



THE

AFCON

SENTINEL



Volume XI, Number 3

A Quarterly of the Academic Freedom Coalition of Nebraska

September 21, 2007

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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

Several topics deserve attention today

The first is good news about our current activities relating to Civics Education. For some time your AFCON Board has discussed the possibility of Academic Freedom issues being one of the central topics of an emerging required curriculum for Nebraska K-12 students. Related to discussions of Academic Freedom, of course, could be dialogue on the First Amendment and the Freedom of Speech and Press for high school students. As I noted in the last newsletter, several recent US Supreme Court decisions have apparently begun to substantially limit those freedoms. By the time you read this, several of our Board members, spearheaded by Peggy Adair and Bob Haller, will have appeared before the Civics Board of the State Education Council to present AFCON's perspective that such topics are not only essential for students but appropriate for a Civics component in education.

The second – more good news – concerns our AFCON Annual Meeting, which will be held at the Beacon Hill Restaurant in Lincoln Saturday morning, December 1st, at 10:00 AM. This newsletter includes more detailed information about a program that revolves around these very questions of civics education and academic freedom.

A third topic involves some clear danger to academic freedom. Three times in the last half year a university faculty member has either lost tenure, not been tenured, or has been threatened with no tenure because of the agitation of people outside the specific university. In each case the faculty member has spoken or written within his field of expertise on questions regarding the seemingly-endless struggle in the

Middle East.

Prof. Ward Churchill at the University of Colorado – Boulder was dismissed from the university for his now-famous remark that people in the twin towers were carrying out imperial and genocidal assignments from the western powers and were thus perhaps, to Arabs, viewed as "little Eichmanns". While his case expanded to other accusations, it began with this quotation and fired the energy of right-wing commentators including members of the conservative Jewish community.

This last spring the case of Prof. Norman Finkelstein of DePaul University hit the internet and the occasional above-the-fold newspaper coverage. Finkelstein, a teacher of Political Theory, had been very critical of Israeli foreign and domestic policy regarding Palestinians for some years and had published texts articulating his point of view. With 2006 – 2007 being his year for tenure review, a national movement spearheaded by Prof. Alan Dershowitz of Harvard was launched to deny Finkelstein. Together with on-line petitions both for and against Finkelstein, the controversy raged inside and outside the university, but seemed more outside than in. His department had recommended tenure by clear majority vote and his college committee has voted tenure unanimously. With acute pressure again from the conservative Jewish community, the DePaul administration denied Finkelstein's application for tenure.

A third case, involves the Columbia University college partner, Barnard College. Quoting from The Chronicle of Higher Education: "Controversial research on Israel and the Palestinian territories has become the basis of

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Upcoming Events

AFCON Board Meetings, October 13, November 10, and December 8, 2007
Loren Eiseley Library, 1530 Superior, Lincoln, Nebraska; 10 AM
AFCON 20th Anniversary Celebration, December 1 (See page 3)

THE PRESIDENT—Doug Paterson

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yet another campaign to prevent a professor from winning tenure. A group of Barnard College alumni has drafted an online petition asking their alma mater to deny tenure to Nadia Abu El-Haj, an assistant professor of anthropology whose scholarship, they say, is flawed and skewed against Israel.” This very posting from August 15th has launched yet another barrage of on-line discussion, invective, and religious declaration. (<http://chronicle.com/news/article/2866/alumni-group-seeks-to-deny-tenure-to-middle-eastern-scholar-at-barnard-college>)

What was once, and then twice, a possible blip on the radar is now a discernable pattern. Political forces outside US universities are organizing, as they have apparently never organized before, to “purge” universities of faculty with positions critical of Israel and supportive of Palestinian perspectives. From my point of view this constitutes a neo-McCarthyism for which we need all to be vigilant. If prohibitions against this analysis succeed, what other scholarly assumptions will be seen by special interests as prohibitable? Life on other planets? Other planets? Social class?

