

# EDUCATIONAL APPROVAL BOARD MEETING

Thursday, September 8, 2005  
1:30 p.m.

Eighth Floor Board Room  
30 W. Mifflin Street  
Madison, WI 53703

**Members Present:** Michael Cooney, Terry Craney, Joe Heim, Jo Oyama-Miller, Monica Williams

**Members Absent:** Christy L. Brown, Rick Raemisch

**Others Present:** David Dies, Linda Heidtman, Blanca James, Patrick Sweeney, EAB; James Stewart, WDVA; Brian Elliott, Whyte Hirschboeck Dudek SC; Donald Madelung, Herzing College; Eric Rechsteiner, Hondros College

The chair of the Educational Approval Board (EAB), Terry Craney, called the meeting to order at 1:37 p.m. A motion (Cooney, Heim) to approve the minutes of June 16, 2005 as amended<sup>1</sup> was adopted with Ms. Oyama-Miller abstaining.

## BOARD CHAIR'S REPORT

Mr. Craney welcomed Jo Oyama-Miller as the newest member of the board. Ms. Oyama-Miller shared her background and interest in higher education issues. Mr. Craney reported that he had met with Mr. Dies during the summer as part of the executive secretary's performance evaluation to review his PPD report. He also noted that a letter had been sent to the Governor requesting a budget veto of the 10 percent lapse provision added by the Legislature

Ms. Williams arrived at 1:50 p.m.

## EXECUTIVE SECRETARY'S REPORT

Mr. Dies noted that revised contact information had been provided for board members, as was additional information for the board's discussion later in the meeting regarding administrative budget options. He also welcomed Ms. Oyama-Miller whom he met with earlier.

### *AWARENESS AND UNDERSTANDING OF THE EAB AND APPROVED SCHOOLS*

**Press Release** – It was reported that EAB staff had prepared a press release on the appointment of Ms. Oyama-Miller and would be issuing it following the Governor's formal public announcement of the appointment.

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<sup>1</sup> Under the 2005-07 Biennial Budget discussion (page 2), the reference to board action should have noted that the action occurred at the March 2005 meeting, not the June 2005 meeting.

## External Education

*Media Contacts* – Mr. Dies reported that John Robert Powers, an EAB-approved modeling school, received negative press from a Milwaukee television station. The story which aired quoted a state consumer protection official who said that Wisconsin had no regulatory oversight over such schools. Attorneys from the school became involved and, after the EAB discussed its oversight functions with a producer, the station ran a retraction. In addition, the EAB contacted consumer protection officials at DATCP so that their field representatives could be made aware of the EAB's regulatory oversight.

*Department of Correction and Distance Learning* – Mr. Dies indicated that his report provided information about progress being made in the area of correctional education; and how the EAB interfaces with the Distance Education and Training Council as a way to help provide consumer protection to individuals engaged in distance learning.

### *POSITIVE WORKING RELATIONSHIPS AND ALLIANCES*

Regional EAB Approved Schools Meetings – In June and July the EAB held three productive meetings with school officials to gather input on student outcome definitions and school reporting requirements. A summary report was prepared and is attached. Mr. Dies pointed out that the EAB Approved Schools Conference would be framed around what the EAB learned at the meetings as well as exploring broader discussions with the schools about institutional effectiveness and the importance of the school-reported numbers.

Approved Schools Conference – Mr. Dies asked board members to note the date of the conference and invited board members to attend. Additional conference information is scheduled to be mailed out in early October. The focus of the conference will be reporting student outcomes and the role ethics plays in data reporting.

NORDA, Inc. vs. the EAB – Mr. Dies reported that the case was heard on August 15, 2005 and a ruling from the bench was made in favor of NORDA, Inc. The Assistant Attorney General assigned to the case predicted that the state would lose the decision in circuit court based on the judge's predisposition. On August 17, EAB staff and legal counsel held a teleconference with the Assistant Attorney General to ask that an appeal be considered. If the appeal is approved, it will be heard before the 3<sup>rd</sup> District Court of Appeals and is likely to take at least six months before a decision is made.

