

Report of the Alumni Board Taskforce on Former Faculty

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I. Introduction

This report is from a Taskforce established by the Antioch College Alumni Association Board of Directors (AB) at its October 2010 meeting. The charge to the Taskforce was: To assist the alumni board members in being informed on the issue of former faculty and the Nonstop Liberal Arts Institute (Nonstop) and to share the diversity of alumni board perspectives with the Board Pro Tem (BPT) and with the President's Office. This report focuses on the issues surrounding the former faculty.

The Taskforce members had three in-person meetings the weekend of October 15, followed by an exchange of emails, posting of documents on a web site, and semi-weekly conference calls. The committee members conducted about 15 in-person or telephone interviews with people who had a variety of perspectives and experiences before and after the closure of Antioch College. The interviewees included one or more people from each of the following categories: Ad Hoc Tenured Faculty Committee members, staff and faculty leadership of the national AAUP Committee on Academic Freedom and Tenure (Committee A), BPT Leadership, current Antioch College administration, former AB Leadership, Morgan Fellows, other staff and faculty of the closed Antioch College, the Nonstop Executive Collective, students who were at Antioch and/or Nonstop, and Yellow Springs Residents. Whenever possible, each interview was conducted by a pair of members of the Taskforce.

This report begins with an overview of the broader narratives surrounding the closing and re-opening of Antioch College. Those narratives come from a wide range of perspectives throughout the Antioch community; they are not limited to the narratives of the AB members. These narratives often directly conflict with each other. Perhaps the most contentious area involves the processes and procedures for hiring faculty, including the faculty who held tenure at Antioch College when it closed. Advocates on all sides assert that their preferred approach is essential to ensure the best interests of Antioch College now and in the future.

The Taskforce examined a wide range of issues related to our charge, this report focuses on the most contentious topic: the procedures for hiring faculty. The narratives presented in Section II of this report provide a context for understanding the contrasting approaches that are being advocated for key processes and procedures for reopening. Section III of this report discusses the Taskforce findings regarding two assumptions that underlie some of the narratives. Section IV presents the conclusions of the Taskforce.

To provide a context for understanding the context of the debates, this report includes an Appendix that presents an overview of general practices for faculty hiring, faculty tenure, and faculty emeritus appointments.

In conclusion, the Taskforce members agree that success of the college will depend on gaining support from people who have used many different narratives to describe the situation. They believe it is important to base the decisions for reopening the college with an eye toward the way people from a wide range of perspectives will view those decisions as they create their new narratives for the Antioch College.

II. Contested Narratives

The Narrative Approach

There are multiple quite different descriptions of any complex situation. To some extent the differences spring from what Heider¹ called the “Rashomon Effect” from Akira Kurosawa’s 1950 film in which the characters present widely different descriptions of a shared event. Heider looks at ethnographic research and points to four sources for the different descriptions: some observers may simply be wrong; observers may be describing a culture at different time periods; observers may be describing different subcultures; and observers may be looking at a single culture in different ways. Roth and Mehta² identify three sources for the differences among observers: memory problems, vested interest problems, and mistaken judgment problems. They propose using “interpretively informed triangulation” as a way to look at discordant narratives in a contested situation. The analytic goal is not to arrive at a single “true” narrative, but to look at the richness and tensions that are found between and among the different narratives.

This approach is useful in looking at key narratives surrounding the closure and reopening of Antioch College. On one level, these narratives are simply different descriptions of the history and recent events. But, significantly, they represent different and conflicting versions of that history and its meaning. They can be seen as contested visions for the way Antioch College will move into the future. As you read these narratives it is important to bear in mind that contested narratives arise in situations of protracted crisis, uncertainty, anxiety, and asymmetries of power. It is not unusual for proponents of one particular narrative to try to build support by belittling or even demonizing those who espouse a different narrative. From the viewpoint of the proponents, their own narrative is the only narrative with merit. For those seeking to understand the conflict, every narrative has merit because the narratives embody the conceptions that underlie the dynamics of the situation.

Some Key Narratives

- The “DNA of Antioch” Narrative

This narrative emphasizes that after it was announced that the Antioch University Board of Trustees (AU) unwisely and unjustly planned to close Antioch College, the alumni mounted an effort to have the college transferred to an independent corporation, The Antioch College Continuation Corporation (ACCC). Simultaneously faculty, staff, and students on campus rejected the AU leadership that was imposing the closure and began various efforts to establish a community and governance structure that was not controlled by AU. At first it seemed possible that the transfer could take place and the college could operate continuously. However, because there was a real possibility that the college actually would be closed as announced in Spring 2007, efforts began to create an organization that would preserve the essence of Antioch College and keep a core of faculty, staff, and students in Yellow Springs. After a number of twists and turns, this effort resulted in the formation of Nonstop. Nonstop was a place where new programs were created in the Antioch tradition with the help of funding provided through the AB’s College Revival Fund (CRF) which was established as a separate 501(c)(3) organization to receive donations for the independent Antioch College. In the Antioch tradition, community government continued, rigorous academic work continued, innovative programs were developed. In short, it was an amazing program that did great things with very limited resources. The intent was to demonstrate to AU that the energy of Antioch College would not be stopped merely by terminating all the employees and closing the campus. That energy was embodied

¹ Heider, Karl G. (1988). The Rashomon Effect: When Ethnographers Disagree. *American Anthropologist*, 90 (Mar.), 73-81.

