

EDUCATIONAL APPROVAL BOARD MEETING

June 6, 2017
10:30 a.m.
431 Charmany Drive
Conference Room B
Madison, WI

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

Members Absent: Robert Hein, William Roden

Others Present: David Dies, Derek Field, Anna Fosdick, Sharon Johnson, Casey Wachniak, *Educational Approval Board*; Chris Green, Chief Legal Counsel, *Department of Administration (DOA)*, Eric Esser, Deputy Secretary, *Department of Safety and Professional Services (DSPS)*; Nico Savidge, *Wisconsin State Journal*; Marshall Whitlock and Peg Baxter, *Upper Iowa University*; Tricia Kingsley, *Rasmussen College*; Laura Grace Peek, *American Home Inspections Training*; Jamie Beunzu, *Broadview University*; Wendy Coomer, *Bridgepoint Education*.

The chair of the Educational Approval Board (EAB), Don Madelung, called the meeting to order at 10:30 a.m. Roll call was taken and a quorum was present. A motion (Oyama-Miller, Parks) to approve the meeting minutes from the December 7, 2016 and March 7, 2017 meetings was unanimously approved.

BOARD CHAIR'S REMARKS

Mr. Madelung noted it has been a tumultuous year for the EAB given the proposed elimination of the agency. The EAB has been engaged in discussions with and lobbying of legislators, specifically members of the Joint Finance Committee (JFC).

Mr. Madelung thanked the meeting's attendees for being present, indicated the board would go into a closed session later, and noted a presentation on public records that would be given.

PUBLIC RECORDS PRESENTATION – INFORMATION/DISCUSSION

A pre-recorded public records presentation was given by Mr. Green, Chief Legal Counsel of the State of Wisconsin Department of Administration. He noted how to recognize and handle public records requests.

If board members discuss business outside of the meeting via text or email, they must retain a record of the discussion by copying the EAB chair or executive secretary on the communication, who can be responsible for keeping a record of the discussion. Text messaging is not recommended, but if used, copies of text messages must be retained.

Mr. Dies noted members should not reply to all email recipients to avoid walking quorums. He indicated board members should let him know if they get public records requests and said the EAB receives periodic open records requests.

Mr. Green indicated records disposition standards dictate how long records need to be kept and when they can be destroyed. It is best to give records out unless one is not allowed to, as is the case with some agencies like the Department of Financial Institutions. DOA gets involved when records are not provided.

Mr. Madelung indicated any records requests information should be given to Mr. Dies or himself to handle. Mr. Dies noted these materials have been disseminated in the past and there are slides in today's materials that can be provided to members who are absent today.

PUBLIC COMMENT

Ms. Oyama-Miller indicated she was pleased to see so many schools in attendance. She invited attendees from the schools to comment on the decisions made by the JFC so board members have an idea of how they feel individually and collectively.

BOARD STATUS REPORT

Mr. Madelung walked through the board status report and asked board members if there were any questions related to the report. Ms. Oyama-Miller expressed concern about students' eligibility to restore Pell Grant funds upon abrupt closure of their institutions.

Mr. Dies clarified that the restoration has been provided already. EAB was engaged in some conversations regarding concerns states had, particularly since USDOE was instrumental in the closures of ITT and the Corinthian institutions. Students who used up part of their Pell eligibility were previously out of luck. Clearly, USDOE heard states' concerns and established a way to help students in similar closure situations. Brensten, ITT, Globe and Everest students will all benefit from this change.

Mr. Madelung noted he attended the WISCAPE forum and asked Ms. Fosdick if she had thoughts on it. Ms. Fosdick noted that it was great to have so many participants discussing issues critical to higher education. Mr. Madelung noted there were numerous business representatives in the room and more questions were raised than answered, leaving opportunities for another WISCAPE forum.

Upon inquiry from board members about the impact of ITT's closure on the Student Protection Fund (SPF), Mr. Dies clarified with input from Ms. Fosdick that approximately \$14,000 has been used by the Student Protection Fund on the ITT closure to date and indicated there were several requests from former Globe students.

Upon inquiry from Mr. Madelung and Ms. Oyama-Miller about the Globe closure and Broadview teach-out, Mr. Dies noted they are two separate entities operating under separate ownership. He indicated that the Wisconsin campuses are being sold to Broadview (headquartered in Utah), which will start anew this summer and will enroll new students. Previously, Broadview was only handling the teach-out of former Globe students.

