

# EDUCATIONAL APPROVAL BOARD MEETING

February 20, 2015  
10:30 a.m.

3<sup>rd</sup> Floor DVA Conference Room  
201 W. Washington Avenue  
Madison, WI

**Members Present:** Don Madelung, Robert Hein, Jo Oyama-Miller, Omar Parks, William Roden (via teleconference)

**Others Present:** David Dies, Linda Heidtman, Blanca James, Jessica Sabin, Patrick Sweeney, Casey Wachniak, *Educational Approval Board*; Wendy Coomer, *Foley & Lardner (representing Bridgepoint)*; Marshall Whitlock, *Upper Iowa University*; Nathan Halbach, Mike Rogowski, *Whyte Hirschboeck Dudek SC (representing the University of Phoenix)*; Rocky Klitzke, *Globe University*; Gil Halsted, *Wisconsin Public Radio News*; Christa Pugh, *Legislative Fiscal Bureau*, Andrew Thomas, *Rasmussen College*, Lori Youngman, *Office of Senator Janet Bewley*, Mitch Gilbert, *Education Management Corporation (EDMC)*; Karen Tardrew, *National Louis University*, Sheila Malweska, Daniel Marcelle, *Sanford-Brown College*; *Jerry Klabacka, Diesel Truck Driver Training School, Inc.*

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 (Oyama-Miller, Hein) to approve the meeting minutes from December 10, 2014 was unanimously approved.

## **BOARD CHAIR'S REMARKS**

Mr. Madelung explained that the emergency meeting of the board was called because a provision to eliminate the EAB was proposed by the Governor in the 2015-17 state budget. After providing a brief history of the agency, Mr. Madelung indicated the board must decide how it wants to respond the proposal. He stated it was his belief the proposal was ill-advised and will open the state for competition to poach on students and compete with other schools. Although that might not be the intent of the proposal, it would be a result. He invited the public to participate in a dialog with the board and share their opinions.

## **PUBLIC COMMENT**

There were no public comments.

Ms. Oyama-Miller encouraged the schools to examine the impact the elimination of the EAB would have on disrupting a level playing field and lowering standards for competing schools. She said the legislators may not have a complete and accurate picture of what the proposed legislation actually entails. She encouraged the public to reach out to lawmakers in the coming weeks to address their concerns.

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Mr. Madelung explained that while functions of the EAB would be shared by two different agencies, most of the current oversight would be simply eliminated. The existing Department of Agriculture, Trade, and Consumer Protection (DATCP) will handle student complaints and the newly created Department of Financial Institutions and Professional Standards (DFIPS) will authorize schools through a process not yet established. Mr. Madelung stated that there are many unknowns related to the proposal. Although he understands where the schools are coming from in not wanting to be regulated, he said it is a cost of doing business and ultimately is a protection for the schools.

## **SCHOOL APPROVAL ISSUES**

Amerstate University – Following the EAB’s 2012 revocation of Amerstate University’s approval and the state Supreme Court’s rejection to review the case, the EAB has made a claim and collected on the school’s surety bond. Because students were paid out of the Student Protection Fund (SPF), the money was deposited back into the fund.

Anthem College Closure – The EAB continues to be involved with the closure of Anthem College as many students are part of a teach-out at Milwaukee Career College (MCC) or have transferred to Herzing University. Mr. Dies indicated that to date, the EAB has spent \$234,000 to help students. He indicated the EAB is also going to pay roughly \$170,000 to the alternative lender Tuition Options, to write-off loans students took out to attend Anthem, but who were not able to complete their programs before the school closed. The EAB has come to a verbal agreement with Tuition Options to share 50/50 in alleviating the student debt. Mr. Dies explained the EAB has also been in contact with the U.S. Department of Education (USDOE) and Great Lakes Higher Education Corporation about these students.

Zenith Education Group, Inc. – ECMC, a student loan guarantee agency, recently created Zenith Education Group, Inc. and has purchased many of the schools operated by Corinthian Colleges, which has been under intense scrutiny by the USDOE and is facing a number of lawsuits from state Attorneys General. Mr. Dies noted that among these schools purchased are Everest University (Online) and the three WyoTech campuses approved by the EAB. Because of the change of ownership, the EAB is reviewing catalog revisions and new surety bonds.

Golden Paws Pet Styling Academy – Mr. Dies explained that upon investigating a student complaint pertaining to Golden Paws Pet Styling Academy, the EAB made a determination that both parties were responsible for problems leading to this complaint and a partial refund was due to the student. Because Golden Paws refused to pay the student the refund, the EAB has made a claim on the school’s surety bond.

