz moved and Haller seconded the motion for AFCON to purchase a subscription to the SLATE newsletter. SLATE is a division of the National Council of Teachers of English. The motion was approved and Haller agreed to follow up on obtaining a subscription for AFCON

Next Meeting: Change of location; The next board meeting will be at 10 am. Saturday, June 11, at the Gere Branch Library. The July 9 board meeting will also be at Gere.

Upcoming Events

AFCON Board Meetings, June 11, July 9 (No meeting in August)
Gere Branch Library, 56th and Normal, Lincoln, Nebraska; 10 AM

May 18, 2005

TO: Nebraska State College Board of Trustees

FROM: David Moshman, President, Academic
Freedom Coalition of Nebraska

RE: Peru State Times/Termination of
Dr. Druann Durbin

The Board of Directors of the Academic Freedom Coalition of Nebraska has authorized me to write this memo expressing our concern about freedom of the student press at Peru State College and the termination of Dr. Druann Durbin. AFCON, founded in 1988, is a coalition of 19 Nebraska-based organizations concerned with intellectual freedom in educational and research contexts, including freedoms of speech and press, and free access to information and ideas.

The administration of Peru State has been attacking and undermining the *Peru State Times* in a variety of ways over the past five years. We have seen extensive and convincing documentation of its antipathy to a free press. In particular, we believe it has been made clear to students and faculty that the administration does not wish the paper to publish anything that puts the college or its administrators in a negative light. This stance is obviously antithetical to journal-

ism, education, and democracy.

We are aware that Peru State denies any connection between the termination of Dr. Durbin and her role as advisor to the *Times*. We have not seen any plausible alternative explanation for her termination, however. There is a strong expectation in institutions of higher education that faculty on tenure-track lines will come up for tenure and that their future employment will be decided at that time on the basis of their record. Faculty are occasionally terminated prior to a tenure decision if there is a documented history of unsatisfactory teaching and the faculty member has been unable or unwilling to correct the problem. Faculty may also be terminated prior to a tenure decision in cases of egregious behavior, such as sexual assault of a student. In the case of Dr. Durbin, the termination was clearly unexpected and unjustified. The failure of Peru State to provide any plausible grounds for its highly unusual personnel action strongly suggests that the termination was not a legitimate personnel decision but rather was part of the college's ongoing battle against a free press.

We strongly urge that the State College Board of Trustees take action to ensure the integrity and autonomy of the *Peru State Times* and that it provide Dr. Durbin the opportunity to be evaluated for tenure through normal procedures on the basis of her academic record.

FOR SALE BY AFCON

Send orders to Mel Krutz, 2625 Bluff Road, Seward, NE 68434-9801

T-shirts with a Paul Fell "banned books" design; Sizes M, L, XL, XXL, XXXL; \$15.00. Packaging and postage: \$2.00 each.

Note cards with a Paul Fell design; \$1.50; four for \$5.00. Packaging and postage: \$0.75 per packet.

Reader's Theatre Script of a TANGLED ISSUE: Student Freedom of Expression. \$10.00 buys the book with rights to duplicate the script and produce the play. Packaging and postage: \$2.00 each.

AFCON SPEAKER'S BUREAU (As of December 2004)

Dwayne Ball: "Threats to Academic Freedom at Universities"
adball@alltel.net

Linda Beckstead: "Freedom of Student Press Issues"
BecksteadL@aol.com

Bob Haller: "Free the Students! Why Higher Education Needs a New Movement" and "How Books Can Harm You: Lessons of the Censors"
rhaller1@unl.edu

David Moshman: "Principles of Academic Freedom"
dmoshman1@unl.edu

John Bender and David Moshman: "Student Freedom of Expression/Student Rights"
bender@unl.edu
dmoshman1@unl.edu

Mark Weddleton and Laurie Thomas Lee: "Implications of the USA Patriot Act"
mark@weddleton.com
llee1@unl.edu

Presentation of the Readers' Theatre production of A Tangled Web: Student Freedom of Expression (a cast of adults and students)

ADDRESS FOR THE AFCON WEB SITE

<http://www.AFCONebr.org>

Check it out and learn Who We Are and about Our Activities; read our Constitution; learn how to Join Us; see the where and when of our Meetings; meet our Members and Officers; Study our Publications, Principles, and Statements

REQUEST FOR NEWS FOR FUTURE ISSUES

The editor of the AFCON SENTINEL invites all AFCON individual and organizational members to send news about academic freedom issues in Nebraska or editorial comments for inclusion in this newsletter and/or announcements of organizational meetings for the UPCOMING EVENTS column.

Due date for submissions to the **September 16, 2005**, issue is **August 22, 2005**.

