

EDUCATIONAL APPROVAL BOARD MEETING

Thursday, June 16, 2005

1:00 p.m.

Herzing College
5218 E Terrace Drive
Madison, WI

Members Present: Christy L. Brown, Michael Cooney, Terry Craney, Joe Heim, Monica Williams

Members Absent: Rick Raemisch

Others Present: David Dies, Joan Fitzgerald, Linda Heidtman, Patrick Sweeney, and Blanca James, Educational Approval Board; James Stewart, WDVA; Don Madelung and Matt Schneider, Herzing College; Vickie Norris, Career Education Corporation; Sidney Carey and Hillary R. Mayes, Sanford Brown College; Trisha Ciochon, Whyte Hirschboeck Dudek SC

The chair of the Educational Approval Board (EAB), Terry Craney, called the meeting to order at 1:10 p.m. All members were present with the exception of Mr. Raemisch. A motion (Heim, Williams) to approve the minutes of March 10, 2005, was adopted unanimously with Ms. Brown abstaining.

BOARD CHAIR'S REPORT

Mr. Craney thanked Don Madelung of Herzing College for hosting the EAB board meeting and noted that a short tour would be conducted after the chair's report. After an introduction of board members and guests, Mr. Craney announced that John Scocos had resigned from the board. He commented that board members had provided him with information for reviewing the performance planning and development (PPD) report of the EAB executive secretary, which will be taken up in closed session later in the agenda. Mr. Craney invited Mr. Madelung to introduce himself and conduct a tour of the campus.

SCHOOL ISSUES FORUM

Following a tour of the Herzing campus, Mr. Craney opened the floor for a general discussion about EAB-approved school issues. Board members shared positive comments about the information provided during their tour. Mr. Dies informed the board that Herzing is just one of 40 degree-granting institutions regulated by the EAB; and 21 of those 40 have an on-ground presence in Wisconsin.

Mr. Madelung asked about the issue of losing some funds due to the Governor's budget and what the impact would be to the schools. Mr. Craney said this issue would be discussed later in the agenda and that the board would be considering taking a position on this issue.

Mr. Dies briefly explained the issue raised by Mr. Madelung. He said that the Legislature had modified the Governor's plan to use monies held in reserve and transfer them to the student protection fund. Under the proposed legislative initiative, \$250,000 would be transferred to the student protection fund and the remaining funds would lapse to the state's general fund. The estimated amount that would lapse to the general fund is approximately \$500,000.

In addition, on an on-going basis, the Joint Finance Committee added a provision which would require the EAB to lapse on an annual basis an additional amount of 10% of the EAB's operating budget. As the operating budget goes up, so will the required lapse. In the first year, the lapse would be approximately \$50,000, or an additional \$.50 per \$1,000 of revenue. The EAB has not made any decisions on how it will address this fee. The goal for the student protection fund is still \$1 million, and the EAB will be assessing fees specifically for the fund for at least 10 to 15 years.

SCHOOL APPROVAL ISSUES

Mr. Craney introduced the school approval issues paper and indicated that a motion for the approval of items A – H of the School Activity Report would be appropriate following any discussion. Mr. Dies commented that a new format was being used for the report. There are now three sections of the report related to approval activities – schools, programs and other. In addition, the lettering of items for board approval will be consistently A – H.

Mr. Dies summarized the regulatory actions taken by the EAB staff regarding approved schools and noted the additional information about specific school issues that was provided. The paper discussed Martin's College of Cosmetology, Holistic Health College, LLC (Mike Walker), PC Productivity, and Capitol Healthcare Training Center, LLP.

It was noted by Mr. Heim that an error had been made in the outline lettering indicating item F as presented twice. Mr. Dies indicated that a correction would be made and that future reports would be lettered A – I.

A motion (Brown/Heim) to approve items A - H with a double F of the School Activity Report was approved unanimously.

2005-07 BIENNIAL BUDGET

Mr. Craney stated that at its June meeting, the board took action to support the Governor's proposed budget. Since the last meeting, the Joint Committee on Finance (JCF) met for several months and the budget is now being considered by the Assembly and Senate. Materials provided at this meeting describe the changes that have been made. Mr. Dies summarized three issues for which board action was being recommended.

- The EAB had requested in its budget proposal the creation of a Chapter 20 designation and a transfer of its statutory language to Chapter 39. These requests were denied; but as part of the proposed administrative attachment transfer, the EAB's statutory language would be moved to Chapter 38 (WTCS). In addition to the budget bill, Assembly Bill 210 proposes changing the EAB's statutory language from Chapter 45 to Chapter 39. This bill has been adopted by the Assembly and is likely to pass the Senate.

Recommendation: Request that the Governor reconcile the two initiatives and ask that the budget be modified to reflect the AB 210 language moving the EAB's statutes to Chapter 39. The EAB believes that this would increase its visibility and avoid confusion since it is not part of WTCS, but simply attached administratively.

- The JCF modified the Governor's recommendation regarding the student protection fund transfer by deleting the EAB's authority to retain any unencumbered balance on June 30 of each fiscal year that does not exceed 20 percent of the amounts appropriated to the EAB for program operations in the next fiscal year. Instead, it provides a one-time transfer of \$250,000 to the student protection fund and all remaining monies would lapse to the state's general fund.

In addition, 10 percent of the total revenues received annually from fees and assessments credited to the EAB's general operating budget would be transferred to the state's general fund. Because the EAB is supported entirely with program revenue funding, the 10 percent annual lapse to the general fund would be a surcharge on top of fees required to support EAB operations. The Legislative Fiscal Bureau claimed the 10 percent lapse would be reimbursement to the general fund for various GPR-supported services. However, under its administrative services agreement, the EAB already pays for the services it receives from the agency to which it is attached, as well as direct charges from DOA.

