



THE

AFCON

SENTINEL



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AFCON OFFICERS

Nancy Comer
President

Dwayne Ball
President-Elect

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Policy Coordinator

Peggy Adair
Legislative Liaison

Robert Brooke
Webmaster

Tom Black
Newsletter Editor

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—Nancy Comer

As 2008 comes to a close, I'm taking this opportunity to reflect on AFCON's year.... what happened, what didn't, but perhaps should have, and where our organization might proceed from here (just my thoughts, mind you).

The AFCON board has always been open to examining issues of academic freedom. Most surface in university or secondary school settings. However, intellectual freedom begins in elementary school when children begin learning that people have different ideas about the same topic, and that as children growing up in America, they have the right and responsibility to listen, read and gain information so they can develop critical thinking skills to determine fact from opinion. Children should learn that even though they don't like a particular person or group, in America that group can meet and express its point of view. Children are learning to think for themselves.

Apparently, some adults have "fallen through the cracks." This is education jargon for students who fail to make progress with academic subjects because they haven't received the support they need to succeed. Recently, on the Lincoln Journal State editorial page, a gentleman wrote that freedom of speech comes with responsibility. Then he went on to define what he meant by saying that "wiser and more logical people who believe in common sense and responsibility have a right to censor what is just not right." Is that what happened when the University of Nebraska Lincoln disinvited the keynote speaker for the College of Education and Human Sciences' student research conference? Did wiser folks make that decision? If we revisit a core belief of academic freedom, we see that students of all ages have the right to receive curriculum devised by teachers on academic grounds; with this right comes the corresponding freedom and responsibility of faculty to plan and carry out that curriculum. For more on this subject, I refer you to David Moshman's excellent in depth article "The Disinvitation of William Ayers" in this Sentinel.

Early this year, AFCON was made aware

of a situation at Omaha North High School.

Theater teacher, Kate Wiig was asked to change the play students were working on after a parent complained to the administration that the author Carson McCullers was a homosexual and the play, *The Member of the Wedding* used the "N" word. (This happened after permission was given by the administration in August to produce this play.) Kate approached the students, and they firmly said they would not change to another play, even if it meant they would not be able to do one. On their own the students began seeking another venue outside the school where they could perform *The Member of the Wedding*. They did not succeed in putting on the entire play, but they were successful in going to the media, telling their story, and having one act aired on a local station. As a result of her work with these students, Kate Wigg was a recipient of AFCON's Academic Freedom of Award for 2008.

The other AFCON Academic Freedom Award recipient, Frank Edler, professor of philosophy at Metropolitan Community College, Omaha, had our board buzzing about his research project, "American Terror in Nebraska: the 1918 State University Professors' Trial." As mentioned in the previous Sentinel, Edler asked the University of Nebraska Board of Regents to rescind the 1918 regents' decision to fire three of 15 faculty members and one staff who were caught up in the anti-German war hysteria of World War I. They were considered disloyal because they had been critical of Wilson administration policies.

Regent chair, Chuck Hassebrook, said it was not necessary to rescind the 1918 firings because the "university's statement on academic freedom is strong enough to guarantee that what happened in 1918 would never happen again". However, the Ayers case of November 2008 would disprove that statement.

Frank Edler was unable to be present to receive AFCON's Academic Freedom Award at our annual meeting November 15, but his wife Mary K. Stillwell agreed to accept this honor for him. Interestingly enough, Mary's acceptance

Upcoming Events

AFCON Board Meetings, January 10, February 14, March 14, 2009
Loren Eiseley Library, 1530 Superior, Lincoln, Nebraska; 10 AM

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THE PRESIDENT—Nancy Comer

speech on behalf of her husband, told of her own issues with academic freedom as a lecturer at UNL.

Earlier this year, Dave Moshman, AFCON's Policy Coordinator developed a tenure position; at that time the board discussed the fact that non-tenure track employees did not fall under the academic freedom policy governing tenured professors. One UNL lecturer, Julie Nichols, asked to attend an AFCON meeting and state her grievances. Some board members agreed to try and help her resolve her issues with her academic appointment.

President-elect Dwayne Ball helped us focus on the Hazelwood decision in which the United States Supreme Court upheld the right of public high school administrators at Hazelwood East High School in suburban St. Louis, to censor stories concerning teen pregnancy and the effects of divorce on children from a school-sponsored newspaper. He planned our annual meeting November 15 to look back over the 20 years since the decision was handed down. AFCON members and guests were joined by members of the ACLU for an enlightening and spirited

panel discussion. Alan Peterson, ACLU Board President, Mark Karpf, teacher from Omaha Public Schools, representing Nebraska High School Press Association on the AFCON Board, John Bender, professor of Journalism and former AFCON president and board member, and Peggy Adair, AFCON's legislative coordinator discussed the need for a Student Free Expression bill, and how difficult it has been to get one passed by the legislature. The panel shared examples from the past 20 years to show the need for such legislation. Audience member Eileen Durgin-Clinchard spoke about educating Nebraska school board members and administrators, who have opposed this in the past. All recommended finding a senator to carry the bill, and patience, as these endeavors take time. Some were hopeful that AFCON could educate a newer legislative body about the need for passing a Student Free Expression Bill.

