IN THE COMMON PLEAS COURT OF GREENE COUNTY, OHIO,
GENERAL DIVISION

Professor Peter Townsend
3664 Troy Road
Springfield, Ohio 45504
Phone 937-215-0578

And

Associate Professor Jill Becker
430 West Limestone St.
Yellow Springs, OH 45387

And

Professor Anne Bohlen
136 East Limestone St.
Yellow Springs, OH 45387

And

Professor Kabuika Butamina
691 Augusta Dr.
Fairborn, OH 45324

And

Professor Chih Tsong Chen
4680 Snypp Rd.
Yellow Springs, OH 45387

Case No. ________________

Judge ___________________

And

Professor Robert Devine
317 West North College St.
Yellow Springs, OH 45387
And

Associate Professor Denise Eagleson
2837 Hustead Rd.
Springfield, OH 45502

And

Associate Professor Susan Eklund-Leen
4424 Andrea Dr.
Dayton, OH 45429

And

Associate Professor Christopher Garcia
426 North Stafford St.
Yellow Springs, OH 45387

And

Associate Professor Jean Gregorek
2236 U. S. Rt. 68 North
Yellow Springs, OH 45387

And

Associate Professor Christine Hill
222 Northwood Dr.
Yellow Springs, OH 45387

And

Assistant Professor Eric Miller
148 West North College St.
Yellow Springs, OH 45387

And

Professor Patricia Mische
151 King St.
Yellow Springs, OH 45387

And

Associate Professor Hassan Rahmanian
1024 Pinto Dr.
Fairborn, OH 45324

And

Associate Professor Christine Smith
237 Morton Ave.
Dayton, OH 45410

And

Professor Charles Taylor
270 Park Meadows Dr.
Yellow Springs, OH 45387

And

Associate Professor Scott Warren
135 North Walnut St.
Yellow Springs, OH 45387

Plaintiffs,

v.

Antioch University
c/o David A. Weaver, Esq. Statutory Agent
One S. Limestone St., Suite 800
Springfield, OH 45501

Defendant.

COMPLAINT FOR SPECIFIC PERFORMANCE AND PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

Plaintiffs Peter Townsend, Jill Becker, Anne Bohlen, Kabuika Butamina, Chih Tsong Chen, Robert Devine, Denise Eagleson, Susan Eklund-Leen, Christopher Garcia, Jean Gregorek, Christine Hill, Eric Miller, Patricia Mische, Hassan Rahmanian, Christine Smith, Charles Taylor and Scott Warren (the "College Faculty") state as follows for their Complaint:

1. Plaintiffs are tenured faculty members of Antioch College, a nationally renowned residential liberal arts college located in Yellow Springs, Ohio.

2. Antioch College is currently owned and operated by Defendant Antioch University, an Ohio non-profit corporation with its principal place of business in Yellow Springs, Ohio. Antioch College was founded in 1852 and has existed continually for over 150 years.

3. In addition to Antioch College, Defendant University operates five non-residential adult education facilities: Antioch McGregor in Yellow Springs, Ohio; Antioch University New England in Keene, New Hampshire, Antioch University Los Angeles in Culver City, California; Antioch University Santa Barbara in Santa Barbara, California; and Antioch University Seattle in Seattle, Washington (collectively, the "Adult Education Facilities").

4. Among the campuses operated by Defendant University, Antioch College is unique. Unlike the Adult Education Facilities, Antioch College provides full service residential liberal arts education and is the only campus that has tenured faculty.

5. The rights and responsibilities of the College Faculty are governed by Antioch College's "Faculty Personnel Policies and Procedures" approved by the Board of Defendant University on June 7, 1997 as supplemented on July 1, 2001. A copy of the Faculty Personnel Policies and Procedures is attached hereto as Exhibit 1.

6. The Faculty Personnel Policies and Procedures is a contract between the College Faculty and Defendant University.

7. On June 9, 2007, Defendant University's Board of Trustees declared a state of financial exigency pursuant to Section IV of the Faculty Personnel Policies and Procedures and, on June 12, 2007, the Board of Trustees publicly announced the "suspension" of operations at Antioch College effective July 1, 2008 with the stated goal of reopening Antioch College in 2012. A copy of the Board's Resolution with attachments is attached as Exhibit 2.

8. By "suspending" operations at Antioch College for four years, Defendant University avoids the application of Section IV B 59.5 of the Faculty Personnel Policies and Procedures that provides tenured faculty the right to be reappointed within a period of three years to any positions eliminated due to a declaration of financial exigency.

9. By limiting the declaration of financial exigency to Antioch College, Defendant University is in a position to eliminate the only tenured faculty within the Antioch University system.

10. Section IV A 56 of the Faculty Personnel Policies and Procedures defines financial exigency as "a situation where an imminent financial crisis exists which threatens the survival of the College and <u>cannot be alleviated by less drastic means</u>." (emphasis added).

11. The College Faculty avers that less drastic means existed and exist to address the alleged financial crisis at Antioch College. In particular, one of the problems identified in the Board's Declaration of Financial Exigency is the inability to raise funds from prospective donors, including alumni.

12. After the announced closing of Antioch College, over $2,500,000 was raised and/or pledged by Antioch College's alumni to support continued operations at Antioch College by August 14, 2007.

13. Also on August 14, 2007, the College Faculty filed a complaint in this Court against Defendant University styled <u>Townsend, et al. v. Antioch University</u>, Case No. 2007 CV 0745 (the "2007 Case"). In that case, the College Faculty alleged that

Defendant University had breached the Faculty Personnel Policies and Procedures by not implementing less drastic measures before closing Antioch College.

14. While the 2007 Case was pending, Defendant University began negotiations with the Antioch College Alumni Association Board of Directors (the "College Alumni") regarding alternatives to closing Antioch College.

15. On November 2, 2007, Defendant University and the College Alumni entered into "Agreements in Principle" providing for the College Alumni to contribute $6,600,000 by December 15, 2007 and an additional $56,000,000 by June 30, 2010. A copy of the Agreements in Principle and attached resolution by Defendant University's Board of Trustees is attached as Exhibit 3.