Argosy University – Mr. Dies said that although the EAB is often seen as a consumer protection agency, it protects institutions as well as students. This was the case when it recently approved new programs at Argosy University, an already EAB-approved school, when it opened a new location in the Twin-Cities area and sent a check for \$118,000 to cover 40 new programs. EAB staff determined that because most of the programs were already approved for distance learning, it was able to follow its policy of not entering program “specializations” as separate programs and ultimately save the school a lot of money. Their total fee for opening a new campus was reduced to \$65,000.

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Herzing University – Mr. Dies provided an update regarding the status of Herzing University. As of January 1, 2015, the school converted its governance to nonprofit status and by doing so met the requirements for exemption as an in-state nonprofit institution.

Advanced Welding Institute – At its December 2014 meeting, the EAB reviewed a student complaint against the school and determined the student should be issued a partial refund and appropriate certification of coursework completed. It was reported that EAB staff had worked with the school to ensure the money and credentials were awarded to the student.

A motion (Oyama-Miller, Roden) to approve items "A" through "I" of the attached school activity report was approved. Mr. Parks was not present.

Mr. Parks joined the meeting at 10:53 a.m.

## **BUDGET RECOMMENDATION TO ELIMINATE THE EAB**

Mr. Dies indicated the Governor's proposal would eliminate virtually all state oversight of education and training for private postsecondary education in Wisconsin. Upon reviewing the budget language, almost all of the EAB's existing functions would be repealed from law, and very few responsibilities actually would be transferred over to DATCP or the new DFIPS. Because of a provision in federal law requiring schools to be authorized in order to receive Title IV financial aid, DFIPS would be charged with authorizing schools, though it is still unclear what this process would entail.

Also as part of the budget proposal, DATCP would inherit EAB's statutory responsibility to retain student records and transcripts, in addition to responsibilities for handling student complaints. However, DATCP's statutes would not be changed and it would only have the authority to investigate complaints involving unfair trade and marketing practices. Mr. Dies explained the vast majority of complaints the EAB receives are not of this nature and involve disputes involving refunds, the quality of programs and the treatment of students. Each year, the EAB receives about 50 complaint inquiries, and opens about half as many formal investigations. By design, the EAB is supposed to prevent problems from arising in the first place.

Mr. Dies noted that the EAB does not have an adversarial relationship with schools and actually prides itself on working effectively and collaboratively with schools. Instead of being staffed with auditors or investigators, the EAB's school administration consultants are subject matter experts with deep knowledge of what it takes to run successful schools ranging from small trade schools to large institutions. This knowledge and expertise would be lost with the EAB's elimination. All of the schools with whom EAB staff has communicated since the budget was introduced oppose the elimination, as its regulations level the playing field and prevent foreign entities or illegitimate schools offering meaningless credentials from coming in and competing with private for-profit schools as well as the UW system and technical college schools.

Mr. Dies addressed the misconception that elimination of the EAB will alleviate a fiscal burden for schools, as the schools only pay \$1.70 for every \$1,000 of revenue generated from Wisconsin students. Small schools with low revenues pay small fees while larger schools pay much higher fees. While the EAB has a \$600,000 operating budget for FY15, last year the approved schools generated more than \$351 million from Wisconsin students.

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As for being a regulatory burden on schools, Mr. Dies indicated the EAB is usually able to approve a school with a well-completed application in 5-10 days. The school administration consultants help guide schools through the approval processes. In addition, the EAB utilizes an innovative annual renewal process that is entirely online and is the envy of other states as it eliminates extra, overly burdensome work for schools.

Mr. Madelung emphasized the board having enough information about the proposal and ramifications of it so they can make a good decision.

Mr. Roden said he strongly opposes the budget proposal to eliminate the EAB. He argued that the EAB should remain intact and the same moving forward as it does not cost taxpayers any money to sustain the agency while reassigning functions to DFIPS and DATCP likely will be costly. Mr. Roden said that by looking at the drafting notes pertaining to the proposal, misconceptions about the EAB were widespread, as some see EAB as only having oversight of barbering and cosmetology schools. Although the EAB oversees neither, it offers much assistance improving the 250 schools it does oversee. He said that when he initially joined the board, he was so impressed with the EAB's expertise that he wished the public schools would be subject to the same type of oversight. All of the background and expertise of the agency would be lost if eliminated and he recommended a motion to keep the agency as is. He said lawmakers need to be aware of what the EAB does.

Mr. Hein said that he has learned a lot about the proposal over the past few days and appreciates all of the information he has been provided. He indicated he is extremely worried about the seemingly very limited regulation that would go along with the proposed elimination. He inquired about illegitimate schools wishing to offer meaningless credentials and how they might be able to more easily serve Wisconsin students with so little regulation. It was clarified that schools receiving federal student aid would still have to be accredited, but would simply have to be authorized by DFIPS without having to undergo any real evaluative process. No authorization would be required for institutions that do not receive federal aid; it would turn into a "buyer beware" type situation for students and many of the protections schools and students now enjoy would be nonexistent.