That brings us to challenges we may face in the future. The AFCON board voted to enter into an agreement with Nebraska State Historical Society to house, preserve, index and provide public access to AFCON's historically significant records. This is indeed challenging when many of our active members have boxes of material to sort through.

Another item on the "to do" list is improve communication through use of our web site. A committee has been appointed to develop policy for an updated site.

We also need to review or rethink our outreach program to contact others about forming an academic freedom organization like AFCON in places like S. Dakota, N. Dakota, Minnesota, Iowa, Missouri and Kansas.

Finally, a highlight of our board meetings has been the active participation of so many individuals representing our 18 member organizations. Once we even had to bring in additional chairs so that everyone could sit down. Legislative coordinator Peggy Adair also gave all a homework assignment to find out whether the organization we represented on the AFCON board had an academic/intellectual freedom policy in place, and to share this with other board members; some found there was more to be done developing that policy.

I've been fortunate to work with such talented and committed people. In the words of 2008 Academic Freedom Award recipient, Kate Wigg, "they do much needed work".

Summaries of AFCON Board of Directors' Meetings—Karen Buckley

September 13—

Present: Peggy Adair, Dwayne Ball, Robert Brooke, Karen Buckley, Nancy Comer, Bob Haller, Dick Herman, Laurie Thomas Lee, Dave Moshman, Susan Oles, Linda Parker, Doug Paterson, Rod Wagner, and Julie Nichols, guest

Minutes: Minutes from the July 12, taken by Haller, were approved.

Treasurer's Report: The report showed a balance of \$1838.90, with 45 individuals and 16 organizations current with dues.

President's Report: Since the IRS increased mileage payments, the Board approved paying \$.29 a mile for AFCON travel expenses. At last month's meeting Brooke, who had joined the board as the new representative for the UNL chapter of AAUP, indicated he would be willing to represent the Nebraska Writing Project, if it joined as an organizational member.

Guest Julie Nichols described her contract concerns, as they related to academic freedom issues, with the University of Nebraska at Lincoln and requested assistance from AFCON. The Board authorized rep-

resentatives of AFCON to advise Nichols and, if necessary, to write a letter expressing concerns regarding academic freedom issues. Paterson volunteered to write such a letter.

Newsletter: The deadline for the December *Sentinel* will be November 24.

Legislation Report: Adair reported that she is participating in a panel discussion on ethics in Kearney. She distributes copies of the Students' Rights Handbook when she is speaking to student groups or classes.

Policy Coordinator: Moshman discussed the Five Freedoms project (www.fivefreedoms.org.) which is a social networking site primarily directed to high school students interested in First Amendment rights.

Membership Reports: Oles noted that NE/LAC's *Nebraska English Journal's* article, "I teach because..." was dedicated to Dr. Doug Christensen, outgoing Department of Education Commissioner.

Wagner said the Nebraska Center for the Book's annual book festival will be October 17-18.

Parker said the annual fall conference of NLA and NEMA will be October 15-17 in

Lincoln.

Ball noted that the UNL Group of the Nebraska Association of Scholars was recently informed that an unnamed vice-chancellor had de-certified them as a recognized faculty group, without warning, notice, or explanation. He has sent a letter to the UNL chancellor requesting an explanation.

In an e-mail report, Gerry Cox invited AFCON members to attend the Nebraska Writers Guild Fall Conference October 3-4 at the Quality Inn Sandhills Convention Center in North Platte. Speakers will be Nebraska Secretary of State John Gale, Patricia Bremmer, Nebraska author of mysteries and children's books; Rebekah Probst, who lost her memory 11 years ago and writes with just ten years of accumulated knowledge; cowboy poet Jack Ostergard; singer/songwriter Kim Baxter; and Nebraska's poet laureate Bill Kloefkorn. For more information or to register, go to www.nebraskawriters.org. New members joining June 1-October 1, pay only \$12.50 dues; those who join after October 1 will pay \$25 dues for 2009 and receive the (See **Minutes**, page 3)

Summaries of AFCON Board of Directors' Meetings

(Continued from Page 2)

2008 November BROADSIDE newsletter free. Contact Scott Lucas, spotlucas@hotmail.com or www.nebraskawriters.org. New recruits include Joel Sartore, Nebraska Geographic photographer and writer, Mike Cartwright, chair of the Nebraska Center for the Book Literature Festival in Lincoln and poets Heidi Hermanson and Rhonda Hall.