In response to a question from Ms. Oyama-Miller regarding whether Broadview must go through the new school approval process, Mr. Dies said the EAB is treating the situation as a change of ownership rather than as a new school approval, which will minimize the work and cost that would otherwise be required to approve the 20 or so programs that will be continuing.

Mr. Dies indicated that the issue of IT support for the EAB is currently on hold. He also shared that Mr. Field accepted a new position with the Department of Public Instruction amidst the uncertainty about the EAB's fate and that he will be departing the EAB.

SCHOOL APPROVAL ISSUES

Mr. Dies suggested board members review the section of the School Approval Issues paper on the acquisition of Kaplan by Purdue. Ms. Oyama-Miller inquired about who makes the determination as to whether Kaplan comes under the purview of the EAB. Mr. Dies responded that he is asking board to determine how the EAB should interpret its exemption language, "schools supported mainly by taxes." In general, the EAB has interpreted this to mean schools that are publicly governed are exempt, though other interpretations could exist.

Mr. Madelung suggested that if there are active Kaplan students in Wisconsin, perhaps Purdue needs to apply for and be granted an exemption. Mr. Dies responded that the EAB does not typically issue letters of exemption given they are statutory defined. He explained that Kaplan is in the Milwaukee area and is one of the larger institutions overseen by the EAB.

Mr. Dies stated that the reason he was looking for the board to revisit the issue is because we have not seen anything like this before. Purdue will not provide any tax dollars to support Kaplan and it will be acquiring a for-profit institution and making it a public benefit corporation.

Upon further discussion, it was determined that there needs to be some use of public dollars for the exemption to apply. Since Kaplan is not supported mainly by taxes, nor is it supported by taxes at all, it would need to seek EAB approval.

At the request of Ms. Oyama-Miller, the EAB will seek legal counsel from DOJ on this matter. Mr. Kapocius suggested that the onus be on Kaplan to challenge the authority of the EAB in its interpretation of the statute.

Mr. Parks asked whether the merger will definitely go through, noting that at faculty at Purdue have opposed the change. Mr. Dies noted that many states are having discussions about what to do with this new ownership model and the EAB needs to decide if it should continue to protect those students served. True public institutions have different values and practices than for-profit institutions that may be operating under the guise of another public institution.

Ms. Oyama-Miller put forward a motion (Oyama-Miller, Cook) that the EAB seek legal counsel to clarify the statute and how it applies to entities such as Kaplan that are not supported by tax-payer dollars. It passed unanimously.

A motion (Oyama-Miller, Kapocius) to approval items A through I of the School Activity Report was unanimously approved.

ELIMINATION OF THE EAB – DISCUSSION/ACTION

Mr. Madelung asked Mr. Dies to provide an update and summary of recent actions. Mr. Dies shared that he and Mr. Madelung met with Wisconsin State Senator Sheila Harsdorf, who indicated she was willing to pull the proposal out of the budget altogether. However, other committee members were resistant.

Ultimately, the motion adopted by the Joint Committee on Finance (JCF) meeting was a combination of options 1, 2, and 3 contained in the Legislative Fiscal Bureau paper. As a result, on January 1, 2018, the EAB's administrative attachment will change to DSPS. Incumbent staff will transfer with the functions, while the board as a governing body is eliminated on July 1, 2018. The motion was offered by the JCF co-chairs and was unanimously adopted. As such, the chances of it changing further are highly unlikely.

Mr. Dies pointed out that the Deputy Secretary of DSPS, Eric Esser, was in attendance and that he has had productive conversations with DSPS thus far. Mr. Dies expressed confidence in a smooth transition, should the EAB be absorbed by DSPS. Both student protections and institutional knowledge will be maintained under the JCF motion.

Mr. Madelung indicated this outcome seemed to be the best compromise given the unanimous support for the JCF motion. While the EAB could make an appeal to other legislators, at least EAB staff would be protected under the JCF motion and he would not want to compromise any gains made.

Ms. Oyama-Miller noted the questions and concerns the board has held since the proposal's inception, which she has not found to be adequately addressed. In addition, the oversight and mission of DSPS in regulating professions and licensure is quite different from the EAB.