Ms. Oyama-Miller indicated her familiarity with the impact of EAB regulation and its ability to help and protect schools, as she has been a board member for almost 10 years and has also worked with the EAB from the school perspective. She indicated that she is baffled by the notion that EAB presents a fiscal burden to the state, and it certainly would be more costly to transfer the agency's functions elsewhere. Likewise, assessing fees to the schools is a reality of schools doing business and the higher their revenues from Wisconsin students equate to higher fees paid to the EAB. Ms. Oyama-Miller argued that from an impact standpoint, there will always be for-profit schools, it is just that they are currently all required to play by the same rules and there exists a mechanism of protection should anything go wrong. She said that this would all be lost and DATCP already has many more complaints than it can handle. Student protection will not be a priority and that consumer protection would be nothing compared to what the EAB currently offers. Ms. Oyama-Miller urged the board to formally oppose the proposal before it gets to the joint finance committee so it becomes apparent that a big mistake was made.

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Mr. Parks indicated he has been working in for-profit education for many years and has seen many highs and lows with the industry trends and regulations. He recognizes the EAB's importance in working with institutions to provide them with the best opportunities to serve students successfully. In addition, the elimination of the EAB would not lead to more opportunities, just more chaos. Mr. Parks stated the last thing he would want to happen is for it to mimic the deregulation that occurred in Wyoming when the floodgates opened and almost anyone could become approved to operate. He said that there is a lot of work to be done to better institutions and opportunities for students within them, but eliminating the EAB is not the answer.

Mr. Madelung outlined his experience with the EAB as both a proprietary school president for over 25 years and a board member, appointed by the Governor. He echoed Ms. Oyama-Miller's opinion that although schools may face some regulatory and fiscal burdens related to regulation, it is very minimal and a cost of doing business. He said that some lawmakers may fear more oversight in the future, but that would not be the case. Unfortunately, eliminating the EAB would eliminate the assistance and protection it is able to provide to students and schools alike. Overall, Mr. Madelung noted it is his responsibility as a member of the board who was appointed by the Governor to provide him some insight about the ripple effects his proposal seemingly overlooks, as the proposal would have profound impact on the state's private, technical and UW institutions. Mr. Madelung said the proposal is short-sighted and is going to be much more negative than lawmakers seem to understand.

Mr. Dies noted when the EAB explored the possibility of implementing performance standards, it wanted to do so by forming a committee, having conversations, and getting insight from others involved; it did not simply make a decision overnight. On the contrary, the EAB was not consulted about the Governor's proposal. If it had been, the EAB could have shed light on many misconceptions, including the agency's consumer protection function, as it is very different from that of many other agencies. Students attending approved schools spend years of time and tens of thousands of dollars on their education. The EAB attempts to minimize complaints by preventing them from arising in the first place and helping schools focus on institutional effectiveness.

Mr. Dies recognized the need for private for-profit institutions, as the UW and technical college system schools lack the capacity to serve all the students wishing to pursue some type of higher education. These schools are not subsidized, so it is a good deal for the state. Moreover, the students that attend EAB-approved schools help keep the state economy moving forward as part of a broader economic development solution. As a result, Mr. Dies argued that we need the EAB to help institutions perform the best they can and constantly set higher goals. Because 75% of students attending EAB-approved schools are nontraditional students, the last thing the EAB wants to see is these students fail to complete, accumulate significant debt, and be unable to attain decent jobs. Mr. Dies said that the EAB applauds schools for serving these students but they have to be able to serve them in the best way possible.

Ms. Oyama-Miller encouraged schools to make students aware of how potential changes in EAB regulation might affect their consumer protections. She also urged students to write letters to lawmakers and schools to lobby against the Governor's proposal. She said the competition that decreased regulation would bring to the field would hurt schools.

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Upon inquiry from Mr. Hein about the impact eliminating the EAB would have on Wisconsin becoming a SARA member, it is clarified that in-state nonprofit institutions may not be able to participate in reciprocity because they are not subject to oversight by any state governmental entity. Mr. Dies said that this proposal likely would complicate Wisconsin joining SARA. It was noted by Mr. Madelung that other legislative changes would be necessary for Wisconsin to participate in reciprocity.

A motion (Oyama-Miller, Roden) that the EAB board formally oppose the Governor's budget recommendation to eliminate the EAB and direct staff to develop and execute a strategy to remove the proposal from the budget was unanimously adopted.

## **ADJOURNMENT**

A motion (Hein, Madelung) to adjourn was approved unanimously at 11:53 a.m.