Nancy Comer said the Nebraska State Reading Association held their annual leadership conference last summer July 29-30.

Old Business: Members voted to enter into agreement with the Nebraska State Historical Society, according to AFCON archives policy, upon a motion by Parker and a second by Moshman. Ball said the Nebraska High School Press Association is still looking for a representative to AFCON. He plans to attend their Oct. 13 meeting and invited other AFCON board members to do so as well. Paterson and Parker will report on AFCON outreach at the October meeting.

Moshman reported there has been no response as yet to Frank Edler's letter to the University of Nebraska's Board of Regents, asking them to reverse the 1918 regents' decision, which resulted in the firing of three professors.

New Business: The annual meeting of the Academic Freedom Coalition of Nebraska (AFCON) at 10:30 a.m. Saturday, November 15 at Beacon Hills Restaurant, will feature a panel discussion, "Hazelwood at 20: Strategies to Conquer it." The annual Academic Freedom Award will be presented. Reservations and \$20 should be sent by Nov. 8 to AFCON secretary Karen Buckley, 5111 South 30th Street, Lincoln NE 68516. Board members are encouraged to bring at least one other member of their respective organizations.

Lee noted that Banned Books Week will be observed September 27-October 4. Although AFCON is pledged to sponsor a major event in odd-numbered years, Lee felt the group should be a presence each year. She has been in contact with Brenda Ealey of NLA. Two events this year include readings from banned, or challenged, books Sunday, Sept. 28 at the Soul Desires Bookstore in Omaha and at 7:30 p.m. Thursday, October 2 at Lee Book Sellers, 56th and Highway 2, in Omaha. She suggested possible donations to prison libraries or to public libraries, especially to replace controversial books which may have been removed/not returned by patrons practicing their own

censorship. Kate Wiig, director of Omaha North High School's production of "Member of the Wedding" which was banned from the school grounds was nominated by Ball and seconded by Parker to receive this year's Academic Freedom Award. A friendly amendment by Parker added UNL researcher Frank Edler as a second recipient. The motion passed. Haller will order the plaques.

Paterson requested that next month's agenda include a discussion on the Civil Rights Initiative and its effects on academic freedom.

October 11—

Present: Peggy Adair, Dwayne Ball, Karen Buckley, Bob Haller, Dick Herman, Cathi McMurtry, Dave Moshman, Susan Oles Linda Parker, Doug Paterson, Frank Edler, guest.

Minutes: September 13 minutes were approved.

Treasurer's Report: The treasurer's report showed a balance of \$1720.52, with 47 individuals and 16 organizations current with dues. The report was approved following a motion by Moshman and a second by Adair. Upon a motion from Haller and a second by Parker, members voted to drop the Nebraska Collegiate Media Association from the masthead.

Newsletter: The next deadline for the *Sentinel* will be November. 19.

Policy Coordinator: Moshman reminded members that the board voted in July to support guest Edler's efforts to have the University of Nebraska Board of Regents' rescind their decision of the 1918 University Professor's Trial. Edler noted that he will not be able to attend the annual meeting and expressed his gratitude for being awarded an Academic Freedom award (his wife will be present at the meeting to officially accept the award). His letter to the regents asked for them to officially rescind the 1918 decision, terminating several professors' positions at the university and suggested an apology for that decision would be appropriate. He has sent a follow-up letter to the Daily Nebraskan which printed it in the Oct. 8 edition. Edler would like a letter from AFCON also requesting the Regents rescind the 1918 decision. He said that as long as the decision stands, it assumes assent and could be used to set a precedent.

A motion for AFCON to send a letter to the Board of Regents, supporting Edler's efforts made by Paterson and seconded by Herman passed.

Legislation Report: Adair will be part of an ethics panel at the University of Nebraska

at Kearney, sponsored by the political science department, as part of the annual Warner Evening at the University.

Membership Reports: By e-mail, Wagner reported that Nebraska Center for the Book's annual book festival will be Oct. 17-18.

Parker and Buckley noted that the annual fall conference of NLA and NEMA will be Oct. 15-17 in Lincoln

Oles said that NE/LAC has been meeting to prepare for the Quiz Bowl at the annual Plum Creek Literature Festival.

Ball said that an UNL administrator said that the issue of the Nebraska Association of Scholars being decertified as a recognized faculty group was a misunderstanding and that the group would be able to hold its meetings in the student union without charge.

Old Business: Robert Brooke will represent the Nebraska Writing Project as well as be a co-representative with Bob Haller for the UNL chapter of AAUP.

Ball said he will attend Nebraska High School Press Association convention October 13 and plans to ask the board to appoint a new AFCON representative.