Evolution? Professing? If it becomes a regular occurrence for a candidate for tenure to be not only challenged but successfully challenged and thus denied tenure because of his point of view, then Academic Freedom is in serious peril.

If those interested in defending Academic Freedom do not speak out now, there may not be many more opportunities.

Write! Protest! Speak out!

Now.

Summaries of AFCON Board of Directors’ Meetings—Karen Buckley

June 9, 2007—

Present: Peggy Adair, Tom Black, Jim Bunstock, Nancy Comer, Bob Haller Susan Helmink, Dick Herman, Mel Krutz, Laurie Thomas Lee, Dave Moshman, Doug Patersen, Linda Parker

Minutes: of May 12 were distributed. Black moved and Bunstock seconded a motion of approval, which passed unanimously.

Treasurer’s Report: was distributed. Herman moved and Bunstock seconded a motion of approval. Passed.

President’s Report: The President and Linda Parker have collected addresses of appropriate persons to whom to address their outreach document.

The more precise date of the 20th anniversary was established as February, 2008

A clarification and discussion of the reassignment and attending issues of academic freedom occurred at Northeast High School. Particular attention was given to: recourse under contract, the need for protection in a Student Free Expression Bill, and the incompatibility of regarding school papers as “public relations.” The Hazelwood principle recognizes that prior review was justified by the newspaper’s place in the curriculum.

Policy: Moshman reported that Michael Baker would broadcast an interview with Henry Giroux, author of *University in Chains*, Wednesday, June 13, 6:00-6L30

Moshman further reported that the

President of the University of Colorado was recommending to the Board of Regents the firing of Ward Churchill, not the suspension for a year recommended by the faculty report, and that Churchill’s attorney was going to take the issue to a “real court.”

Moshman noted that the Supreme Court would rule shortly on *Bong Hits 4 Jesus*. The decision and its implications will be discussed at the July meeting.

Legislature: Adair reported passage of LB 653, which mandates a single test in Reading and Math for all the requisite grade levels, chosen by the Board of Education from all the current Nebraska Tests. She added that Commissioner Christensen is determined to continue STARS; so this means an additional test. LB 653 is not connected directly with No Child Left Behind, but with a previous legislative mandate of uniform tests for comparison among schools.

20th anniversary celebration and annual meeting: President-Elect Comer suggested that AFCON will want to connect with the LA Theatre Works production related to the Pentagon Papers in early November, and would therefore probably wish to hold the annual meeting December 1. Since this is the same day as the Star City Parade, she asked if an evening meeting might be appropriate, or a meeting held on North 27th Street away from downtown, or at Mahoney Park nearer to Omaha. The discussion dealt with the means of increasing attendance outside the Board with members from constituent organizations or from other states interested in AFCON. A

suggestion of a touring show like the Chau-tauqua and of a student essay context were considered. The possibility of separating the annual meeting (which must come in 2007) from the anniversary celebration was also discussed. Comer and the committee will report back in July.

Banned Books Week: Lee announced that there would be events in Omaha September 29 and Lincoln September 30, with readings, panels and displays. She reported that the ACLU was involved and wanted to extend the event to Kearney. Other tentative plans include radio interviews, giveaways of banned books, the creation of a “One Nebraska, One Banned Book”, and a Mark Twain impression (Wally Traylor). A venue has not been set for Lincoln: Barnes & Noble and one of the libraries were suggested..

Membership Reports: Haller reported on an email from the Modern Language Association attaching an American Council on Education response to a Department of Education mandate for accrediting agencies. It would require the administration of objective tests in order to provide data for comparison among institutions of higher education. The letter decries the implications of such a mandate for academic freedom

Krutz announced that the Nebraska Book Festival will be held in downtown Lincoln October 26 and 27 at a grouping of sites including the Children’s Museum, the Museum of Nebraska History, and the College of Journalism and Mass Communication, with possible plans for a tent on Centennial Mall.

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

the Museum of Nebraska History and the College of Journalism and Mass Communication. October 26-27

She requested staffing of an AFCON table at the Summer Writers Conference at UNL, June 16-22, where we have in past years obtained memberships.

