

EDUCATIONAL APPROVAL BOARD MEETING

Wednesday, January, 25, 2006
1:30 p.m.

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

Members Present: Christy L. Brown, Michael Cooney, Terry Craney, Joe Heim, Jo Oyama-Miller, Rick Raemisch, Monica Williams

Others Present: David Dies, Joan Fitzgerald, Linda Heidtman, Blanca James, Patrick Sweeney, EAB; Brian Elliott, Whyte Hirschboeck Dudek SC; Donald Madelung, Herzing College

The chair of the Educational Approval Board (EAB), Terry Craney, called the meeting to order at 1:34 p.m. A motion (Oyama-Miller, Williams) to approve the minutes of September 8, 2005 was adopted with Ms. Brown and Mr. Raemisch abstaining.

BOARD CHAIR'S REPORT

Mr. Craney reported that while the board delegated authority to the executive committee to consider discretionary compensation for the executive secretary, the committee has decided that it would be better to have the discussion at the end of this fiscal year when the EAB board evaluates the executive secretary's performance. He also made reference to board material dealing with student financial aid and commented that since the last board meeting, he had met with Connie Hutchinson, executive secretary of the Higher Educational Aids Board (HEAB), on this issue; and would elaborate on the subject later.

OFFICER ELECTIONS

Mr. Craney commented that state law requires the election of officers – chairperson, vice chairperson, and secretary – at the board's first meeting of the year and that Mr. Dies had provided a summary of the officer positions with the board materials.

Mr. Craney entertained nominations for secretary. Mr. Heim (seconded by Mr. Raemisch) nominated Monica Williams. No other nominations were offered. Ms. Williams accepted the nomination and was elected unanimously. Nominations for the vice chairperson were sought. Ms. Williams (seconded by Ms. Brown) nominated Michael Cooney. No other nominations were made. Mr. Cooney accepted the nomination and was elected unanimously. Mr. Craney turned over the chair to Mr. Cooney for the purpose of electing a chairperson. The floor was opened and Ms. Brown (seconded by Mr. Raemisch) nominated Terry Craney. Mr. Craney accepted the nomination and was elected unanimously.

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 the renewal fee multiplier.

AWARENESS AND UNDERSTANDING OF THE EAB AND APPROVED SCHOOLS

Mr. Dies reported that he was interviewed by Colleen Henry from WISN-TV regarding a story about diploma mills and George Hesselberg from the Wisconsin State Journal that ran a story about the Frank Lloyd Wright School of Architecture, which is headquartered in Arizona but has a teaching location in Spring Green. He commented that these contacts are an indication that the strategic efforts to enhance the visibility and awareness of the EAB are having some success.

POSITIVE WORKING RELATIONSHIPS AND ALLIANCES

Approved Schools Conference – Mr. Dies informed the board that the EAB had its best turnout ever with approximately 85 people representing 52 schools. He pointed out that the welcoming remarks of vice-chair Cooney were received very well and his participation in the conference was appreciated.

Department of Public Instruction – Mr. Dies reported that some progress had been made on two issues. First, DPI agreed to modify their website to include information about EAB-approved teacher educator institutions, as well as a link to the EAB's website. Second, EAB staff worked with DPI in identifying an individual from an EAB-approved school to serve on a collaborative council within DPI that is looking at PI-34 implementation issues. Bob Vance, Executive Director at National-Louis University is serving in that capacity.

Department of Workforce Development / Workforce Development Boards – Mr. Dies indicated that he gave a presentation to the Wisconsin Association of Job Training Executives (WAJTE) about the EAB's role in approving education and training programs. WAJTE responded by adopting a motion to engage the association in a dialogue with the DWD regarding how WIA providers get approved and the possibility for better control, accountability and quality of schools and programs by requiring EAB approval. Based on EAB estimates, this could mean the approval of an additional 60 schools.

Mount Senario Records – It was reported that the EAB had transferred all of the student records for the former Mount Senario College to the Wisconsin Association of Independent Colleges and Universities (WAICU). The transfer took place on December 21, 2005. The transfer was sought by WAICU following the adoption of state law that established a state records retention policy which formally recognizes WAICU as the records custodian for its member institutions.

