

EDUCATIONAL APPROVAL BOARD MEETING

December 7, 2016
10:30 a.m.
431 Charmany Drive
Conference Room B
Madison, WI

Members Present: Don Madelung, Jo Oyama-Miller, Crystal Cook, Mark Kapocius, Omar Parks (*via teleconference*) and William Roden

Members Absent: Robert Hein

Others Present: David Dies, Anna Fosdick, Blanca James, Sharon Johnson, Casey Wachniak, *Educational Approval Board*; Wendy Coomer, *Foley & Lardner (representing Bridgepoint)*; Jamie Buenzli, *Globe University*; Nathaniel Orpen, *Rasmussen College*; Marshall Whitlock, Peg Baxter, *Upper Iowa University*; Nathan Halbach, *Husch Blackwell LLP (representing the University of Phoenix)*

The chair of the Educational Approval Board (EAB), Don Madelung, called the meeting to order at 10:30 am. Roll call was taken and a quorum was present. A motion (Oyama-Miller, Roden) to approve board meeting minutes from September 15, 2016 was unanimously approved.

BOARD CHAIR'S REMARKS

Mr. Madelung made note of the changing political environment, specifically results of the presidential election; possible changes at the U.S. Department of Education (USDOE) given an all Republican Senate and House; issues concerning proprietary education; consolidation issues, gainful employment issues, and accreditation issues. He said the EAB is in uncharted waters and it will be interesting to see where things are headed after president-elect Trump takes office.

PUBLIC COMMENT

There were no comments.

BOARD STATUS REPORT

Mr. Dies noted that board members had been provided with additional materials, which were not included in the materials sent out prior to the meeting:

- An updated board members roster. Mr. Dies indicated the roster is to facilitate communication among board members but cautioned them about out-of-board meeting conversations and the state's open meetings law.

- A memorandum that Mr. Dies sent to the Legislative Council requesting a technical statutory change allowing the EAB executive secretary to designate someone else to serve on the Distance Learning Authorization Board (DLAB). The memo was sent in response to an earlier request that the statutes be changed so the appointment is consistent with other DLAB members.
- A memorandum from the USDOE denying of recertification application for federal financial aid to Globe University. Mr. Dies will refer to this document later in the meeting.

Mr. Madelung added that it is the responsibility of board members to review the materials provided by staff prior to the meeting. Mr. Madelung asked Mr. Dies to provide highlights on those items of most significance.

Mr. Dies noted the new administration is likely to roll-back some of the recent regulations implemented by the USDOE.

State Authorization – For the regulations to go into effect July 2017, the final rule needed to be published before November 1, 2016. Since this didn't happen, the earliest it can be implemented would be July 2018. It remains to be seen what will happen to this rule.

Borrowers Defense to Repayment – These regulations contain several provisions – some are positive changes and steps in the right direction, others seem to be over the top. Institutions are concerned about a number of provisions contained within the rule, which will go into effect next July, unless the administration takes action to prevent it from being implemented.

Gainful Employment – These regulations predate the Congressional Review Act look-back period and would require separate USDOE action (or passage of legislation) to repeal. It is, however, on Congress' radar.

SCHOOL APPROVAL ISSUES

Globe University – As previously reported, Mr. Dies said the EAB staff has been closely monitoring the fallout from the lawsuit filed by the Minnesota Attorney General. He reported that following that court decision, the Minnesota Office of Higher Education (MOHE) issued a letter informing Globe that they intend to close the institution. As a result of that action, the institution's accreditor put Globe on show cause. That action led to the USDOE putting the institution on heightened cash monitoring, a mechanism restricting the reimbursement of federal financial aid. It also suspended federal financial aid to new students.

The EAB has been working with Globe on a way in which it could disassociate its campuses located in Wisconsin campuses from the MOHE action in Minnesota. Globe had taken steps to sell the branch campuses in Wisconsin to Broadview University, a Utah-based institution with common ownership. The EAB and the accreditor approved the transaction, but it was rejected by the USDOE.

During a conference call earlier in the week, the USDOE informed the EAB that they would be denying recertification of Globe's participation in the federal financial aid program at the end on 2016. After December 31, no additional federal financial aid dollars would flow to students at Globe. The EAB has been talking to Globe officials and has obtained a current roster of students. There were close to 1,700 students as of July 2016. Due to students completions and Globe not being able to enroll new students, that number is now down to approximately 400 students.

According to Mr. Dies, the EAB has been in communication with Globe officials, as well as students. Information for students who may be impacted by the USDOE decision will be posted on the EAB's website later today.

Mr. Madelung asked if the school has any recourse or appeal process. Mr. Dies responded the school has filed an appeal of the lawsuit, but it could be a while before a decision is made. In the meantime, the school remains ineligible for federal financial aid.

