

EDUCATIONAL APPROVAL BOARD MEETING

December 15, 2015
10:30 a.m.

Conference Room
431 Charmany Drive
Madison, WI

Members Present: Don Madelung, Robert Hein, Jo Oyama-Miller, Omar Parks, William Roden

Others Present: David Dies, Anna Fosdick, Blanca James, Sharon Johnson, Jessica Sabin, Casey Wachniak, *Educational Approval Board*; Jamie Buenzel, *Globe University*; Mandy Johnson, *Madison Media Institute*; Nate Orpen, *Rasmussen College*; Marshall Whitlock, *Upper Iowa University*; Nathan Halbach, Mike Rogowski, *Whyte Hirschboeck Dudek SC (representing the University of Phoenix)*

The chair of the Educational Approval Board (EAB), Mr. Madelung, called the meeting to order at 10:30 a.m. Roll call was taken and a quorum was present. A motion (Hein, Roden) to approve board meeting minutes from September 16, 2015 was unanimously approved.

BOARD CHAIR'S REMARKS

Mr. Madelung noted it is a new era for the EAB with new offices and new staff. He thanked board members for their commitment to the board and the audience for their presence at the meeting. Mr. Madelung reported that the Governor has created a commission on government reform, efficiency and performance that the EAB will be monitoring. He reported the SARA initiative continues to move forward. While attending the Midwest Higher Education Compact meeting in Chicago he had an opportunity to meet with Senator Hardsdorf who provided him with a copy of the updated legislation and noted the EAB will be represented on the distance learning board that will be created. He said that many states are already SARA members.

PUBLIC COMMENTS

There were no public comments.

2016 BOARD MEETING DATES

Following a brief discussion about the proposed meeting dates for 2016, the following dates were suggested.

Wednesday, March 9, 2016
Thursday, June 16, 2016
Thursday, September 15, 2016
Wednesday, December 7, 2016

A motion (Oyama-Miller, Roden) to hold the board meetings for 2016 as discussed and identified was adopted unanimously.

BOARD STATUS REPORT

Involvement in Postsecondary Education Policy Decisions

State Authorization Reciprocity Agreement (SARA) – Mr. Madelung said he had read the SARA proposal that Senator Harsdorf provided and noted there were a great deal of changes from the previous draft. Mr. Dies noted that he was told by Senator Harsdorf’s chief of staff that the draft shared in October 2015 was in need of significant revision and they were uncomfortable with it being shared. It appeared that there had not been much action.

Mr. Dies commented that he has been waiting for word that the legislation had been introduced, but has heard nothing. In preparation for the meeting, Mr. Dies contacted Senator Harsdorf’s office and was informed that MHEC had suggested some changes which needed to be incorporated into the draft, and that the UW was slow in reviewing the changes. Mr. Dies requested Mr. Madelung provide a copy of what Senator Harsdorf had shared with him.

Mr. Dies informed the board chair that he would be out of the country January 9 through the 16, and if there is a hearing during that time, someone else would need to attend. At the last meeting, the board indicated it would not take a position on SARA until they saw a bill draft.

Ms. Oyama-Miller stated that she did not have a sense as to how SARA was going to protect the online students; and that it is an issue that needs to be addressed. While Wisconsin students are currently well protected, this is not the case for students across the country. She indicated the EAB should meet with the district commissioners and ask for their position on this issue. Mr. Madelung said that as a MHEC commissioner, there is no clear answer; and that these issues are national in scope. Ms. Oyama-Miller said she would like to be clear that the EAB should take a stance so that its message and concerns are heard.

Mr. Dies responded and noted that the EAB has raised questions and submitted letters of concern to MHEC. He noted that NASASPS also wrote a letter expressing a series of concerns; and what came back was a response that referred to the SARA bylaws. Unfortunately, the bylaws are limited to protecting consumers from fraud, abuse, and misrepresentation. Mr. Dies said types of issues with which the EAB deals often times do not rise to that level and will not be covered under SARA. He pointed out that one of the reasons other states are comfortable with SARA is that they have done nothing to regulate online schools, and therefore have no protections in place. For these states, SARA is better than nothing. However, in Wisconsin, he said it will be taking a step backwards – from consumer protection to collecting the data on what happens to the students that attend those institutions.