² Roth, Wendy D and Mehta, Jal D. (2002). The Rashomon Effect: Combining Positivist and Interpretivist Approaches in the Analysis of Contested Events. *Sociological Methods & Research*, 31 (Nov.), 131-173

by the people of Nonstop who were valiantly keeping the DNA of Antioch alive until the day when they could continue that work at a reopened Antioch College.

This narrative sees involving the faculty, staff, and students who were at the closed Antioch College as essential for any successful reopening of Antioch.

- The “Contingent Continuation” Narrative

This narrative agrees with much of the “DNA of Antioch” narrative. It emphasizes that the closing of Antioch College was unwise and unjust. It sees establishing Nonstop as a response to the injustice because Nonstop provided a transition period for the people whose lives were disrupted by the closing. In this narrative, alumni funding of Nonstop was seen as a temporary support. While it was hoped that Antioch College would reopen quickly, this narrative also foresaw the possibility for Nonstop to become an independent element of the Yellow Springs, activist, and higher education communities if the college did not reopen quickly. In this narrative, the Antioch College alumni funding for Nonstop through the CRF is seen as a commitment for a designated period of time, not as a pledge of continuing support for an indefinite period.

Now that Nonstop has emerged as an independent organization and the college is on the way to reopening, some supporters of this narrative emphasize the potential they see for the faculty of the closed Antioch and for Nonstop to play an important and useful role as Antioch continues.

- The “Failure of Liberalism” Narrative

In this narrative the closure is celebrated as an indication that the misguided Antioch College liberal and activist approaches were finally recognized as unworthy of continuing support. This narrative points to the decline in the number of students as a mark of the diminishing appeal of the sort of radical environment found at Antioch College. This narrative celebrates the closure of Antioch College as a victory for the righteous forces of conservatism.

This narrative sees rehiring the faculty of the former Antioch College as a threat to reopening an Antioch that has a less liberal/radical program.

- The “Conspiracy of the Right” Narrative

This narrative sees the AU leadership and its Board of Trustees as part of the conservative establishment who set out to “kill” the college because of its radical environment. In this narrative AU is seen as deliberately withholding resources to force Antioch College to decline over many years and using that decline to justify the decision to close the college. In this narrative (most of) the people on campus are described as heroically resisting and engaging in a struggle to hold off the impending death of the college.

This narrative sees the faculty and students of the closed Antioch as prime movers in the struggle, as important carriers of the Antioch traditions, and as important resources for the future Antioch College

- The “Changing Educational Model” Narrative

This narrative describes the rise of the AU system as representing a new model of higher education with its emphasis on adult, career-oriented, non-residential education provided by a faculty who did not hold tenure. The new model claims to be more flexible, more sensitive to the needs of 21st century learners, and more cost-effective than the model that focused on residential, liberal arts education for young adults. The narrative points to what it sees as a shift of financial resources from Antioch College to the other AU campuses which it asserts are more financially viable. It views the new Antioch Midwest building in Yellow Springs as a sound investment and sees withdrawing resources from the “failing” Antioch College as the fiscally responsible course. The lack of maintenance on the Antioch College campus is cited as a visible piece of evidence for this narrative of strategic neglect. The version that emphasizes the new model of

higher education sees the faculty of the closed Antioch College, and, indeed, the entire system of tenure and residential undergraduate education to be anachronistic remnants of a failed ideal.

Another version of this narrative identifies the AU leadership with a conservative, neoliberal economic approach that sacrifices quality and history to efficiency and cut-rate programming. Some versions are linked with the Conspiracy of the Right narrative; they assert there was a conservative bias at AU that resulted in refusing to support Antioch College. This version points to what it sees as false claims of financial exigency and misleading or false financial documentation as providing spurious cover for AU's conservative determination to force Antioch College to close and points to the refusal to provide the faculty with complete and accurate financial information and to the refusal to include the faculty in making fiscal decisions as evidence that AU was not appropriately pursuing ways to keep the college open.

The proponents of both versions of this narrative use extensive citations from internal Antioch College and AU documents in support of their position.

- The “Decline of Antioch College” Narrative

This narrative mentions the large numbers of students on campus in the middle of the 20th century. It emphasizes what it sees as the prominence of the faculty during that period through the publication of books and articles. The Antioch of that period is remembered as a recognized innovative leader in higher education. The narrative goes on to point to what is said to be a decline in the prominence of the faculty and in the number and quality of the students beginning sometime in the 1970s. The narrative asserts this was the start of a decline that continued throughout the latter part of the 20th century. Not surprisingly, faculty and students who were at Antioch during the period of “decline” strongly disagree with this narrative. They assert that the program they knew at Antioch had great quality, and that it was far more relevant for them than a mere continuation of the previous program would have been. They tend to find this narrative to be insulting both personally and professionally.