Parker reported a coming Nebraska Library Association board meeting. The AFCON Board designated her as its representative on the One Book, One Nebraska selection committee.

Paterson noted the appointment of a new Chancellor at UNO.

July 14, 2007—

Present: Peggy Adair, Dwayne Ball, Karen Buckley, Jim Bunstock, Nancy Comer, Bob Haller, Susan Helmink, Dick Herman, Laurie Thomas Lee, and guests Meredith Lee and Barb McKillip.

Barb McKillip, a seventeen-year math teacher, who was denied a contract renewal by the Conestoga School Board in her second year at the district, spoke on her situation. AFCON board members at the meeting decided to monitor the situation, and if further action warranted it, to step in. They requested McKillip to keep AFCON informed of further developments.

A discussion was held regarding the Supreme Court decision on Bong

Hits for Jesus and Fish. These items have also been noted in e-mail correspondence among board members prior to the board meeting. (See page 4 of this issue of the *Sentinel* for an analysis of this case.)

Annual meeting: Members voted to hold the annual meeting at 10 a.m. Saturday, Dec. 1 at Beacon Hill Restaurant, with the program including a panel discussion on student free expression, lunch and reminiscing on AFCON's 20 years of existence. Nominations for the 2007 Academic Freedom Award shall be opened at the September Board meeting at which time selection(s) will be made. Ball suggested the theme be "What is the State of Academic Freedom Today? Is it better, worse and what is the future of academic freedom? Members concurred. Each AFCON member is encouraged to bring at least one other member from the organization they represent and another guest. Cost will be \$20 a person.

Banned Books: Lee proposed having a panel discussion Wednesday evening, October. 3, in the College of Journalism auditorium. The board agreed. Other planned activities for the week include: inviting Wally Seilor to present his Mark Twain impersonation

at Lee Book Sellers in Lincoln Monday, October.1; an ACLU-sponsored readings in Omaha and Lincoln; and the NLA's "One Banned Book, One Nebraska" promotion.. Lee moved that AFCON have a budget of \$200 for the Banned Book observances, Herman seconded, and the board approved.

Adair and Haller are planning to meet with the State Board of Education at their September meeting.

Adair shared copies of the ACLU Nebraska's draft of a Nebraska Student Rights handbook. Buckley volunteered to proof the draft.

Ball noted that AFCON meetings are scheduled annually for the second Saturday of each month at Easley branch, with the exception of June, July and August. Easley will not allow reserving the meeting rooms until closer to the meeting dates for June and July to allow access for summer library programming. Ball proposed, and the board agreed, that June and July meetings be held at Gere branch. AFCON does not meet in August.

August 11, 2007—There was no AFCON Board meeting this month.

**DECEMBER 1, 2007: Mark your calendars.
On this day AFCON will CELEBRATE its 20th Anniversary.
Plan to join them and enjoy a time of intellectual freedom**

The AFCON Annual Meeting—Celebrating Twenty Years of Supporting the First Amendment

What Is the State of Academic Freedom Today? Is it Better or Worse? What is the Future of Academic Freedom?

Saturday, December 1, 2007, 10:00 A.M.

Country Inn and Suites/Beacon Hills
5353 North 27th Street, Lincoln, Nebraska
Buffet Luncheon: \$20

Program: Student Free Expression Issues, School Newspapers; Updates on the Student Free Expression Bill and Civics Nebraska; Presentation of the 2007 Academic Freedom Award

Reminisce with AFCON's founding members
David Moshman, Mel Krutz, Robert Haller,
and others

Please join us to honor recipients of the annual
Academic Freedom Awards

Analysis of the US Supreme Court Decision of *Morse v. Frederick* (better known as “Bong Hits 4 Jesus”)

Unfortunately, the Supreme Court decided on June 25 that the principal in this case did not violate the First Amendment rights of a high school student by suspending him in connection with his display of a “Bong Hits 4 Jesus” banner. On close reading, however, I have concluded that the decision is not nearly as bad as it could have been. Overall, I would say this decision leaves the First Amendment rights of students about where they already were, and reminds us that things could be worse. In fact, there are some important silver linings here.