Mr. Madelung asked if SARA falls silent on certain issues would the EAB be able to plug the gap? Mr. Dies responded that the EAB will no longer have any authority over out-of-state distance learning institutions. Mr. Madelung inquired about schools not signing on to SARA. Mr. Dies responded they would still be subject to EAB oversight, but he thought it would be

unlikely those institutions will forego becoming SARA members because it is in their financial best interest to do so.

Mr. Madelung asked if Ms. Oyama-Miller was suggesting the EAB send another letter to MHEC or to Senator Harsdorf; or if this is something that needs to be put on the agenda for the next meeting. Ms. Oyama-Miller said the EAB needs to see the bill before it acts. Mr. Dies said as far as he is aware there is no final draft.

Positive Working Relationships and Alliances

Government Reform Initiative – Mr. Dies reported a Commission on Government Reform, Efficiency, and Performance was created by the Governor in early November. A copy of the executive order creating that body was provided in the board materials. Mr. Dies said the order is something the EAB should be mindful of given the proposal to eliminate the agency. He noted that Secretary Ross from Safety and Professional Services is one of the individuals appointed to the commission; but also was one of the individuals who felt that his agency did everything the EAB does, which the EAB was able to show was not the case through the legislative process. The commission will be re-examining a number of the proposed agency mergers. Mr. Dies will be monitoring the commission and how its recommendations might impact the EAB.

Consumer Protection

Education Management Corporation (EDMC) Settlement – Mr. Dies noted the EAB had issued a press release relating to a settlement the EDMC reached in which approximately 933 Wisconsin students will receive over \$900,000 in debt forgiveness. This is institutional debt and does not include federal student loan debt. Although the state was not party to the lawsuit, Wisconsin students benefited from the settlement nonetheless.

University of Phoenix – Mr. Dies reported that all Wisconsin complaints from students enrolled in the human services program at the University of Phoenix have been closed. However, the Department of Justice (DOJ) issued a subpoena wanting to get additional information about students who did not know about the situation, but could get help. Mr. Dies restated that the role of the EAB is not to fish out complaints but to resolve the complaints that are presented.

Corinthian College, Inc. – It was reported that Corinthian Colleges, Inc., the parent company of Everest College, had declared bankruptcy and is now defunct. Everest College had a campus in Milwaukee that the EAB closed in 2012. Subsequently, DOJ filed a lawsuit against Corinthian. Despite the bankruptcy, the court has allowed the Wisconsin lawsuit to continue. While no money is available, a decision in favor of the state might give students who graduated from the Wisconsin campus leverage they can use to have their student loans discharged.

Ms. Oyama-Miller asked if any student protection fund monies were used to assist these students. Mr. Dies responded that instead, the EAB negotiated a settlement with Corinthian to have the loans of students that dropped out discharged. The total they agreed to discharge was in excess of \$4.0 million. The DOJ action would potentially benefit students who completed the program, but where there is also a question of the value of the credential they received. The concern is that the students did not benefit from the degree they received, and had little to show for it because they would not be able to obtain employment.

Operational/Administrative Procedures and Policies

EAB Offices – Mr. Dies provided the board with a copy of the fully executed lease delineating all of the terms. He noted that the lease had been executed and signed by the deputy secretary of the Department of Administration. Mr. Dies explained the EAB incurred a double lease payment for the first month – the old location as well as the current location. He also noted the EAB may need to seek an expenditure authority increase to cover the \$10,000+/- of unexpected office relocation costs.

