



THE

AFCON

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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—Laurie Lee

Academic freedom continues to erode since the 9-11 terrorist attacks, and much is likely happening quietly, under a cloak of fear.

Post 9-11 threats to academic freedom was the topic of our panel at the annual meeting in November. At that time, we discussed such issues as the proposed state law that would promote patriotic study in our schools and the USA Patriot Act which requires libraries to provide law enforcement with secret access to patron records and requires universities to develop the means for the INS to track records of international students and professors.

What the panel did not address, however, was the loss of academic freedom for teachers in speaking out against the war on terrorism or in any way unfavorable to current U.S. policy on foreign affairs. Why? Except in a number of publicized cases around the country, much of this loss of academic freedom comes in the form of a chilling effect on speech—not direct restraint, punishment, or dismissal. And it is no simple task to find people willing to talk about how they feel they cannot talk about something.

If such faculty existed, though, who are they and would they dare come

forward in today's climate? The nation is gripped by understandable sympathy and fear, and government officials such as Attorney General John Ashcroft have adamantly equated dissent with disloyalty. Opposition to war is effectively silenced when many fear being labeled unpatriotic.

This public fear unfortunately carries over to the educational system where faculty members also think twice before voicing or publishing controversial ideas. A law review article by R. Kenton Bird and Elizabeth Barker Brandt, titled "Academic Freedom and 9/11: How the War on Terrorism Threatens Free Speech on Campus," summarizes some of the publicized examples of post 9-11 threats to academic freedom. They found a number of instances where college and university faculty members who have spoken out against U.S. foreign policy have been reprimanded, disciplined, harassed and, in one case, threatened with dismissal from a tenured position.

Could such things happen in Nebraska's universities, colleges, and schools?

Bird and Brandt cite four main categories of episodes which have prompted (Continued on page 2.)

Upcoming Events

AFCON Board Meetings, April 12, May 10, June 14, 2003
Loren Eiseley Library, 1530 Superior, Lincoln, Nebraska; 10 AM

Message (Continued from page 1.) the great-est public or institutional response: 1) spontaneous remarks or classroom exchanges, 2) speeches, articles, or public forums, 3) displays of flags or patriotic slogans, and 4) public statements by faculty.

In the first instance, they cite the case of an unfortunate “joke” by Richard M. Berthold, an associate professor of history at the University of New Mexico. It seems that Berthold told a freshman class the day of the attacks that “anyone who can blow up the Pentagon” gets my vote. He apologized for the remark. Yet the university, while acknowledging Berthold’s First Amendment rights, nonetheless determined that Berthold “failed to act responsibly toward his students.” He received a letter of reprimand, was directed to submit to a post-tenure review, and temporarily forbidden to teach any freshman-level classes. Some legislators sought to force the university to fire Berthold by deleting his salary from the state budget, but were unsuccessful.

In another classroom case at Orange Coast College in Costa Mesa, California, Muslim students accused political science professor Kenneth W. Hearlson of making derogatory remarks about them in an intro to government class. Hearlson was placed on administrative leave and spent over \$10,000 in legal fees before a review of his taped lecture cleared him.

Academic freedom was also threatened when Richard Jensen, a journalism professor at the University of Texas at Austin, wrote an article for the “Houston Chronicle.” Jensen denounced the terrorist attacks but also directed his anger at those who have held power in the United States and have “engineered attacks on civilians every bit as tragic.” The university’s president responded with a letter to the newspaper defending Jensen’s right to free expression but distancing the university from Jensen and calling him a “fountain of undiluted foolishness....” Jensen feared the president’s remarks would deter others on campus from speaking out. Indeed, one faculty member said that “faculty felt there was a very clear message that if you stick your neck out, we [the university] will disown you.”

Perhaps more blatantly disturbing are the

actions of officials at City University of New York, where faculty organized a “teach-in” to look at causes of terrorist attacks. Speaking in his official capacity, Chancellor Matthew Goldstein publicly denounced the professors, and the university’s trustees drafted a resolution condemning the event as seditious.

Displays of flags or patriotic slogans have also proved disconcerting. A secretary at the College of Holy Cross in Worcester, Massachusetts, hung a flag in her office three days after the attack which claimed the life of a friend. Her department chair asked her to remove it. Only after the incident was publicized in the local newspapers and complaints were made did the administrator agree to let her place a small flag on her desk.

Finally, public statements by faculty have sparked retaliation. A professor of international relations at John Hopkins University, Charles H. Fairbanks, said at a public forum that he would “bet anyone here a Koran” that the United States would not be able to capture Osama Bin Laden. An audience member accused him of trying to stir up hatred against Muslims. Fairbanks apologized for his remark about the Koran, but a few days later his dean demoted him to research professor, saying he was unqualified to direct the Central Asia-Caucasus Institute. Only after subsequent publicity about the situation was he reinstated

The best known case, however, concerns a tenured computer science professor of Palestinian descent at the University of South Florida who faces dismissal for his alleged connections to terrorists. Sami Al-Arian, an outspoken critic of Israeli policies against the Palestinians, has a long history of controversy, which includes suspension with pay in 1996 after an institute he founded was linked to terrorists in the Middle East. After 9-11, Al-Arian was interviewed on “The O’Reilly Factor” where he downplayed his reputed views, but university officials found him to be disruptive and put him on paid leave, banning him from campus. The USF Board of Trustees voted to recommend dismissal. The faculty union at USF filed a grievance on Al-Arian’s behalf, saying that keeping him from campus violated the union’s contract, Al-

(Continued on page 3.)