She emphasized that her concerns with the proposal exist because there are proposals for DSPS to eliminate continuing education requirements. Ms. Oyama-Miller suggested that she believed we can press harder for answers of questions from DSPS that have not yet been answered, explaining there is not a good transition plan in place at present. Ms. Oyama-Miller indicated her preference was to continue to push for keeping the EAB independent. She stated she does not believe students will have the same protections under DSPS, and would push for getting more answers before we accept what they do moving forward. Mr. Parks agreed.

Mr. Kapocius stated that he would defer to those who have had discussions with JCF. He agreed with Ms. Oyama-Miller's points, but also echoed Mr. Madelung's caution to not jeopardize gains that have already been made.

Ms. Oyama-Miller countered that the agency is more than its staff, and is a highly specialized consumer protection agency both for students and institutions. The institutions have been enhanced and empowered in our state. Ms. Oyama-Miller indicated that until they can show how institutions and consumers are protected, we should have more fight.

Upon inquiry about the budget's timeline from Mr. Madelung, Mr. Dies noted the budget could be drawn out for quite some time. Therefore, there is time to get a letter out if the board chooses to do so. He also noted it is important to acknowledge the proposal transfers the EAB functions, it is the governing structure that will be different. DSPS may not do exactly the same things as the EAB, but there are statutes and administrative rules that will be in place that do not change because of this proposal.

Upon inquiry from Ms. Oyama-Miller about the continuation of the Student Protection Fund under the transfer of functions, Mr. Dies indicated that it would continue. While, concerns about long-term consumer protections are valid amidst the changing the nature of professional licensure, we cannot know with certainty how student protection will always look.

Mr. Dies also indicated it was a heavy lift to get the proposal out of the last budget cycle when all functions would have been eliminated. He pointed out that he knew this time around it would be even more difficult because legislators generally defer to the Governor to structure the executive branch as he or she sees fit. Legislators are comforted by the fact the functions will transfer and there is an assumption it will be business as usual.

Mr. Madelung agreed, but noted he would not protest a strong letter to the legislature asking to reconsider maintaining the EAB board due to the expertise it brings.

Ms. Oyama-Miller requested an update from Mr. Esser regarding any discussions at DSPPS about creating a council or review board. Mr. Esser stated that it has come up in conversation, and there were productive conversations which considered several logistics. Ms. Oyama-Miller reiterated that the key for her was that the policies and functions continue within the new agency.

Mr. Madelung suggested that maybe our direction would be with the Secretary and a working group rather than at the Legislature. Dates of transition and staff movement to DSPPS are of interest. Mr. Dies noted that modified bill language has not been seen, but on January 1, 2018, the EAB will become administratively attached to DSPPS.

Mr. Madelung indicated it would be good between now and January if the board could be adapted into a transition council with the option of the Secretary to retain the board as a council, with a decision to be made on this by July of 2018. Mr. Dies clarified that the board will still exist until July 2018 and that it may be possible to have a dual function.

Mr. Madelung suggested that a dual, coordinated function may be beneficial. The DSPPS Secretary may wish to keep the council capacity and continue to work with DSPPS or she may sunset the board. Mr. Dies explained that maybe this could work. However, any type of activity like this would all need to occur in an open session. Even if meeting as a council, the board is still an EAB body and it would need to coordinate with DSPPS. He added that the EAB is already meeting regularly with DSPPS to plan logistics of the transfer.

Ms. Oyama-Miller indicated that she was pleased to hear EAB and DSPPS are meeting, but as a long-standing board member she is interested in seeing the policies and focal mission of the board continuing. Ms. Oyama-Miller stated it would be in the best interest of the public to keep the board. To ensure the transition is going the right direction and continuing to ensure strong student protections, DSPPS should continue to have a board member involved.

Mr. Madelung stated he appreciated Ms. Oyama-Miller's service and noted that he has been attending board meetings since 1989. He noted he started a council then and hopes the Legislature did the right thing. While the board has strengths that will be lost, at least staff will remain intact to ensure continuity. Mr. Madelung stated that it may be a political reality that the fight to save the board is over. There is an option to push for further changes, but he accepts the decision of JFC and recommends planning for a smooth transition.

A motion (Madelung, Kapocius) was offered to accept the JCF decision.