Department of Public Instruction – Mr. Dies reported that he had a very productive meeting with the State Superintendent in August. He was able to share information which Ms. Burmaster may have been unaware, such as the scope of involvement EAB-approved institutions have educating state teachers. The EAB hopes that DPI will formally recognize these schools and the EAB's role. Work is being done to add information on the DPI website about the EAB-approved teacher education institutions.

Department of Workforce Development / Workforce Development Boards – Mr. Dies indicated that significant progress had been made with DWD and that agency officials would be considering the qualifications of WIA training providers. A meeting with the Wisconsin Association of Job Training Executives (WAJTE) has been scheduled in October to discuss ways in which the EAB and WAJTE can work together.

## *CONSUMER PROTECTION AND EDUCATIONAL CHOICES*

School Renewal for 2006 – The EAB is in the middle of the school renewal process. A copy of the renewal application materials sent to schools has been provided.

OnIT Student Refunds – When this school closed in 2002, many of the students had loans with SLM, who refused to discharge the loans. Subsequent to a meeting Mr. Dies had with SLM's associate general counsel, SLM is reviewing its earlier decision of not discharging these loans. It is possible that some relief may be provided to these former OnIT students.

Education Tax Deduction – This provision was included in the 2005-07 budget and information has been shared with the schools through the EAB Newsletter.

Education Tax Credit – This provision was not included in the 2005-07 budget that was enacted.

## *OPERATIONAL / ADMINISTRATIVE POLICIES AND PROCEDURES*

Personnel – Mr. Dies reported that the Joint Committee on Employment Relations (JOCER) had acted to approve a two percent general wage adjustment (GWA) for non-represented state employees. The board had previously authorized a GWA for the executive secretary contingent on action by JOCER.

## **SCHOOL APPROVAL ISSUES**

Mr. Craney introduced the school approval issues paper and indicated that a motion for the approval of items A through I of the School Activity Report would be appropriate following any discussion. He commented that approval of these items was to affirm the actions of staff under the board's delegated authority.

In response to question from Ms. Williams about the physical location of the newly approved program offered by Virginia College–Technical, Mr. Dies explained that state statutes requires the school to be approved because they recruit and serve Wisconsin students even though the school does not have a physical presence in the state.

Mr. Dies responded to a question from Mr. Heim on tracking program information for the purpose of using it to offset the budget and help determine staffing situations by stating the EAB school database could provide a degree of statistical information but that there is no readily available way to obtain this level of information without a manual review.

A motion (Cooney, Williams) to approve items A through I of the School Activity Report was approved unanimously.

## **2005-07 BIENNIAL BUDGET**

Mr. Dies summarized the provisions contained in the biennial budget.

10 Percent Lapse – At its June meeting, the board took action to request a veto on the 10 percent lapse provision. Although a letter from Mr. Craney and Mr. Dies was sent to the Governor asking for the partial veto, the provision was retained in the final version.

Administrative Attachment – Under the Governor's budget, the EAB's administrative attachment was transferred from the Department of Veterans Affairs (DVA) to the Wisconsin Technical College System (WTCS). EAB staff is working with DVA and WTCS staff to ensure a smooth transition.

Legal Counsel Position – As a result of the budget provision changing the EAB's administrative attachment, the agency will not have access to legal counsel through the WTCSB as it did when it was attached to the DVA. The board's earlier action requesting a half-time attorney position in the budget was affirmed and staff was directed to administratively request a half-time legal counsel position.

Student Protection Fund Transfer & General Fund Lapse – Using the handout provided, Mr. Dies reviewed the budget action of the Governor and the Legislature. He presented an option for using retained earnings to support general EAB operations and described a way to increase funding for the student protection fund.