Message (Continued from page 2.) Arian's right to academic freedom and its own policy of nondiscrimination on the basis of ethnicity and religious affiliation.

Al-Arian's case is now considerably weakened, however, since his recent arrest by the FBI who accused him along with seven others of conspiring to aid and abet terrorism. A 70-page indictment admittedly makes his ties to terrorism seem unassailable. But as one online commenter has stated: "Today they came for Professor Al-Arian. Who will they come for tomorrow?"

One thing that is particularly distressing about these post 9-11 infringements on academic freedom is the lack of support by university administrators in defending the importance of academic freedom. Academic leaders have made it a point to take action against or at least distance themselves from campus critics of U.S. policy. They certainly fear the public's prevailing hostility toward contrary and unpatriotic views. Today's administrators also no longer have first-hand experience with the censorship of the McCarthy era. At any rate, this is not a comforting trend.

Of course what is also distressing is that the cited cases are merely the ones that reached a significant level of publicity. How many faculty

members are treading quietly in their classrooms, refraining from publishing their views, and steering clear of any critical public forums is unknown. But one might presume that for every publicized example, there are many others that are handled quietly and without faculty retaliation.

Moreover, the lessons learned from these cases only serve to further chill speech. After all, what faculty members will engage in constructive criticism of the war on terror if their presidents or principals are less likely to defend free speech, or are even willing to impose punishment? Faculty members unwilling to risk harassment, intimidation or retribution will engage in self-censorship. Unfortunately, such chilled speech does not warrant publicity that can, in turn, help keep the suppression in check and maintain academic freedom.

While I personally have faith in my own university's chancellor to defend the cause of academic freedom, this is obviously not the case at other institutions and may not be at some college or departmental levels. AFCON must stay abreast of the situation, be alert to instances of overt or chilled speech, advise our colleagues of their academic freedom rights, offer support, and fight infringements.

One casualty of war is academic freedom, and it is often a silent killer. Unfortunately, conditions are not likely to get better any time soon.

Papillion Teen Leads Peace March

Papillion-La Vista High School student Asher Novotny isn't against all wars, but he opposes the impending conflict between the United States and Iraq.

So the high school junior organized a peace march through Papillion February 28 that drew about 50 participants.

"I don't agree with this war," Novotny said. "I can't sit back and disagree if I'm not willing

to express my opinion."

The students, some with peace symbols painted on their faces, walked 1 1/2 miles from the high school to Halleck Park; they returned by the same route.

At the park, Novotny clarified they were not anti-war, anti-military, or anti-President Bush. He said the United States should be certain that a war is absolutely necessary before it becomes involved in one with Iraq. He said, "the only reason this country should go to war it to create peace, not seek revenge on Saddam Hussein."

Papillion-La Vista junior Robert Tippett said, "We need more words, not wars."

Doug Partridge, a junior, said, "War is ugly, but sometimes needed as a last resort."

Justin Kellett, a junior, added, "It appears that war is the government's decision, and we should support that decision."

Kyla Brannen followed the marchers with a sign that read, "Thank you for caring enough to express your beliefs. Thank a military member for defending your right to express."

Summaries of AFCON Board of Directors' Meetings—David Kubicek

December 14, 2002—The Board accepted the November minutes and December treasurer's report of \$1,015.64.

Dwayne Ball reported that ACLU-Nebraska will consider action on a case involving a UNL professor whose class seemed to be slanted too far to religion rather than academics. Bob Haller reported the AAUP-Nebraska chapter is reviewing what it can do to support academic freedom.

Peggy Adair suggested AFCON become more proactive. She proposed contacting member organizations to learn their concerns that might translate into legislation that AFCON could support.

David Moshman reported that ACLU-Nebraska decided to wait for a U.S. Supreme Court ruling on the Library's Internet Safety Policy before determining any action. He also reported that the American Association for the Advancement of Science presented its 2002 Scientific Freedom and Responsibility Award to UNL's President Dennis Smith for his support of fetal tissue research.

Mel Krutz reported on a man at the San Francisco Airport who was denied boarding because he had questionable books in his possession—*Hey, Duke Lives!*, a novel about a man who blows up bridges, and a Harry Potter book.

Tom Black reported on a man who believes he has disproved, via DNA analysis, the claim by the Mormon Church that the American Indians are direct descendants of the Israelites. The Church initiated excommunication of him.

Adair will do a presentation on censorship for the Nebraska Reading Association in Kearney in February 2003.

Planning—members proposed recruiting more academic members from public schools, colleges, and universities; creating a more professional-looking brochure (Barbara Cornelius volunteered); registering a domain name for AFCON; recruiting more students via articles in the *Daily Nebraskan*, presentations to graduate students, and working through the ASUN; intensifying the fight against the Hazelwood decision; ordering more pens with AFCON's Web address; updating the list of board members; developing a system to notify members of meeting cancellations; appointing more

Board members-at-large; and planning Banned Book Week events.