The proponents of this narrative are divided in their support for rehiring faculty from the closed Antioch College and tend to support open searches. Those who challenge the narrative of decline tend to strongly support rehiring the faculty. While they would like the entire faculty to be rehired, most — and perhaps all — recognize that it would be fiscally impossible to rehire everyone.

- The “New College” Narrative

The future rather than the past is the driving force for this narrative. It sees the closure and reopening of Antioch as an opportunity to initiate a historic new phase by establishing a new college with a new model of higher education directed toward the critical needs of the 21st century. The narrative divides into various sub-narratives based on the issues identified and on which strategies can best address them. Most of the sub-narratives share common themes by pointing to the classroom, co-op, and community triad as the most significant links to the historic Antioch College. Depending on the sub-narrative, the critical needs to be addressed in the future may include: the marked demographic differences between most colleges and the US population as a whole, the high tuition charges that restrict access at most liberal arts colleges, the importance of an educational environment of critical thinking and critical learning, and/or the importance of helping students become articulate and effective advocates. While mentioning the classroom, co-op, and community triad, proponents of this narrative point to the need for substantial changes to respond to an increasingly global and culturally diverse environment. This narrative typically talks about the closure and reopening of Antioch College as an opportunity to start over, without the barriers to change imposed by the structures existing at other colleges and even at the “old” Antioch College. These narratives often emphasize the excitement of the possibilities that are available through: hiring a new faculty, designing a curriculum from scratch, and for establishing new governance structures. This narrative sometimes is told in ways that do not mention continuity with the faculty, staff, and students who had been at Antioch.

Because of its focus on an enthusiasm for a new and different liberal arts education that responds to the needs of the future, this narrative sometimes appears to ignore or even discredit the contributions of the people who devoted their talents and energies to Antioch College in recent years and who fought to keep the college alive.

Some proponents of this narrative appear to be suggesting that an entirely new faculty be hired. Others look favorably at rehiring some of the faculty of the closed Antioch College to ensure the continuation of the triad. They favor using search criteria for all openings that recognize the importance of experience with the Antioch College traditions. Others prefer that searches first consider applications only from faculty of the closed Antioch College; if there were no qualified applicants the searches would then seek a broader pool.

- Two Conflicting Narratives on “Successor” versus “Non-Successor” Corporation

These two narratives contrast directly with each other. Both use arguments from the law to assert what they see as the obligations of a reopened Antioch College. They differ on whether they think the future Antioch College has assumed legal obligations from the closed Antioch College

The “Successor” Narrative

This narrative asserts that the reopening Antioch College should be viewed as a “successor corporation” to the previous Antioch College. In particular, this narrative emphasizes that as the board of a successor corporation the BPT has an obligation to the faculty who were tenured by the previous Antioch College and to the students who were there at the time of closing.

The “Non-Successor” Narrative

This narrative asserts that the corporation governed by the BPT is NOT a successor corporation to the previous Antioch College and therefore does not have a legal obligation to hire people (including tenured faculty) who were employees of Antioch College at the time of closing.

Because the underlying law in this area is extremely complex, it is not surprising that arguments presented by the advocates of each position — most of whom are not attorneys — for each of these points of view become as convoluted as they are passionate.

The concept of a “successor” arises in a situation where one entity takes over the operations of a previous entity. For example, you purchase a business from someone else. If you are deemed to be a “successor” you take over the assets and assume the liabilities of the previous owner.

If you are a “non-successor” you take over only the assets specified in the “asset purchase agreement.” Since many of the liabilities may not be knowable at the time of purchase (e.g. an employee who may develop an illness years in the future due to a long-past chemical exposure may still be within the time limit to file a claim), as a purchaser you do not want to assume liability for those claims. You want the courts to rule that those claims can only be filed against the previous owner. The court is more likely to support your assertions if you have not acted in ways that make you look like you are a “successor.”

Obviously, there are a great many different situations where the courts have been asked to decide whether an organization has or is exempt from successor liability. The decisions hinge on the court’s interpretation of laws that often are less than clear. And, as in all areas of the law, the decisions look to precedents from previous court cases. Since many of the cases depend on interpretations of the applicability of state law, each of the states has developed its own line of precedents. The interpretations in one state may be very different from the interpretations in another state. This is an area where Oliver Wendell Holmes’ admonition that it is important to know the rules, but it is even more important to know the exceptions, is

sound advice. The exceptions are found only in a very complex and perhaps inconsistent collection of previous cases.

It would be a mistake to think that the contest between these two narratives can be resolved by legal interpretation. Briefs that are at least somewhat plausible can be developed on either side. And either side can assert that the courts would find in its favor. Since the potential liabilities are unknowable, it is probable that the BPT's legal advisors are urging that it do nothing that would seem to support an assertion that it is a successor corporation. On the other side, if it could be shown that the corporation governed by the BPT was a "successor" it probably would have a legal obligation to rehire (many of) the faculty (and staff) who were at Antioch College as it closed.