Mr. Dies noted that in September 2015, the Division of Personnel Management, which replaced the Office of Employment Relations (OSER), informed state agencies that they would be reinstating the Discretionary Merit Compensation (DMC) and Discretionary Equity or Retention Adjustment (DERA) programs. The EAB submitted a plan, was asked to revise the plan, and resubmitted the plan in December. The EAB revised plan was approved; and the EAB will work with the Wisconsin Technical College System to implement these changes.

Ms. Oyama-Miller asked if board members had seen the approved plan. Mr. Dies said board members received a copy of the revised and now approved plan in the board meeting materials that were provided.

SCHOOL APPROVAL ISSUES

Mr. Madelung recused himself from participating in the discussions because he previously worked for one of the institutions under consideration.

Mr. Dies provided an update on the Anthem closure. The EAB is in the process of paying final expenses related to the teach-out of students. Payments totaling \$527,295 were made using the student protection fund. Additional information on the closure is included in materials provided to board members. The EAB has also learned that it will not be able to recover monies it used from the student protection fund. At the EAB's request, a claim was filed by DOJ in the bankruptcy proceedings, but there were few, if any, assets to liquidate.

Mr. Dies also mentioned that ITT Technical Institute has suspended new enrollments at its Madison campus; and briefed board members on several complaints and host of concerns regarding Brensten Education and its networking administration program. Pat Sweeney has been hired as an LTE and is leading the Brensten investigation, which the EAB has required bring in a third-party monitor.

The EAB is working through many issues, including bad communication between the school and students, and no one being available at the school to answer students' questions. The students seem clueless as to what is going on regarding the program. Last spring/summer, the school made a decision to discontinue the program for a number of reasons, including issues with the school's accreditor and the U.S. Department of Education. The EAB is trying to do what it can to ensure current students are able to finish the program and get what they were promised when they enrolled.

Mr. Dies mentioned several other schools that are closing campuses in Wisconsin: Art Institute of Wisconsin; ITT – Green Bay, which has a teach-out plan; and the University of Phoenix, which recently announced it would be closing its Milwaukee campus.

Ms. Oyama-Miller raised concerns about the approval of schools that appear questionable based on previous performance. Can the EAB look at the number of students or how long have they been approved? Is the EAB approving schools and institutions too readily? She asked what the EAB can do to ensure it is performing its due diligence when approving these schools and programs to avoid these issues and problems from happening again and again.

Mr. Dies responded by indicating the EAB operates according to set of statutes and rules. When the EAB is evaluating schools and programs, it uses the provision set forth by the statutes and rules to determine whether or not to approve them. He indicated that the EAB is not afforded a lot of subjectivity in the decision-making process. The EAB does not have the ability to deny a school or a program just because it may have some concerns. There has to be legal basis for doing so.

Mr. Dies reminded board members that the effort the EAB undertook several years ago to establish performance standards and benchmarks was not very well received and likely contributed to the proposal to eliminate the agency.

Ms. Oyama-Miller said the EAB is in a good place to make changes, and through these changes be more diligent and able to look at these complex issues. She is willing to fight for it and support the EAB because it is necessary. Mr. Madelung asked if Ms. Oyama-Miller was asking for new criteria to be added to the EAB's oversight authority. She inferred that the necessary tools the EAB has are part of the modernization legislation that has been proposed, but that the need for these changes has to be brought to higher places with examples of needed solutions.

Mr. Dies noted that the modernization legislation is not going to give the EAB any additional authority. The legislation is more of an updating of the EAB's existing organizational structure and creates a statutory framework for the 21st Century. What Ms. Oyama-Miller is suggesting would require a significant examination of the EAB's current authority.

Mr. Dies said the way EAB staff approaches its work is to look at the balance between protecting students and protecting schools. With respect to complaints, the EAB finds in favor of students about 60 percent of the time, but the EAB find in favor of the schools the other 40 percent. He feels the EAB's consumer protection role is not just about protecting the students, but also about protecting the institutions. The EAB tries to balance the interests of students and the interests of institutions so that it is not so protective of student that it creates significant barriers for institutions. For many individuals, these institutions are places of opportunity because the students do not have access to traditional institutions. If the EAB tightens the noose too much, there may not be any place for these non-traditional students to go.