January 11, 2003—The December minutes and the January treasurer's report of a balance of \$1,021.05 were accepted.

Linda Beckstead announced the AFCON officers for 2003 are Peggy Adair, president-elect; Cathi McMurtry, treasurer; and David Kubicek, Secretary.

Peggy Adair reported that only one of the bills introduced in the 2003 session of the Unicameral may have academic freedom implications—the bill to change the way UN regents are selected to fill unexpired terms for resignations or removal of sitting regents. Adair will continue her purview.

David Moshman reported on two *Los Angeles Times* editorials which were reprinted by the *Lincoln Journal-Star*. Daniel Pipes (founder of "Campus Watch") expressed concern that so many academics opposed war with Iraq and argued that "It is important to remember that universities...do not belong...to the employees who happen to staff them. The later do not have a right to hijack these vital institutions out of the mainstream of American life..." An opposing view by professors Eric Foner (Columbia) and Glenda Gilmore (Yale) argued in favor of the academic freedom of the faculty.

Linda Beckstead read a thank you letter from Suzanne Ratzlaff, one of the recipients of the 2002 AFCON Academic Freedom Awards. (See page 11 of this issue.)

The Board created an ad-hoc position of AFCON Webmaster and appointed Barbara Cornelius as first incumbent.

Mel Krutz reported on plans for Banned Book Week and her contacts with NCTE and NELAC on their possible participation in the event. Krutz also reported that several states have coalitions of organizations like AFCON. She will investigate to see if there is opportunity for interstate collaboration.

February 8, 2003—The January minutes and February treasurer's report of a balance of \$1,313.15 were accepted.

The Board added Jane Holt, journalism teacher at Lincoln South East High School, as a member-at-large and Dick Herman, as new representative for the Nebraska Press Association.

Bob Haller reported that the AAUP State Conference Meeting will be February 28th, beginning at 4 p.m. at Nebraska Wesleyan University in Lincoln with a panel discussion on Academic Freedom since 9/11 and a speaker from the national AAUP office. Moshman will represent AFCON on the panel. Non-members welcome.

Moshman reported on the ACLU-Nebraska case of a UNL professor who inappropriately introduced religion as fact into his class, resulting in a complaint to the ACLU. Moshman was delegated by ACLU-Nebraska to approach him and suggest changes to his approach, which the professor seemed to accept as reasonable.

Barbara Cornelius reported the Nebraska Library Association meets October 30 and 31, 2003, at the Omaha Holiday Inn, and a table from AFCON would be welcome. (Later in the meeting, Dwayne Ball suggested AFCON's holding its annual meeting simultaneously with the NLA and giving the Academic Freedom Award in front of their audience. Cornelius suggested the possibility of an AFCON session.) President-Elect Peggy Adair is responsible for the annual meeting.

The Nebraska Reading Association will hold its annual meeting February 21 and 22; Peg Adair volunteered to staff a table for AFCON.

Dave Moshman distributed reprints of his recent article, "Homophobia and Academic Freedom," (2002), *Journal of Lesbian Studies*, vol. 6 (3/4) 147-161, in which he used the AFCON Principles of Academic Freedom extensively as a basis to discuss three educational cases, mentioning the history of AFCON in the process. (See pages 5-8 of this issue.)

Moshman mentioned that Beatrice teacher Doris Martin, a strong supporter of the First Amendment, recently won the Christa McAuliffe Award, named after the teacher killed in the *Challenger* explosion.

(Minutes continued on page 8.)

Homophobia and Academic Freedom

by David Moshman

Addressing homophobia and heterosexism as a teacher immediately raises issues of respect for the intellectual freedom of your students. How free should you be to raise issues of sexual orientation in your classes? How free should you be to express and argue for your own views on these issues? How free should students be to express views that you deem homophobic or heterosexual?

The central thesis of this article is that issues of this sort are best addressed on the basis of principles of academic freedom. By academic freedom, I mean intellectual freedom in educational and research contexts, the definition used by AFCON since its founding in 1988. Thus academic freedom fully encompasses students and faculty at all levels of education. Some aspects of academic freedom may be legally protected in some contexts, but academic freedom is not a set of legal rights. Rather, it is a social context of liberty justified by the role of intellectual freedom in education and by the various moral and professional rights and responsibilities associated with this.

On the basis of this conception AFCON has developed a set of Principles of Academic Freedom and a subsequent Statement applying these principles to matters of sexuality. In this article I briefly describe the history leading to the adoption of these documents and then apply the academic freedom principles to a hypothetical case.