There are no less than five opinions in *Bong Hits*. Chief Justice Roberts wrote the majority opinion, signed by Thomas, Scalia, Alito, and Kennedy. Thomas also wrote a concurring opinion of his own, as did Alito (who was joined by Kennedy). Breyer wrote an opinion concurring in part and not reaching the First Amendment issue. Stevens, who was somewhat uncharacteristically part of the infamous majority in *Hazelwood*, wrote a dissent joined by Souter and Ginsburg.

The majority opinion holds that public schools can censor and punish students who advocate the use of illegal drugs. Downside: This is viewpoint discrimination (there’s no penalty for “drugs-are-bad” messages), which cuts to the heart of the First Amendment. Upsides: (1) The decision is limited to speech concerning use of illegal drugs. (2) The Court deemed the entire episode to be part of a school-sponsored activity, so the decision does not extend school authority to personal activities away from school. (3) The Court explicitly rejected arguments (based on language in *Bethel v. Fraser*, 1986) that schools have general authority to ban “offensive” speech.

In his concurring opinion, Thomas waxes nostalgic for the good old days of the 19th century when “teachers taught, and students listened. Teachers commanded, and students obeyed.” (I’m not making this up.) He argues that students have no First Amendment rights whatsoever, that *Tinker* was wrongly decided, and that the Court should simply repudiate it and be done with all this nonsense about student rights. Downside: This guy will be on the Court forever. Upside: No other justice, not even Scalia, joined this concurrence. The other eight justices all unambiguously accept *Tinker* as established precedent.

The concurring opinion by Alito (joined by Kennedy) is what in another context might be called a

“signing statement,” but in this case it’s one I like. Alito and Kennedy insist that they joined the majority opinion with the understanding that it is strictly limited to advocacy of illegal drug use and provides no support whatsoever for restricting speech on any political or social issue, including issues such as the “war on drugs.” They explicitly note that the Court has not endorsed the arguments of the school district and of the Bush administration that school authorities may censor any speech that interferes with the school’s “educational mission.” Downside: They did join the majority opinion. Upsides: (1) Essentially, Alito and Kennedy, both of whose votes were necessary for the majority, are insisting on a narrow reading of the opinion. (2) Adding Alito and Kennedy to Breyer and the three dissenters, there are six justices who not only accept *Tinker* but clearly regard student First Amendment rights as real, important, and worthy of judicial protection.

Breyer essentially abstained. He joined the Court’s unanimous judgment that the principal had not so clearly violated a clearly established right to be personally liable but argued that the case should be sent back to a lower court for further proceedings which, he proposed, could resolve all remaining issues without reaching the First Amendment question. Downside: He copped out. Upside: His cop-out was based on a general view that the Court should avoid important constitutional questions whenever a case can be resolved some other way, and his discussion makes it clear that he regards student First Amendment rights as very important.

Stevens, joined by Souter and Ginsburg, dissented, arguing that the student was protected by the First Amendment. Upsides: (1) The dissent points out the serious issue of viewpoint discrimination. (2) The dissent also notes the absence of any precedent for carving out a drug exception to the First Amendment and thus the arbitrariness of the Court’s acquiescence to censorship in this case. Downside: The dissenting opinion is disappointingly wishy-washy and ambiguous, relying heavily (and somewhat paradoxically) on the meaninglessness of the student’s message as a basis for defending it. For a principled and inspiring defense of student First Amendment rights, skip this and see instead William Brennan’s dissent in *Hazelwood* (joined by Thurgood Marshall and Harry Blackmun).

Bottom line: “Bong Hits” didn’t get me high but it’s not the devastating bummer I feared it might be.