In fact, given that AU continues to operate as a separate corporation, probably much of this argument hinges on moral arguments as much as it does on legal arguments. Whether the BPT is a successor or a non-successor, it could be asserted to have some moral obligation to rehire some or all of the faculty of the closed Antioch College. The people arguing for extensive rehiring can use the successor notion to support their position. Whatever the actual position of the BPT, it is likely to be advised not to make any statements that explicitly recognize any rehiring obligation because those statements could be used against them in some future attempt to try to support a claim that they have successor liabilities in a proceeding that may or may not be related to hiring. In the conflicting narratives, the silence of the BPT is seen by some as proof that they do not support rehiring faculty.

- The "Victory From Below" Narrative

This narrative describes the process of freeing Antioch College as a great victory for bottom-up organization in opposition to an oppressive and very top-down Antioch University structure.

This narrative emphasizes that Antioch College was preserved by a dedicated group of faculty, staff, alumni, and students. It points to the resolutions of the Alumni Board setting up the ACCC as an example of bottom-up organization. It traces the roots of the resistance to what it sees as the disastrous policies of Antioch University toward Adcil, Comcil, and the various campus-based initiatives of the past decade(s).

This narrative gives great credit to the people at Antioch who facilitated the extraordinary organization that took place during Reunion 2007 and sees the momentum generated by them to critically engage the entire Antioch community as key in wresting the college away from AU. It also points to the founding of Nonstop by the AB and the CRF as a demonstration that the energy of Antioch College would not be stopped merely by terminating all the employees and closing the campus.

The proponents of this narrative point to their concerns that the BPT also is adopting a top-down approach because it does not appear to recognize the contributions of the resisters and because it is not as open as they would like to involving the broader Antioch Community. They want a much more open process regarding what is being considered and the decisions that are being made regarding the reopening of the college. Their great fear is that this victory from below will turn out to be very brief and that it is being crushed by another top-down organization.

The proponents of this narrative strongly support rehiring faculty from the closed Antioch College. While they would like the entire faculty to be rehired, most — and perhaps all — of the proponents recognized that it is fiscally impossible to rehire everyone. In keeping with the victory from below view, this narrative urges that the faculty from the closed Antioch College be included as full participants in the decisions about the future of the college.

A Summary and Oversimplified Synthesis of the Narratives

Perhaps the key point of contention between the different narratives is whether the reopened Antioch should evolve directly from the Antioch that existed at the time of closing, or whether the reopened Antioch should evolve in response to the broad historic traditions of Antioch over the years. At one extreme are

narratives that see this primarily as an opportunity to draw upon Antioch's long history of innovation and leadership to respond to the emerging needs for liberal arts education through a re-visioning of the curriculum and calendar of study while maintaining the focus on the classroom, co-op, and community. At the other extreme are narratives that see this is an opportunity to respond to the emerging needs for liberal arts education by building on the innovations of the recent Antioch College and of Nonstop. The conflicts between the narratives underlie all of the discussions of the merits of alternative ways of proceeding with each of the many steps needed to reopen. One of the key areas of disagreement over process is with regard to the hiring of faculty.

III. Faculty Hiring Assertions

Underlying some of the narratives are two assertions about outside factors that are seen as requiring a particular approach to hiring. One is an assertion that there are legal considerations that require that all searches be open. The second is an assertion that the AAUP policies require that faculty who held tenure at the closed Antioch College must be given priority in hiring.

The Taskforce finds that with regard to both assertions there are no clearly applicable guidelines that impose absolute restrictions, although there are professional and legal considerations that should be weighed carefully.

The legal considerations related to faculty hiring raise complex issues. While case law does exist showing that disparate impact on protected groups is a risk for litigation, and while EEOC guidelines prohibit hiring practices that result in disparate impacts on protected groups, emergency or opportunity hires are an accepted part of the academic hiring process. The Taskforce and the people it has interviewed have not identified any clear legal precedent that would require national searches. Similarly the Taskforce could find no specific legal precedents that would prohibit priority hiring from the faculty of the former Antioch College.

In assessing the impact of the legal issues, people supporting different narratives disagree about the probability that someone could bring a successful legal action alleging damages because the faculty searches were conducted too narrowly.

The situation with regard to the AAUP policies also is complex. In our interviews with the AAUP staff, they indicated that the AAUP has no specific guidelines on the initial hiring of new faculty. The AAUP recommended policies for promotion and tenure focus on issues of appointment, tenure and academic freedom for faculty members; they do not discuss the search process prior to hiring. The Recommended Regulations do include explicit guidelines for the processes to be followed if a faculty appointment is terminated for "financial exigency" and for the reinstatement of faculty members if the terminated position is filled.³

The AAUP investigating report that resulted in the vote sanctioning AU indicated its support for recognizing the rights of the faculty who lost their positions when Antioch College was closed.⁴ The

³ In an ongoing institution, the AAUP recommended policy states that if a tenured faculty member's appointment is eliminated because of financial exigency, the faculty member is to be offered an opportunity for reinstatement if the position is filled within three years. AAUP. "Recommended Institutional Regulations on Academic Freedom & Tenure," Section 4 (c) 6.