Principles of Academic Freedom

AFCON was founded in 1988 as a coalition of Nebraska organizations concerned with intellectual freedom in the educational institutions of Nebraska. Since its beginning AFCON has construed academic freedom as intellectual freedom in educational and research contexts. Such freedom can sometimes be protected in U.S. public education by invoking the First Amendment rights of individ-

ual students or faculty (Kors & Silverglate, 1999; O'Neil, 1997.) AFCON has consistently maintained, however, along with the American Association of University Professors (1940/2001,) that academic freedom is fundamentally a condition for education and research, not just a set of legal rights. That is, adherence to principles of academic freedom fosters excellence in education and research while simultaneously respecting the autonomy of individual students and faculty. This emphasis on the intellectual and moral, as opposed to legal, basis for academic freedom has become increasingly important since *Hazelwood v. Kuhlmeier* (1988), in which the U.S. Supreme Court greatly restricted the application of the First Amendment in curricular contexts.

Throughout its history, many of the cases coming to AFCON's attention have involved issues of sexual orientation. Given that this experience was fully consistent with national trends and showed no sign of abating, the AFCON Board decided in 1998 to develop a policy statement concerning issues of academic freedom related to sexual orientation. Although drafts of such a policy received positive feedback from a variety of sources, an unexpected problem arose. Some people thought it odd that AFCON was singling out sexual orientation for special attention and wondered whether the policy was providing special protection for the topic of sexual orientation and/or special rights for sexual minority faculty and/or students.

Within AFCON it was obvious to everyone that there was no question of special protections or special rights. The principles central to the draft policy were the principles AFCON had consistently applied throughout its history in addressing all sorts of academic freedom issues and controversies. We realized, however, that our most fundamental principles had for the most part been implicit in our analyses and positions rather than explicit objects of systematic attention. Outside our organizational context, our proposed policy on sexual orientation did indeed seem to be creating special protections and rights for

certain topics and persons.

With these considerations in mind we decided that, rather than approve a special document concerning sexual orientation, it would be better to step back, formulate and approve an explicit version of our general principles of academic freedom, and then return to the topic of sexual orientation as part of a more general treatment of sexuality that was itself based directly on AFCON's general principles. The result of this process was a set of Principles of Academic Freedom adopted by the AFCON Board in September 1999 and a longer statement entitled "Sexuality and Academic Freedom," based on these principles, that was approved by the AFCON Board in April 2000 (both documents are available on the AFCON website.)

AFCON's statement on sexuality begins by noting AFCON's concern that "the dozens of cases involving human sexuality that AFCON has addressed in recent years are just the tip of the iceberg that chills education about sexuality throughout Nebraska." Far from receiving special protection, the topic of sexuality is routinely treated as one requiring especially stringent restrictions on expression:

"Implicit in most efforts to restrict discussion of sexuality is a widely-shared assumption that human sexuality is special in ways that render standard principles of academic freedom irrelevant. We see no justification for this view. In this statement we apply general principles of academic freedom to seven overlapping areas of concern with regard to sexuality and academic freedom." (p.1)

The statement then goes on to address (a) sexuality within the curriculum, (b) teaching sexual responsibility, (c) student freedom of belief and expression, (d) freedom of inquiry, (e) sexual harassment, (f) equal opportunity, and (g) sexual orientation. With regard to the latter it notes that "[s]everal of the examples used in this policy statement

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Homophobia and Academic Freedom (Continued from page 5.)

involve sexual orientation. This reflects the reality that a large proportion of the complaints and concerns that come to our attention involve sexual orientation. The fact that issues of sexual orientation are controversial in our society does not justify censorship. On the contrary, recognizing that the urge to restrict intellectual freedom is always strongest with regard to controversial matters, school authorities should be especially vigilant in protecting intellectual freedom with regard to matters of sexual orientation.” (p.3)

Case Study

In a class discussion of what is encompassed in the concept of fundamental rights, a student argues that fundamental rights include the right not to be discriminated against because of your sexual orientation. Another student says this sort of absurd claim shows the problem with vague notions of human rights. A third student agrees with the second, noting how vagueness leads to overly broad conceptions of rights that protect immoral behavior and evil people. A fourth student adds that human rights can't protect everyone and everything. The first student replies that human rights, by definition, are rights that protect all people. "Yeah, people," murmurs a fifth student, "not faggots." You're the teacher.

It is readily understandable that a teacher in this situation might feel increasingly disappointed and frustrated by the successive comments of the second, third, and fourth students. Even if you recognize the right of these three students to express their views you may be tempted, especially given this context, to penalize the fifth student for using the term “faggot” or at least to warn students that they will be punished for using that word. This temptation, I will argue, should be resisted, not only out of respect for the rights of your students but also because, from an educational point of view, there are better ways to handle this situation.

A central theme of AFCON’s Principles is that academic freedom applies not only to faculty but to students as well. Your students, no less than you, have “a right to believe whatever they believe” (Principle 2) and “a right to express their views” (Principle 3.) These principles can be justified on both moral and educational grounds. Morally, respect for persons entails respect for their intellectual

autonomy, even if you justifiably believe them to be less developed and/or less educated than yourself (Kors & Silverglate, 1999). Educationally, moreover, there is substantial evidence that learning and development are fostered by contexts of intellectual freedom (Moshman, 1998, 1999).

It might be argued that freedom of expression is not absolute and that this is one of those cases where common sense demands some limitation. It is indeed true that restrictions on the time, place, or manner of expression can sometimes be justified, but we should be wary of relying on “common sense” to guide us in this regard. Rather, we should be careful that any such restrictions are carefully delineated and justified, and that they are neutral with regard to viewpoint.