Send to Tom Black, Editor, 610 West Park, West Point, NE 68788 or wpc6296@cableone.net

UNIVERSITY REPORTS by Dwayne Ball

Peru State College, Nebraska (Lincoln Journal-Star, 27 April 2005) Druann Durbin, English professor and sponsor of the student newspaper, has been fired as of May 2006. She has been informed that her contract will not be renewed. Students have staged a sit-in, protesting the firing. Ironically, Durbin and the students contend she was fired because she allowed the paper to publicize the firings of two Peru State sports coaches, quoting one saying he had never been told why he was fired. The students say there is an unwritten rule that the student newspaper is not to publish negative information.

Trinity International University, Bannockburn, Illinois (Lincoln Journal-Star, 27 April 2005) Hate mail, containing threats and racial slurs, was mailed to minority students at Trinity. An uproar followed. Forty minority students were moved out of the dorms for their own protection. In a pattern becoming all too common, the perpetrator turned out to be a minority student seeking attention. Alicia Hardin, a student from Chicago, confessed to sending the mail, claiming that she was homesick and wanted her parents to think the school was dangerous.

University of Alabama, Tuscaloosa (F.I.R.E. e-mail newsletter, 28 Feb 2005): There must be something special about UA undergraduates. Last fall, the Faculty Senate at UA passed a "hate speech" resolution, which many people took to be a barely-concealed advocacy for a speech code. Unlike the passive

scenario that has usually unfolded at other universities, in this instance the undergraduate students fought it. The Student Senate unanimously passed a resolution opposing such restrictions on speech, saying "[f]ree speech is absolutely vital to the mission of any university, where new and often controversial ideas must be discussed openly and rationally in order to make advances in knowledge ... [b]y defending free speech for all students, one in no way condones any kind of hate or intolerance; [o]n the contrary, one is promoting tolerance of others despite their differences, especially their differences of opinion." The matter remains unresolved – but it is refreshing to see the students show more wisdom than their teachers.

Nationwide (Associated Press and the winter 2005 newsletter of the American Council of Trustees and Alumni): Concerned with reports of political indoctrination on campuses, ACTA commissioned a nationwide survey of American college students. It found that 49% of students surveyed reported that professors frequently commented on politics in class even if it was outside the subject matter, and 31% said that there were courses in which a good grade was dependent on agreeing with the professor's social and political opinions. The notion that professors universally teach, but do not attempt indoctrination, always highly suspect, is now provably dead.

University of Oregon, Eugene (F.I.R.E. e-mail newsletter, 3 March 2005): Last fall, a conservative student magazine, the *Oregon Commentator*, was de-certified by the student government after it satirized a transgendered student leader. This denied funding to the paper and would have destroyed it. The cover story put out by the student government was that the *Commentator's* mission statement was inappropriate for a student-funded organization. It is the same mission statement the *Commentator* has had for 21 years, of course. After a negative publicity campaign by F.I.R.E., the student government reversed itself.

University of North Carolina, Chapel Hill (F.I.R.E. e-mail newsletter, 7 March 2005): Last year, UNC demanded that a Christian student fraternity adopt a non-discrimination clause in its charter that would allow non-Christians to be members of the organization. Alpha Iota Omega (AIO) declined, and was denied recognition as a student organization, which thereby denies them office space, meeting space, funding, and the usual perks of a student organization. AIO took the matter to court on grounds that UNC was unconstitutionally denying them the right of free association. US District judge Frank Bullock has issued an injunction against UNC that prevents university from forcing the clause on AIO. This is not a final ruling, but such a preliminary injunction usually indicates that the judge believes that the plaintiff has a strong likelihood of winning the case.

(Continued to page 7.)

UNIVERSITY REPORTS by Dwayne Ball

(Continued from page 6.)

Occidental College, Los Angeles, CA (F.I.R.E. e-mail newsletter, 15 March 2005): Jason Antebi, a former student at Occidental, supported by F.I.R.E., the Southern California ACLU, Students for Academic Freedom, PEN USA, and the Student Press Law Center, is suing Occidental for millions of dollars. What did Occidental do? When Antebi was vice-president of the student government in the Spring of 2004, and host of a popular on-campus radio talk show ("Rant and Rave"), the College found some of his satirical comments about the administration, political correctness, and so forth, too much to take. So, as reported in last fall's *Sentinel*, they forced him off the air, tried unsuccessfully to deny him his diploma, and confiscated all half-million dollar's worth of student government funds, dissolving the student government in the process. Three of Antebi's student political rivals accused him of creating a "hostile environment" by promoting "disrespect and slander" against "women, diversity, and Occidental College," a charge of which he was convicted by the usual university kangaroo court. This is despite a California law that extends the First Amendment to all public and private institutions of higher learning. Mr. Antebi accuses Occidental of mounting a far-reaching and malicious campaign to slander him because he objected to his treatment, as well as depriving him of his First

Amendment rights when he was a student. This will be an interesting case to follow!