Recommendation: The EAB would submit a formal request asking the Governor to partially veto this provision by eliminating the 10 percent requirement.

- In its budget request, the EAB requested expenditure and position authority for a 0.5 FTE program revenue-funded attorney in FY 07. The Governor denied the request based on his attorney consolidation proposal. Because the JCF eliminated the Governor's attorney consolidation proposal and WTCS has no in-house legal counsel, the EAB will have no access to legal counsel once the transfer to the WTCS occurs.

Recommendation: The EAB will request a 0.5 FTE from JCF at its December s.13.10 meeting. The Department of Justice has advised the EAB that it does not have the ability to provide day-to-day legal support. Mr. Stewart indicated that based on his experience representing the EAB and their needs, he supports and recommends the 0.5 FTE at a minimum.

Mr. Craney asked that should the board make a motion on these recommendations, reference should be made to the March 10, 2005 meeting where the board went on record supporting the Governor's budget as proposed and that it is because of the JFC actions the EAB board has considered the respective recommendations.

A motion (Heim/Williams) to approve the three recommendations and Mr. Craney's introductory statement that the proposed recommendations are the result of the JFC actions was made and unanimously approved.

MOTION TO CONVENE A CLOSED SESSION

A motion (Williams/Cooney) 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.* was unanimously approved at 2:33 p.m.

Ms. Brown departed the meeting following the closed session.

RECONVENE IN OPEN SESSION

Mr. Craney clarified that the board had dispensed with the matters in Tabs 6 and 7 during its closed session. Subsequent to the meeting, Mr. Stewart, legal counsel to the EAB, asked that the following notation be added to the minutes.

The Board reconvened in open session at 3:00 p.m. Motions (Cooney/Brown) to provide a general wage adjustment to the Executive Secretary, contingent on the approval of the Legislature's Joint Committee on Employment Relations, and to refer any further salary consideration to the executive committee for its review and recommendation were approved unanimously.

EXECUTIVE SECRETARY'S REPORT

AWARENESS AND UNDERSTANDING OF THE EAB AND APPROVED SCHOOLS

Mr. Dies noted that a new section had been added to the website targeted at employers. It points out the need for employers to verify education credentials and gives them some resources for doing that. The website also contains links to the U.S. Department of Education and Federal Trade Commission. At the present time, there are no laws in Wisconsin addressing degree and diploma mills and the EAB feels that engaging employers in verifying academic credentials is very important. In addition, reference was made to two Milwaukee Journal Sentinel articles regarding Robert Welch University, an newly approved EAB school, and Heed University, a diploma mill with an address in Milwaukee in which the EAB received favorable press

POSITIVE WORKING RELATIONSHIPS AND ALLIANCES

- Regional EAB-Approved Schools Meetings

Mr. Dies made reference to the EAB's April newsletter and mentioned that his column talked about the EAB shifting its focus from a compliance-driven agency to a quality-driven agency. Upcoming regional meetings will be held to help the EAB better define student outcomes. The meetings will also explore more effective ways to collect and report student outcomes data.

- Department of Public Instruction

It was reported that the EAB remains very proactive in trying to work with the Department of Public Instruction. Mr. Dies noted that DOJ had issued a legal opinion rejecting arguments made by DPI that the EAB had no regulatory oversight regarding alternative teacher licensure

providers. Following the legal opinion, the EAB had worked with NORDA, Inc. to complete the approval process. Although the school submitted an initial application, it was incomplete and submitted under protest. Subsequently, NORDA, Inc. filed suit against the EAB challenging the legal opinion of DOJ. A draft response brief to the suit was provided to board members.

CONSUMER PROTECTION AND EDUCATIONAL CHOICES

- Madison Business College

Mr. Dies reported that the EAB had recently acquired the records from the former Madison Business College. He indicated that the EAB has become more and more involved in the record retention business. Fortunately, the records retention provision requested by the EAB has been included in the budget by both the Governor and JCF. Mr. Dies made it clear that the schools are not being assessed for this service. Individuals requesting transcripts pay a fee that covers this function. Mr. Dies said that the EAB may need to look for a ¼ or ½ time additional program assistant for this function in future. The University of Wisconsin-Milwaukee has asked the EAB to take possession of records from Layton School of Art and Design, Mount Sinai Hospital School of Nursing, and Evangelic Deaconess Hospital School of Nursing.

- Education Tax Credit

Subsequent to the preparation of board meeting materials, the JCF completed its action of the biennial budget and the Education Tax Credit initiative was not included. The initiative has been introduced as separate legislation and there is still a chance that it can be approved. The EAB has gone on record as supporting the legislation and testified at public hearings held earlier in the year.

- Education Tax Deduction

A provision proposed by the Governor in the budget and adopted by the JCF that would raise the current tax deduction paid for tuition at an in-state institution from \$3,000 to roughly \$5,100. This deduction includes the EAB-approved schools. Separately, legislation (AB 106) has been introduced that would extend the deduction to institutions in neighboring states. The EAB testified that there are many schools in the neighboring states that serve Wisconsin residents.

OPERATIONAL / ADMINISTRATIVE POLICIES AND PROCEDURES

It was noted that several EAB staff attended the annual conference of the National Association of State Administrators and Supervisors of Private Schools.

Mr. Heim inquired about whether or not there has been any progress on establishing a definition for a university or college. Mr. Dies said that once the budget was approved, the EAB would turn its attention to legislation and look at not only those definitions but also general provisions and outdated language in the EAB's statutes.

ADJOURNMENT

A motion (Cooney/Williams) to adjourn was unanimously approved at 3:24 p.m.