16. Based on the Agreements in Principle, the College Faculty dismissed the 2007 Case without prejudice on November 13, 2007.

17. The Agreements in Principle soon unraveled because Defendant University refused to allow the funds raised by College Alumni to be controlled by an independent board for Antioch College.

18. In December, 2007, Defendant University began negotiations with a group of Antioch College alumni operating as the Antioch College Continuation Corporation the "AC3"). The stated purpose of the AC3 was to acquire Antioch College from Defendant University and operate Antioch College as an independent liberal arts college.

19. In January, 2008, the AC3 delivered a letter of intent to the Defendant University.

20. In February, 2008, the AC3 prepared a detailed written business plan that demonstrated its capacity to continue operating Antioch College. However, at a meeting of Defendant University's Board of Trustees on February 21 through February 23 in Los Angeles, Defendant University refused to allow the AC3 to present that plan to the Board.

21. Defendant University has continually sought to cloak all discussions and negotiations regarding the future of Antioch College in secrecy and has breached the Faculty Personnel Policies and Procedures by excluding the College Faculty from discussions seeking to identify and implement less drastic measures than closing to address the purported financial exigency of Antioch College.

22. Rather than seeking the "least drastic means" to alleviate Antioch College's purported state of financial exigency, Defendant University has spurned every opportunity to allow Antioch College to remain open and operating while relieving itself of financial liability for a purportedly failing institution.

23. The College Faculty has performed all of their obligations under the Faculty Personnel Policies and Procedures.

24. Defendant University has breached the Faculty Personnel Policies and Procedures by declaring and maintaining a state of financial exigency when less drastic means exist to alleviate the alleged financial crisis at Antioch College. Defendant University has also breached the Faculty Personnel Policies and Procedures Section IV B 59.1, 59.2, and 59.3, which define procedures to be followed in the event of necessary and justifiable budget curtailment.

25. The College Faculty will be irreparably harmed by Defendant University's breach of the Faculty Personnel Policies and Procedures if Antioch College is allowed to "suspend" operations for four years and have no adequate remedy at law.

WHEREFORE, Plaintiffs respectfully request the Court to issue a permanent injunction requiring Defendant University to specifically perform the Faculty Personnel Policies and Procedures by implementing the least drastic means required to alleviate financial problems at Antioch College. Plaintiffs further request that the court enjoin Defendant University from liquidating or dispersing all assets that the College currently uses including buildings, land, endowment, endowment earnings and other assets. Plaintiffs further request that the Court order Defendant University to pay the costs of this action and requests such other relief as the Court deems just and proper.

W. E. P. II

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APPLICATION FOR PRELIMINARY INJUNCTION

Pursuant to Rule 65(B)(1) of the Ohio Rules of Civil Procedure, Plaintiffs hereby apply to the Court for the issuance of a preliminary injunction ordering Defendant University to specifically perform the Faculty Personnel Policies and Procedures by implementing the least drastic means required to alleviate financial problems at Antioch College and enjoining Defendant University from liquidating or dispersing all assets that the College currently uses including buildings, land, endowment, endowment earnings and other assets pending an adjudication of the merits of the Complaint in this action.

Respectfully submitted,

W. E. P. II

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ANTIOCH COLLEGE

Yellow Springs, Ohio

FACULTY PERSONNEL

POLICIES

and

PROCEDURES

Revised June 7, 1997

**ADDENDUM WITH
BOARD APPROVED
RESOLUTIONS
ADDED JULY 1, 2001**

The policies and procedures contained herein are effective on July 1, 1997 and supersede all previous editions of the *Faculty Personnel Policies*.

The Antioch Papers have excerpted exhibit 1 (Antioch College's "Faculty Personnel Policies and Procedures) to the sole section cited in the complaint - see below.

IV. TERMINATION OR REDUCTION OF FACULTY

After tenure, reappointment will be automatic unless there is: "adequate cause," "necessary and justifiable budget curtailment," "fundamental change in the college program," or "inability to perform essential duties due to physical or mental incapacity." The same consideration applies to non-tenured faculty during a contract period.

Approved by the Board of Trustees June 7, 1997
Approved by ADCIL April 22, 1997

A. Definitions

54. It is not possible to define adequate cause completely, or to list the complete range of situations that might bring up the question. Therefore, the procedures in handling individual cases are extremely important to safeguard the interest of both the individual and institution.

54:1. Possible examples of adequate cause would be a serious or significant violation of these or other policies and standards of the College, violation of the AAUP's Statement on Professional Ethics, evidence of a pattern of neglect or pattern of incompetence in the performance of duties (e.g., teaching, advising, research, committee work, attending faculty meetings, or administration).

54:2. Exercise of Civil Rights or Academic Freedom shall not be construed as adequate cause.

55. Necessary and justifiable budget curtailment shall be defined as a state of financial exigency declared by the Board of Trustees or the President in collaboration with the Chancellor of the University, when it has been determined by exercising sound business judgment that conditions exist which can be alleviated only by significantly reducing faculty, staff, and administrator salary expenditures and expenses at Antioch College for a prolonged and indefinite period of time.

56. Financial exigency is defined as a situation where an imminent financial crisis exists which threatens the survival of the College and cannot be alleviated by less drastic means. This can be caused by a steady or sudden decline in students or a sudden or steady increase in deficit in operating expenses.

57. Upon recommendation of the President in consultation with ADCIL, a fundamental change in the College program shall exist when the University Board of Trustees approves the need for substantial change or elimination of existing academic majors and/or curricula.

B. Procedures

58. Adequate Cause

58:1. Adequate cause for terminating the services of a tenured or non-tenured faculty member shall be determined by the President in consultation with the Dean of Faculty and ADCIL.

58.2. If, in the opinion of the Dean of Faculty, a faculty member's misconduct is serious enough to jeopardize the well-being of the community, the President in consultation with the Dean of Faculty may immediately suspend the faculty member with pay for up to three days. Suspensions in excess of three days shall only be made by the President, in consultation with the Dean of Faculty and ADCIL.