Mr. Dies continued on to discuss the approval of institutions that have had issues or closed. He explained that Corinthian Colleges, Inc. was the parent company of Everest University, Everest College, and Wyotech – all approved by the EAB. In the collapse of Corinthian, Everest College was the only one to close; Zenith Education acquired Everest University and Wyotech. Under the provisions that govern change of ownership provisions, the EAB did not have the authority to

deny the acquisition. At the time of purchase, Everest University was under an enrollment suspension, which remains in place. As for Wyotech, they have decent student outcomes and the EAB has not been concerned about the institution.

Mr. Dies noted that in its day-to-day work, the EAB staff looks for warning signs such as a program growing too rapidly or a school operating in a highly competitive marketplace, but they do not have the ability to act outside of the statutes and rules.

As the board reviewed the School Activity Report, it was discovered an old report was included in the materials provided to board members, although the information previously sent and available online was accurate. A correct version of the report was provided the board members.

In response to questions about American Higher Education College (AHEC) and its relationship with Madison Media Institute (MMI), Mandy Johnson clarified that the schools presently share the same leadership and administrative staff, and owned by the same corporation (American Higher Education Development Corporation), but are separate legal entities. AHEC offers an associate level program and is accredited. Two separate entities were created because of the EAB's concern of having a college under an institution when it usually is the other way around; not the typical structure.

A motion (Oyama-Miller, Hein) to approve items "A" through "I" of the School Activity Report for the period of September 5 through December 9, 2015 was approved unanimously (Madelung abstained).

RENEWAL FEE MULTIPLIER

Mr. Dies noted that the multiplier for FY 15 had been approved at 1.309 last December. The board also approved a tentative FY 16 multiplier of 1.6847 so that schools could have an idea of where they would be the following year. He explained that based on the schools' reported AGASR and because of slightly higher one-time revenues received from schools, the EAB staff is recommending the multiplier for FY 16 be lowered to 1.6118. Mr. Dies said EAB staff is also recommending a tentative multiplier be set at 1.7735 for FY 17 in anticipation of the AGASR continuing to decrease.

Mr. Dies cautioned that should Wisconsin become a SARA member, the assumptions for FY 17 will no longer hold true because the EAB will be losing oversight of 105 institutions and nearly \$128 million of revenue. He referenced the charts provided showing different scenarios. The board will have to have a separate discussion about how the EAB will need to proceed.

A motion (Roden, Oyama-Miller) to set the multiplier used to calculate the second payment renewal fee at 1.6118 for FY 16 and tentatively at 1.7735 for FY 17 was unanimously approved.

STUDENTS OUTCOME REVIEW

Mr. Dies introduced Jessica Sabin of the EAB staff who gave a presentation on the student outcomes collected during the most recent renewal process. Ms. Sabin has performed this analysis annually since the renewal for the 2014 calendar year. Each subsequent reporting

period has provided an additional year of outcomes data, which has allowed for increasing levels of analysis and insight into the outcomes of Wisconsin students attending EAB-approved institutions. It was noted the report provided to board members is final draft and staff is interested in any feedback or input from board members. As in past years, the report is designed to inform and educate; it is not designed to target or do anything specific regarding institutional approval. This is more of a policy document and will become part of that conversation about policy changes needed.

Ms. Sabin discussed the outcomes data from student in the 2012 – 2014 cohorts. She described the statistical model used to analyze data. Ms. Sabin addressed questions from the board to clarify data points. Mr. Dies provided historical context about last year's results presented last year. He noted that other entities find information collected and analyzed by the EAB useful in determining the success of their own programs. It is also unclear how much SARA will affect the data collection since the EAB will no longer have access to outcomes data for online schools, which have significant dropout rates.

ADJOURNMENT

A motion (Oyama-Miller, Roden) to adjourn was approved at 11:43 a.m.