



THE

AFCON

SENTINEL



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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—Doug Paterson

There doesn't seem to be a shortage of struggles in our defense of Academic Freedom. The Supreme Court's Hazelwood decision continues to leach into all areas of academic life – first and most clearly in high schools, especially journalism, and most recently into universities. A particularly dangerous decision was made in the matter of Vilas vs. Miami Dade College/ Cabron a Federal court in Atlanta determined that while citizens had freedom of speech in their private lives away from work, they did not have that right on the job, in the workplace. You can imagine the toxic leaks that will emanate from such a ruling.

Toxic has manifested. In a Supreme Court last April, in a case called Gil Garcetti et al. v. Richard Ceballos, the Court determined: "We hold that when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline." The ruling goes on to say that this "might not apply to apply to teaching and scholarship because of the academic-freedom issues they pose."

From my point of view, the operative word is "might". Since 9-11, conservative politicians and networks have opportunistically used the tragedy to curtail an extraordinary amount of freedoms as well as to make government invasion of private lives the rule rather than the exception. Seep-

age, remember, has no boundaries when there are no longer barriers. A climate has now been created in which these movements not only have challenged free speech in the academy – especially the public academy -- by making it conditional, but have made limitations on free speech tolerable, even acceptable.

What are we to make of these developments.

AFCON's Policy Co-ordinator, Dave Moshman, has emphasized recently the need to remember that Free Speech and Academic Freedom are not the same thing. He describes historical developments at the end of the 19th and into the early 20th centuries in which we find that issues of Free Speech were rarely raised. Although it was a right guaranteed by the constitution, it was not a right people used knowingly and freely. Thus when the American Association of University Professors put forward their advocacy of Academic Freedom in 1915, it was not a Free Speech issue but rather a declaration of what were the necessary conditions in which the best possible education could occur. The free and unfettered exchange of ideas and information, said the AAUP, was essential for good teaching, research, and academic investigations of all kinds.

Academic Freedom, then, is perhaps conceptually related to free speech, but it is not based on the principle put forward in the First Amendment.

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Upcoming Events

AFCON Board Meetings: July 14 at Gere Library, 56th and Normal, Lincoln, and September 8 at Loren Eiseley Library, 1530 Superior, Lincoln, Nebraska; 10 AM

THE PRESIDENT—Doug Paterson

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The AFCON Board will continue to educate ourselves about the fine points of law and conception as we deal with increasingly onerous and complex encroachments on both Academic Freedom and the Freedom of Speech.

But as I said, the toxic effect of these encroachments arise weekly. We have been particularly concerned about the drift of K – 12 educational mandates for testing, testing, nothing but testing; in the university environment this manifests itself in assessment, assessment, nothing but assessment. I am struck in the last six years by how little emphasis has been put by these educational bureaucrats on learning, on supporting teachers' work in the classroom, and on

the development of critical thinking capacities. Yet I also understand the forces behind such encroachments. Those who want a compliant workforce do not want critical thinking or indeed broadly-informed thinking. Such characteristics in a citizen can result in lower productivity and in workers speaking up. Perhaps even joining a union. Rather, what is desired is what Paulo Freire calls "banking education", in which the ruling circle hires people to open the top of students heads, to pour in precisely what the student must know to be a compliant worker, and then to measure – test, assess – how much of that material was retained. The grade is based on what the student retains.

Thinking critically – as in, for example, seeing such education as a hoax – is not rewarded.

The "intangibles" – artistry, vision, good people skills, *joie de vivre* – will not be measured. Imagination will get you an F.

Happily, there are some movements in Nebraska to slow our pace down the slippery slope of standardized tests. Happily, developments in other fronts show some hope. For example, we are truly pulling for the young student who was suspended from school for displaying a "Bong Hits for Jesus" banner during the Olympic torch carrying festivities in Seattle in 2002, an action that took place away from school and not during a sponsored school activity.

Note again: AFCON is paying attention.

Because there are so many things to which attention must be paid.

Summaries of AFCON Board of Directors' Meetings—Karen Buckley

March 10, 2007—

Present: Present: Peggy Adair, Tom Black, Karen Buckley, Jim Bunstock, Nancy Comer, Karen Drevon, Bob Haller, Susan Helmink, Dick Herman, Clark Kolterman, Mel Krutz, Laurie Thomas Lee, Cathi McMurtry, Dave Moshman, Susan Oles, Linda Parker, Doug Paterson, Mary Reiman.

Opening: President Paterson called the meeting to order at 10:10 a.m. The minutes of the Feb. 10 board meeting were approved. The treasurer's report showed a balance of \$1604.64, with 29 individual members and seven organizational members current with dues. The treasurer's report was file for audit.