CONSUMER PROTECTION AND EDUCATIONAL CHOICES

NORDA, Inc. vs. the EAB – Mr. Dies reported that the Department of Justice (DOJ) had agreed to appeal the *NORDA, Inc. vs. EAB* decision. The notice of appeal was made in September and a formal brief was filed with the appeals court in November. Reply briefs for the both parties were filed during December. A ruling is expected in the next three to five months.

Education Tax Credit – It was noted that Assembly Bill 297, which creates an education tax credit for businesses that pay the tuition for an individual to attend a qualified degree-granting institution, was adopted by the Assembly on a 62 – 34 vote. Mr. Dies indicated that this is the lowest support the proposal has had. The bill is now awaiting Senate concurrence.

OPERATIONAL / ADMINISTRATIVE POLICIES AND PROCEDURES

EAB Offices – Mr. Dies reported that he has been engaged in discussions with facilities staff from the Department of Administration (DOA) and that he would be meeting with them within the next few weeks. The EAB is still trying to identify a timetable for moving, as well as a specific site and working with an interior designer.

Personnel – The board was advised that a formal request for a 0.5 FTE attorney position had been submitted to DOA. Mr. Dies indicated that he had responded to several inquiries from DOA analysts and was cautiously optimistic that the request would be approved. If the request is denied, it will be because the Administration has set a target for reducing the numbers of state employees. The EAB is hoping to have a decision by the end of the week.

Ms. Brown asked if there is another plan in place. Mr. Dies responded that in the past the EAB has contracted with an attorney as part of its administrative attachment. This is not an option to the EAB today because the Wisconsin Technical College System Board (WTCSB) does not currently have an attorney position. Without that as an option, the EAB will have to explore other alternatives.

Wisconsin Technical College System Board (WTCSB) – Mr. Dies reported that the EAB has had no discussions with the WTCSB staff regarding an administrative services agreement and before it does, a few issues need to be resolved, such as where the EAB is going to be physically located. In the meantime, DVA is still providing approximately half of the administrative functions such as IT and mail support.

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

STUDENT PROTECTION FEE RULE CHANGE

Mr. Dies referred to the summary and request recently sent to the legislature which amends the student protection fees paid by schools subject to the approval of the EAB. At its last meeting, the EAB board authorized 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.

Mr. Dies said that a Statement of Scope had been provided to the Revisor of Statutes and DOA. Following the statutorily required waiting period, proposed rule language was developed and submitted to the Legislative Council (LC) for its review. At the same time, the rule was

submitted to the Revisor of Statutes under the state's 30-day notice procedure. This procedure allows a proposed rule order to be adopted without a public hearing unless the agency is petitioned by affected persons within 30 days of the rule being published in the Wisconsin Administration Register.

A final rule draft was submitted to the Legislature in January. It is expected that the rule will be approved in both houses following a 30-day review process. Mr. Craney noted that this item was for information only because the board had acted previously.

RENEWAL FEE MULTIPLIER

Mr. Craney reminded board members that by rule the EAB is required to establish a multiplier that is used to determine second payment renewal fees for schools. He asked Mr. Dies what action would be needed if the student protection fee rule change discussed earlier was not approved. Mr. Dies responded that the board would need to assess school renewal fees as it would normally. Under an assumption the rule change is adopted, he explained that the renewal fee multiplier would depend on what action the board takes with respect to using retained earnings to support current year operations. The more retained earnings are used, the less money would need to be generated through the second payment renewal fee. Mr. Craney stated that the board would assume that the rule will be approved.

Mr. Dies explained that there are two ways in which the EAB generates fees to cover its operations – one-time fixed fees and second payment renewal fees. Because the EAB is not able to fully cover its operations with the one-time fixed fees, it must set a multiplier which is used in calculating second payment renewal fees for schools.