—by David Moshman, AFCON Policy Coordinator

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 that invites the viewing of THE remaining book for \$1.00 and the words, "When all Books are Banned," \$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 **December 21, 2007**, issue is **NOVEMBER 26, 2007**.
Send to Tom Black, editor, 610 West Park, West Point, NE 68788 or wpc6296@cableone.net

“One State, One Banned Book” Banned Books Week in Nebraska, September 29 through October 6

“One State, One Banned Book” is this year’s theme for Banned Books Week in Nebraska, September 29 through October 6. Banned Books Week is an annual nationwide celebration that commemorates the freedom to read and the importance of preserving that freedom in a democratic society. This year, AFCON, along with ACLU Nebraska and the Nebraska Library Association, will host several events that are free and open to the public.

On Monday, October 1, Mark Twain impersonator Wally Seiler will perform some of Twain’s best-loved writings at Lee Booksellers in Lincoln

at 56th and Highway 2 at 7:30 pm. One of those selections is “The Adventures of Huckleberry Finn,” which continues to appear on the American Library Association’s list of “Most Frequently Challenged Books.” It was chosen as one of the books for the “One State, One Banned Book” celebration. Seiler’s performance is funded by a grant from the Nebraska Humanities Council Speakers Bureau.

Other books chosen for the week-long event are “Bridge to Terabithia,” by Katherine Paterson, and “Sylvester and the Magic Pebble” by William Steig.

On Wednesday, October 3, a panel presentation and discussion will be held at the UNL College of Journalism and

Mass Communication auditorium at 16th and Q street in Lincoln. The 7:00 p.m. event will feature librarians and teachers, as well as students from Lincoln East High School who are taking classes on “Banned Books.” Panelists will share their personal experiences with censorship and discuss challenged books today.

Also on Wednesday, October 3, the Angels Theatre group will perform readings from banned books at the Reading Grounds at 40th and Farnam Streets in Omaha at 7:00 p.m. The Angels Theatre group will perform again on Thursday, October 4, at the Unitarian Church at 70th and A Streets in Lincoln at 7:00 pm.

Banned Books: a report from the classroom

By Robert Haller

Twice in the last two years I have taught a course at UNL entitled *Banned Books*. The first time it was a “Special Topics” course in the English Department and, since it fulfilled no major or distribution requirement, attracted students from many departments who had to be interested in the issue rather than getting a necessary course out of the way. The second time it was one of two “Capstone Courses” for English Majors, intended to allow students to reflect on their experience as majors and speculate about their future uses of their undergraduate work. For them, the subject encouraged a consideration of how literature reaches and has reached its readers, and how it has been treated in the larger society once published.

In both cases the course was a pleasure to teach, and the students contributed a great deal to my understanding of the issues. I forced them to do so by distributing lists

of challenged children’s books, and books banned for Religious, Sexual, Political and Social reasons, asking each of them to read a book in each category and report on a case concerning it, measuring the plausibility of the condemnation against their experience of reading it. In fact, few of them confirmed reasons for censorship, and most were amazed that the books could attract such hostility. That was of course likely, given that the students were either English majors, dedicated to literature and the arts, or persons who chose the course with the knowledge that it would probably not give much support to the idea of banning books. But they did regret, as did I, the lack of balance in the classroom. The students wanted to hear from some intelligent and discerning fellow student what kind of reasoning could support the challenge. I would have appreciated it myself.

Let me report to *Sentinel* readers some of my conclusions from the teaching of these classes.

First conclusion. The banning of books is hardly a factor in present day United States. The Supreme Court refinements of the Roth criteria--appeal to prurient interest; going beyond community standards; having no redeeming social value--have reached the point of protecting any work of serious literature against censorship. The “prurient interest” must be that of an “average” or “normal” adult; the “community standards” must be those of the society at large; and the “social” value can be aesthetic, scientific, instructional, entertainment. As a consequence, most Federal and local laws are now useless for the purposes of preventing the publication, sale, importation or distribution of books and their equivalents. In other words, the course title is pretty much an anachronism.