58:2:1. The Dean of Faculty shall present each case to a closed faculty session of ADCIL. The faculty members of ADCIL will vote upon the recommendation.

58:2:2. In the case of misconduct, if the decision is against continued employment, the faculty member shall be terminated according to the policies and procedures herein.

58:3. The faculty member may ask that the action be referred to the Appeals and Review Board.

59. Necessary and justifiable budget curtailment

59:1. As early as is feasible after declaration of a necessary and justifiable budget curtailment, the President shall inform ADCIL and the faculty, in writing, of the declaration; of the information and rationale upon which such declaration was based; and of any major steps already taken or intended, other than termination of faculty holding tenure, to abate the financial emergency. The College will seek to accomplish these actions with the minimum of publicity outside of College.

59:2. Within 30 days after the declaration of financial exigency according to Section IV B 59:1 above, the President, in consultation with ADCIL, shall develop, in writing, a plan and timetable for abating the financial emergency. The plan may include steps of implementation of any fundamental changes in the College program which have been recommended by the University Board of Trustees, and shall include any termination of tenured and non-tenured faculty required for abatement of the financial emergency and/or for implementation of the required program changes. ADCIL, with concurrence of the President, may call upon other persons to assist in the consultations.

59:3. Faculty reduction in times of financial emergency should be consistent with the College's commitment to academic excellence. Before reductions are made by early termination of contractual obligations, all other methods should be implemented that are consistent with the integrity of the educational program, including natural attrition, voluntary early retirement, and voluntary leaves of absence. In determining which individual faculty members shall be terminated, the following criteria shall be used to the extent practical:

59:3:1. The appropriateness of the faculty member's teaching skills and specialties to the academic program needs, regardless of length of service or tenure status

59:3:2. When it is necessary to decide which one of two or more faculty members within a department or program shall be terminated, the primary determining factor shall be the impact on the academic program, if program need is not determinative then for retention preference shall be given to the tenured faculty member.

59:3:3. The past completed student evaluations of faculty members

60:3:4. The impact of the decision upon the College's commitment to affirmative action in employment

59:4. The President shall notify in writing, those faculty to be terminated as soon as possible after the decision has been made. Each terminated tenured faculty shall receive at least twelve (12) months notice or severance pay in lieu thereof. Non-tenured faculty shall receive six (6) months notice or up to six (6) months severance pay in lieu thereof; not to exceed the length of the current contract.

59:5. When a tenured faculty member is terminated for necessary and justifiable budget curtailment or programmatic changes, the position will not be filled within a period of three years unless the terminated faculty member has been offered reappointment, in writing, to the position at the previous rank and salary held. The salary will be increased to include the raise that would have been awarded during the period that the faculty member was not employed by the College. For purposes of this policy, a position which will not be filled without being first offered to the terminated, tenured faculty member is a position in which the majority of courses are those in the same subject area and were or reasonably could have been taught by the terminated tenured faculty member.

60. Programmatic Changes

The procedures to be followed to terminate tenured or non-tenured faculty due to implementing a fundamental change in the College program shall be the same as those set forth in Section IV B 59 concerning "Necessary and Justifiable Budget Curtailment".

61. Inability to Perform Essential Duties Due to Physical or Mental Incapacity

The decision to terminate an employee unable to perform essential duties due to physical or mental incapacity shall be made by the President after consultation with the Dean of Faculty and ADCIL based upon either (1) medical (physical or psychiatric) evidence, or (2) by the employee's certification of disability to Social Security, to the Ohio Bureau of Worker's Compensation or to any other agency or insurer for the purpose of qualifying for disability and/or retirement benefits.

ANTIOCH UNIVERSITY BOARD OF TRUSTEES
Declaration of Financial Exigency
Warranting a Necessary and Justifiable Budget Curtailment
at Antioch College

Over the last several decades, Antioch College has experienced a continuing decline in student enrollment and concomitant revenues which have repeatedly and increasingly threatened its survival. The efforts to balance the budget over the years through faculty and staff reductions, programmatic changes and deferred maintenance of the physical plant have inevitably eroded the confidence students and parents have in the academic program resulting in a spiral of attrition. It is now clear that the College's resources are not sufficient to sustain itself and its options to reverse this trend have been exhausted. Regrettably, the Board of Trustees has determined that, in the exercise of sound business judgment, it is prudent to suspend operations at the College. Therefore, the Board of Trustees is hereby declaring a state of financial exigency and has further directed that the President of the College, in consultation with the Chancellor of the University, the Dean of Faculty and ADCIL, develop, in writing, a plan and timetable to implement the necessary and justifiable budget curtailment pursuant to Section IV, B 59.1 of the Faculty Personnel Policies. The rationale and information upon which this declaration is based is set forth below.

Historical Perspective:

For most of its history, Antioch College has had low enrollment and a small endowment. Consequently, it has experienced repeated episodes of financial instability. Having once suspended operations for lack of funds in 1881-82, the college was about to close its doors and liquidate its assets in 1919 when a new trustee, an engineer named Arthur Morgan, proposed a radical redesign of the College curriculum that he felt could save it. His "co-operative education" program, blending ten-week periods of work and study, succeeded in achieving a measure of financial stability for the College for many years.

The success of Antioch's unique combination of rigorous liberal arts education with work experience enabled the College to attract outstanding faculty and students particularly during the long period of growth from the end of the World War II through the early 1970's. As Antioch College's reputation and leadership in co-operative education, community governance and academic study abroad grew, so did its enrollment. In the late 1960's as the "baby boom" generation began to reach college age, and the Vietnam conflict continued to escalate, the demand for higher education reached an all-time high. At its zenith in 1972-73, the College boasted an enrollment of 2470 students. As the result of a devastating student and employee strike in 1973 and the end of the Vietnam conflict, student enrollment plummeted by 8% in one year. The College declared a state of financial exigency that year which resulted in the reduction of approximately 25% of the faculty as well as similar reductions in administrative and staff positions. The extent of the cuts in faculty, while necessary and appropriate, may have caused faculty and students to doubt the educational quality of the College and the spiral of attrition continued unabated for the next decade. Within 5 years enrollment sank to 1100 students. By 1985 the enrollment had dropped by 80% of its 1973 levels to approximately 500 students where

EXHIBIT

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it essentially remained until recently. [1] The number of full-time faculty over the same period had been reduced from over 150 to about 40 during FY 2006-07. The College's student-to-faculty ratio of 7 to 1 during the past year is far less than the national average for similar colleges. Yet, it is difficult to provide an appropriately broad liberal arts curriculum with fewer faculty members regardless of the number of students.

