

EDUCATIONAL APPROVAL BOARD MEETING

June 10, 2015
10:30 a.m.

1st Floor Conference Room
201 W. Washington Avenue
Madison, WI

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

Others Present: David Dies, Zachary Galin, Blanca James, Jessica Sabin, Patrick Sweeney, Casey Wachniak, *Educational Approval Board*; Wendy Coomer, *Foley & Lardner (representing Bridgepoint)*; Nathan Halbach, Mike Rogowski, *Whyte Hirschboeck Dudek SC (representing the University of Phoenix)*; Andrew Thomas, *Rasmussen College*; Mitch Gilbert, *Education Management Corporation (EDMC)*; Jarvis Racine, *Art Institute Wisconsin*

The chair of the Educational Approval Board (EAB), Mr. Madelung, called the meeting to order at 10:31 a.m. Roll call was taken and a quorum was present. A motion (Oyama-Miller, Roden) to approve the meeting minutes from February 20, 2015 was unanimously approved.

BOARD CHAIR'S REMARKS

Mr. Madelung said the last few months have been interesting, referencing numerous articles in the media about the budget proposal to eliminate the EAB. Mr. Madelung acknowledged that through the hard work of staff, especially the executive secretary; to some extent the chair; the board writing letters; and a number of people he will acknowledge shortly, the EAB has prevailed at this point. However, the EAB is not totally out of the woods. The end result will depend on what is included in the budget that is signed into law.

Mr. Madelung complemented the Joint Finance Committee, as well as the Senate and Assembly, for their wisdom and questioning why the proposal was before them. He noted the proposal is also included as part of a separate bill, which is highly unusual. A number of school officials testified during public hearings on the bill. He specifically acknowledged and thanked Jerry Klabaka, Diesel Truck Driving School; Jack Takahashi, Milwaukee Career College; Wanda Beals, Milwaukee School of Massage; and Pedro Rivera, Healing Oasis Wellness Center.

Ms. Oyama-Miller, acknowledged the support and useful comments statewide from constituents, schools, and national newspapers, which made a huge difference to legislators in understanding the EAB's concerns.

Mr. Madelung also noted that Linda Heidtman and Pat Sweeney, two long-time EAB staff members, were retiring. Although Ms. Heidtman was not present at the meeting, Mr. Madelung said he had worked personally with her when he was president of one of the schools she oversaw and noted that she always returned calls, answered questions during visits, and was very

proactive both for students and institutions. He thanked Mr. Sweeney for his support and passion for his work, especially as an advocate for students and schools. It was noted that his service, knowledge and expertise will be greatly missed.

PUBLIC COMMENT

Mr. Sweeney addressed the board and shared his institutional knowledge and perspective on four main issues the EAB would be faced with in the future – statutes and administrative rules; monitoring of and adapting to new sectors; student success measures; and reciprocity.

Mr. Sweeney noted the changes and advancements that have taken place in the EAB thanks to the leadership of the executive secretary and staff. He pointed out that although the EAB has changed, EAB statutes have not. He supported the need for modernization to get at some of the enforcement issues and abilities and some options necessary to do business with schools.

He pointed out that the EAB will always have to monitor and adapt to changes, and talked about how the types of schools overseen by the EAB have changed but, with the exception of distance learning, the rules have not. Mr. Sweeney noted that when students attend EAB schools, they expect to have some success. The EAB now has data that staff can look at and knows that there are many schools in which students are not successful. Those students are saddled with debt that does not go away. The EAB needs to look at those measures and figure out how to hold institutions accountable.

The last issue he focused on was the State Authorization Reciprocity Agreement (SARA). He provided examples of distance learning schools and current student complaints within some of these schools. He questioned who would be responsible for handling complaints if Wisconsin were to become a SARA state. Mr. Sweeney argued that SARA is not about the “bill of rights” the EAB has for its students in Wisconsin, but rather about institutional ease.