In academic contexts, in particular, freedom of expression may justifiably be limited to matters “relevant to the curriculum” (Principle 3.) A student who persistently talks about “faggots” in a calculus class, for example, might justifiably be required to stick to the topic of calculus and ultimately penalized for failing to do so. A student who persistently interrupts a calculus class to endorse gay rights, however, should be equally subject to sanction. Viewpoint neutrality is key here. Legitimate limitations on classroom speech, moreover, should not be abused by applying a stricter standard of relevance to objectionable views. The fifth student in the present case may be expressing a highly objectionable view of gays and lesbians, and may be expressing it in a rather inarticulate way (a point to which I shall return), but the student is indeed expressing a view relevant to the topic under discussion.

It might be argued that what distinguishes the fifth student from the second, third, and fourth is not viewpoint but rather the use of the epithet “faggot.” Perhaps we cannot punish students for opposing gay rights but can’t we punish students who use terms so offensive to others in the class that their manner of expression, as distinct from their point of view, is an act of harassment? Otherwise, some students may be so offended as to be silenced, thus denying them an equal opportunity to exercise their own academic freedom (Principle 8.)

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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.

Homophobia and Academic Freedom (Continued from page 6.)

There is something to be said for this argument, but there is also great danger in it. People of all sorts may be offended by a wide variety of things. The key to addressing this issue in a fair and consistent way, I think, is to carefully distinguish offensive speech from acts of harassment. Academic freedom protects the expression of all viewpoints, “even if those views are deemed to be false, absurd, offensive, or otherwise objectionable” (Principle 3). As noted in the Sexuality statement, however, academic freedom does not protect harassment, strictly defined as “a pattern of actions specifically directed against a particular individual with the intent of humiliating, intimidating, or otherwise harming that individual.” If a student were to repeatedly call someone else in the class a faggot despite clear indication that the other student found this objectionable, that would be a serious offense not protected by norms of academic freedom. Reasonable people might disagree on exactly where one draws the line between offensive speech and harassment, but it should be clear that the comment of the fifth student in the present case falls far short of that line.

What, then, should you do in the present case? One important option for a teacher in any case involving student discussion is not to say anything at all. Peer interaction has a dynamic of its own that can be highly effective in promoting development and education and that may be undermined by pronouncements from a teacher or other authority (Moshman, 1998, 1999.) It is possible in the present case that if you hold your tongue for a moment, other students, perhaps even including those opposed to gay rights, will criticize the use of the term “faggot” and, precisely because they are peers, have more impact than you could possibly have had.

There is no guarantee that this will happen, however. It is possible that there will be a stunned silence as students wait to see your reaction and that if you do not react this will be taken as acquiescence. It is also possible that if you do not step in, the discussion will move on to something else and your opportunity to use the present situation for educational purposes will be lost. Your own academic freedom as the teacher to decide how to proceed is based on the assumption that you are in the best position to judge what will be most educational for your students.

One excellent option, I suggest, is to ask the fifth student to clarify and justify his or her view. More specifically, you might, with seeming innocence, ask what is meant by “faggot” and why individuals in this category do not qualify as people. This response is, to be sure, a bit disingenuous. You are not directly accusing the student of making a snide and ignorant remark that fails to advance the discussion but you have no objection if the student or others make this inference. The student may be unpleasantly surprised to be asked to justify a comment that was not meant to be taken seriously, at least not in any academic sense. If the student has no meaningful response to your query, others in the class may conclude that comments of this sort are unjustifiable

and some may go on to question the earlier facile rejections of gay rights. They may also come to see that intellectual discussions are more than just serial statements of diverse opinions. They may see that in your classroom they are free to say whatever they wish but that they should be prepared to explain and justify whatever they say.

It is possible, of course, that the student will indeed have some response. You can then proceed from there to state your own views about the use of terms like “faggot” and/or about the nature and scope of fundamental human rights. Respect for a student’s right to hold a particular opinion does not entail agreement with, or even respect for, that opinion. On the contrary, respect for students is fully consistent with the presentation of alternative views and with efforts to convince students to change their opinions. The key is that such efforts must not be, and must not be perceived to be, coercive. It should be clear both to you and your students that, in the end, they “have a right to believe whatever they believe and to maintain or change their beliefs as they deem appropriate” (Principle 2.)

Conclusion

Restrictions on education about sexual orientation are pervasive throughout elementary and secondary education and all too common in higher education as well. Given this state of affairs it is understandable that in those circumstances where sexual minorities, and those sympathetic to sexual minority viewpoints, find themselves in power they will be tempted to compensate by indoctrinating students in their own views. A better approach, I have suggested, regardless of who has the power to devise and administer the curriculum, is to educate students in accord with principles of academic freedom such as those proposed by AFCON.

The proposed principles permit advocacy, rather than requiring neutrality, but do not permit indoctrination. That is, instructors may express and justify their own ideas relevant to the curriculum and try to convince students to adopt those ideas and/or to abandon alternatives, but must not coerce or require belief, censor or punish students who remain unconvinced, or restrict access to alternative views. Adherence to these principles will, I suggest, permit effective education about matters of sexual orientation that is fully consistent with the rights of all involved.