⁴ "The committee is concerned about the role that the Antioch faculty members who were released when operations were suspended will play in the development of the academic program at a reopened Antioch College and in teaching there when operations resume. The investigating committee trusts that the Antioch College Continuation Corporation will appreciate the fundamental importance of the tenure system and will offer reinstatement to those whose appointments were terminated with the closing, restoring their tenure rights. Moreover, the committee trusts that the corporation will approve a system of shared governance when the college reopens, ensuring primary faculty responsibility for academic matters as called for in the Statement on Government of Colleges and Universities. AAUP. "College and University Government: Antioch University and the Closing of Antioch College," page 19.

president of the AAUP has been clear in repeatedly asserting he believes the policies and procedures of the AAUP support considering faculty challenges to the hiring procedures of an organization that reopens Antioch College, even if that organization is not technically a “successor” to Antioch University. A group of faculty from the closed Antioch College has proposed drawing upon the AAUP to help determine which members of the faculty from the closed Antioch are “qualified” for open positions.⁵

In A November 29, 2010 Open Letter, the AAUP sought to provide “specific guidance to the new college about academic freedom and the rights of faculty who were laid off.” The report “recognizes that the new Antioch College is a different legal entity from its predecessor.” However, because the new college emphasizes its ties to the previous institution the AAUP believes it has “certain continuing responsibilities to those long-standing employees who are qualified for and remain available for positions in the new college – especially the tenured faculty.” The letter states that faculty should be rehired for positions “for which the faculty member is qualified by previous training and/or experience or may become qualified by modest additional training.” And, in light of the proposed phased hiring of faculty, the letter indicates the AAUP believes the obligation to rehire faculty extends beyond its usual three-year period.⁶

In assessing the impact of the AAUP guidelines, people supporting different narratives disagree about the probability that the AAUP actually would sanction the reopened Antioch College based on its initial hiring procedures or on the non-hiring of faculty who held tenure at the closed Antioch College. But there is general agreement that the AAUP has made it clear that it believes it is in the best interest of the reopened Antioch College to include the expertise and experience of faculty of the former Antioch College in any future incarnation of the college as funding and suitable positions become available.

IV. Conclusions

The Taskforce has reached the following conclusions. As a result of our investigations and discussions we have identified a number of areas where we agree. Not surprisingly, we also have found some areas where we find we will simply have to agree to continue to disagree.

• Outcome of the Initial Hiring Process

The Taskforce members agree that the decisions on hiring faculty must be based on the best interests of Antioch College.

The Taskforce members agree that it is in the best interests of the opening Antioch College that the faculty initially hired include a representation of the faculty of the closed Antioch College so that faculty familiar with Antioch’s educational approach can mentor new faculty and can carry forward experience with Antioch’s educational approach.

The Taskforce members recognize the critical importance of increased financial resources for the success of Antioch College and are sensitive to the concerns of some people close to the fund raising that there may be some potential donors who may be reluctant to make significant gifts to support the faculty who were at the closed Antioch College. Because the Taskforce believes that members of the faculty of the

⁵ An ad hoc group of faculty who were tenured at the closed Antioch College has proposed a process which draws on the assistance of the AAUP staff to help “determine who among the former tenured faculty are ‘qualified’ for reinstatement for positions” which have been defined. Positions would be offered to “qualified” people from that group. A broad search process would be used for positions not filled through that rehiring process. Ad Hoc Tenured Faculty Committee. “Faculty Presentation to Board Delegation,” September 18, 2010.

⁶ Anita Levy and Gary Rhoades. “Reopening Antioch: An Open Letter to Antioch’s New President and the College’s Stakeholders” American Association of University Professors, November 29, 2010.

closed Antioch College should be involved in the hiring process and hopes that some of them will be hired by the new Antioch College, the Taskforce would recommend that fundraisers be encouraged to stress that Antioch College and its faculty continued to offer a challenging and innovative curriculum throughout the time before it was forced to closed.

Faculty Involvement in the Initial Hiring Process

The Taskforce members agree that it is in the best interests of Antioch College to involve some of the faculty of the closed Antioch College in the development and implementation of hiring procedures, with the caveat that faculty who are potential applicants for a position should not be involved in the hiring process for that position.

The Taskforce members agree that it may be appropriate to involve faculty members at other institutions in some or all of the searches.

The Taskforce members agree that it is important for the hiring process be guided by academic leadership with substantial experience with faculty hiring as well as with promotion and tenure evaluations.

The Taskforce members agree that the goal should be to have a hiring process that is as close as possible to standard practices in higher education — for example, where the conduct of searches and the evaluation of candidates are conducted by faculty members.

Conduct the of Initial Faculty Hiring

There are two options for the scope of each search: A) broad-based open search; or B) a phased search that begins as a narrowly targeted search focusing on faculty who held tenure at the closed Antioch College and then, if qualified candidates are not found, expands to a broad-based search.

The Taskforce members agree that the qualifications for every position description should include language that recognizes the value of an appreciation for and/or experience with Antioch's unique educational model that values liberal arts study, work experience, and community governance.

The Taskforce members agree that not every search has to have the same scope.