Mr. Sweeney asked the board to look at the EAB’s statutes and their intent to serve as the “bill of rights” for its students. He also asked the board to look ahead to potential new sectors the EAB might regulate in the future. He asked that the board look at how the EAB holds institutions accountable and the measures that must be in the statutes to accomplish this. Finally, he urged the board to, as best as they could, try and keep Wisconsin out of SARA so that the 20 to 30 thousand students that are in online degree programs have someone to protect their best interests.

Mr. Roden commented that he agreed with everything Mr. Sweeney said and was concerned to see someone as seasoned as him walk away. He recommended that the board find a way to capture his institutional history and for the executive secretary to work with him on revisions to the regulations and the statutes. Mr. Roden also agreed that SARA is good for business, but not good for students. He concurred with Mr. Sweeney on the need to hold proprietary institutions accountable, but noted the public sector has the same kind of issues and also need to be held accountable. Their graduation rates are just as dismal as the proprietary schools.

Ms. Oyama-Miller thanked Mr. Sweeney for his 31 years of state service. She gave a short history of their interaction throughout the years when she was helping proprietary schools get started. She mentioned the modernization bill that the board has supported and that Mr. Dies and his staff has done a lot of work. Unfortunately, it has never been seen as a legislative priority.

She agreed with Mr. Sweeney that it is time to modernize and change so that everybody feels the EAB is a necessary agency. She encouraged the schools to help the EAB and take a look at what would happen to their schools if the EAB doesn't modernize and hold schools accountable for student success. She referred to the growing impact of both media and social media on institutions.

Mr. Madelung commented on SARA and said Wisconsin would be one of the last states that will join SARA because of the questions the EAB and others have raised. Although many states and institutions have joined, he feels it will be awhile before Wisconsin joins. Nonetheless, it is likely to happen.

OFFICER ELECTIONS

Ms. Oyama-Miller assumed the chair. She indicated that officers of the board consist of a chairperson, a vice-chairperson, and a secretary. Ms. Oyama-Miller entertained nominations for chair. Mr. Roden nominated Don Madelung seconded by Mr. Hein. Mr. Madelung accepted the nomination and was elected unanimously. Ms. Oyama-Miller relinquished the chair.

Mr. Madelung entertained nominations for the vice chair. Ms. Oyama-Miller was nominated by Mr. Madelung, which was seconded by Mr. Parks. Ms. Oyama-Miller accepted the nomination and was elected unanimously.

Mr. Madelung entertained nominations for secretary. Ms. Oyama-Miller nominated Mr. Roden. Mr. Roden nominated Mr. Hein, which was seconded by Ms. Oyama-Miller. Mr. Hein accepted the nomination and was elected unanimously.

BOARD STATUS REPORT

Involvement in Postsecondary Education Policy Decisions

State Authorization Reciprocity Agreement (SARA) – Mr. Dies reported that within a meeting that took place at the end of March, a draft of legislative language prepared by the UW System and the Wisconsin Association of Colleges and Universities (WAICU) was shared and discussed. It would serve as a template for a potential bill that would be necessary for Wisconsin to become a SARA participant.

Mr. Dies said the president of the Wisconsin Technical College System (WTCS) raised a number of concerns regarding the draft. Specifically, she was concerned the proposal was trying to address a federal program integrity rule issue, as well as create a mechanism that would allow the state to participate in SARA. In addition, she still has reservations regarding the data collection requirements as it relates to SARA and does not feel officials from the Midwest Higher Education Compact (MHEC) have satisfactorily addressed what ultimately will be expected of institutions.

Mr. Dies said that the UW and WAICU support and are clearly pushing SARA. Upon hearing more information about SARA at this meeting, President Cross of the UW System raised several questions about SARA that only the EAB could answer. Mr. Dies maintained his concerns that Wisconsin would be giving up too much by joining SARA.