President's report: Paterson distributed copies of "Report to AFCON: Visions of Outreach," with questions, initial materials and further ideas, which he and Linda Parker had compiled. He wants to update the AFCON web page and spoke on the term "politically correct," which has been

twisted from its original association with the need for peace and justice. He also mentioned a nationwide movement called, "Operation Red Star," in which conservative students are urged to label professors they say as "leftist" with a red star.

Legislation: Adair reported on the testimony against LB 653. All but one person who spoke in testimony regarding this bill were opposed to the bill. Haller said the outcome of the bill is unknown at this time. An amendment that would endorse the current STARS program has been proposed. Haller and Adair will continue to monitor the bill and report back to members. Comer, Oles and Kolterman agreed to form a committee with Adair and Haller regarding this proposed legislation.

Newsletter: (Black) The March 16 *Sentinel* is available in print and has been circulated via e-mail as a PDF file. Black suggested that since the archival information of the *Sentinel* is on his computer, it would be prudent to purchase a flash drive to provide a portable archival copy. The board agreed to

do so.

Banned Books Week: Lee reported that East High School is offering a "Banned Books" class next fall and that AFCON will invite the students to participate in a Banned Books observation. Drevon said that the intellectual freedom committee of NLA has proposed a "One State/One Banned Book" reading program, a la "One State/One Book" and "One City/One Book" programs. This would include activities throughout the state.

Policy Coordinator: Moshman had previously circulated via e-mail his article on the Brightline program that had been printed in the *Daily Nebraskan*. Adair called attention to the plight of the New York High School students who were suspended for using the word "vagina" during the readings from "The Vagina Monologues" at an assembly, after being warned by their principal not to say the word.

Haller, who is to be chairman, said the committee to compile a UNL Diversity Plan has not met yet.

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

Membership reports:

Haller said that the state conference of the AAUP will be March 31 in Hastings and have a panel discussion on threats to academic freedom at Nebraskan institutes of high learning, with two respondents from UNL (Haller) and UNO. **Krutz** said the annual Nebraska Center for the Book "Letters about Literature" luncheon will be March 14, and the NBC board meeting will be March 17 in Seward. **Kolterman** announced that Dwayne Ball will be Nebraska's nominee for the national Intellectual Freedom award from the National Council of Teacher's of English. After asking for nominees for the state intellectual freedom award, Kolterman will now nominate East High social studies teacher Michael Baker. The Plum Creek Literature Festival will be held Oct. 4-6 in Seward. The Nebraska Book Festival will be held the following week at Nebraska Wesleyan University. **Comer** said that challenges to the Reading Classics competition has resulted in the creation of a written policy.

New Business:

Concerning the Waskar Ari case at UNL, Moshman suggested e-mailing Patrick Jones on how AFCON could help in helping Dr. Ari attain his visa so that he can begin his employment at UNL.

Haller, Adair, Ball and Paterson are working on a presentation to be made to the State Board of Education, citing the need for students to participate in government freedoms and responsibilities, as called for by Civics Nebraska, now part of official board policy.

April 14, 2007—

Present: Peggy Adair, Dwayne Ball, Karen Buckley, Jim Bunstock, Bob Haller, Susan Helminck, Dick Herman, Bob Kettlitz, Laurie Thomas Lee, Dave Moshman, Susan Oles, Linda Parker, Doug Paterson.

Opening: Members welcomed Bob Kettlitz as the new representative of the Nebraska State Conference of the American Association of University Professors.

Minutes: (Buckley) Minutes for March 10 will be submitted at the May meeting.

Treasurer's report: (McMurtry) The treasurer's report showed a balance of \$1604.64, with 38 individual members and 11 organizational members current with dues. The report was filed for audit.

President's report: Paterson and Parker are continuing to explore outreach with AFCON and will have a proposal in May. Parker distributed a model of the database she is compiling for AFCON organization contacts.

Legislation: Adair distributed notes

from the March 5 testimony on LB 653. Haller recapped provisions and concerns with the bill. Discussion ensued.

AAUP State Conference: Haller, Paterson and Kettlitz attended the March 31 meeting in Hastings.

Membership reports: **Parker** said that at their recent board meeting, the NLA board expressed appreciation for AFCON support of intellectual freedom and Banned Book Week. **Bunstock** said that the Nebraska Writers Guild will hold their spring meeting the weekend of April 21. **Ball** noted the annual ACLU dinner will be held April 28 and that AFCON members were welcomed to attend. An invitation was e-mailed to all board members. **Paterson** said that UNO is searching for a new chancellor.

New Business: Adair called attention to the controversy resulting from the Benson High Gazette (student newspaper), which printed a series of articles on the "N-word" in their March issue. The principal was placed on administrative leave for allowing the articles to be published. The Omaha World Herald reprinted the entire issue on their website. Members voted to have president Paterson write an Op Ed article for the Omaha World Herald and also a letter of support for the principal, newspaper advisor and student journalists.