The Taskforce members disagree on the preferred scope for a search. Some strongly believe that the broad-based search (Option A) is the better way to proceed; some strongly believe that Option B is the better way to proceed. There are some supporters of each option who believe the other option would be a mistake. And, there are some Taskforce members who believe a mix of the options would be acceptable.

Taskforce members disagree on which Option is more in keeping with the historic values of the former Antioch College.

The Taskforce members agree that the hiring of faculty must comply with applicable laws and regulations.

The Taskforce members agree that the hiring of faculty must reflect Antioch College's commitment to diversity.

Creating a Favorable Climate Going Forward

The Taskforce members agree that the process for hiring faculty must be transparent and consistent with professional standards. There should be public disclosure of the processes used, including: the decision making surrounding identifying the academic areas for which positions will be filled; the development of the position descriptions; the selection criteria and the membership of the search committees; and, to the extent appropriate, the progress of the searches.

The Taskforce members look forward to the day when Antioch College again has a faculty and community that can guide the ongoing searches that will be essential for its programs.

The Taskforce members agree that it is important for Antioch College to recognize the contributions Nonstop has made to the continuation of the spirit of Antioch College and it should explore collaborative and supportive relationships with Nonstop.

The Taskforce members agree that in moving forward Antioch College will need support from people who have been advocates for many different narratives. They agree that the best way to obtain that support is to ensure both processes and decision making are open and participatory. As proposed actions are considered, the Taskforce urges decision makers to consider how those actions will be seen from the diverse viewpoints expressed in the narratives. While specific decisions are important, the Taskforce believes that the climate created by those decisions will be even more important in determining the shape of future narratives upon which the success of Antioch College depends.

Appendix

Typical Practices for Faculty Hiring, Tenure, and Emeritus Appointments

Typical Faculty Hiring Practices

The typical faculty hiring process involves four steps: A) Identifying a position to be filled. B) Appointing a committee to develop a job description, recruit applicants and review candidates, C) Getting administrative approval to extend a tentative offer, and D) if the tentative offer is accepted, having the hiring approved by the board of trustees. While no actual hire is completely “typical;” each hire has unique considerations that must be addressed. Among the guiding principles that must be followed are (i) each applicant who is similarly situated must be treated in the same fashion requiring an institution to have policies and ensure that its policies are consistently followed, (ii) an institution must strive to eliminate any practice that results in the exclusion of a disproportionate group of applicants and (iii) an institution must reason out hiring decisions conscientiously so that if challenged, the institution has records that show consistent policy application and non-discriminatory reasons to support its decisions.

- A) Identifying the position to be filled. Traditionally most positions were developed to fill the vacancy created by a faculty member who left the institution. While there might be some minor adjustments in the position description, the traditional approach was to try fill the position with someone who was very similar to the former faculty member. In more recent years, with tight budgets and with increased willingness to respond to changing academic needs, vacant positions have tended to revert to a central pool to be reassigned based on the perception (often an administrator’s perception) of institutional needs. In the past, “new” positions were relatively rare; today, it is usual for every vacant position to be treated as a new position than is not automatically linked to the academic area where the vacancy occurred. The selection of the area for a new position is based on a variety of factors including: perceived importance for the institution’s future, student interests and needs, relationship of the position to the programs the institution has chosen to emphasize, etc. Academic areas try to position themselves to be able to have additional positions assigned to them, and to ensure that any positions that become vacant are not assigned to other programs. Colleges and universities sometimes have preferential programs to allow hiring target-of-opportunity faculty members and spouses or partners of faculty members. Colleges often include qualifications to assure there will be a good fit with the institution’s history and mission.
- B) Once a position has been assigned to a program, a hiring committee is created. Typically that committee is composed of faculty members from the department that was awarded the position. Sometimes faculty members outside that department are added to the hiring committee either because the faculty or an administrator thinks the outsiders will bring important perspectives.

The committee develops a position description and (after administrative approval) starts the search with a position announcement that is placed in general and field-specific academic publications and on-line sites. Those announcements usually describe the position, the program in which the position will be housed, the college or university, and the timeline for the search. The committee also makes direct contact with individuals they think should be considered and with people who would know (e.g. major graduate programs) individuals who should be considered.

Primary limitations on discretion in hiring decisions are the various statutes, rules and regulations forbidding employment discrimination. Applicants should be sought in a manner that will not result in the exclusion of a particular group protected by statute. While subjective criteria are not per se

unlawful, they will be closely scrutinized and efforts should be made to seek applicants in a manner and method likely to reach all groups who may be interested in the position.

Following the timeline, the committee sorts through the applicants and, once it is convinced that it has a sufficient pool of applicants, begins direct contact with the individuals it ranks highest. Those contacts can include phone calls with applicants, campus visits, presentations by applicants in classes and/or research forums, reference calls, etc.

The criteria for evaluating applicants may be stated in the position announcement. Typically, they include some combination of the traditional areas: teaching, research/scholarship/performance, and service. Evaluating applicants in these areas generates conflicting interpretations and invites a lot of discussion because the conditions the applicant has worked under previously may or may not be relevant for the future situation at the hiring institution.