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Classroom: *continued from Page 6*

But note that the so-called Comstock Law (*An Act for the Suppression of Trade in, and Circulation of, Obscene Literature and Articles of Immoral Use* 1873) as revised and updated over the last 134 years, is still on the books. It's just not enforced as it was in those famous cases when Ulysses or Fannie Hill were under threat. There may also be local laws of a more specific kind, also rarely invoked. So long as the circulation of "obscene" materials is labeled (e.g. "Adult Book Store") and kept away from children, most local jurisdictions don't interfere with it.

Second Conclusion: The impulse to limit reading of books is now focused almost exclusively on children.

Anyone studying the history of censorship knows that the censors used to be primarily concerned about adults who might be led to heterodox religious views, seditious politics, immoral sexual behavior or antisocial beliefs and practices. But in the very process of refining the Roth criteria, the Supreme Court has explicitly left open the possibility that works not pornographic or otherwise dangerous for adults might be so for children. So those who wish to keep books from children, blocked from pre-publication censorship and the forbidding of sale and distribution, are left with challenging books made mandatory or optional reading in a school class, or placed on a school or public library shelf. Consequently,

school districts and libraries have created policies and procedures governing challenges, and parents, or citizens, or organized groups, must take their challenges before school or library boards.

Because the American Library Association has very forthright statements about the freedom to read and the responsibility of public libraries to serve the broad public good, libraries face few formal challenges.

It is one of the paradoxical facts about censorship over its long history that the censors themselves are incorruptible. They read books and determine that others will turn heretics or terrorists or sexual predators or social psychopaths, although the censors themselves are only outraged, not corrupted. Or the censors believe that others will be taken in by specious reasoning or false reporting, as the censors were not. Or simply that the average normal person is easily upset by "disturbing" images and concepts. I'm sure that Comstock never stopped to reflect that the books he found so filthy and degrading were as unlikely to corrupt another person as they were to pull him in.

The modern manifestation of this attitude is the confidence of the challengers (no longer censors) that children must be protected. Children are innocent, and innocence is destroyed by knowledge. And children are not mentally alert and are therefore easily misled. I have heard tell that long ago judges dismissed charges of rape if the alleged victim showed that she knew a name for male sexual organs or had any information about how sexual intercourse takes place. This assumption that having factual information is itself corrupting, and a sign of corruption, still prevails. It is joined in some minds by the belief that there is an active conspiracy of writers,

publishers and teachers to draw children away from the values and authority of their parents and nurturing community. A child who sees the unclothed toddler falling toward a bowl in Maurice Sendak's *In the Night Kitchen*, or who falls for the charm of witchcraft in the Harry Potter series, or who wants to take up the pleasures of eating worms, or who learns that a child may have two mothers or two fathers, will be drawn away from parental control and right thinking forever. Students, reporting on challenges to these and other books of pure information or of fictional guidance, recalled in a positive way their own introduction to the wider world and admired the tact and care of the writers of these books. I myself found one advantage of teaching the course was to allow me to read the very well-written and conceived books published after my children (now in their 40's) had grown beyond my reading to them.

In some cases, the challenges brought ostensibly to protect childhood innocence were in fact attacks on free speech and academic freedom. Schools cannot be required to stay away from controversy or to keep knowledge of the world from children in the classroom. Schools have a duty to treat such issues in a way that distinguishes understanding from acceptance of a belief. But they cannot, for instance, present "Intelligent design" as a scientific alternative to evolution, they cannot impose religious or political opprobrium on legal behavior, and they cannot purvey false information about the consequences of behavior in order to frighten children into conformity to some arbitrary standard. Discussing the various challenges in class, we came quickly to recognize the virtues of

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Classroom: continued from Page 7.

putting sound procedures in place before need. A school district that respects the professional judgment of its teachers, understands clearly its need to promote the best scholarship and science, and recognizes (even when the courts have been willing to compromise) that schools are training for democracy and operate under the bill of rights, such a school district turns challenges into an occasion to educate the community. (There are, of course, examples of the opposite as well).