Ms. Oyama-Miller asked the Globe official in the audience if the students at the Madison location are aware of what is going on and how it affects them. Ms. Buenzli, said a general email was sent to students, but stated that Mr. Dies probably knew more about the situation than she did. Mr. Dies mentioned that there had been a conference call with all the campus directors.

In response to a question by Mr. Madelung about whether the EAB's Student Protection Fund could be impacted by the situation, Mr. Dies said it could. Mr. Dies said the EAB is currently exploring the option of Globe arranging a teach-out. The EAB will try to help students in every way possible.

A motion (Oyama-Miller, Roden) to approve items "A" through "I" of the School Activity Report for the period of September 8 through November 28, 2016 was unanimously approved.

RENEWAL FEE MULTIPLIER

At the June meeting, Mr. Dies said the board went on record as supporting a three-prong approach to address the loss of revenue related to implementation of SARA, as well as declining student enrollments and corresponding school revenues, to include a small increase in the multiplier, a reduction in EAB expenses and the use of retained earnings. Mr. Dies walked board members through materials that addressed these issues.

Mr. Madelung asked Mr. Dies to explain for the benefit of new board members the fee structure under which the EAB operates. In response, Mr. Dies explained that the EAB is funded by program revenues and does not receive any tax-payer dollars. The EAB operates from fees collected from schools it oversees. There are two types of fees: a one-time fixed fee for specific kinds of events, which are delineated in administrative code; the other type of fee is tied to renewal of school approval and is determined by a multiplier the board establishes each year that generates additional fees the EAB needs to cover operating expenses. Under the administrative code, the EAB only collects fees for what it will cost the agency to operate.

Basically, the EAB determines what it expects to receive in one-time revenue and decides how much it needs to make up through the second portion of the annual renewal fee. Once the multiplier is set, the amount each school is assessed is based on its proportion of revenue relative to the total from all schools. Because of declining enrollments and SARA, that total figure is going down so the amount assessed by the EAB must be adjusted through the multiplier.

Mr. Madelung asked Mr. Dies to expand on the AGSR. Mr. Dies explained that AGSR stands for adjusted gross annual school revenue (tuition less refunds for WI students in EAB approved programs).

Mr. Madelung pointed out that as the board gets into discussions on strategic planning the EAB has kind of a perfect storm in play. First, some institutions experiencing declining enrollments and revenues resulting in fee increases because the EAB cannot tap into more reserves to meet expenses. Second, the EAB is tight on staff as it has been for some time. He asked board members to keep these things in mind as the board moves forward.

Ms. Oyama-Miller posed a couple of questions pertaining to the omission of a school on the report, as well as some of the revenue reported by another. She also wanted to know if the revenue reported by schools is verifiable. Mr. Dies responded that the school in question is in a teach-out mode, and because they are not going to be a school next year, the EAB will not assess them a renewal fee. He also said that the numbers are reviewed as part of the renewal process, but that the consultants are not auditors and do not go to the schools to verify the numbers. The EAB relies on the schools reporting accurately and on staff, during the review process, to ask questions if based on tuition charged and numbers of students the reported revenue does not seem to add up.

Ms. Oyama-Miller explained that she was checking on previous schools and some of the enrollment declines were dramatic. Mr. Dies agreed with Ms. Oyama-Miller and said that the large drops are not only schools under the EAB's oversight, but across all postsecondary education sectors, including the UW and technical college institutions. Mr. Madelung added that higher education is countercyclical with the economy.

Mr. Roden asked why several institutions are not under SARA. Mr. Dies said some of the schools elected not to join and some are in states that are not currently members.

Ms. Oyama-Miller referred to the proposed multiplier. She asked if it would be better to average the amounts rather than go from 1.99 to 2.57 in FY 18, specially if the revenues continue to go down for the schools. She also asked if any discussions have been held between the EAB and participating schools. Mr. Dies responded that the EAB has not reached out to schools about splitting the difference and has not done that in the past. He also said the EAB is required by administrative code to set the multiplier for at least two years so that the schools know what to expect. Historically, the EAB has always adjusted that second year because there are so many variables that are subject to change. Mr. Dies said it is more of a projection rather than an estimate.

Ms. Oyama-Miller said that over the years, the board has been very cognizant and responsible about the fees schools are assessed. She said she was just thinking of the schools' financial

picture if their revenues continue to go down. Mr. Madelung asked for Ms. Oyama-Miller to keep in mind that the EAB has been able to keep the multiplier low because online schools have subsidized those schools for the past 15 years. Mr. Dies added that he provided information about the 20-year average in the materials, which is 2.88. He added that at one point, the multiplier was 4.87 and if you went back further back in the late 90s the multiplier was over \$5 per \$1,000. The board can clearly see the effect that online schools had, but now that the online schools are going away, the EAB is going back in the other direction.