May 12, 2007—

Present: Peggy Adair, Tom Black, Karen Buckley, Jim Bunstock, Nancy Comer, Mel Krutz, Laurie Thomas Lee, Dave Moshman, Susan Oles, Linda Parker, Mary Reiman, Doug Paterson.

Opening: President Paterson called the meeting to order at 10:09.

Minutes: (Buckley) Minutes for March 10 and April 14 were approved.

Treasurer's report: (McMurtry) The treasurer's report showed a balance of, \$1922.06, with 38 individual members and 15 organizational members current with dues. The report was filed for audit.

President's report: Michael Baker has withdrawn his request to address AFCON at this time. Paterson felt his op-ed article in the World Herald and Bob Haller's letter to the editor in the Lincoln Journal Star regarding the controversy over the Benson High School newspaper articles on "The N-Word" generated dialogue.

Sam Walker, former UNO professor and a winner of an Academic Freedom Award, suggested AFCON sponsor a conference on free speech and student newspapers. After some discussion, members agreed this would be a good focus for the annual meeting and observance of AFCON's 20th anniversary. Comer, Paterson, Krutz, Moshman, Adair

and Buckley agreed to form a committee for the 20th anniversary observance.

Paterson distributed samples of an outreach letter and requested suggestions and comments. The letter has also been e-mailed to board members.

The president of the Faculty Senate at Southern Methodist University told Paterson that the Bush-initiated institute has generated dialogue on campus. Paterson also touched upon Norman Finkelstein of DePaul University and the academic freedom issues involved.

Newsletter: Black said the Sentinel issues from March 1997 though March 2007 have been archived. AFCON has had a newsletter throughout its existence, although the Sentinel was created in March 1997.

Policy Coordinator: Moshman circulated copies of an article concerning the implications for academic freedom in light of the *Carcetti v. Ceballos* decision, as reinforced in the recent U.S. Court of Appeals for the 11th Circuit, which found that a college administrator (Adis M. Vila of Miami Dade County College) did not have free-speech protection. Moshman also noted that Waskar Ari had finally received clearance from Homeland Security and now awaiting permission from the Bolivian government so that he may finally begin his employment at UNL.

Banned Books Week: Banned Books Week is Sept. 29-Oct 6. Lee, Parker and Buckley are working on AFCON's observance of the week, which will also include collaboration with other groups, including ACLU Nebraska.

Legislation: AFCON representatives Adair and Haller are scheduled to speak at the June meeting of the State Department of Education. Adair said they are trying to reschedule their testimony for the September meeting, when more department members will be present.

Membership reports: **Adair** said that the League of Women is conducting a two year study on education in Nebraska to revisit their policy on state education. **Comer** said the Reading Classics is still experiencing some complaints regarding some of the Golden Sower Award winners and nominees. **Oles** noted that Michael Baker is receiving a state award from the Nebraska Council of Teachers of English and that Dwayne Ball is the Nebraska representative for the national intellectual freedom award for the National Council of Teachers of English. **Krutz** said that NCB is gathering representatives from various organizations to discuss the selection of the 2008 choice for "One Book, One Nebraska" and plans are in progress for this fall's Book Festival. **Paterson** noted that UNO has made acting chancellor John Christiansen the university's new chancellor.

To: Editor, *Lincoln Journal Star*
Fr: Robert S. Haller, Lincoln

We all have reason to be pleased that the Omaha Public Schools reinstated Principal Lisa Shaw at Benson High School after only a day of suspension. It is disheartening in America to find an educator suspended for allowing students their first amendment right to freedom of the press. Nowhere in the Constitution does it say that the press should be censored because someone in the community is unhappy. Everything I have believed about the public schools is that they are the prepare Americans for citizenship, to assure that we all understand the basic principles upon which we are founded.

I am troubled, however by the statement of an OPS spokesperson that "The Omaha Public Schools has never condoned and cannot support the actions which

recently resulted in the inappropriate articles published in the Benson High School Gazette." What "actions" are they referring to? A regulated discussion in a high school class? Personal statements by Benson students, accurately quoted, about their perceptions of the N-Word? The care of the student editor that the discussion would treat a serious issue seriously and relevantly? The monitoring by the advisor of the paper to assure that it would meet journalistic standards? The approval of the Principal for the idea that a school with a racially-mixed student body should deal publicly with an important issue of morale and common life?

It is always troubling when an agent of the government regards the sound processes and careful editing as "inappropriate." We as citizens may be partly reassured by the Principal's reinstatement. We should hope as well that the paper will be reissued and the rights of a free press reasserted.

Brightline Noncompliance

David Moshman

In December 2006 I went online to Brightline Compliance to learn how not to harass people. Well, that's not quite correct.