Effective teaching is particularly difficult to evaluate. The range of courses taught, class sizes, teaching settings (lecture, seminar, online) confound the evaluation. The sources for evidence of teaching ability are observations by colleagues, student evaluations, and anecdotal observations. Almost everyone will have some settings in which they do not do well. And almost everyone will have some students who think they were wonderful and some students who think they were terrible.

Research/scholarship/performance seems somewhat more straightforward. One can look at the candidates' publications and convention presentations and evaluate them. Counting the items is easy. And, for some evaluators, the count is what matters. But, evaluating the importance of the items becomes more complicated and subjective. It depends on factors such as whether there was a blind peer review of the item (i.e. prior to acceptance the item was evaluated by expert faculty in the field who were not informed who was the author), the perceived stature of the place the item appeared, the number of times the item has been cited by others since it appeared, critical reviews, etc. The kinds of items that are appropriate depend on the field. Some fields, particularly in the sciences, have a tradition of listing many authors on each research report. Other fields, particularly in the arts and humanities, have a tradition identifying a single creator for a work. Some fields emphasize journal articles, others emphasize performance or gallery shows, others emphasize book-length publications. In some fields the amount of funding received for research grants, exhibitions, etc. is seen as important. In evaluating candidates the situation is further complicated because the evaluation is not just on the quality of the candidate's record but also on the extent to which the candidate's content area and abilities fit well with the institution's perceived needs.

Service records are particularly difficult to compare because there are so many different ways people can serve (or avoid serving) their institution. Committee membership, student advising, activities in the broader community, and leadership roles are traditional areas that are discussed. One of the ironies is that many candidates who have devoted a lot of energy to making their own institutions better through their participation in service will have less research/scholarship/performance production than some of their colleagues who concentrated on their own work and did relatively little to serve their institution.

At the same time the committee debating the relative merits of the candidates, it also is trying to recruit its "top candidates" so that they will want to accept a position if it is offered to them.

The situation is complicated because the committee will have different kinds of information about some applicants than about other applicants. For example, internal applicants and applicants who may have worked with a committee member at another institution may be at

an advantage or a disadvantage simply because things are known about them that are not knowable about other applicants.

An institution should be mindful of the two basic types of discrimination claims: “disparate treatment” where it is claimed that hiring, promotion or tenure was denied based on one of the protected characteristics (race, color, sex, age, disabilities, sexual orientation, national origin or religion) and “disparate impact” where a seemingly neutral policy results in a disproportionate impact on a protected group. A disparate treatment claim would require the institution to provide a reasonable job-related reason for the negative decision while a disparate impact claim would require the institution to show the job relatedness or business necessity of the hiring practice in question. Even if the institution can show a business necessity, a plaintiff may still prevail under the disparate impact theory if he or she can demonstrate that “other selection processes that have a lesser discriminatory effect could also suitably serve the employer’s business needs.”

- C) The committee presents its recommendations to an administrator (or review body) who determines whether a tentative offer will be extended. Typically the committee will be asked to present more than one name and may or may not be asked to rank its selections. The decision on whether to extend a tentative offer is based on an assessment of the merits of the candidates, and on an assessment of whether the committee’s processes were appropriate. Typically the committee is expected to follow procedural guidelines in steps A and B to ensure that an adequate pool is generated, and affirmative action guidelines are followed, etc. If the final candidates are thought to be weak, or if the procedures are thought to have been inappropriate, the search may be reopened. If it is reopened, often there are at least some changes in the membership of the search committee.

In recent years, a number of searches have been stopped at this point because the funding that was expected to be used for the position no longer is available due to budget cuts.

- D) Approval by the board of trustees. Normally this approval is routine. But, there are instances where a board will reject an offer. The rare rejections by a board are likely to generate situations that are tense, antagonistic, and complicated.

Typical Tenure Practices

Tenure “is an arrangement whereby faculty members, after successful completion of a period of probationary service, can be dismissed only for adequate cause or other possible circumstances and only after a hearing before a faculty committee.” (American Association of University Professors, <http://www.aaup.org/AAUP/issues/tenure/>) Tenure is seen as a protection for academic freedom, which seeks to prevent the capricious dismissal of faculty members by those who disagree with their views. The AAUP has long been a vigorous advocate for tenure and its guidelines are widely followed by colleges and universities. The AAUP’s “Guidelines on Academic Freedom and Tenure” are available at [/www.aaup.org/AAUP/pubsres/policydocs/contents/RIR.htm](http://www.aaup.org/AAUP/pubsres/policydocs/contents/RIR.htm)

Appointments fall into three broad categories: appointments with tenure, probationary appointments (“tenure-track appointments” that may lead to tenure), and non-tenure appointments. Not all colleges and universities offer appointments with tenure. Some have special categories for some faculty, for example medical schools that offer “teaching appointments.”

The initial appointment letter and subsequent annual appointment letters should make clear whether the appointment includes tenure, is probationary with the future possibility of tenure, or is a non-tenure appointment.