Ms. Oyama-Miller referenced the EAB's expenditures and asked about the LTE salary line as well as noting that the salaries are almost half of the fringe line. Mr. Dies informed board members that the budget is not set by the EAB, but rather by the Department of Administration. Ms. Oyama-Miller then asked if the LTE position was necessary. Mr. Dies responded that position is held by the EAB's IT person and that it would cost three times more to contract out for IT services. Ms. Oyama-Miller said she wanted the new members and the public to know that the expenditures are reasonable.

Mr. Dies pointed out that there had been discussion about Globe and the school's renewal payment of \$38,917. While the board will be setting the multiplier, if Globe ends up closing in the near future, it likely will not pay its renewal fee. He said he has already run a few scenarios. One option is to simply continue to use more of the EAB's retained earnings. The other option would be to take that amount out of the equation and re-run the numbers. This would bring the multiplier up to \$2.26 per \$1,000 or revenue impact. In looking at FY 18, it would be close to \$3.00 per \$1,000 or revenue. The EAB is using a fair amount of its retained earnings. As the chair mentioned, the EAB could manage next year and probably the year after; but once the EAB gets to FY 20, it could be very difficult. That is why the EAB has planned to raise more slowly the multiplier and get back to more historical norms.

Ms. Oyama-Miller asked about new schools applications in the last quarter. Mr. Dies indicated there had been a lot of activity in the area of yoga. He said that Ms. Oyama-Miller is right in that there are not many new online institutions, but added that the numbers provided assume that the EAB is going to lose a fair amount of additional revenue in FY 18 because more states are expected to become SARA members.

Ms. Oyama-Miller asked whether there had been discussions with other agencies should they have difficulties with any of the online schools or programs. Mr. Dies noted that information regarding this question was provided in the Board Status Report. The EAB has been working collaboratively with DATCP because they frequently receive referrals and forwarded them to the EAB. The same situation is happening with the DOJ; and the EAB response is that it no longer oversees those online schools.

Ms. Oyama-Miller asked if it would be possible for those agencies to contract the EAB if they need help resolving the complaints or contract with the EAB to help for a fee thereby adding an additional source of revenue. Mr. Dies said that the EAB no longer has statutory authority over these institutions. He said the recourse for those students is to go to the portal agency in the school's home state. Mr. Dies also said that the EAB is working with the DLAB about what it should do regarding inquiries from students.

A motion (Roden, Cook) to accept staff recommendation that the FY 17 multiplier used to calculate the second payment renewal fee be set at 1.9946, and the preliminary FY 18 multiplier used to calculate the second payment renewal be set at 2.5787, was unanimously approved.

STRATEGIC PLANNING

Mr. Madelung mentioned that the materials provided are for board members to read, review and use in preparation of a strategic planning session at the next EAB meeting. He said the information provides an excellent background as to the EAB's purpose and its mission.

Mr. Dies pointed out that the notes and survey from the September 2014 meeting because that work resulted in a vision, mission statement, set of values and strategic goals, which were adopted by the EAB at its December 2014 meeting. Mr. Dies said board members may want to re-examine what was adopted and determine if changes need to be made given the efforts to eliminate the agency and the impact of Wisconsin's participation in SARA. Since out-of-state online institutions that are now exempt from EAB oversight because of SARA, it raises questions about whether the EAB should continue collecting outcomes data and publish the data.

Mr. Dies referred to the 2003-08 Strategic Plan and noted the Board Status Report is aligned with its strategic goals. He said board members may want to flesh out the strategic goals to identify specific, measurable objectives. However, he said the board should have a realistic approach and avoid establishing goals or objectives that are unattainable. It must also recognize the current climate in which we operate.

Board members agreed to meet on either March 7 or March 22. In addition, it agreed with hiring Russell Consulting as a facilitator, which the EAB has used in the past.

STATUTORY REVISIONS

Mr. Dies said that the EAB has previously sought to revise its governing statutes, with legislation being introduced in 2007 and 2011 sessions. Unfortunately, there is no compelling problem and legislators do not see it as a priority. Mr. Dies said the EAB should consider having the legislation reintroduced. Changes to the most recent bill draft may be identified as the result of the future strategic planning meeting. It was noted that the bill stands a better chance if it is introduced earlier rather than later.

Ms. Oyama-Miller mentioned that because of the proposal to eliminate the EAB as part of the last budget and SARA, the EAB has a higher visibility in the legislature. Mr. Madelung asked board members if the bill is fine the way it written. There was consensus the bill could be introduced as currently drafted.

ADJOURNMENT

A motion (Kapocius, Cook) to adjourn was approved unanimously at 12:10 p.m.