

## EDUCATIONAL APPROVAL BOARD MEETING

September 15, 2016  
10:30 a.m.  
431 Charmany Drive  
Conference Room B  
Madison, WI

**Members Present:** Crystal Cook, Mark Kapocius, Don Madelung, Jo Oyama-Miller, Omar Parks, William Roden

**Members Absent:** Robert Hein

**Others Present:** David Dies, Anna Fosdick, Blanca James, Sharon Johnson, Casey Wachniak, *Educational Approval Board*; Marshall Whitlock, Peg Baxter, *Upper Iowa University*; Ellen Seibert, *Rasmussen College*; Wendy Coomer, Foley & Lardner (representing Bridgepoint); Nathan Halbach, *Husch Blackwell LLP (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. A quorum was present. A motion (Oyama-Miller, Roden) to approve the meeting minutes from June 16, 2016 was unanimously approved.

### BOARD CHAIR'S REMARKS

Mr. Madelung introduced and welcomed Crystal Cook and Mark Kapocius, who were recently appointed by the Governor to the board. He noted it is the first time during his tenure as a board member that all seven appointments have been filled. Mr. Madelung gave a brief summary of his background and asked other board members to do the same.

Mr. Madelung commented that the world of postsecondary education is in somewhat of a crisis these days as schools such as ITT Technical Institute closes its doors following the Corinthian closings. At the same time, accrediting agencies are being scrutinized and their effectiveness questioned. Mr. Madelung said the EAB's goal is to ensure the schools it approves are serving students in accordance with state requirements. The EAB's bottom line is to protect the students that attend institutions it oversees.

### PUBLIC COMMENT

There were no public comments.

### 2017 BOARD MEETING DATES

Following a brief discussion about the proposed dates for 2017, the board's preference was for meetings to be held as follows:

Tuesday, March 14  
Tuesday, June 6  
Tuesday, September 19  
Tuesday, December 12

A motion (Oyama-Miller, Parks) to hold the board meetings for 2017 as indicated above was adopted unanimously.

## **BOARD STATUS REPORT**

Mr. Madelung explained that it is the responsibility of board members to thoroughly review and make note of any issues or questions prior to the meeting so that those items can be addressed by the executive secretary. He asked Mr. Dies to expand on the SARA authorization and accreditation issues, which he feels are vital pieces that need to be reported on.

### *Distance Learning Authorization Board*

Mr. Dies reported that the Distance Learning Authorization Board (DLAB) had met several times. The state's application for SARA membership was submitted to the Midwestern Higher Education Compact (MHEC) and approved on August 25. Because of SARA, the EAB has granted exemptions to over 50 schools because they are out-of-state distances learning providers. Mr. Dies noted that Mr. Madelung was nominated to the M-SARA regional steering committee, and as Mr. Madelung's indicated, in addition to being the EAB chair, he is a MHEC commissioner.

Mr. Dies shared information about the U.S. Department of Education's (USDOE) proposed rule related to state authorization. He noted the proposed regulations recognize authorization through participation in a state authorization reciprocity agreement. This means SARA would be recognized and satisfies the USDOE's state authorization requirements.

Mr. Dies said the USDOE has been increasing its scrutiny of accreditors, including the Accrediting Council for Independent Colleges and Schools (ACICS). Currently, ACICS accredits 15 EAB-approved institutions. Should ACICS lose its recognition; the institutions will have 18 months to change accreditors. During this time, students will continue to receive federal financial aid.

Ms. Oyama-Miller asked about the appointment of the EAB executive secretary to the DLAB and her request that the language be changed to add a designee. She also commented that her husband, a politician, has concerns about the EAB being adequately staffed to address all of the changes, not just related to distance education, but the transition of all of the students affected by school closings and who are now left "hanging" with tuition, loans, and debt. She asked if there was anything board members could do to help with this transition, and whether or not the EAB was communicating with the other agencies that will be handling complaints about out-of-state distance learning institutions, noting their role is very different from that of the EAB. Her last question was about IT support for the EAB and why the Wisconsin Technical College System Board (WTCSB) cannot provide the support given the EAB administrative attachment.

Mr. Dies addressed Ms. Oyama-Miller's questions and concerns by directing her to the information contained in the meeting materials that were provided. He said a statutory change would be needed to allow him to send a designee to DLAB meetings.

In regards to EAB staffing, Mr. Dies reported that the EAB is not adequately staffed to handle the closures. Unfortunately, it is hard to know when a situation such as the ITT closure will present itself; and he thinks it would be difficult to justify having additional staff. Mr. Dies did note that the EAB does not have a strong enforcement arm and anything that falls into that realm is referred to the Department of Justice.

Mr. Dies said the EAB had had multiple conversations with the WTCSB about the IT support issue. The EAB was told by WTCSB officials that it could not provide support because of security concerns. Because of the WTCSB's contracts and other involvement with the federal government, they are required to comply with certain privacy and other security issues, and are not able to open up their servers to the EAB. They are also not sure if they can adequately provide support to the EAB given the WTCSB's relatively small size.