Third conclusion: The battleground of censorship is no longer books, but alternative media, in particular the internet and wireless communication.

Some students had seen *This Film is not yet Rated* (2006) with its exposure of the ambiguities of the current rating system. Whatever its shortcomings, it protects the industry from formal censorship and seems to satisfy the public. Consistent with Conclusion #2, the system is based entirely on dangers to children, with cut-off points at ages 13 and 18, and an explicit requirement of parental company. The studios can put in just enough skin or obscenity to get a PG-13 rating, because otherwise teenagers will think it is a kiddie flick, but not enough to become R and thus block some of its primary targeted audience of young adults.

Television, with its constantly changing modes of delivery, has also managed to keep itself relatively protected from censorship, with its 2-second delay to allow for bleeps and its self-limitations during prime time. The recently-introduced blocking devices put the responsibility on parents to limit their children's viewing. Video

games occasionally surface as targets, mostly for excessive violence, and for the implication that any sort of creature might be a satisfying subject of annihilation.

One alternative medium about which one student wrote a particularly interesting paper is the new comics. She introduced me to Robert Crumb, not someone who created superheroes or Disney imitations, but drawings and words celebrating the variety of ways in which one might be stoned or a number of responses to and ways of treating women. The highly politically-incorrect work of this artist and his fellows provides an outlet for young rebels and has had its influence in the world of art. There will always be artists who take popular media into alternative cultural directions and excite those looking for ways to reject the culture of the banal.

But the internet, the world wide web, has become the main current focus of those with the censoring impulse, and with good reason, since even children can use it without formal limitations. It was a medium we did not deal with in the course, although if I did the course again, I would try to get it in.

Fourth conclusion: Censorship is alive and well in some other parts of the world.

During my second teaching of the course, I assigned Nafisi's *Reading Lolita in Teheran*, a book that has been enormously popular in classes (a student said that this was the third time in her experience it had been assigned) and that is clearly germane to the topic. It is very easy to read the book in a self-congratulatory way: "Aren't we in the U.S. su-

perior to those Ayatollahs, and don't we treat our women with so much respect for their intellects and perceptions?" A student in the class put us on to an essay which pointed out a number of disconcerting facts about the book: its dealing with books (*Lolita* in particular) which had struggled for acceptance in the West and were still controversial; its focus on white male mainstream writers of the mid-twentieth century, sometimes with very sophomoric analyses of them; its assertive ignoring of contemporary Iranian writing and literary culture; the dubious commitment of its author to her claimed home country whose culture she criticizes. The writer of the essay suggested that the book so easily supported the thinking of those who urged the invasion of Iraq and threaten Iran, that it counted more as an anti-Islamic tract than a celebration of Western freedom.

Partly to carry on this discussion, I brought to class a listing of the winners of the Nobel Prize for literature, partly to show that writers subject to censorship and worse in their cultures often receive the award. This is a sign that books can be dangerous and that governments have the means to limit access to them, even if that does not happen in the United States. But it may also indicate that U.S. writers, at least those who find their ways into libraries and school curricula, do not radically undermine the favorite assumptions of U.S. culture. But it may more simply mean that we are not in this country to be corrupted by a book.

Is a course called "Banned Books" an exercise in nostalgia?

University Reports

— by 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

From the FIRE newsletter of 8/10/2007: “FIRE announces its Speech Code of the Month for August 2007: the University of Iowa. The university maintains a website, sexualharassment.uiowa.edu, that defines sexual harassment in a way that violates its students’ First Amendment rights. According to the website, sexual harassment ‘occurs when somebody says or does something sexually related that you don’t want them to say or do, regardless of who it is.’ Examples of such behavior include ‘[t]elling sexual jokes’ and ‘[t]alking about their sexual experiences.’ This is an extremely broad definition that includes a lot of constitutionally protected speech.”