The ACLU Nebraska board members will join AFCON for the panel presentation and lunch during AFCON's annual meeting. Saturday, Nov. 15 at Beacon Hills Restaurant, which begins at 10:30. (Registration will begin at 10 Reservations and \$20 should be sent by Nov. 8 to AFCON secretary Karen Buckley, 5111 South 30th Street, Lincoln NE 68516. Board members are encouraged to bring at least one other member of their respective organizations.

Ball attended the Banned Books Week event at Lee Booksellers.

Moshman and Haller said that Julie Nichols (guest at last month's meeting) will try for one last time for due process.

New Business: Nancy Comer, Laurie Thomas Lee, and Susan Oles will be the nominating committee for the slate of officers to be presented at next month's annual meeting. Elections will be held for president-elect, treasurer, and secretary.

Paterson opened the discussion of the Civil Rights Initiative and its effects on academic freedom.

AFCON Annual Membership Meeting November 15, 2008

Present: Peggy Adair; Dwayne Ball; Amy Birky; John Bender, guest; Tom Black; Karen Buckley; John Comer, guest; Nancy Comer; Gerry Cox; Bob Haller; Dick Herman; Mark Karpf; Mel Krutz; Laurie Thomas Lee; Cathi McMurtry; Dave Moshman; Jane Neal; Susan Oles; Linda Parker; Doug Paterson; Marcella Shortt, guest; Mary K. Stillwell, guest; Rod Wagner; Kate Wiig, guest

Approximately 40 persons, including AFCON members, ACLU Nebraska board members and guests attended the panel presentation and luncheon preceding the annual general membership meeting of AFCON. Dwayne Ball, president-elect, welcomed everyone and read a newly passed resolution by ACLU Nebraska, endorsing AFCON and its role as liaison among groups in Nebraska that support academic freedom." Ball then introduced the panel for "Hazelwood at 20: Strategies to Conquer It." Panelists were: John Bender, journalism professor at UNL and a former AFCON president; Alan Peterson, attorney, ACLU board president, Peggy Adair, students rights advocate and Mark Karpf, teacher at Omaha South High School and who wrote his master's thesis on the effects of Hazelwood. Following remarks by the panelists, Ball invited all attending to brainstorm about how to proceed with the proposed Nebraska Student Free Expression Bill.

Opening: After the panel discussion Comer called the annual meeting to order.

Minutes: Buckley distributed minutes from the December 1, 2007, annual membership meeting. They were approved..

Treasurer's Report: McMurtry distributed copies of the annual treasurer's report, which showed AFCON has a balance of \$1928.38, as of November 14, with 47 individual members and 16 member organizations. Three other organizational members are not current with dues.

Nominating committee: Lee presented the following slate of officers for the December ballots: President-elect: Linda Parker; Secretary, Karen Buckley; Treasurer, Cathi McMurtry. It was moved to close nominations and accept the slate as presented. Ballots will be sent out with the December newsletter. Lee commended Comer for her service as president. Members agreed, with applause signifying approval.



AFCON President Nancy Comer presented the 2008 AFCON Freedom Awards to Kate Wiig and Frank Edler. Edler's wife, Dr. Mary Stillwell, accepted his award.) See the Annual Meeting minutes for presentation details.

Comer then awarded the annual Academic Freedom Awards to Kate Wiig and Frank Edler (his award was accepted on his behalf by his wife, Dr. Mary K. Stillwell). Wiig, a former Omaha North High School teacher now at an Omaha middle school, said that she was pleased that it was her students who went to the media regarding school administrative censorship of Carson McCullers's play, *The Member of the Wedding*. Dr. Stillwell expressed her husband's appreciation of AFCON support in his quest to have the University of Nebraska Board of Regents rescind their 1918 termination of faculty members accused of disloyalty for their criticism of the Wilson administration policies during World War I.

AFCON Board Meeting November 15, 2008

Present: Peggy Adair; Dwayne Ball; Amy Birky; Tom Black; Karen Buckley; John Comer, guest; Nancy Comer; Gerry Cox; Dick Herman; Mark Karpf; Mel Krutz; Laurie Thomas Lee; Cathi McMurtry; Dave Moshman; Jane Neal; Linda Parker; Doug Paterson; Rod Wagner; Kate Wiig, guest

Minutes: Minutes were approved.

Treasurer's Report: AFCON's treasury has a balance of \$1928.38, as

of November 14. AFCON membership includes 44 paid members, three guest members, 14 organizational paid members, two in-kind organizational members, and three organizational members with unpaid dues.

Newsletter: The deadline for the December Sentinel is Nov. 24. Ballots for AFCON board officers will be included and should be returned to Ball.

