

EDUCATIONAL APPROVAL BOARD

Meeting of December 17, 2002

1:30 p.m.

30 W. Mifflin Street, 8th Floor
Madison, WI 53703

Members Present: Raymond G. Boland, Leroy Conner, Jr., Gene Kussart, Delora Newton

Absent: Jon E. Litscher¹, Georgiana Giese

Others Present: David Dies, Joan Fitzgerald, Linda Heidtman, Patrick Sweeney, Blanca James, EAB; David Larsen, John Rosinski, WDVA; Lori Yaun, Great Lakes Higher Education Corporation; James Chitwood, Mike Rogowski, University of Phoenix

Raymond Boland, Chair of the Educational Approval Board (EAB) called the meeting to order at 1:36 p.m. He noted that all members were present with the exception of Mr. Litscher and Ms. Giese. An amendment to the September 10, 2002 minutes was requested by Mr. Conner -- Executive Secretary's Report (page 1, paragraph 1) should read "[t]he request has been forwarded..." A motion (Kussart, Conner) to approve the September 10, 2002 minutes as amended was approved unanimously. A motion (Conner, Newton) to approve the November 4, 2002 teleconference meeting minutes was approved unanimously.

ADMINISTRATIVE RULES PUBLIC HEARING

Prior to convening the public hearing, Mr. Dies provided a summary of the administrative rule language and process. He pointed out that all comments contained in the Legislative Council report were incorporated into the rule except as discussed in the summary material provided for board members. Regarding solicited comments, he noted the Distance Education Training Council's (DETC) comments and relationship with the EAB. In the past, the DETC and EAB have operated under an agreement whereby the DETC assists the EAB in enforcing its consumer protection functions for students enrolled in schools accredited by the DETC. It was also noted that many distance education providers currently contend that states have no authority to regulate education via the Internet because of the interstate commerce clause under the U.S. Constitution. This issue is one that the EAB will need to confront in the near future.

Mr. Boland opened the public hearing on CR- 02-135 and invited the public to speak. The only person to testify was Lori Yaun, representing the Great Lakes Higher Education Corporation. She cited a concern about record retention when a school closes and where the records go. Currently Great Lakes is holding the records of Milwaukee College of Business. These records are being held indefinitely. However, Ms. Yaun feels that Great Lakes should not have the responsibility to provide student records on closed schools. Ms. Yaun would

¹ Notification of Mr. Litscher's resignation from the Educational Approval Board effective December 17, 2002 was received on December 19, 2002.

like to see a place within the state where the records can be kept indefinitely. Mr. Dies explained that currently there is no state policy regarding the retention of school records when a school closes and where they should be kept for safekeeping. While the EAB is the custodian of student records for certain schools that have been under its regulatory authority, it has no jurisdiction over records involving other closed schools, such as Mount Senario College or the Milwaukee Business College. Records in the possession of the EAB are housed at the State Records Center.

Although this issue was not germane to the rule being considered, Mr. Boland agreed that the board should pursue this issue. Mr. Boland wants to be certain that there are no provisions in state law for county government to assume this responsibility and asked staff to research this issue. If no such provision exists, the board should consider ways to safeguard these kinds of records. Ms. Newton pointed out that even though the board may not have control over records of institutions that are outside its jurisdiction, it should encourage the passage of legislation that would address this issue. Mr. Dies agreed with this suggestion and is one of the items he intends to present at the board's spring meeting.

Mr. Dies distributed written comments received from two approved schools. Comments submitted by Summit School expressed concern about the fee assessed for a change of ownership. The school experienced the death of one of the owners and needed to remove the name of the deceased from EAB records. Under current rule, there is a \$1,000 required fee to process this change. The school argued that this fee is excessive. Mr. Dies prepared language for the board to consider in the rule submitted to legislature that would allow the EAB to waive the fee if it is determined that the change of ownership will not require any work by staff.

The University of Phoenix addressed two issues of the proposed rule -- provisions pertaining to the intermediate sanctions and distance education. The school suggested the board consider rule language that would provide a "cure period" before intermediate sanctions could be imposed and raised concern over the authority of the board to impose a fine as one of the sanctions. Mr. Dies noted that the latter concern was similar to that raised by Legislative Council staff and had already been removed from the rule. In regard to the suggestion of a cure period, Mr. Dies noted that the word "progressive" was added to the intermediate sanction language and that modification addressed the school's concern.