As a result, Antioch College has survived in recent years through reliance on financial subsidies from the five non-residential campuses of Antioch University, which are the successful survivors of the expansion initiative of the late 1960's. But these subsidies now exceed levels that are sustainable over the long term, because they deprive the non-residential campuses of funds they need to remain competitive in their local markets. Moreover, inexorable increases in the costs of providing a residential liberal arts education at all colleges, driven by the inability of traditional forms of instruction to realize productivity gains from new technology, suggest that Antioch College's financial problems will get worse over time without a large influx of students and tuition income.

<u>The Renewal Commission Plan:</u>

Therefore, in 2003, in yet another effort to save the college, the Board of Trustees established the Sesquicentennial Commission for the Renewal of Antioch College (the "Renewal Commission"), which was charged with the responsibility of developing a plan, strategy and timetable for the renewal of Antioch College. Specifically, the Renewal Commission was directed by the Board to recommend "the educational vision which would enable the College to flourish" and to propose a structure for the academic program which would best "insure its long-term financial viability". [2]

At the same time, the Board adopted a resolution (10.25.03.8) at is October 2003 board meeting in which it recognized that "persistent financial disequilibrium existing at the College has been previously identified and addressed by the Board in June 2001 with its approval of an Ad Hoc Committee Report, and in October 2001 with its adoption of a Financial Stabilization Plan." The Board directed in that resolution that the Chancellor, in consultation with the ULC and the Renewal Commission, "present to the Board at its June 2004 meeting, a plan with appropriate recommendations for the elimination of the College's operating deficits on or before the close of the fiscal year ending June 2006." The plan was to include a specific recommendation as to whether the board should declare the need for fundamental changes in the College program and/or a necessary and justifiable budget curtailment.

In its final report to the Antioch University Board of Trustees dated June 4, 2004, the Renewal Commission concluded that Antioch College was in serious peril and imminent threats to its survival could not be ameliorated with mere incremental changes. Rather, a quantum change in the manor in which the educational program was delivered would be required to provide necessary efficiencies. Specifically, the Renewal Commission found that:

> ...[T]he current curricular structure of the College is financially and academically unsustainable at its current size. Without transformative change, Antioch College

[1] See Chart of Antioch College Enrollment (FTE's)1970 to 1996, Appendix A.
[2] Resolution of the Antioch University Board of Trustees passed on June 7, 2003.

is unlikely to survive. In 1997, Antioch set an enrollment goal of 800 students by the year 2000, but the number of degree students has remained under 600 through 2004. For seven of the past ten years, the College has incurred unbudgeted operating deficits of $500,000 to over $1 million. Investments in admissions marketing, retention initiatives and financial aid have failed to generate significant gains in enrollment. A recent consolidation of administrative and financial functions at Yellow Springs failed to prevent another substantial unbudgeted deficit. First-year retention has declined from 85% in 1985 to 65% in 2002, while the four-year graduation rate has declined from 48% in 1985 to less than 25% at present, although declines in the six-year graduation rate are more modest.

The underlying problem is that the school's small size and endowment cannot provide the financial resources required to support a traditional liberal arts education, even with the advantages provided by the co-op program. As a result, the curriculum is sparse, faculty are underpaid and vulnerable to demoralization, buildings are poorly maintained, tuition discounting is excessive, admissions selectivity is lower than the College's aspirations, and students are dissatisfied. These problems have contributed to the deterioration of campus climate, volatile relationships within the College community, allegations of racism, dysfunctional governance and disempowered leadership.[3]

The lack of capital improvements and deferred maintenance of the physical facilities of the campus was of particular concern to the Renewal Commission because of its negative impact on recruiting new students. The Commission noted that, because of its long history of financial difficulties, the College was unable to undertake significant new construction for many years and most buildings were in poor condition. The Commission concluded that the renewal plan would depend heavily on significant investments in the physical facilities. "Substandard facilities make it difficult to recruit new students, particularly because many of Antioch's competitors undertook significant building programs during the capital markets boom of the 1990's. In addition, students and their parents take quality of facilities as a proxy for the educational quality and financial health of the institution..." [4] Likewise, substandard facilities have been one of the primary deleterious factors in the College's declining retention rates. Surveys and interviews of departing students have consistently cited poorly maintained buildings as a primary factor in the student's decision to drop out.

Yet, the infusion of capital necessary to substantially improve buildings and undertake new construction is lacking. The Renewal Commission noted that while Antioch has embarked on a capital campaign with a goal of raising $65 million, only about $30 million had been committed. In light of the College's history of financial instability, "some prospective donors are reluctant to provide full support without a comprehensive plan to address the College's basic problems and grasp the great opportunities that lie before the College community."[5]

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[3] Final Report of the Renewal Commission to the Board of Trustees, June 4, 2004, Part I, p. 7.
[4] Final Report of the Renewal Commission to the Board of Trustees, June 4, 2004, Part I, p. 34.
[5] Final Report of the Renewal Commission to the Board of Trustees, June 4, 2004, Part I, p. 7.

In an effort to address these compelling programmatic inefficiencies and capital deficiencies, the Renewal Commission recommended a comprehensive plan to overhaul the delivery of the academic program, and a plan to engage in a comprehensive capital campaign. The existing capital campaign goals were amended and the timelines were extended to seek additional gifts to fund, among other things, the renovation and construction of facilities, the acquisition of technology infrastructures and the expansion of endowment for scholarships. The academic program was restructured to create Experiential Learning Communities ("ELC's") which were designed to "integrate students' on-campus academic study in a learning community with experiential learning through such forms as field studies, community work, internships, and through linkages with co-op work, service learning, or other off-campus experiences." [6] All new students began to enroll in the ELC's in the current academic term of 2006-07. Once fully implemented, the new ELC's would each have 30 to 45 students, two to three full-time faculty members from different academic disciplines and a student-faculty ratio of 15 to 1, thus delivering the liberal arts education in a more efficient manor.