An attorney for the UW will be going back and redrafting language that will be floated to MHEC to see if it is adequate and allow Wisconsin to participate in SARA. The EAB continues to be at the table expressing concern. Those concerns may or may not be heard by other players who are coming at this from a different (institutional) perspective. SARA has been adopted by more than half of the states.

Positive Working Relationships and Alliances

Proposed Elimination of the EAB – Mr. Dies said that one of the positive things that has come out of the proposal to eliminate the agency is a significant level of increased awareness and visibility of the EAB; and because a separate bill was introduced, the EAB is having conversations with a new set of legislators who are not familiar with higher education. This may help the EAB should legislation allowing SARA move through the legislative process.

Consumer Protection

University of Phoenix – Mr. Dies stated that the EAB is dealing with a series of complaints from individuals who were enrolled in a human services program at the University of Phoenix. A student initially reached out to Fox 6 News in Milwaukee and that led to an investigative reporter contacting the EAB. The student subsequently filed a complaint with the EAB. After the story aired, a series of additional inquiries were received. The EAB was contacted by 18 students including 12 current students who indicated they had been misled by the school. Most of the students were in the human service program.

Mr. Dies said the University of Phoenix has been very responsive to the EAB and is working to resolve the complaints. The school already has settled with one student and he is hopeful that the other complaints will be resolved soon. Although several complaints may lack merit, it appears that many of the students were provided misleading program information. The National Association of Social Workers and the Department of Safety and Professional Services are also involved in this matter.

Operational / Administrative Procedures and Policies

Personnel Changes – Mr. Dies noted that the departure of Mr. Sweeney and Ms. Heidtman will create a big hole for the EAB to fill. In addition, he indicated that Zach Galin will be taking paternity leave in the near future that will create an additional burden. Mr. Dies noted it will be a significantly challenging period of time for the EAB because it will be operating without any consultants. The duration of this staffing challenge will depend on of how fast the recruitment process moves, which has already begun. The EAB has an exam that has been written and is undergoing final review from the Office of State Employment Relations (OSER). Once approved by OSER, the EAB should be able to post positions within the week.

Mr. Madelung inquired about the hiring process once candidates have been identified. Mr. Dies responded that he more or less would be in charge of the process. He explained the recruitment process to Mr. Madelung and the board. He expressed optimism in finding individuals who are qualified and able to step into the positions.

Mr. Dies publicly expressed his gratitude towards Mr. Sweeney and Ms. Heidtman, not only for their institutional knowledge, but also for being instrumental to him when he first stepped into the role of executive secretary.

Mr. Madelung wanted to make sure that the public perception is that the EAB is still the strong agency it has been perceived as. The EAB is still here and is not going away. Although there is a gap to be filled, the EAB will find individuals to carry on the work that Ms. Heidtman and Mr. Sweeney did; and Mr. Galin would be returning after his paternity leave.

Revenue/Expenditure Condition - Mr. Dies reported that the EAB has sufficient revenue to cover budget expenses; however, the accrued vacation that Ms. Heidtman and Mr. Sweeney will cash-out will have a significant impact on expenditures. The EAB is working with both the WTCS and the Department of Administration (DOA) to address this issue. Mr. Madelung asked if the intent is to have two consultants hired before the next board meeting. Mr. Dies indicated his hopes to have the two positions filled before September, but that it might be close.

An overview of the EAB's monthly revenues and expenditures is provided on the attached spreadsheet and corresponding graphs. Revenues for FY 15 are higher than initially projected due to continued interest by out-of-state institutions to seek approval for distance learning programs.

EAB Offices – Mr. Dies informed board members that following the JCF budget decision, officials from the Department of Veterans Affairs indicated their continued desire for the EAB to vacate the building. He also shared information about a new provision currently in the budget that would require DOA to consider relocating agencies signing new leases to possible areas outside Dane County. It would be up to DOA to determine if doing so is cost effective and makes sense. The EAB may have to consider this as an option if the provision stays in the budget.