New Mexico Highlands University (Chronicle of Higher Education, 23 March 2005) Gregg Turner, an assistant professor of mathematics, has been fired. He had published a number of essays in the local newspapers arguing that the university administration and its president were undermining faculty governance and belittling professors publicly. Mr. Turner was also author, along with 19 other faculty, of a letter to the North Central Association of Colleges and Schools, making these charges.

Colorado State University at Pueblo (Chronicle of Higher Education, 1 April 2005) Dan Forsyth, a tenured professor of anthropology, had a complaint submitted against him by a freshman, Victoria Watson. During a class, Mr. Forsyth announced the visit of a conservative speaker to the university, whose views on illegal immigration were apparently well-known. Ms. Watson claims Mr. Forsyth also made derogatory comments about "lazy, bitter Mexicans who don't deserve to be here," and used other derogatory language. A committee headed by the university's affirmative action director interviewed about half the students in the class and concluded that there was insufficient evidence to support Ms. Watson's account. Said the AA Director, Tony Montoya, "While immigration may

be a controversial subject, the mere discussion of immigration does not create a racially hostile environment, nor does a student's opposition to a view espoused by a professor mean that student is subject to a racially hostile environment." The university, however, has reprimanded Mr. Forsyth for introducing his personal opinions and using strong language in his classes, and for being "too animated" in his discussions. Interesting: when was the last time you heard of a liberal professor being reprimanded for those things? Says Forsyth's attorney, noting the chilling effect of the investigation and reprimand, "One man's tirade is another man's passionate teaching. If you're a professor, you should err on the side of passionate teaching."

Northeastern Illinois University, Chicago (F.I.R.E. newsletter, 5 April 2005) NEIU allowed a campus feminist organization to hold a "pay equity" bake sale, which charged men and women different prices for baked goods. However, when the College Republicans wanted to hold an "affirmative action bake sale," charging different prices based on sex and race, NEIU stomped on that real quick. After a great deal of negative publicity, NEIU reversed itself a few days later. However, at Grand Valley State University in Michigan, the College Republicans who held a similar bake sale now face punishment for "discrimination" for holding a similar bake sale.

Academic Freedom and Artistic Expression

The following is a concluding statement by the participants in the 1990 Wolf Trap Conference on Academic Freedom and Artistic Expression, sponsored by the American Association of University Professors, the American Council on Education, the Association of Governing Boards of Universities and Colleges, and the Wolf Trap Foundation. The statement was endorsed by AAUP's Committee "A" on Academic Freedom and Tenure and by its Council at their meetings in June 1990.

Attempts to curtail artistic presentations at academic institutions on grounds that the works are offensive to some members of the campus community and general public occur with disturbing frequency. Those who support restrictions argue that works presented to the public rather than in the classroom or other entirely intramural settings should conform to their view of the prevailing community standard rather than to standards of academic freedom. We believe that "essential as freedom is for the relation and judgment of facts, it is even more indispensable to the imagination." In our judgment academic freedom in the creation and presentation of works in the visual and performing arts, by ensuring greater opportunity for imaginative exploration and expression, best serves the public and the academy.

The following proposed policies are designed to assist institutions to respond to the issues that may arise from the presentation of artistic works to the public in a manner which preserves academic freedom:

1) Academic Freedom in Artistic Expression

Faculty and students engaged in the creation and presentation of works of the visual and the performing arts are engaged in pursuing the mission of the university as much as are those who write, teach, and study in other academic disciplines. Works of the visual and performing arts are important both in their own right and because they can enhance our experience and understanding of social institutions and the human condition. Artistic expression in the classroom, studio, and workshop therefore merits the same assurance of academic freedom that is accorded to other scholarly and teaching activities. Since faculty and student artistic presentations to the public are integral to their teaching, learning, and scholarship, these presentations no less merit protection. Educational and artistic criteria should be used by all who participate in the selection and presentation of artistic works. Reasonable content-neutral regulation of the "time, place, and manner" of presentations should be developed and maintained. Academic institutions are obliged to ensure that regulations and procedures do not impair freedom of expression or discourage creativity by subjecting work to tests of propriety or ideology.

2) Accountability

Academic institutions provide artistic performances and exhibits to encourage artistic creativity, expression, learning, and appreciation. The institutions do not thereby endorse the specific artistic presentations nor do the presentations necessarily represent the institution. This principle of institutional neutrality does not relieve institutions of general responsibility for

maintaining professional and educational standards, but it does mean that institutions are not responsible for the views or attitudes expressed in specific artistic works any more than they would be for the content of other instruction, publication, or invited speeches. Correspondingly, those who present artistic work should not represent themselves or their work as speaking for the institution and should otherwise fulfill their educational and professional responsibilities.