Mr. Dies discussed the handout titled Student Protection Fund: Administrative Options Using Retained Earnings. The first section summarized the amount of retained earnings (cash) that is available as of June 30, 2005. The second section summarized the EAB's operating budget for FY 06. Of the \$785,800 in retained earnings, the budget transferred \$250,000 of this amount to the Student Protection Fund. Therefore, the amount available lapse to the state's general fund on June 30, 2006 is \$535,800. Mr. Dies walked the board through several options of using a portion of the amount that will lapse to cover current year operations.

Option 1– Use \$120,000 of retained earnings and generate \$130,900 through the second payment renewal fee. This option allows \$415,800 to lapse to the general fund.

Option 2 – Use \$250,900 of retained earnings and not require a second payment renewal fee. This option allows \$284,900 to lapse to the general fund.

Option 3 – Use \$210,800 of retained earnings and generate \$40,100 through the second payment renewal fee. This option allows \$325,000 to lapse to the general fund, which is what would have been lapsed under the budget proposed by the Governor.

The recommendation of EAB staff was Option 3 which would allow additional monies to be generated for student protection fund monies by lowering the second payment renewal fee and assessing a special student protection fee under the pending rule change. Under this option, the FY 06 multiplier would be set at \$0.3370 per \$1,000 of reported Adjusted Gross Annual School Revenue (AGASR). The difference between a multiplier 2.1087 (the calculated figure if no

retained earnings are used) and the 0.3370 would be assessed to schools as a special student protection fund fee. Under the special student protection fee, the fund balance would have to be under \$500,000 and there would be a fee cap of no more than \$10,000 for any one school.

Currently, the student protection fund has ~\$80,000 and the transfer would be in the amount of \$250,000 meeting the under \$500,000 requirement. The special fee would generate approximately \$210,000. Due to the \$500,000 threshold provision in the rule being changed, this special fee would only apply once since the future student protection fund total would be above the \$500,000 amount.

Mr. Craney clarified that under any of the proposals, the EAB administrative cost would be the same and the amount of money the schools pay would also be the same only assessed differently. However, under Option 3, the student protection fund would get more, and the general fund would get less, which would benefit the student protection fund.

Mr. Raemisch asked if the budget allowed the EAB to consider the proposed options. Mr. Dies responded that the budget language governing the transfer of retained earnings was structured so that \$250,000 would be transferred directly to the student protection fund. Any remaining monies would be transferred to the general fund. The budget did not identify a specific amount that would be lapsed. While creative, the options presented are legal and would allow the EAB to better protect students by increasing the student protection fund balance.

Ms. Oyama-Miller asked a question about the multiplier and expressed concern about fluctuations from year to year and the impact on schools. Mr. Dies responded that the total amount the schools pay would not be affected – what a school does not pay in the form of a second payment renewal fee, it would pay as part of the special student protection fee.

Mr. Dies added that current rule requires the multiplier to be set for two-year periods to address this type of a situation, and is why the options presented contain a recommendation for the FY 07 multiplier. He also said there are advantages and disadvantages in setting a multiplier for two-year periods. Because the multiplier is applied to revenues that the schools generate, the process works well only to the extent the EAB can accurately predict revenue growth (which has been very difficult). If revenues are higher, then the fixed multiplier applied to those revenues would draw in significant amounts of money, which is the primary reason there is a significant amount of retained earnings.

Mr. Heim asked who win and who loses. Mr. Dies answered that the students would be the winners and the general fund would be the loser. Mr. Cooney stated that there are two things the board should consider. The first, the EAB's primary mandate which is the protection of students; and getting the student protection fee to the \$500,000 level as quickly as possible, which is just the bare minimum, should be the EAB's top priority. In addition, by having the student protection fund, the burden of the schools has been lessened because they no longer have to pay the fees for the large bonds, which is another cost factor to them.

Mr. Raemisch asked if the Legislative Fiscal Bureau counted on any of these monies that would lapse to the general fund, a concern echoed by Ms. Oyama-Miller. Mr. Dies said that the money was not designated for a specific purpose or agency but was used in calculations about how much money the state would have to spend. It is an estimate just like the estimates of how much sales tax would be generated, and revisions would be done periodically.

