

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

Professor Peter Townsend
And
Associate Professor Jill Becker
And
Professor Anne Bohlen
And
Professor Kabuika Butamina
And
Professor Chih Tsong Chen
And
Professor Robert Devine
And
Associate Professor Denise Eagleson
And
Associate Professor Susan Eklund-Leen
And
Associate Professor Christopher Garcia
And
Associate Professor Jean Gregorek
And
Associate Professor Christine Hill
And
Assistant Professor Eric Miller
And
Professor Patricia Mische
And
Associate Professor Hassan Rahmanian
And
Associate Professor Christine Smith
And
Professor Charles Taylor
And
Associate Professor Scott Warren

Plaintiffs,

v.

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

Defendant.

Case No. _____

Judge _____

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 cannot be alleviated by less drastic means.” (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 Townsend, et al. v. Antioch University, 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 resolutions by Defendant University’s board of Trustees is attached as Exhibit ___.

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.

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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,

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