Actually, I learned how not to harass people in May 2006 when I originally took the Brightline Compliance course. The course is not yet officially required for all UNL faculty, but it is strongly encouraged, and I was curious to check it out.

So I already knew how not to harass people when I embarked in December on another adventure with Brightline Compliance. This time UNL was urging all faculty to take the annual "refresher" course. So I went back online to renew and refresh my nonharassment skills.

I'm happy to report that I scored 100% on the final exam for the original course and again for the refresher. I'd like to think this means I'm very good at not harassing people. But actually I'm not sure it means anything at all.

What did I learn? I learned that you shouldn't be nasty to people. I learned that people can have different interpretations. I learned that it's okay to shake hands.

But most of all I learned this: Never say anything that might cause anyone, even a bystander, to "become offended." If people become offended by what you say, you could be guilty of harassment.

And always keep in mind, of course, how offen-

sive anything about sexuality can be. Don't talk about sex.

But that reminds me that I teach adolescent psychology. And not only that. This semester alone I am teaching courses in which I address issues of gender, race, ethnicity, culture, religion, and sexual orientation, not to mention evolution, violence, morality, and identity formation.

What if, perish the thought, one of my students were to "become offended"? Would I be guilty of harassment? What if the topic were sex? Would I be guilty of sexual harassment?

But wait. If I were charged with harassment for teaching about sexuality I could rebut the charges by pointing out that my intent was to teach, not to harass.

Not so, Brightline Compliance informs me. Intent does not matter, it insists over and over. What matters is that someone was offended.

But wait. I could point out that my teaching was aimed at the class as a whole and not directed against anyone in particular.

No matter, Brightline Compliance points out. You need not target anyone to be guilty of harassment. What matters is that someone was offended.

But who gets to decide what's offensive? Everyone. Everyone? Well, almost everyone. If the person you offend is not a "reasonable" person, then you may not be guilty of harassment.

And who decides who is a reasonable person? Don't ask

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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

Linda Beckstead: "Freedom of Student Press Issues"
becksteadlinda@cox.net

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 **SEPTEMBER 21, 2007**, issue is **AUGUST 20, 2007**.

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

Brightline (Continued from page 4.)

So the best strategy, it seems, is not to talk about matters that some people may find offensive. But that leaves out most of the topics in most of my courses. So what is a professor to do?

As is my wont on issues of this sort, I checked with the policy coordinator of the Academic Freedom Coalition of Nebraska (AFCON), who happens to be me.

“Yes, this is a common problem,” he responded. “Ethically, you have to teach what you think should be taught. But the university should be assuring you that it will protect your academic freedom, not threatening you for addressing controversial issues.”

But the message of Brightline Compliance, I point out, is that one should always err on the side of not offending. If in doubt, don’t say it. Isn’t that good legal

advice?

“If your only concern is not getting sued,” he replied, “bland is best. But if you are trying to teach, you should err on the side of saying what needs to be said, regardless of who may be offended, and regardless of how offended they may be.”

But what if my students harass each other? How can I control their reactions, I worried, once I’ve got them thinking about all the terrible topics that come up in my classes? The AFCON policy coordinator seemed unconcerned. “Do your students hurl epithets at each other across the classroom?”

Well, no, I had to admit. In almost 30 years of teaching at UNL, I don’t think I’ve ever seen a student deliberately offend another. If anything, some students are too hesitant to en-

gage difficult issues because they don’t want to give offense. The last thing they need is to be threatened with a charge of harassment. So I guess I’ll keep teaching what I think I should teach, I’ll encourage my students to say what they think, and I’ll hope no one is unduly offended.

And if you’re offended by this column, please don’t charge me with harassment. Just write a column of your own.

AFCON Policy Coordinator David Moshman is a professor of educational psychology at UNL and a certified graduate of Brightline Compliance online training. This column originally appeared in the *Daily Nebraskan*.

AFCON’s 20th Anniversary

Did you know that AFCON will soon celebrate 20 years of raising and responding to issues of academic freedom? Our planning committee, Doug Paterson, Nancy Comer, Peggy Adair, David Moshman, Karen Buckley, Mel Krutz and Bob Haller are moving forward to organize our annual meeting for late November, early December where we will reminisce and reflect about AFCON’s past and current involvement in academic

freedom issues such as university speech policies, censorship of high school newspapers, teaching methods and teacher hiring and firing, and challenges to literacy materials to name a few.

However, we will not just revisit past and present issues; we will share ideas for future legislation, and expanding our organization’s membership to other interested groups (we currently have 20 member organizations) and

individuals within Nebraska. We will also be assessing interest of other nearby states in organizing their own academic freedom group and networking with us in Academic Freedom for the Great Plains.

Stay tuned for more on AFCON’s annual meeting as details become available, and feel free to suggest ideas for our annual meeting to any member of the planning committee.

AFCON

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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, 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 (\$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**