With the fundamental changes in the delivery of the academic program and the emphasis on a successful capital campaign to fund campus improvements, it was the hope of the Renewal Commission and the Board that the College could be turned around and enrollments would gradually increase. Unfortunately, this has not been the case. While the Renewal Commission's plan may have been successful in the long run in attracting and retaining students, it has not been successful in the short term. The transition from the College's traditional academic program to the ELC concept has been difficult to market and may have contributed to an acceleration of student attrition. Likewise, neither the annual development campaign nor the capital campaign have been as successful as hoped and, as discussed more fully below, substantial portions of the unrestricted gifts raised in the early part of the Capital Campaign have been used to cover operating shortfalls.

Current Situation:

The financial projections of the renewal commission were based upon anticipated enrollment of 170 new first-year and 46 transfer students in 2005-06 and another 170 new first-year and 46 transfer students in 2006-07.[7] As indicated in the chart below, the actual enrollment of new students for both years was devastatingly low, particularly in 2005-06 in which there were only 60 new first-year students and no transfer students. Since the retention rate of transfer students is usually higher than the retention rate of incoming first-year students, this complete default in garnering new transfer students was especially injurious. The results for 2006-07, while better, were still far off the mark with only 118 new first-year students and 7 transfer students.

For the 2007-08 academic term, the Renewal Commission projected first-year enrollment at 190 students and 51 transfer students. The current projections of the incoming class are similarly disappointing.[8]

[6] Final Report of the Renewal Commission to the Board of Trustees, June 4, 2004, Part I, pp. 34 and 35.
[7] Final Report of the Renewal Commission to the Board of Trustees, June 4, 2004, Part I, p. 44.
[8] Enrollment Analysis for Antioch College—Sustainability Study, annexed hereto as Appendix B. A more current projection places first year enrollment for 2007-08 at 110 students rather than 120.

	New First-year *Actual vs projected*	Transfer Students *Actual vs projected*	Total *Actual vs projected*
2005-06	60/170	0/46	60/216
2006-07	118/170	7/46	125/216
2007-08	120/190	15/51	125/241

Of course, the small size of the first-year class exacerbates overall enrollment deficiencies for a four year period until the class graduates. It is not surprising therefore that the overall enrollment of the College has continued to decline over the past several years from 461 students in 2005-06 to a projection of only 389 students in 2007-08 including 82 students who are enrolled in the Antioch Education Abroad (AEA) program or non-degree programs. The number of students on the College campus next year will likely only be 307. [9]

In addition, the retention rates among students has continued to decline. The retention rates for students who started at Antioch as freshmen dropped from 66_% to 62.3%. The retention rates for transfer students dropped from 75.8% to 62.5%.[10] Indeed, almost every category within the admissions matrix declined drastically over the last several years. The number of inquires from prospective students, for example, dropped from 11,497 in FY 2003-04 to only 3,497 in FY 2005-06. The number of applications dropped from approximately 600 to approximately 400 in the same period of time.

As the College's enrollment declined, so also did its tuition revenue despite significant increases in tuition rates and fees. Between FY 2002-03 and FY 2006-07 tuition revenue as a percent of the total revenue of the College has dropped from 50% to approximately 30%. In contrast, tuition revenue represents 80% to 100% of the revenues at each of the other campuses of the University. As a result, the College experienced a $1.4 million operating deficit in FY 2005-2006 and a $5.395 million operating deficit in FY 2006-07.

In yet another effort to bring the College budget into alignment, the College announced another round of layoffs in March of this year eliminating 20 administrative and staff positions generating a cost savings of approximately $1.3 million per year. No faculty positions were affected by those reductions. However, in light of the most recent admissions numbers for FY 2007-08, these cuts are far from sufficient to eliminate the budget deficits. Reductions of an additional 13.5 administrative and staff positions were later identified that will result in $593,000 of annual cost savings. Despite these significant reductions in non-faculty positions, the operating deficit is expected to be another $5 million For FY 2007-2008.

In order to cover the operating deficits this year, the College has consumed $5 million of a $10 million gift made to the capital campaign which was originally intended by the donor to be used for scholarships. The College obtained the donors' approval to use the funds for implementation of the Renewal Commission's plan which essentially allowed the College to apply the funds to operating deficits. However, after 2007-08, the $10 million gift will be

[9] Enrollment Projection for Antioch College, 2005/06 to 2013/14, annexed hereto as Appendix C.
[10] Antioch University Annual Institutional Research Report to the Board of Trustees, October, 2006, Appendix 1.1.

exhausted and there is no known alternative funding source to cover the operating deficits. Therefore, additional substantial cuts among staff and faculty will be required to eliminate the projected $5 million annual deficit. Those cuts would be so deep as to substantially impair the College's ability to provide a quality liberal arts education.

As indicated above, one of the cornerstones of the Renewal Plan was an expanded capital campaign to fund the renovation and construction of campus buildings and facilities. Among the capital improvements viewed as most critical to recruiting and retaining students under the Renewal Plan were the construction of a new student union and new apartment-style residence halls and the renovation of the library, North Hall and Curl Gymnasium.[11] Construction and renovation for such facilities were to begin with groundbreaking for the new Antioch Union and ELC facilities in September, 2005. New dorm construction, and library and gymnasium renovations were to begin in January 2006.[12] These benchmarks have not been met. As a result, the board has not been able to embark on the plans to revitalize and reconstruct the college campus.