A motion (Cooney, Williams) to approve Option 3 was made. Under this recommendation, the multiplier used to calculate the second payment renewal fees would be set at 0.3370 for FY 06 and 1.8336 for FY 07, as well as a special student protection fee assessment, pending final legislative approval, at a rate of 1.7717. The motion was adopted on a 5-2 vote (Raemisch, Oyama-Miller).

STUDENT FINANCIAL AID

Mr. Craney introduced the issue of providing state student financial aid for students attending accredited degree-granting institutions approved by the EAB and noted that the board has had several previous discussions. At its September 2005 meeting, Mr. Heim requested that the issue be added to the agenda of the board's next meeting. Mr. Craney noted that the recommendation of staff was to develop a specific proposal for board consideration as part of the EAB's 2007-09 budget.

Ms. Oyama-Miller asked about the chair's meeting with Connie Hutchison at HEAB. Mr. Craney said that Ms. Hutchinson had looked into several issues regarding financial aid programs in neighboring states, namely Minnesota, and learned that students attending for-profit institutions are eligible to receive state aid. She also said the HEAB board had formally opposed providing financial aid to students attending EAB-approved schools in the last budget.

Mr. Raemisch pointed out that during the last budget, the EAB board decided not to pursue a proposal because of the state's fiscal constraints, and although there are certain signs that the state is improving, it is not yet out of the woods. His recommendation is to let this proposal sit and address it when the economy is better. He also pointed out that the current financial aid programs are underfunded now and widening the base will create more problems.

A motion (Raemisch, Brown) to table this proposal was made.

Mr. Craney asked if there was any discussion. Ms. Oyama-Miller expressed concern for those students attending EAB schools who are coming out of their training with high debt. She pointed out that a lot of these students are a population that has very little access to other student aid programs and asked the board to at least keep discussing the issue.

Mr. Heim indicated that he has concerns about the proposal because there are cuts on the horizon that will mean less money for those that are in college now. In addition, he is concerned about public money going to private sources and possibly out-of-state. He noted that the state has already raided millions of dollars from various funds at UW campuses and redirected them to pay for financial aid programs.

Ms. Brown expressed concern and gave an example about how poor students have access to programs at the Milwaukee Area Technical College but having access to the programs does not mean good results. So that giving more funding to students, while it is an honorable goal, does not necessarily mean it translates into graduations and employment opportunities. She also questioned whether pursuing such a proposal was within the EAB's statutory purpose. Ms. Oyama-Miller reminded the board that the EAB staff was not asking for a final decision, but for the opportunity to develop an option.

Mr. Cooney expressed his view and said the board should look at this as not only providing choices and options to students, but also to build the educational capacity of the state with non-tax dollars. By making Wisconsin more user-friendly for for-profit schools, they will grow, multiply, and offer more education choices that do not come out of the tax base. They will do it with private capital and in return they will pay corporate taxes to Wisconsin.

Don Madelung was recognized by the board. Mr. Madelung expressed his concern and asked the board to consider not “tabling” this proposal. He suggested that the board take the opportunity to have a dialogue with schools and consider additional information before making a decision.

A roll call on the motion to table was approved 5-2 (Cooney, Oyama-Miller).

EAB MODERNIZATION INITIATIVE

Mr. Dies stated that the EAB must modernize and update its statutory provisions so that it can better protect consumers; more effectively regulate the for-profit and non-profit institutions; and improve institutional effectiveness and student outcomes. While postsecondary education has changed, the statutory provisions governing the EAB have not. Mr. Dies pointed out that these changes are closely linked to the EAB’s strategic plan.

Mr. Craney said that since the board members just received the modernization paper and the draft of the statutory changes, and a few of the members did not have the time to read and review the material, Mr. Craney suggested the issue be brought back for discussion at its March meeting.

BOARD MEETING SCHEDULE

Mr. Craney noted that four meeting dates were being suggested for the balance of the year, even though the March meeting would be less than six weeks away. By law the board must meet at least once a year. He was open to alternatives that board members might have but added that the proposed dates align well with the work currently done by the board throughout the year. A motion (Oyama-Miller, Heim) to accept the four dates as recommended was approved unanimously.

ADJOURNMENT

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