Old Business: The board examined what it should do in light of the *Lincoln Journal Star's* publication of a letter by Dr. Frank Edler in response to the University of Nebraska Board of Regents not to rescind the decision resulting in the firing of several University of Nebraska faculty members in 1918. Moshman reminded board members that Comer had been authorized at the last board meeting to send a letter to the Board of Regents, an action that was put on hold in the wake of the Bill Ayers controversy (The Board of Regents cancelled an appearance by the University of Illinois at Chicago professor, citing "security issues,"). Moshman moved that Comer write an open letter to the Board of Regents, and offered for publication in local newspapers, that would ask the Board reconsider its decision not to rescind the 1918 decision and cite the Ayers case as an example that disproves (See November Board, Page 5)

(November Board, from Page 4)

that the University of Nebraska by-laws on academic freedom are sufficient. Moshman accepted a friendly amendment that the letter be sent to the monthly Regents' board meeting, followed by publication of the letter. The motion passed. Parker suggested the final version be sent to respective organizations who could publish the letter in their newsletters.

New Business: Robert Brooke has volunteered to be webmaster of the

AFCON website. Comer appointed Ball, Parker, and Brooke to formulate a policy for use of the website and include a job description for the webmaster. Ball suggested, and Herman seconded, that AFCON not meet in December. Paterson and Comer felt that the Ayres/Edler letter deserved attention that might require meeting in December, as scheduled. After discussion, Moshman moved that if consensus on further action could be reached by e-mail, that the group follow Ball's proposal to postpone the next meeting to January 10, 2009.

Adair seconded and the board approved. Parker suggested that the Board consider web conference as an (occasional) alternative to monthly board meetings in Lincoln.

Comer thanked Dwayne for his work in organizing the annual meeting.

(If a December meeting will be held, members will be notified by e-mail. Otherwise the next meeting will be Jan. 10 at Eiseley branch library.)

ALASKA STUDENT FREE SPEECH LAWSUIT IS SETTLED (FINALLY)

by Peggy Adair, Legislative Liaison

The infamous "Bong Hits 4 Jesus" case has been settled out of court in favor of the plaintiff, Joseph Frederick, after almost seven years of litigation.

During the torch relay run of the 2002 Winter Olympics, students at Juneau Douglas High School in Juneau, Alaska were dismissed from school so they could observe the historic event as it passed through town. Crowds lined the streets of Juneau and one student, Joseph Frederick, wanted to be seen on television so he unfurled a 14-foot banner as the torch procession ran by. The banner read, "Bong Hits 4 Jesus," and indeed, the banner received television coverage... until it was spotted by the school's principal, Deborah Morse, who grabbed the banner and summarily suspended Frederick for 10 days.

Frederick sued the school district for violating his free speech rights as a citizen standing on a public street. The case is formally known as *Morse v. Frederick* but is more widely recognized as the "Bong Hits 4 Jesus" case. The lawsuit wound through the court system, finally reaching the U.S. Supreme Court [see: *Morse v. Frederick*, 127 S.Ct. 2618 (2007)], where the justices ruled the school can punish students for speech that encourages the use of illegal drugs. However, the Supreme Court rejected the school's argument that it has the power to punish any student speech considered contrary to the educational mission, and also returned the case back to the U.S. Court of Appeals on Frederick's claim that he is entitled to a ruling

on whether the Alaska Constitution provides stronger protections for free speech than does the U.S. Constitution.

The issues were argued before the U.S. Court of Appeals in September of 2008, but before the judges returned a ruling the case was settled by all parties. Under the settlement agreement, Joseph Frederick will be paid \$45,000, of which the City and Borough of Juneau will pay \$25,000 and the school's insurer will pay the remaining \$20,000. The Juneau School Board will also be required to spend up to \$5,000 to hire a neutral constitutional law expert to chair a forum on student civil liberties. The forum will be presented to all students and staff at Juneau Douglas High School before the end of this school year. The school has also expunged all mention of the punishment from Frederick's official school records.

School Board President Mark Choate said, "The settlement in the case will avoid further litigation expenses, but more importantly, will allow all parties to put a long-running, divisive issue behind them and move forward with a better understanding of the speech rights of students in the Juneau School District."

Douglas Mertz, Frederick's lawyer, said he believes the community has learned from the case that more education in civics and First Amendment issues should be taught in the schools. "I think we've come to realize through this that a great deal still needs to be done both in Juneau and nationwide in civics," Mertz said.

HELP NEBRASKA STUDENTS LEARN ABOUT THEIR CONSTITUTIONAL RIGHTS

Nebraska statutes contain 40 sections dealing with student punishment, but not one section outlining student rights. AFCON and others continue to promote legislation that will delineate student rights. (See draft of Student Free Expression Bill in this Sentinel) In the meantime, AFCON and ACLU-Nebraska have teamed together to publish a brochure that assists young people in understanding what rights they *do* have as public school students.