The board is therefore faced with the Hobson's choice of delivering an inferior educational product or suspending operations until an appropriate plan for reorganization is developed with sufficient resources for implementation. Clearly, the Board has no reasonable alternative at this time but to declare a state of financial exigency and suspend operations of the College. The President of the College, has been directed to develop within 30 days a written plan and timetable to implement the necessary and justifiable budget curtailment in manner consistent with the directives of the Board of Trustees and the Chancellor. In terms of faculty reductions, such plan shall further be developed in consultation with the Dean of Faculty and ADCIL pursuant to Section IV, B, paragraph 59 of the Faculty Personnel Policies.

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[11] Final Report of the Renewal Commission to the Board of Trustees, June 4, 2004, Part I, p. 35.

[12] Final Report of the Renewal Commission to the Board of Trustees, June 4, 2004, Part I, pp. 38 and 39.

PREAMBLE

For the past several years members of the Board of Trustees have wrestled with the financial condition of Antioch College. The focus was consistently on invigorating the Campaign for the College, preserving Antioch College and allowing it to grow and develop with committed students, faculty and administration. At the November 2006 meeting, Chancellor Toni Murdock and CFO Tom Faecke presented data pointing to the financial vulnerability of the College and University. The Board charged a sub-committee of trustees to work with the Chancellor and CFO requesting the evaluation of several possible scenarios for moving forward and to present their findings at the February 2007 meeting.

Over the months, the excellent Antioch University Leadership Council (ULC), with complete consensus, provided their well constructed recommendations and thorough analyses to the Board. Upon arrival in Seattle for the Annual meeting last week, additional reports requested by the Board at its February meeting were distributed, including analyses by independent external consultants charged with studying the documents and providing opinions on turnaround or rescue strategies. Opening discussion revealed that members of the Board had arrived with the hope and even expectation that means could be found to preserve the College, allowing it to move toward financial stability within five years.

Ongoing discussion led with gravity to a clear picture that the College in its current configuration was unsustainable. All options were thoroughly examined, including the prospect of requesting judicial review to free the endowment from restrictions so as to enable its use on behalf of the College at this time, making severe reductions in healthcare and retirement benefits, selling some or all of the assets of other campuses of Antioch University, and making creative use of assets in Yellow Springs.

No option made a significant impact upon the deficits the College was facing, even under optimistic projections; further reductions would further damage the institution. The President of the College made a valiant appeal to keep the College open, which was judged to be imaginative and constructive, but with little promise of success to sustain the College over the long term. Some creative ideas were advanced that might have led to reduced costs and increased revenue; however, without the large amounts of funding needed to rebuild the campus, Antioch College would continue to be unable to maintain its mission to provide a quality education for its students.

Having thus considered all of the options open to it, the Board saw no alternative but to immediately declare financial exigency at the College. Rather than close the College permanently, the Board sought to encourage further development of a plan brought forward by the University Leadership Council without dissent. The plan calls for exploration of several creative options, including the prospect of a public-private partnership to re-build the physical plant along with the implementation of a new academic program constructed in accordance with the core mission and values that have long characterized Antioch College, and true to its illustrious history. Thus, rather than closure, the Board agreed to suspend operations of Antioch College, effective July 1, 2008, and to devote energy and resources to the prospect of reopening the College no later than 2012.

The endowment of Antioch College is currently about $32 million, of which approximately $7 million is in non-marketable YSI stock. The remaining $25 million contains some unrestricted funds, but is comprised primarily of funds restricted by covenants, mostly for scholarships. This endowment, and any other similar funds raised will continue to be employed exclusively for the benefit of Antioch College, and not for other parts of Antioch University. As plans are developed for the reopening of Antioch College, funds will be sought and secured on its behalf.

The decision to declare financial exigency was reached with heavy hearts. Discourse was civil and responsible, amid occasional tears and some anger and frustration. As difficult as it was for the Board to exercise its fiduciary obligation in this way, the Board understood that the hardship for the diligent imaginative and dedicated faculty and students of Antioch College, and the broader Antioch Community, including Alumni and residents of the Village of Yellow Springs, was incalculable. Knowing that it could not undo its inevitable action, and understanding that it would likely provide little consolation, the Board nonetheless resolved to make clear its sympathy with the courageous and industrious community that has maintained unswerving commitment to the ideals of Antioch College. Thus, the Board adopted the following resolution.

RESOLUTION

WHEREAS, with a mixture of deep sadness and great hope for the future of a revitalized Antioch College, the Board of Trustees of Antioch University voted on June 9, 2007, to suspend the full operation of Antioch College as of July 1, 2008; and

WHEREAS, the Board of Trustees recognizes that since 1852 Antioch College has consistently produced some of the most amazing alumni of any private liberal arts college in the world, who have by their lives continued to fulfill the challenge of Horace Mann to "be ashamed to die until you have won some victory for humanity;" and

WHEREAS, the College has produced these alumni by virtue of the passionate dedication of an extraordinarily gifted and resilient faculty, of an incredibly bolstering staff, of an unmatched dynamic student body, and of an enduring and supportive Village of Yellow Springs; and

WHEREAS, over the past thirty years the finances of the College have often required significant and deep budget reductions that have resulted in financial hardship for faculty and staff and emotional stress upon the Antioch community; and

WHEREAS, for many years Antioch College alumni have stepped forward to provide support to keep the College open, making contributions of funds and their time,

RESOLVED, that the Antioch University Board of Trustees expresses to the students and faculty of Antioch College, the staff of Antioch College, the Alumni of Antioch College and to the Village of Yellow Springs its deep debt of gratitude, its recognition of support, service, and dedication to providing a college that educates the change leaders of tomorrow; and

RESOLVED FURTHER, that the Board's expectation for the Antioch College of tomorrow is founded on the continuance of these same qualities, which form the enduring foundation of our College by all of those who form the beloved Antioch Community.