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Homophobia and Academic Freedom (Continued from page 7.)

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Note. David Moshman is a professor of educational psychology at UNL and AFCON Policy Coordinator. This article is adapted from a longer article, including two additional cases, that appeared in the *Journal of Lesbian Studies* (2002, Vol. 6, Nos. 3/4). For a reprint of the full article, send your postal address to the author at dmoshman1@unl.edu or 230 Teachers College Hall, University of Nebraska, Lincoln, NE 68588-0345.

AFCON Minutes— (Continued from page 4.)

Moshman mentioned the professor Sami al-Arian case at the University of South Florida, in which Dr. al-Arian, a tenured professor who has verbally supported the Palestinian cause, was the target of death threats which led the University to attempt his dismissal as a “disruptive influence” due to the threats. When that avenue caused severe objections, the University gave it up and turned to a strategy of dismissing him for “connections to terrorists,” not, to our knowledge, proven. Process of dismissal under way; we will monitor. (Al-Arian was arrested last week, accused with seven others of funneling support to the Palestinian Islamic Jihad since 1984. The University dismissed him February 26.—editor)

Moshman mentioned a new policy by the *Lincoln Journal-Star*, the major Lincoln daily newspaper, of no longer mentioning team names presumed offensive to Native Americans, such as the Washington Redskins. Discussion followed, including two verses of the Washington Redskins fight song graciously delivered *a capella* by Bob Haller, a former resident of the D.C. area.

Barbara Cornelius reported on behalf of the Banned Book Week Committee (which also includes Dave Kubicek and Mel Krutz) that the committee is considering a larger event this year, possibly including a meeting with one or more speakers, in recognition of AFCON's 15th anniversary year. Further details will be reported at future meetings. Legislative Liaison: Peg Adair was not present, but she sent a two-page report on pending legislative bills and proposed constitutional amendments, listing 15 measures of possible academic freedom interest. Action was taken on the following:

LB 672: Requires all school districts to install filtering software on school computers to restrict student access to “child pornography and to material that is reasonably believed to be obscene under federal or state law or harmful to

minors.” Absent installing the software, the school district may “develop a policy to limit access to such material.” The school districts are also required to install software to prevent adult access to the aforementioned. The Board voted to testify in opposition to LB 672. **The hearing on this bill was March 4.**

LB 512: Prevents fetal tissue research by public institutions or by people employed by the state. Disallows obtaining grant funding by public institutions to engage in research using fetal tissue. Imposes civil penalties. Imposes criminal penalties for acquiring, transporting, etc., fetal tissue. Imposes criminal penalties for transplantation of fetal tissue. LB 566: Creates the offense of destructive research on a human embryo. The hearings on these bills were February 20. The Board voted to testify in opposition to LB 512 and LB 566.

LB 778: Requires one statewide test for students in five grades, and requires one assessment to be used statewide after the 2007-2008 school year. The hearing was March 4. The Board voted to oppose by testimony if Haller, Lee, and Adair, after reviewing the bill in detail, see no reason not to.

LR13C: Adds appointed members to the Board of Regents of UN. LR15CA: Creates the Nebraska Higher Education Board of Regents. LB 389: Eliminates the Coordinating Committee for Postsecondary Education. The hearings on these bills was January 28. The Board will monitor these bills.

Cornelius reported that the name AFCON.org is taken. After some discussion there was a consensus on the name AFCONebr.org. Also she will e-mail Board members a draft copy of the updated AFCON brochure.

Laurie Lee distributed a document from Krutz that provides job descriptions for AFCON Board members and officers. There was brief discussion regarding updating this document to reflect recent changes such as the creation of a webmaster position.

Correction—AFCON Board member, Dwayne Ball was misquoted in the last issue of the *Sentinel*. He was reported to have said, “We may end up with an Iraqi war that is parallel to Viet Nam. The United states tends to be against war, and people outside the government generally show intolerance toward both sides.” What he actually said was, “A majority of the United States at present, outside universities, is for war with Iraq, and the majority within universities is probably against it.” Ball drew the parallel with Vietnam, “pointing out that people standing against the Vietnam war were harassed and intimidated outside universities, and those standing for the war were harassed and intimidated inside of universities, often by people who advocated peace. “ He asked, “If war happened in Iraq, would the state government and the university administration stand up for the free speech rights of people who wanted to speak for the war inside the universities?”