Know Your Rights! A student's guide to rights in school explains student rights regarding freedom of expression, school publications, student clubs, discrimination, bullying, sexual harassment, freedom of religion, and privacy rights. The student rights manual can be viewed and downloaded on the ACLU website, www.aclunebraska.org.

AFCON SPEAKER'S BUREAU (As of December 2007)

Peggy Adair: "Banned Books, Black Armbands, and School Prayer: The Evolution of Children's First Amendment Rights in America"
padair@tconl.com

Dwayne Ball: "Threats to Academic Freedom at Universities"
adball@neb.rr.com

Bob Haller: "Civics Education and the Practice of Freedom" and "How Books Can Harm You: Lessons from 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"
jbender1@unl.edu
dmoshman1@unl.edu

Laurie Thomas Lee: "Implications of the USA Patriot Act"
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

FOR SALE BY AFCON

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

Note cards with a Paul Fell design with the wording "When all Books are Banned, see the Book—\$1.00;" \$1.50 each or a packet of four for \$5.00. Packaging and postage: \$0.75 per packet.

Reader's Theatre Script (a booklet,) entitled TANGLED ISSUE: Student Freedom of Expression. \$10.00 buys the booklet and production rights, including rights to copy. Packaging and postage: \$3.00.

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 **March 20, 2009**, issue is **February 25, 2009**.

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

University reports—Dwayne Ball

The Disinvitation of William Ayers

David Moshman

Every year in November the UNL College of Education and Human Sciences (CEHS) organizes a student research conference and encourages its students to submit papers and posters for presentation at the conference. The conference begins with a keynote address, which has typically been given by a local speaker. Because 2008 was the 100th anniversary of UNL's college of education, the student research conference this year was part of a larger celebration. With that in mind, the CEHS Qualitative Research Interest Group (representing faculty from across the college) decided in February to invite a nationally prominent education theorist and researcher, Professor William Ayers, to give this year's keynote address and related presentations.

Ayers, who earned a doctorate in curriculum and instruction from Columbia University Teachers College in 1987, is a Distinguished Professor of Education and Senior University Scholar at the University of Illinois at Chicago. He is the author or editor of over a dozen scholarly books and over a hundred journal articles and other publications. He has also been widely recognized for his many years of work on educational reform. He agreed to give a keynote address the morning of November 15 entitled "We are each other's keepers: Research to change the world." He also agreed to give a methodological talk November 14 entitled "Narrative push/narrative pull: Facing the next challenges and crossing new borders in qualitative research" and to meet informally with graduate students the evening of November 14 for a "fireside chat."

Meanwhile, the national presidential campaign was heating up and, in that context, another side of

Ayers became national news. In the late 1960s, Ayers was a founding member of the Weather Underground, which violently opposed U.S. violence in Viet Nam. He was actively involved in bombing the Pentagon and other public buildings, though he did not kill anyone and was never convicted of any crime. Years later, as an education professor in Chicago, he served on two philanthropic boards along with a young Harvard Law grad and community organizer named Barack Obama, and hosted a gathering to support Obama, who lived in his neighborhood, in an early political campaign. These connections were noted during the spring 2008 primaries and, in fall 2008, became a centerpiece of the Republican presidential campaign against Obama, leaving Ayers with a national reputation as an "unrepentant terrorist."

On October 16, UNL officially announced Ayers' upcoming visit (which had previously been publicized only within CEHS). The visit was abruptly canceled the following day. In the 24 hours between the announcement and the cancellation, university officials received over a thousand phone calls and email messages from irate Nebraskans, including financial threats and suggestions of violence. UNL was also attacked by the governor, attorney general, and other state officials.

The attacks on academic freedom came not just from citizens and politicians but also from the President of the University of Nebraska, who said the invitation of Ayers showed "remarkably poor judgment," and from several members of the Board of Regents, who made similar comments. How did the faculty show poor judgment? This charge can be interpreted in two ways, neither of them reassuring.

One possible interpretation is that the invitation was seen as a "remarkably poor" *academic* judgment. Were the president and regents putting themselves forward as experts on educational research and suggesting, based on their own reading of the work of Professor Ayers, that he was not academically qualified to give the talks the

faculty had invited him to give? Presumably not. None of those charging poor faculty judgment had any special knowledge of the work of Bill Ayers, and no one with relevant expertise has doubted Ayers' credentials.

The more plausible interpretation is that the president and regents thought it showed poor judgment to decide on academic grounds to invite Ayers without also considering his personal background and assessing the likelihood that his invitation would stir political controversy. But even if faculty could have foreseen in February how politically controversial the invitation would be in October, this interpretation reveals a deep misunderstanding of the nature and purpose of academic freedom. As specified in AFCON's Principles of Academic Freedom:

"Curriculum should be determined by teachers and other professionals on the basis of academic considerations. It is a responsibility of administrators and school boards to support justifiable curricular decisions and to educate their constituencies about the educational importance of an inclusive curriculum and the critical role of respect for academic freedom."