The school also suggested that the board consider a reciprocal approval agreement under which the home state approval or a regional or national accreditation of a school would preclude the need for approval by the EAB. While the rule allow the EAB to consider home state approval and/or accreditation, Mr. Dies encouraged the board to reject this blanket reciprocal approval because of the lack of uniformity among states. He noted that although there are no issues with the approval standards of the state of Arizona, there might be issues with other states that do not have the same standards or approval processes.

Mr. Boland closed the public hearing portion of the meeting and suggested the board take action on the rules as recommended by staff. A motion (Conner, Kussart) to approve the proposed administrative rule as revised to include the change of ownership fee waiver was approved unanimously.

BOARD CHAIR'S REPORT

Mr. Boland informed those present of the current status of board membership and how it might be affected by the administration change. Currently there are six members serving. Mr. Rick Berg resigned from the board on October 25. The remaining board members will continue to serve until they are either replaced or resign. Today, both the EAB and DVA received requests from the Doyle transition team regarding their boards. He added that the board would go into a closed session at the end of the regular agenda to discuss the performance of the executive secretary.

EXECUTIVE SECRETARY'S REPORT

Mr. Dies reported that the request to re-classify the three Education Specialists positions had been approved by the Department of Employee Relations. The positions are now classified as School Administration Consultants and the staff will use Education Consultant as their working title. This change will have a modest fiscal impact on the EAB's current budget but can be covered by shifting funds from other budget lines. A provision anticipating these increases was included in the EAB's budget request for 2003-05 biennium.

Mr. Dies mentioned the retirement of David Larsen and expressed appreciation for his guidance and advice. The EAB has started the process of negotiating the administrative services agreement but it will need to be finalized by his replacement. Mr. Boland indicated that his agency expects to move forward despite Mr. Larsen's retirement to complete this process of negotiations.

Mr. Dies reported the budget is within budgeted levels through the end of November. As noted earlier, a transfer of funds between budget lines will be necessary as the end of the fiscal year approaches and more accurate expenditure information is available.

SCHOOL APPROVAL ISSUES

Mr. Dies reported school renewal information has been processed. Mr. Dies recognized the staffs' hard work during the process. All schools with the exception of a few have provided the required information. One school -- New Horizons Racine -- will not be approved because it has not responded.

The EAB Approved Schools Conference was a success. Roughly 60 people attended the conference. The workshop, offered the afternoon before the conference, drew over 30 participants. A copy of the conference information and its participants was attached to the board report.

Mr. Boland moved on to the school approval issues and requested approval for the items attached. A motion (Conner, Kussart) to approve items A through F of the State Activity Report was approved unanimously.

2003-05 BUDGET UPDATE

Mr. Dies informed the board that a new DOA budget analyst has just been assigned to handle EAB issues. He has briefed her on some of EAB's issues and priorities of the budget request that was submitted in September. No additional information regarding the EAB's request was available.

FEE MULTIPLIER

Mr. Dies reminded the board that at its December 2001 meeting, a question was raised about setting the multiplier for a two-year period but subsequently adjusting it for the second year based on updated financial projections. The recommendation of EAB staff is to maintain last year's fee multiplier of 4.8711 based on a review of the governing language. The board concurred with the staff recommendation and no action was taken.

The board members were directed to charts summarizing the financial projections and analysis. The Adjusted Gross Annual School Revenue (AGASR) for FY 02 was \$52.4 million. For FY 03, the projected AGASR is \$73.6 million, a significant increase. The reason for this increase can largely be attributed to two schools, Phoenix University and Schneider Training Academy, Inc. These two schools brought nearly 50% of the increase. There were two other schools, Springfield College and ITT Technical Institute, which accounted for another 13%.

Based on the multiplier of 4.8711, revenues in FY 03 are projected to exceed expenditures by approximately \$110,000. That money would essentially be added to the retained earnings account and then moved into the student protection fund account. It was noted that the EAB does not have authority to expend these funds.

BOARD MEETINGS FOR 2003

Mr. Boland indicated the tentative dates for the 2003 Board meetings and asked for a motion to approve. A motion (Kussart, Newton) to approve the dates was unanimously approved.

CLOSED SESSION

A motion was entertained to hold a closed session under s.19.85 (1)(c), *Wis. Stats.*, to consider the performance and compensation of the executive secretary in accordance with s.45.54(5), *Wis. Stats.* A motion (Newton, Kussart) to hold a closed session of the board was adopted 4-0. The board requested that Mr. Larsen and Mr. Rosinski remain present.

A motion to adjourn (Newton, Kussart) the meeting was approved unanimously at 2:45 p.m.