AFCON SPEAKER'S BUREAU (As of December 2001)

Dwayne Ball: "Threats to Academic Freedom at Universities"
3120 Jasper Ct., Lincoln, NE 68516
adball@alltel.net

Linda Beckstead: "Freedom of Student Press Issues"
611 North 42nd Street, Omaha, NE 68131
BecksteadL@aol.com

Bob Haller: "Money Talks: Ideas in the Political Process" and "Religion, Intellectual Freedom, and the University"
4000 S. 56th St., Lincoln, NE 68506
rhaller1@unl.edu

John Bender: "The Nebraska Student Freedom of Expression Bill"
3609 S. 20 St., Lincoln, NE 68508
jrbender@unl.edu

David Moshman: "Principles of Academic Freedom" and "Student Rights"
1901 Pepper Ave., Lincoln, NE 68502
dmoshman1@unl.edu

Presentation of the Readers' Theatre production of A Tangled Web: Student Freedom of Expression

ADDRESS FOR THE AFCON WEB SITE

<http://www.NebrWesleyan.edu/offices/library/Afcon>

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

Wynn wins ACLU award

Matt Wynn, a 2002 graduate of Omaha Central High School, has been awarded a \$4,000.00 scholarship by the American Civil Liberties Union. Wynn was cited for his defense of the First Amendment in a controversy that focused national attention on the rights of student journalists.

As the editor-in-chief of the *Central High Register* in the 2001-02 academic year, Wynn wrote and published a story that exposed the failure of Central High administrators to follow their own policies involving an incident where a high-profile athlete was arrested at school for assaulting his girlfriend. The story raised questions of preferential treatment of athletes, and Wynn was warned by a school official not to publish it. After consulting with journalism advisor Matt Deabler, Wynn decided to publish the story, knowing that it could result in retaliation that would affect his ability to get into the college of his

choice.

The administration's response to the article included threats of future censorship and a demand that Wynn apologize to the student athlete. The controversy generated attention on the issue of the rights of students to publish controversial news items, and was reported upon by print and electronic media, including CNN and MSNBC. Several national journalist groups wrote letters to the school defending Wynn's decision, and ACLU-Nebraska forced the school to cancel the meeting where Wynn was to be compelled to apologize to the student athlete.

"This scholarship goes to Matt, who showed incredible commitment to principle in the face of power. But it also honors the entire staff of the 2001-02 Register and their academic advisor. They were supportive of Matt's decision to publish and were aware that

they too were subject to possible retaliation for the publication of the article. Matt was the leader of the paper, and his leadership and decisions were in the best traditions of the First Amendment," said ACLU-Nebraska Executive Director Tim Butz, who nominated Wynn for the scholarship.

The ACLU annually awards scholarships to youth based on their commitment to civil liberties principles. This year, the ACLU awarded fourteen \$4,000.00 scholarships. Wynn's scholarship is the first awarded to a Nebraska resident.

Matt is currently a student at the University of Missouri in its pre-journalism program, and is employed by Investigative Reporters and Editors, a professional journalism association, as a researcher. He is the son of Kirk and Emily Wynn of Omaha.

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 **June 20, 2003**, issue is **May 26, 2003**.

University Reports by Dwayne Ball

West Virginia University: the end of a censorship zone. WVU of Morgantown, WV, had quarantined free speech to two small areas on campus in late 2000. A publicity campaign by a student organization formed in protest, more publicity by the Foundation for Individual Rights in Education (F.I.R.E.) and a lawsuit by the Rutherford Institute caused the university to repudiate its policy and declare the entire campus a “free speech zone” a few months ago. However, speech restrictions, geographical or content-based, are either in force or under consideration at the Harvard Law School, Appalachian State, Florida State, Illinois State, The University of Texas at Austin, the University of Houston, and many others. Charles Alan Kors, of F.I.R.E., said, “Our survival as a free and progressive society depends on the unfettered exchange of ideas. That exchange is absolutely crucial to our college and university campuses, which should be the last places that quarantine the principles of the First Amendment and the exercise of the precious right of free speech.” (www.thefire.org)

Ole Miss and equal treatment under the law: The University of Mississippi was boiling over with anger by African-American students after last November 6, when the doors of two black students’ dorm rooms were plas-

tered with racist graffiti making liberal use of the “n-word” and other offensive words and symbols of hate. Black students and supporters marched and held meetings, demanding mandatory sensitivity training, other policies and procedures to fight racial insensitivity, and the prosecution of the perpetrators under hate crime laws. However, the perpetrators were revealed to be three black freshmen. Calls for prosecution have disappeared and the university is now charging the students not with a federal crime, (as the marchers called for,) but with violations of the student code of conduct. No federal prison, of course, but maybe expulsion; what if they had been three white freshmen? (Jewish World Review, December 18, 2002)

Brooklyn College: tenure for a conservative historian? No way. Dr. Robert David “KC” Johnson made a pest of himself at Brooklyn College as a brilliant untenured professor with a meteoric career. He insisted that search committees actually read the dossiers of faculty candidates rather than hiring on the basis of race and gender, and was demanding of the logic and competence of his peers and students. He refused to (as an African studies professor suggested) “cuddle” his students. Despite his outstanding record of teaching and scholarship, his department refused to sup-

port him for tenure on the grounds of “lack of collegiality.” Students protested. Eminent historians wrote to the Brooklyn College administration and protested. The administration has given him another year, but it remains to be seen if his department can stand this particular form of “diversity.” (Wall Street Journal, 20 Dec. 2002).