Discussion took place with Mr. Cooney asking if the retained earnings had already been used by the state. Mr. Dies referred to the budget language provided which states that the funds will not be transferred until June 30, 2006 and that the EAB would be acting legally.

Mr. Craney summarized the proposed process: first, the multiplier needs to be set at a lower rate, which dictates the amount of money being charged in the form of renewal fees; and second, student protection fees would be increased in a corresponding manner. However, in order to increase the student protection fee, an administrative rule change would be needed that allows the EAB to exceed the current fee of \$.50 per \$1,000 of revenue.

Mr. Craney cautioned that going too far in one direction, might cause some political fall out. Within reason, though, it probably is a good policy. In addition, Mr. Craney asked what the consequences would be if the Legislature did not allow for rule change. Mr. Dies responded that the board could amend its decision to reflect legislative action.

A motion (Heim, Cooney) to authorize EAB staff to seek an administrative rule change that will allow the board to impose a student protection fee necessary to protect the viability of the student protection fund was approved unanimously.

## **LEGISLATIVE INITIATIVES**

Mr. Dies indicated that the EAB's legislative issues fall into one of three categories – biennial budget, separate legislation, and administrative rules. He indicated that all of the budget-related items had been addressed and the EAB is beginning to shift its attention to issues that fall under the separate legislation category, such as defining EAB's scope of approval, restricting the use of certain educational terms, an education tax credit, GED/high school equivalency, and regulating degree/diploma mills.

The EAB has identified two issues to be addressed through administrative rule – intermediate sanctions and degree definitions – which EAB staff will prepare scope statements and bring back to the board in March of next year.

Mr. Dies mentioned the board asked that the student financial aid issue be brought back after the budget passed. The EAB has a strategic goal that talks about supporting and/or pursuing state financial aid for students that attend EAB-approved schools. Given the fiscal constraints facing the state in the past few years, the board has not pursued this matter. The financial aid paper from the December 2004 meeting was provided.

Mr. Craney acknowledged that the board's strategic plan makes reference to pursuing financial aid for EAB schools, but that no determination has been made to pursue specific legislation. He feels this will probably be a controversial issue and wanted to know if board members still wanted to pursue it. Ms. Oyama-Miller said that this is when outcome data is important and that it needs to show how and where students are getting a quality education. Mr. Cooney noted that the students are tax payers and the schools are tax payers and this is a way the state can increase its education capacity and is something the EAB should advocate. Mr. Heim said he did not disagree with Mr. Cooney's statement given what has happened in the last six months regarding financial aid in the state, but he does not think the climate is right to include this item in the budget. Mr. Dies said that at some point the EAB will have to decide whether or not to pursue the issue.

A motion (Heim, Williams) to approve the following legislative initiative recommendations were approved unanimously.

- Approve a legislative initiative to change the placement of EAB's statutory authority from Chapter 38 to 39.
- Approve a legislative initiative amending inconsistent terms, updating the definition of a school, and creating restrictions for the use of certain educational terms, such as college and university.
- Continue to support legislative initiatives such as the education tax credit which are aimed at enhancing educational choices for students.
- Delay consideration related to the regulation of GED providers until after the matter of *NORDA, Inc. vs. EAB* has been resolved and the executive secretary has had an opportunity to further discuss the issue with DPI officials.
- Approve a legislative initiative that would make it a crime to knowingly use a "credential" from a degree/diploma mill to obtain employment or for financial gain.
- Approve the development of a statement of scope for an administrative rule to establish intermediate sanction and define degrees, and bring back to the board for its approval at the March 2006 meeting.

Mr. Cooney moved approval of the recommendation that the board take a formal position to pursue funding for EAB-approved degree-granting institutions but without a specific time frame for implementation. The motion was not seconded. A motion (Heim, Oyama-Miller) asking that the financial aid discussion be put on the board's December 2005 agenda was approved unanimously.

## **ADJOURNMENT**

A motion (Oyama-Miller, Williams) to adjourn was unanimously approved at 3:31 p.m.