At its academic core, academic freedom is not just free speech—which is a fundamental right of all persons, not just students and teachers—but rather protects the intellectual integrity of academic decision making. Thus academic freedom includes the right of students to a curriculum devised by faculty on academic grounds and the corresponding freedom and responsibility of teachers to devise such a curriculum. This includes the selection of academic speakers for academic events.

The primary victim of the Ayers affair, then, is not Bill Ayers, who remains free to speak and publish. The primary victims of the disinvitation are the CEHS students and faculty who lost the opportunity to hear from and interact with a speaker chosen on academic grounds by UNL faculty, and the faculty whose academic judgment was unfairly impugned. (Continued, page 8)

Continued from page 6)

But isn't Ayers an "unrepentant terrorist"? Ayers has maintained that he has no regrets about actively opposing the Viet Nam war and has been ambiguous as to whether he still thinks the use of violence to oppose violence was justified. But even if he believes potentially deadly violence was and is morally justified, this is a widely shared view. Other than a small number of pacifists, everyone believes that violence, even deadly violence, is sometimes legitimate or even necessary. Of course there are strong disagreements about what violence by whom is justified under what circumstances, and corresponding disagreements about who should be labeled a "terrorist," but such judgments are highly political and cannot be a basis for deciding who may speak on a college campus.

In the end, the decision to disinvite Ayers was made by UNL Chancellor Harvey Perlman, in consultation with Senior Vice Chancellor for Academic Affairs Barbara Couture and CEHS Dean Marjorie Kostelnik, allegedly for reasons of physical security. To his credit, Chancellor Perlman unequivocally supported the reasonable academic judgment of the

qualitative research faculty to invite Professor Ayers, reinforcing the consistent position of Dean Kostelnik. Facing extraordinary pressure from the president, regents, alumni, donors, government officials, politicians, and everyone else, UNL in principle stood squarely behind the academic decision making of its faculty.

In practice, of course, UNL caved immediately, a month before the event was scheduled, claiming in the face of potential violence that it had no alternative but to surrender its academic freedom. In fact, it made no effort to consider alternatives. Had UNL wished to support the academic freedom of its faculty and students in practice and not just in principle, it could have (1) consulted with the faculty who invited Ayers; (2) investigated the source and seriousness of the threats; (3) explored ways of providing adequate security; and then, if necessary, (4) rescheduled the speaker; (5) organized a video presentation; or (6) arranged to distribute Ayers' talks or related publications to interested students and faculty. Instead the invitation was simply withdrawn. To date, no one has been held responsible for making threats serious enough to justify this.

Thus UNL's position appears to be that the threats of violence it faced were (1) so serious that UNL had no choice but to immediately relinquish its academic freedom but (2) so trivial that there is no basis for holding anyone responsible for making those threats. Not surprisingly, hardly anyone seems to believe the purported rationale for the cancellation. The general consensus is that UNL gave in to political pressures and financial threats, using the question of security as an excuse.

Where does this leave the university? Faculty may deem it prudent to avoid potentially controversial speakers, conference topics, or course topics. Students will receive an education constrained by what is politically possible in the state of Nebraska. Potential students and faculty will consider if this is the kind of educational environment they want to join. And Nebraskans who object to future speakers or events will know what to do.

Dave Moshman is the AFCON Policy Coordinator. He is also a professor in the UNL College of Education and Human Sciences but had no role in the invitation of Bill Ayers (really, he swears).

Following is a draft of AFCON's proposed Student Free Expression Act. Please give your feedback as we work on this legislation to counter the detrimental effects of the *Hazelwood* decision.

DRAFT

FOR AN ACT relating to students; to adopt the **Student Free Expression Act**.

Be it enacted by the people of the State of Nebraska,

Section 1. This Act shall be known and may be cited as the Student Free Expression Act.

Section 2. The Legislature finds that the State of Nebraska has an obligation to protect the free expression rights of public school students in order to instill in students the value of democracy and to prepare students for informed and active civic participation. To that end, the right of students to free expression in all public schools in Nebraska shall not be abridged.

Section. 3. Student freedom of expression shall include the rights of students to express their thoughts and beliefs through speech and symbols; to write, publish, and disseminate their views; and to assemble peaceably on school property for the purpose of expressing their opinions.

The following forms of student expression are prohibited:

- (a) expression which is obscene;
- (b) expression which is libelous, slanderous or defamatory under state law;
- (c) expression which creates a clear and present danger of unlawful acts, causes material and substantial disruption of the orderly operation of the school, or violates the privacy rights of others.