Rutgers University and the University of North Carolina at Chapel Hill: Choose your leaders our way or the highway. The InterVarsity Multi-Ethnic Christian Fellowship (IVMECF) at both schools chooses its leaders on the basis of religion – they must be Christian and agree with the religious mission of the organization. Both universities have denied the usual university funding and resources to those groups in response. “In short,” noted Charles Kors of F.I.R.E., “it is prohibited at [Rutgers] for a Christian organization to be Christian.” Rutgers is being sued by the IVMECF with the help of the Arizona-based Alliance Defense Fund. A publicity campaign was mounted at UNC-Chapel Hill by F.I.R.E., in which they referred not only to the famous *W. Virginia Board of Education v. Barnett* case, but also to the decision by the U.S. Supreme Court in *Boy Scouts of America v. Dale* (2002). In that decision, the Court ruled that “forced inclusion of an unwanted person in-

(Continued on page 10.)

University Reports Continued from page 8.)
 fringes the group's freedom of expressive association if the presence of that person affects in a significant way the group's ability to advocate public or private viewpoints." On December 31, 2002, UNC Chancellor James Moeser (formerly chancellor at UNL) backed down and restored campus rights to the IVMECF at UNC. (www.thefire.org)

Harvard Business School threatens student newspaper editor: The editor of the *Harbus*, the student newspaper at HBS, ran a cartoon criticizing persistent technical problems at the school's Career Services Offices, which were interfering with the students' job searches and career prospects. The student cartoon referred to the office as "incompetent morons." The editor was then verbally threatened with a violation of the "community standards" code by the administration. You will remember "community standards" in other forms on other campuses, as vague codes that demand that faculty and students avoid ideas and expressions that offend others. The editor resigned, but amid publicity brought by students and by F.I.R.E., the Dean of HBS reaffirmed the school's commitment to the principles of free speech, and the editor was re-instated. (www.thefire.org).

Shaw University president can't take criticism: Little Shaw University, a historically black university in Raleigh, North Carolina, hired a president coincidentally named Shaw who promised that he would revitalize the campus and then leave; 2002 would be his last year. The chair of the Allied Health Department, Gale Isaacs, was among a number of faculty and students who weren't happy with him, and co-authored a faculty resolution last November that criticized both president Shaw and the Board of Trustees. She was fired almost immediately for "faithlessness and disloyalty," and given until the end of the day to remove her property from campus (there is apparently no tenure at Shaw.) A student who read the resolution aloud in the student center a few days later was expelled (later re-instated, but forced to move out of the dormitories.) F.I.R.E. is mounting a publicity campaign, and wrote, "The right to criticize the administration and the sitting president of a university is well within the customary understanding of what free speech and academic freedom mean in this country. While some things may be unclear about the outer parameters of free speech, it is uncontested that, at its core, free speech exists to allow people to air grievances on matters of public concern and to question the legitimacy and decisions of those in power. Isaacs's resolution is the very essence of the heart of free speech.

To fire her for this is to demonstrate grave hostility to freedom itself." (www.thefire.org).

December 31, 2002

Dear Linda Beckstead and the Academic Freedom Coalition of Nebraska:

I wish to express my deep appreciation to the Academic Freedom Coalition of Nebraska for honoring the P-16 Alignment Task Force co-chairs with the 2002 Academic Freedom Coalition Award. Nebraska has a strong educational system with many outstanding educators dedicated to the successful learning of all students, and the P-16 Alignment Task Force is building on these strengths.

Also, thank you for the invitation to attend the luncheon and listen to the panel discussion about patriotism versus freedom. The discussion was enlightening, and the meal was wonderful. My plaque is now proudly displayed in my classroom as a reminder of the importance of local control over educational issues.

Thank you very much.

Sincerely,
 Suzanne Ratzlaff
 Heartland Community Schools
 Henderson, NE 68731

(Linda Beckstead was the President of AFCON in December—editor)

AFCON

515 North Thomas Avenue
Oakland, NE 68045.

Mailing
Address
Label

ACADEMIC FREEDOM COALITION OF NEBRASKA

HELP AFCON PROMOTE ACADEMIC FREEDOM

As a member of AFCON, you can help us

- ◆ support applications of the First Amendment in academic contexts, including elementary and secondary schools, colleges, universities, and libraries.
- ◆ 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.
- ◆ act as liaison among groups in Nebraska that support academic freedom.

MEMBERSHIP (To become a member, send dues, organization or individual name, address, and phone number to Cathi McMurtry, 515 N. Thomas Avenue, Oakland, NE 68045)

Organizational Membership (\$100) entitles the organization to one seat on the AFCON Board and one vote in the election of officers and at the annual meeting, and eligibility for office and chairing standing committees and provides newsletter subscription for the board member to share with the organization's information director and reduced rates to AFCON conferences for its members.

Individual Membership (\$10) provides newsletter subscription, eligibility for office and for chairing standing committees, reduced rates for AFCON conferences, and one vote at annual meetings.

Student Membership (\$5) entitles full-time students to the same privileges as provided by the Individual Membership.

**AFCON ORGANIZATIONAL MEMBERS, PLEASE DUPLICATE THIS NEWSLETTER FOR YOUR MEMBERS.
INDIVIDUAL MEMBERS, PLEASE PASS THIS NEWSLETTER TO A FRIEND AFTER YOU HAVE READ IT.
ENCOURAGE HIM OR HER TO JOIN AFCON**