A) The Tenure Review Process

Each faculty member with a probationary appointment is regularly reviewed for progress toward tenure. Typically the review is conducted by a committee of all tenured faculty in the probationary person's department or area. The committee review typically addresses performance in teaching, research/scholarship/performance, and service. That review faces all the challenges and complexities that are mentioned in the similar review of applicants discussed above. The discussion also hinges on the committee's perception of whether someone who is to be given tenure must be outstanding in all three areas, outstanding in some, and adequate in others, "merely" adequate in all areas, or even outstanding in some areas but less than adequate in some areas. Different weights may be assigned to each area depending on institutional norms and committee preferences.

Depending on the point in the timeline, a committee's review results in either an evaluation of progress (or lack of progress) toward tenure, a recommendation to grant, or a recommendation not to grant tenure. If the committee is evaluating on the candidate's progress toward tenure, a formal letter is sent to the candidate by the department chair (and/or dean or academic vice president). That letter may contain the committee's evaluation and the administrator's own assessment of the candidate's progress. Currently these letters typically provide a frank account of the candidate's strengths and weaknesses as well as an assessment of the candidate's likelihood of being awarded tenure.

During the actual tenure review, the committee again assesses the candidate's performance and typically seeks outside letters of evaluation from outside senior faculty members in the candidate's academic area. (This, too, is a complex process that is fraught with potential legal and procedural pitfalls.) If the committee recommends tenure, that recommendation, with a letter containing the department chair's recommendation is sent on for review at higher institutional levels. There may be a faculty review committee at the college level (composed of selected tenured faculty from across the college.) The recommendation from the college committee, together with a letter and recommendation from the dean may be forwarded to an institution wide review committee (composed of selected tenured faculty across the campus.) The recommendation from that committee, together with a letter and recommendation from the academic vice president is forwarded to the president who makes a recommendation that is forwarded to the board of trustees for final action. [The number and types of layers involved in the review prior to the recommendation to the board depends on the size and organizational structure of the institution.]

If there is a negative decision at any level, the AAUP guidelines include a grievance process for the faculty member to appeal to a faculty committee. That committee will make its own recommendation which will be included in the information sent up the decision chain.

B) The Tenure Timeline

The first year: The AAUP tenure guidelines indicate that faculty in their first year of appointment are given an appointment for a second year unless they are notified otherwise at least three months prior to the end of their first year.

Following years: After second year, the guidelines state that the faculty member must be given notice of non-renewal at least one year prior to their termination (i.e. given one year notice to look for another job.) [There is a complex intermediate step for notice of non-renewal during second year appointments.]

The seven-year rule: If a faculty member is awarded a contract for the seventh year, that faculty member automatically has been granted tenure. This rule means that a negative decision on tenure must be communicated to the faculty member prior to the end of the fifth year of appointment so the person has the sixth year to look. Hence the probationary period for faculty effectively is five years, and, the items the person presents for the research/scholarship/performance category must be

completed well before that. Faculty members understandably feel they are under a lot of pressure during their first years.

Stopping the clock: The AAUP guidelines include an exception under which faculty can request an extension of the seven-year period for special situations such as caring for a newborn or newly adopted child or serious illness. Faculty can also request a limited unpaid leave to allow them more time to build their record for tenure.

A probationary faculty member may move from one institution to another after several years. While the AAUP guidelines suggest the seven-year clock should continue, some faculty elect to have the clock reset to allow them more years to build a record for tenure.

Promotion Exceptions: If a person is promoted from Assistant Professor to Associate Professor or from Associate Professor to Professor, that person automatically is granted tenure.

Senior Appointment Exceptions: The review period for a person whose initial appointment is as an Associate Professor is less than seven-years. A person who is appointed as a Professor receives tenure immediately.

C) Termination of Tenured Faculty

Once a faculty member has been given a tenure appointment, the AAUP guidelines indicate that appointment must be renewed annually except: For cause related to “the fitness of faculty members in their professional capacities.” (p. 4) Or, in the case of discontinuance of the person’s program or department. Or, in the case of physical or mental disability. Or in the case of financial exigency that threatens the survival of the entire institution and cannot be dealt with except by terminating tenured faculty. The AAUP provides guidelines for the institutional review and grievance procedures to be used in each of these instances.

D) Part-Time and Visiting Faculty

Part-time faculty and faculty appointed for a designated term need not be given tenure-eligible appointments. The AAUP guidelines provide guidance for procedures for making and terminating these types of appointments.

Typical Emeritus Appointment Practices

Upon retirement, faculty are eligible for appointment as emeritus faculty. Those appointments are made by the board after receiving recommendations from the President, Provost, Deans, etc. In many schools the emeritus appointments are made for one year and reviewed annually. Typically emeritus appointments are routinely granted. When a retired faculty member is not granted an emeritus appointment the reasons and details often are both cloudy and controversial.

The main value of an emeritus appointment is honorific. It indicates a continuing tie with the institution. Depending on the practices at the particular institution, emeritus faculty may have parking privileges, library privileges, an emeritus photo id card, an institutional email address, “offices” (sometimes a shared desk in a large room), the opportunity to purchase faculty athletic tickets, etc.