Mr. Kapocius asked if there were any updates to the EAB schools searching for new accreditors and where they are in the process. Mr. Dies responded that some of the schools have started the process of talking to other accreditors. He added that the 18-month period for institutions to find a different accreditor does not start until the decision is final and all appeals have been exhausted.

## **SCHOOL APPROVAL ISSUES**

Ms. Oyama-Miller questioned the approval of devCodeCamp's new teaching location in view that the school is owned by the same individual that owned Brensten. Mr. Dies explained that the school had been approved prior to Brensten's closing. He also clarified that devCodeCamp is not a degree-granting school and does not need accreditation to operate.

Ms. Oyama-Miller asked if the EAB offered information about any litigation or legal matter involving the owner to prospective students. Mr. Dies responded that the EAB would provide the information if requested by a student or anyone who asked. He added that the EAB does not try to persuade or influence student decisions about particular schools one way or the other.

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

## **ITT TECHNICAL INSTITUTE CLOSURE**

Mr. Dies noted the board that ITT Technical Institute's CFO and COO were supposed to appear at the meeting to provide answers to a series of questions provided by the EAB pertaining to the school's financial stability. Mr. Dies provided a summary of events that lead to the closure of the school. A key determinant was the USDOE restricting the flow of funding by requiring ITT to receive federal financial aid disbursements to students on a reimbursement basis. At the same time, ITT was unable to provide federal financial to any new students. Unable to operate with these restrictions, the institution made the decision to cease operations.

Mr. Dies said the EAB and other states have been left with picking up the pieces as a result of the actions taken by the USDOE. Roughly 317 Wisconsin students were affected by the closure based on a preliminary analysis of data the EAB has obtained. Those students were at institutions in Greenfield, Madison, and in online programs. A total of 35,000 to 40,000 students were attending campuses in 38 states. The EAB is working diligently to secure transcripts and provide answers to student questions. A third party, Parchment, is the depository firm that is expected to receive and provide transcripts for ITT. Mr. Dies reported that the EAB's website has been updated with information for ITT students, including detailed loan discharge processes and transfer options. The EAB has also contacted students directly.

Ms. Oyama-Miller commended staff for their response and help to students throughout the different stages of their education. The turnaround time and help for these students was excellent. Ms. Cook asked about the Borrower Defense to Repayment (BD2R) and whether it protects students with private loans. Mr. Dies indicated that BD2R only relates to federal financial aid and is different from the federal loan discharge provision. The discharge of federal loans helps students who were at the institution at the time of closure or within a 120-day lookback period. Mr. Dies explained that the Borrower Defense to Repayment may be available to students who are not at the 120 lookback period or at the school at the time of closure and requires students to demonstrate the school was in violation of a state or federal law.

Ms. Oyama-Miller asked how many students might receive refund from the EAB's Student Protection Fund. Mr. Dies answered that it was unknown at this point. He noted the EAB intends to make a claim on the school bond in the amount of \$25,000, which is the first layer of protection for students. The \$1.3 million in the Student Protection Fund can be used to reimburse students that paid with out-of-pocket money to finance their education once it can be verified that in fact that is how they paid.

## **2017-19 BIENNIAL BUDGET**

Mr. Dies noted that the EAB would not be asking for a half-time attorney position as it has in past budgets. He directed the board to a letter from the Governor and instructions from the Department of Administration (DOA) making it clear that agencies should not be requesting additional staff or increases in budget beyond current levels. That said, the EAB's budget request consists of two Decision Item Narratives (DINs).

Currently, the EAB receives IT support from the Department of Veterans Affairs (DVA) and pays \$3,172 under the current agreement. The DOA's Division of Enterprise Technology (DET) has provided the EAB with an estimate of \$24,598 for the same support. The EAB cannot justify shifting its IT support to DET and has been looking at a cloud-based solution, which is estimated at \$11,220. The EAB is asking that its IT expenditure authority be increased by \$8,048.

Mr. Dies explained that the EAB's budget consists of three separate appropriations. The EAB is asking to take its two operating appropriations (235 and 220) into a single appropriation. He pointed out there would be no fiscal impact.

Mr. Dies reported there would be a fiscal impact related to the EAB's lease when it moves to new offices in 2018. Currently, the EAB is paying \$39,000 a year in rent. In FY 19, it is estimated the EAB will be paying about \$42,000 at its current location. However, rent in the

new building is estimated to be nearly \$55,000 in FY 19. The Division of Facilities Management will be submitting all of the necessary budget adjustments for the rent as well as the cost of moving and relocation.

Mr. Dies discussed the budget reduction requirement under 2017 Wisconsin Act 210, which requires all state agencies to submit a 5% budget reduction plan. This amounts to \$32,155 for the EAB and there is a specific DIN that needs to be approved for this and submitted with the other budget submissions. Mr. Dies said the EAB is requesting formal approval of the DINs provided.

A motion (Roden, Oyama-Miller) to approve the budget DINs as provided was unanimously approved.

### **CLOSED SESSION**

A motion (Oyama-Miller, Kapocius) 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 6-0 roll call vote.

The board entered closed session at 11:25 a.m. Ms. Oyama-Miller left the meeting at 12:20 p.m.

### **ADJOURNMENT**

A motion (Roden, Kapocius) to adjourn was unanimously approved at 12:40 p.m.