San Francisco State University investigated and put on trial the College Republicans for stepping on Hezbollah and Hamas flags (copied onto butcher paper) as part of an anti-terrorism demonstration. Unbeknownst to the CRs, the flags contained the Arabic word for Allah, and a number of students filed complaints of the creation of a “hostile environment.” The SFSU CR, FIRE, and the Alliance defense fund are now suing SFSU for intimidation of free speech. (source: FIRE newsletter of 7/9/2007)

After a year of negative publicity, Gettysburg College, as of late August, has finally revised its Sexual Misconduct Policy, which was so broad in scope that it drew no distinction between an innocent, spontaneous hug and forcible rape. (FIRE newsletter of August 10, 2007, and the Pennsylvania Centre Daily of August 22, 2007)

Colorado State University had three policies relating to campus speech: the Peaceful Assembly at

CSU policy and the residence hall Advertising and Hate Incidents policies. In one form or another, all restricted constitutional rights in some fashion. For example, the Residence Hall Hate Incidents policy formerly prohibited “expressions of hostility,” which could mean almost any speech was punishable. Now, it prohibits only what most constitutional scholars would consider true harassment and abuse. (FIRE newsletter of 7/19/2007)

STUDENT ACADEMIC FREEDOM

U.S. District Court for Washington, D. C.: U.S. scholars and students may be denied the right to travel to Cuba under U.S. government restrictions, according to the court. In her decision, Judge Ellen S. Huvelle said that academic freedom was not being denied to the students and faculty, because the government was not telling colleges and professors what they could and could not teach, only that they could not do it in Cuba, for which restriction there was a compelling government interest. Her decision was notable for at least acknowledging the concept of academic freedom. (source: CHE 8/3/2007)

FACULTY EMPLOYMENT RIGHTS

University of Colorado, Boulder: Professor Ward Churchill has been fired by the University of Colorado Board of Regents. In a case that will be argued in academic freedom forums for decades, Churchill was first vilified for saying, after 9/11/2001, that the workers who died in the World Trade Center collapse were “Little Eichmanns” for their collaboration in world-wide capitalism. Subsequently, an investigation was launched into the conditions of his hiring and the quality of his scholarship that appeared to reveal that he was hired and promoted without having the normal credentials, that his claim to be Native American was false, and that some of his work was plagiarized. However, others have argued that the investigation was launched only because of his controversial statements. Churchill is considering

an appeal through the courts. (source: CHE 7/25/2007)

University of Nebraska-Lincoln: History professor Waskar T. Ari Chachaki, a Bolivian, denied a visa over two years ago after being offered a faculty position at UNL, has finally received his visa. No explanation has ever been offered by Homeland Security for his original visa denial, although speculation has been quoted in the press over the past two years that Dr. Ari had connections to extreme leftist groups in South America. (source: CHE 7/23/2007)

Bishop State Community College, Alabama: A U.S. district court has ruled that Sarah E. Taylor was fired because she was white and the community college wanted to hire a minority in her place. The community college has been ordered to pay her three years of back pay, a large settlement in the hundreds of thousands of dollars, and to reinstate her as though she had never left. The college lost an appeal and will now comply with the court. (source: CHE 7/22/2007)

DePaul University near Chicago has denied tenure to professor of Political Science Normal Finkelstein. His department voted 9 to 3 for tenure, his college P&T committee voted unanimously for tenure, but his dean and the University chose to deny him tenure. Why? It appears that Finkelstein’s scholarship aims at what he calls “The Holocaust Industry,” which he considers to be a loosely-organized but widespread attempt to excuse what he considers to be Israel’s violations of Palestinian rights by virtue of the Holocaust. Many public intellectuals, including Alan Dershowitz, spoke out against the granting of tenure for Dr. Finkelstein, claiming errors of fact and plagiarism in his works. On one side of the debate, people say the University administration caved in to outside pressure groups and ignored faculty governance, and on the other that they rightly considered facts that the faculty committees voting for tenure did not. (CHE 6/12/2007)

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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.

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