Approved _x_

RESOLUTION
6.9.07:29

WHEREAS, the Chancellor, the CFO of the University and the President of the College have requested the Board to declare a state of financial exigency at Antioch College so that a needed curtailment of the College's operating budget can be made at the earliest possible time consistent with the Antioch College Faculty Personnel Policies; and

WHEREAS, the Board believes that an imminent financial crisis exists which threatens the survival of the College which cannot be alleviated by less drastic means; and

WHEREAS, the Board has carefully considered the College's current and past efforts to operate within the financial resources available to it, including a review of financial information and budgets, as well as enrollment and fundraising efforts and results, all of which are summarized in the attached statement supporting the declaration of financial exigency at Antioch College, which statement is incorporated into this resolution by reference; and

WHEREAS, the Board has also requested and received the opinion of the Gateway Group, well-respected higher education and business consultants, confirming that the College is currently in a state of financial exigency; and

WHEREAS, the Board believes that it is its legal duty and moral obligation to declare a state of financial exigency at Antioch College;

IT IS THEREFORE RESOLVED, that the Board hereby declares a state of financial exigency exists at Antioch College;

RESOLVED FURTHER, that the President of the College, in collaboration with the Chancellor, the Vice Chancellor and CFO and Counsel for the University, is hereby authorized and directed to take the actions contemplated under the College's Faculty Personnel Policies to abate the exigency including but not limited to terminating the employment contracts of the faculty;

RESOLVED FINALLY, the President of the College is hereby authorized to reduce salary and/or fringe benefits of faculty and other College employees and to suspend Campus governance rules, regulations, policies and practices to the extent necessary or desirable to take the actions he deems necessary to appropriately abate the current financial crisis at the College.

Approved __x__

RESOLUTION

6.9.07:18

WHEREAS, the Board has determined that an imminent financial crisis exists at Antioch College that threatens the survival of the College; and

WHEREAS, the Board has declared a state of financial exigency at Antioch College; and

WHEREAS, this painful declaration was reached only after the Board had determined that all other feasible alternatives were exhausted; and

WHEREAS, the Board recognizes the disruption in lives and careers this declaration will have on faculty, staff, and students of Antioch College; and

WHEREAS, the University Leadership Council (ULC) and the Chancellor have recommended an orderly, persuasive and progressive plan for revitalizing Antioch College during a period of suspension of operations and reorganization; and

WHEREAS, it is essential to the success of a revitalized Antioch College that significant new financial resources be secured and applied to make possible a state-of-the-art, twenty-first century residential undergraduate program within the University's multi-campus system.

It is, therefore, RESOLVED, that the Board directs the Chancellor

1. with advice and counsel of the President of Antioch College to use appropriate available resources of the University to assist faculty, staff, and students in adjusting to the difficulties resulting from the Board's declaration of financial exigency; and

2. to implement a plan to suspend the operations at Antioch College, effective July 1, 2008; and

3. to put in place a process to create a plan for the redevelopment of the campus and the establishment of academic programs at Antioch College consistent in intent with the plan put forth by the ULC at the June 7, 2007, meeting of this Board; and

4. to conduct a search for funds securing a commitment of sufficient investment capital to ensure the establishment of academic programs in a state-of-the-art, twenty-first century residential undergraduate Antioch College, rooted in the College's historic educational mission and values by no later than July 1, 2012.

FINAL

Agreements in principle between
the Antioch University Board of Trustees and
Antioch College Alumni Association Board of Directors

November 2, 2007

Contributions to Antioch College Fund Account

Fiscal Year 2008 Contributions.

Funds of the College Revival Fund, Inc. will be recorded by the Office of Institutional Advancement and deposited into the Antioch College Depository account at the U.S. Bank by the Business Office. The funds will then be transferred to the Antioch University Merrill Lynch account that is used for non-endowed investments.

A temporarily restricted account will be set up in which the gift revenue and investment income will be recorded until it is released in accordance with the donor's written commitment solely for the use of Antioch College.

The Alumni Board will raise and transfer the following cash or cash equivalents that will be unencumbered and available solely for the use of Antioch College on the dates as shown below:

10 days from the date of this agreement	at least $2 million
No later than December 15, 2007	at least $4.6 million

For a total of at least $6.6 million by December 15, 2007.

These funds may be used for current operations and capital expenditures and, subject to confirmation by a designee of the President of the Antioch College Alumni Association, repayment of obligations to the University.

Future Fiscal Year Contributions:

Thereafter, the Antioch College Alumni Association, with the full support and cooperation of the Antioch University Board of Trustees, will raise and transfer the following incremental minimum amounts in cash or cash equivalents that will be unencumbered and available solely for the use of Antioch College on the dates as shown below. This effort will be led by the Antioch College Office of Institutional Advancement.

EXHIBIT
3

FY 2009:	On or before May 31, 2008:	\$12 million
FY 2010:	On or before June 30, 2009:	\$25 million
FY 2011:	On or before June 30, 2010:	\$19 million

Office of Institutional Advancement – Progress Reports

The Institutional Advancement Office will provide monthly progress and fundraising reports to the Office of the President, Chancellor, University Board of Trustees and the Alumni Association Board of Directors. These reports should contain updates on fundraising progress and year-to-date collections and pledges.

Regular organizational reporting for the Office of Institutional Advancement shall be in place, including a direct reporting of this Office to the Office of the President of Antioch College.

We expect and will model civility and respect in the interrelationships between and among all concerned parties to foster reconciliation and enhanced cooperation.

Governance

The University Board of Trustees has passed a resolution accepting an Interim Report of its Governance Committee setting forth a framework for the establishment of a Board of Governors for the University and a Board of Trustees for each campus within Antioch University, including Antioch College. An integral part of this framework will specify the relationships among the Board of Governors, the Boards of Trustees, the Chancellor, and the Presidents. In transition, an advisory body for Antioch College will be established to serve until a College Board of Trustees is constituted. Members of this advisory body will be appointed jointly by the President of the Alumni Association and the Chair of the University Board of Trustees.

The advisory body will advise the office of the President, and until a President is selected, the Chancellor. The advisory body will be an integral part of the search committee and process in identifying a President of national stature for Antioch College.

Modification of Suspension Resolution

The Antioch University Board of Trustees Resolution 6.9.07:18 suspending College operations, adopted on June 9, 2007, is rescinded and replaced with the attached resolution.

The Antioch University Board of Trustees Resolution 6.9.07:29, adopted June 9, 2007, declaring financial exigency remains in place.