Section. 4. No expression made by students in the retention of their free expression rights shall be deemed to be an expression of school policy and no school, school district, teacher, administrator, school board member, parent or legal guardian shall be held responsible or liable in any civil or criminal action for any exercise of free expression made or published by students.

Section. 5. No certified public school teacher or administrator shall be fired, transferred, reassigned, or removed from his or her position for refusing to suppress the protected free expression rights of students.

Section. 6. Each governing board of a school district shall adopt rules and regulations in the form of a written student freedom of expression policy in accordance with this section, which shall include reasonable provisions for the time, place, and manner of student expression and which shall be distributed to all students at the beginning of each school year.

University reports—Dwayne Ball

My sources for these reports are the Chronicle of Higher Education (CHE) the newsletters of the Foundation for Individual Rights in Education (FIRE), and other sources as noted.

FREEDOM OF EXPRESSION ON CAMPUS

“Unrepentant terrorist” silenced at UNL:

You will read elsewhere in this edition, as well as in many past Nebraska newspaper articles, of the dis-invitation of Dr. Bill Ayers as keynote speaker at the UNL College of Education and Human Sciences 100th anniversary celebration on November 15. Enough has been written about this comic opera of an event that I feel no need to elaborate here, except to say that just about everyone involved in the decision to dis-invite Ayers has at least some egg on his face.

Obama signs? NObama signs here!

Two undergraduates at the University of Texas-Austin put Obama campaign signs in their windows in the early Fall semester. Doing so violated a ten-year-old rule at UT against putting any sort of signs in residence hall windows (ruins the aesthetics, you see). The students were told they would be denied the right to register for classes if they did not take down the signs before a deadline. They refused and were barred from registering for Spring classes. Campus organizations, including both the campus Democrats and the campus Republicans, protested and threatened suits. Recognizing that the policy was probably unconstitutional, the University

suspended it, set up a committee to re-work it, and retracted the punishments of the two students (CHE Oct. 9, 2008).

Nobody should read about gun safety on this campus!

Lone Star College of Tomball, Texas, north of Houston, was having “rush week” in early September, and the various campus clubs were soliciting members. That included the Young Conservatives of Texas (YCT), who were passing out a satirical flyer titled “Top Ten Gun Safety Tips” (“If the gun is jammed, don’t look down the barrel ... always keep a gun pointed in a safe direction, such as at a hippy or a communist ..”) The program manager for student affairs, Shannon Marino, went into hissy-fit overdrive, confiscating the flyers and saying that the mention of guns evoked the Virginia Tech shootings, and were a danger to one and all. YCT was threatened with suspension of its certification as a student organization (the usual organizational discipline for angering a politically correct administration). The administration backed the idea of “investigating” the YCT and that, as of this writing, is where the matter stands. (FIRE e-mail newsletters of 10/20 and 10/27/2008).

You still can’t eat food provocatively ...

I can’t put the story any better than this quote from the FIRE newsletter of November 21: “In a positive development for free speech, Drexel University has revised its much-maligned student harassment policy. The policy, which prohibited ‘the use of derogatory names’ as well as ‘inconsiderate jokes,’ was named FIRE’s Speech Code of the Month”

back in September 2006. ... Drexel still has some work to do before its policies are truly supportive of free speech on campus: the university still prohibits posting any materials on campus “that may be viewed as demeaning or degrading to a person or group of persons,” and its updated harassment policy still contains some fairly ridiculous language. While the new harassment policy does not prohibit protected expression outright—an improvement over the old policy—it provides ridiculous examples of conduct that “might” be considered harassment, such as ‘suggestive or insulting sounds’ and ‘holding or eating food provocatively.’ “Doesn’t it make you want to visit the Drexel campus just to see if you can eat a taco “provocatively,” and see who you can provoke?

The Tunnel of Free Expression.

North Carolina State University in Greensboro has a unique campus feature – a tunnel in which free expression is invited. So, people write, draw, and paint in it. Two students wrote graffiti that apparently advocated violence toward president-elect Obama. They later apologized, anonymously, for this. The U.S. Secret Service investigated and decided there was no threat, nor reason to investigate further. However, the University administration has decided that this constitutes “hate speech” and is threatening to write codes to ban such speech, even though –get this – it advertises that some already-painted graffiti that advocated “nuking” Iran is an example permitted speech. The ACLU, FIRE, and two local newspapers have all vociferously pointed out that there is no constitutional way to ban something called “hate speech” in a Tunnel of Free Expression.

AFCON

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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 (\$120) entitles the organization to one seat on the AFCON Board, one vote in the election of officers and at the annual meeting, eligibility for office and chairing standing committees, 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 (\$15) 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**