3) The Audience

When academic institutions offer exhibitions or performances to the public, they should ensure that the rights of the presenters and the audience are not impaired by a "heckler's veto" from those who may be offended by the presentation. Academic institutions should ensure that those who choose to view or attend may do so without interference. Mere presentation in a public place does not create a "captive audience." Institutions may reasonably designate specific places as generally available or unavailable for exhibitions or performances.

4) Public Funding

Public funding for artistic presentations and for academic institutions does not diminish (and indeed may heighten) the responsibility of the university community to ensure academic freedom and of the public to respect the integrity of academic institutions. Government imposition on artistic expression of a test of propriety, ideology, or religion is an act of censorship which impermissibly denies the academic freedom to explore, teach, and learn.

Robert O'Neil visits Nebraska

By Robert Haller, AFCON President-Elect

It is worth remembering that Robert O'Neil came to Nebraska last August 2004 and addressed the UNL Hixson-Lied College of Fine and Performing Arts at the convocation which opened its school year for faculty and staff. He is a person who should be known and admired by all lovers of Academic Freedom.

My sources tell me that this was a command performance for the college faculty; but I hope they came to accept it as well worth their time.

Who is Robert O'Neil?

He is currently a Professor of Law at the University of Virginia and more importantly, Director of the Thomas Jefferson Center for the Protection of Free Expression (make an acronym out of that!) which is the national version of AFCON. It for instance gives each year the Brennan award to an upholder of the first amendment; it also each year distributes the Jefferson Muzzles to egregious violators of Free Speech. The 2004 Muzzles went to a diverse group which included the U.S. Department of Defense and the Secret Service, but also The Albemarle County (VA) School Board (which banned a student T-shirt with an anti-NRA message) and Baseball Hall of Fame President Dale Petroskey (who uninvited Tim Robbins and Susan Sarandon from a ceremony recognizing baseball movies, on the ground that they were critical of Bush policy in a time of grave peril to the U.S.).

O'Neil himself has had an impressive and varied career which includes a term as Provost at the University of Cincinnati, vice

president of the University of Indiana, President of the Wisconsin system of higher education, and President of the University of Virginia. But the focus of his scholarly and advocacy work has been the legal basis of free expression.

His talk to the UNL College focused on the censorship of the arts at institutions of higher education. Since he was addressing a UNL audience, he made the censoring of the Luc Goddard movie *Hail, Mary* (1985) his primary example. Some of us remember how the University Regents, under pressure from some Legislators, canceled its scheduled showing at the Sheldon Film. Danny Ladely, Director of the Sheldon Film Theatre at the time (and now director of the Mary Riepma Ross which succeeded it, under the jurisdiction of the CFPA) was in the audience to confirm O'Neil's remarks. O'Neil found particularly apt the decision of Judge Warren Urbom—well known in Lincoln, but apparently not on the national scene—who decreed that the University could not under the Constitution forbid the showing of a film on the ground that it was blasphemous or on any ground alleging its religiously unacceptability: such an action would amount to “the establishment of religion or the restriction of its free exercise. [I remember that the movie's showing at the Nebraska Union Auditorium drew an enthusiastic crowd, probably larger than it would have drawn in a regular run at the Sheldon itself.]

O'Neil particularly went on to endorse and explain the 1990 Statement of the Wolf Trap Conference on Academic Freedom and Artistic Expression, sponsored by the American Association of University Professors, the American Council on Education, the

Association of Governing Boards of Universities and Colleges, and the Wolf Trap Foundation. This Statement provides guidelines for institutions of higher education which treat artistic expression and its teaching as entitled to Academic Freedom to the same extent as the expression of ideas. It refers to the educational function of the arts and to the considerations which enhance the accountability of higher-education institutions in instruction, in presentation and performance, and in the use of public or institutional funds.

O'Neil noted further that the arts and particularly the modern media present powerful images which sometimes create even stronger reactions than do ideas. He gave as examples Mel Gibson's *The Passion of the Christ* and Michael Moore's *Fahrenheit 9/11*. Both movies have elicited strong positive and negative responses. As a consequence, he reported, the liberal students in his course on Law and Media last spring wanted the *Passion* censored for its anti-Semitism, while the conservatives wanted *Fahrenheit* censored as inimical to the war on terrorism. He pointed out that neither side understood the degree to which movies fall as much under the First Amendment as any other occasion for public expression.

He concluded by praising the College for its openness to the whole range of artistic expression and recommended to them that they consider music, art, theatre and dance, in their University setting, as raising issues of Academic Freedom to the same degree as the research and teaching in other fields of study.

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515 North Thomas Avenue
Oakland, NE 68045.

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- ◆ educate Nebraskans 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.
- ◆ assist students, teachers, librarians, and researchers confronted with censorship, indoctrination, or suppression of ideas.
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