Operation of the College after June 30, 2008

Keeping Antioch College open after June 30, 2008 means that Antioch College will continue to offer academic credits and grant degrees, subject to the approval of the Ohio Board of Regents and the Commission of Higher Learning of the North Central Association of Schools and Colleges. Antioch University will seek to extend Antioch College's right to graduate students beyond the current December 2008 deadline. Nothing will be done to threaten Antioch University's accreditation, or create an event of default in any existing bond, lease or other legal obligations of the University.

Continued operations of Antioch College will require the closing of some facilities, a reduction of faculty and staff, and the curtailment of some student services that are currently offered.

Antioch College will accept qualified transfer students and will resume recruitment of first year students when fiscally and academically feasible, and in accordance with established standards of the Ohio Board of Regents and the Commission on Higher Learning of the North Central Association of Schools and Colleges. Consistent with the requirements of maintaining accreditation and the fiduciary responsibilities of the University Board of Trustees, the recommendation that fiscal and academic feasibility has been accomplished will be made by the Chancellor, the office of the President and the College's advisory body/College Board of Trustees.

Establishing a Process for Planning for the Future of Antioch College

The University Board of Trustees has or will authorize the Chancellor, in consultation with the Office of the President and other appropriate stakeholders, including the President of the Alumni Association, to establish a team to plan the process for ensuring Antioch College's future as a distinguished institution of higher education rooted in the College's historic educational mission and values.

Facilities

The Board of Trustees has or will authorize the Chancellor to initiate a building assessment study to review and analyze the condition of the College campus buildings and to recommend appropriate actions for their refurbishing, renovation or other appropriate action. The Chancellor, in consultation with the Office of the President, the President of the Antioch College Alumni Association and other appropriate stakeholders, will create a facilities team, including Alumni Board members, to develop a master facilities plan for Antioch College.

Communication

The Chancellor will work with the Office of the President, the Alumni Board President, and other consultants to develop the appropriate policies and guidelines for alumni communications from the College's Office of Institutional Advancement.

Financial Transparency of the College to Board of the Alumni Association

In recognition of the important role that the Alumni Association is playing in helping to restore Antioch College to financial stability, on a confidential basis, the financial books and records of Antioch College may be reviewed on a reasonable frequency by one or two designees of the President of the Alumni Association until such time as an Antioch College Board of Trustees is constituted.

Approved ___

RESOLUTION
11.2.07:1

WHEREAS, in June 2007 the Board of Trustees declared a state of financial exigency at Antioch College (Resolution 6.9.07:29) and approved the suspension of operations at Antioch College as of July 1, 2008 (Resolution 6.9.07:18), and

WHEREAS, in August 2007 the Board of Trustees agreed to work with the Antioch College Alumni Association Board of Directors ("Alumni Board") to allow the Alumni Board the opportunity to demonstrate the financial and academic feasibility of a plan for the continued operation of the College, consistent with required benchmarks of progress, and

WHEREAS, the University and College administration have cooperated fully on providing the Alumni Board information and responded to all requests and questions of the Alumni Board and its financial consultant, and

WHEREAS, representatives of the Board of Trustees and University administration met with representatives of the Alumni Board and its financial consultant on October 3, 2007, to discuss benchmarks and to review and comment on the Alumni Board's draft plan, and

WHEREAS, the Alumni Board has confirmed the state of financial exigency at the College, and

WHEREAS, the Alumni Board has presented to the Board of Trustees its plan for the continued limited operation of Antioch College, and

WHEREAS, the Board of Trustees has now fully vetted the Alumni Board plan, and

WHEREAS, the Chair of the Board, certain other trustees and the Chancellor working collaboratively with representatives of the Alumni Board have reached certain agreements in principle that they believe enable the College to continue limited operations while funds are raised and planning is done that can ensure the future of Antioch College and have presented those agreements in principle to the Board.

NOW THEREFORE BE IT RESOLVED, that the Board of Trustees hereby ratifies and approves the agreements in principle with the Alumni Board dated November 2, 2007 (Agreements in Principle), as reviewed at this meeting.

RESOLVED FURTHER that Resolution 6.9.07:18 is hereby rescinded and replaced with the following resolution:

The Board directs the Chancellor:

1. to use, with advice and counsel of the Chief Operations Officer / Chief Academic Officer of Antioch College, appropriate available resources of the University to assist

faculty, staff, and students in adjusting to the difficulties resulting from the Board's declaration of financial exigency, and

2. to continue limited operations at Antioch College consistent with the current authority from the Ohio Board of Regents (OBR) to grant credits and degrees and to prepare and submit to the OBR and to the Higher Learning Commission of the North Central Association of Colleges and Schools (NCA) a plan (the OBR Plan) for continued operations at Antioch College beyond December 31, 2008, and

3. to develop, and if necessary to implement, after consultation with the Executive Committee of the University Board of Trustees, a contingency plan for the suspension of operations at Antioch College in the event:

   (a) the OBR does not extend beyond December 31, 2008, the College's legal authority to grant credits and degrees, or

   (b) the Fiscal Year 2008 or any future year contributions as set forth in the Agreements in Principle are not received as contemplated, or

   (c) the University's NCA accreditation is jeopardized by the continued operation of Antioch College as contemplated in the Agreements in Principle, or

   (d) the continued operation of Antioch College as contemplated in the Agreements in Principle would cause or create an event of default in any existing bond, lease or other legal obligations of the University, or

   (e) the faculty and staff reductions needed cannot be implemented in a manner consistent with the OBR plan and the underlying budget to be developed for such plan.

4. to design, in consultation with the College's Office of the President and other appropriate stakeholders, including the President of the Alumni Board, the planning process for the redevelopment of the campus and the establishment of academic programs to ensure Antioch College's future as a distinguished institution of higher education.

5. to conduct a search for funds securing a commitment of sufficient investment capital to ensure the establishment of academic programs in a state-of-the-art, twenty-first century residential undergraduate Antioch College, rooted in the College's historic educational mission and values.

RESOLVED FINALLY that nothing contained in the foregoing resolutions shall in any way alter or change Resolution 6.9.07:29 declaring financial exigency at Antioch College.