SCHOOL APPROVAL ISSUES

Mr. Madelung commented on the various issues with which the EAB is dealing, including the campus closures of the Art Institute of Wisconsin, DeVry University, Sanford-Brown, Jones International University, and Anthem College.

Mr. Dies indicated that the pendulum is swinging back with enrollments at many institutions declining. He added that the Art Institute of Wisconsin, DeVry University, Sanford-Brown, and Jones International University are all closing campuses in Wisconsin and other states. These are business decisions made by the schools to close various campuses because the numbers do not make sense any longer. This may be a good thing because the institutions will no longer be enrolling students when they have been unable to produce good results. In the interim, however, it can create a nightmare for those students that are affected.

Although the institutions generally try to convince students to transfer into their online programs, the EAB urges them to give students other options, such as establishing agreements with nearby institutions where they can transfer without losing credits and providing refunds.

The EAB is carefully watching ITT Technical Institute due to a series of different investigations and lawsuits involving the school. In particular, the SEC has filed a suit alleging the school has misled their investors. The U.S. Department of Education also has taken some additional adverse actions in terms of requiring reporting of additional financial information.

Mr. Dies reported that the classroom portion of the teach-out related to the Anthem College closure has been completed. Students are now in externships at different employer sites and they are expected to complete their externships this fall. He noted that the EAB has used its student protection fund to cover expenses related to the closure totaling \$445,497.

A motion (Roden, Oyama-Miller) to approve items "A" through "I" of the attached school activity report was unanimously approved.

Mr. Roden referenced the JD hybrid program contained in the activity report. He mentioned that he is aware that such degree is only acknowledged in the State of California and questioned the validity of this program for a student in Wisconsin. Mr. Dies explained that the program is indeed approved by the ABA, a change prompted by the many online and hybrid programs.

2015-17 BIENNIAL BUDGET

Mr. Dies pointed out that the EAB developed a strategy to remove the proposed elimination of the agency from the budget and that has been successfully executed. In response to a question about the status of the budget, Mr. Dies responded that the JCF is having problems finishing its work. The co-chairs are having conversations with legislative leaders about some of the sticking points, such as transportation funding, right-to-work and the new Bucks arena. The committee initially indicated they wanted to be done before Memorial Day, but pushed the deadline back to June 5, and then again to the following week. The elimination of the EAB was one of the last issues that JCF decided before it stopped meeting.

Mr. Dies said he thinks the Senate will take up the budget first once JCF completes its work, which works in the EAB's favor because a number of the Senate majority members on the committee had concerns about eliminating the EAB. Mr. Dies said he met with Senator Olsen recently and was told the EAB should be okay in the Senate.

Mr. Dies commented on what Mr. Roden said earlier about the need to update the EAB's statutes, noting that the EAB already has drafted for the current legislative session what has been proposed for the past six years. The bill would bring the EAB statutes into the 21st century and create a framework to operate effectively. The bill is ready to go and because of all of the attention the EAB has received, it may have success moving forward. If SARA is going to happen, the EAB might be able to incorporate changes.

Mr. Madelung echoed Mr. Dies' gratitude to Senators Olsen and Harsdorf, as well as Representative Ballweg for her support.

CLOSED SESSION

A motion (Oyama-Miller, Roden) that the EAB hold a closed session under section s.19.85(1)(c) of the Wisconsin statutes to consider the performance and compensation of the executive

secretary in accordance with section 38.5(5) of the Wisconsin statutes was adopted on a 5-0 roll call vote.

The board entered closed session at 11:44 a.m. A motion (Hein, Oyama-Miller) to adjourn closed session was unanimously approved at 12:20 p.m.

EXECUTIVE SECRETARY PERFORMANCE AND COMPENSATION

It was announced that a special board meeting would be held to further discuss this issue.

ADJOURNMENT

A motion (Oyama-Miller, Roden) to adjourn was unanimously approved at 12:21 p.m.