Mr. Kapocius stated that Mr. Dies provided a good summary of this historical context and this is probably the best outcome of all possibilities likely to occur. Ms. Cook stated she was disappointed, but agreed we did the best we could. Mr. Parks stated when dealing with this type of situation, there

is only so much one can do. He noted it may be best to focus on the transition to ensure we are maintaining the quality in protecting students.

Ms. Oyama-Miller noted that like Mr. Madelung, she is a fighter, and stated that she thinks there is still a fight to be had to make this better and put in more language. She noted the EAB's many accomplishments in overseeing the for-profit sector and she indicated wanting to go the route of continuing the current protections.

Mr. Dies pointed out there is a motion on the floor and asked whether members want to add something to the motion. The motion as made was approved on a voice vote. Ms. Oyama-Miller asked that she be recorded as opposing the motion.

STUDENT OUTCOMES REPORT – INFORMATION/DISCUSSION

A presentation was given by Mr. Field on the outcomes of students enrolled at EAB-approved institutions; walking board members and the audience through several slides, summarizing data and pointing to notable findings.

Following the presentation, Mr. Madelung opened the forum to questions and asked about the six schools with enrollment of 14,952, that have a 70-80% drop rate. Ms. Oyama-Miller asked whether the data is for online or on-ground institutions.

Mr. Field discussed his methodology in dividing schools into groups based on drop-rates and clarified that the data includes online as well as on-ground programs at non-SARA schools.

Mr. Dies noted online vs. on-ground distinctions are captured elsewhere in the report, and that the number would be higher if it were to include SARA institutions. He went on to explain that often it is only one or two programs at these schools that account for the extremely high drop rates. He acknowledged that there are issues with some schools and the EAB disseminated information on its website to inform students. Mr. Dies also noted that the EAB encourages schools to examine their data and scrutinize programs with poor outcomes.

Upon inquiry about the inclusion of accredited institutions in the report, Mr. Dies clarified that any of the schools offering degree level programs are accredited. Alternatively, shorter nondegree programs have better success rates.

Ms. Oyama-Miller asked whether the EAB has seen schools that have done things to improve outcomes at their institutions and whether we can give recommendations for improvements to schools. Mr. Dies indicated that anecdotally the EAB sees the same institutions that are consistently unsuccessful each year with the most problematic programs being in areas of allied health, business and IT.

Mr. Dies explained that declines in enrollment are to be expected, as enrollments are countercyclical to the overall health of the economy. He noted that as more job opportunities present themselves, fewer students decide to pursue postsecondary education. He also noted that other sectors have similar outcomes as those overseen by the EAB. Additionally, serving high-risk student populations presents a variety of challenges that affect outcomes regardless of the specific institution serving those higher risk students.

Mr. Madelung acknowledged the argument that proprietary institutions are often more willing to serve higher risk students with less strong high school backgrounds and are not prepared for the rigor of postsecondary academic demands.

Mr. Dies stated that it is difficult for some schools to deny students opportunities. There are probably many students who do not have the aptitude and support system to be successful in their postsecondary education. Unfortunately, the downside for students of non-profit institutions who are not successful is quite high. If a student is unsuccessful, they incur all the costs of being unsuccessful. The institutions the EAB oversees set tuition higher and there is no subsidy from taxpayers outside of federal financial aid.

When schools have been questioned about poor outcomes in the past they have provided responses delineating how they are being addressed, but the outcomes clearly have not improved as much as the EAB would like. While it can question the under-performing institutions, the EAB does not have the authority to mandate better outcomes.

Ms. Oyama-Miller noted it is good that the EAB collects this data in cohorts and has solid metrics. She hopes this information continues to be collected after the transition to DSPS and she would like to see other sectors collecting similar outcomes from their students.

Ms. Oyama-Miller also noted that foreign exchange students must show they have financial resources before they can secure visas to attend colleges or universities in the US. She explained that if institutions are only educating the very elite, they will have different outcomes than those serving disadvantaged student populations. She appreciates the example set by EAB of capturing data and reporting on it.

Mr. Dies explained that the EAB had a staff discussion about whether we should have a “wall of shame” listing specific schools, but chose not to.

Mr. Madelung commented that problem schools should be considered higher risk and should be a staff focal point.

CLOSED SESSION

A motion (Oyama-Miller, Kapocius) to convene a closed session pursuant to s.19.85 (1)(c) to consider the performance and compensation of the EAB executive secretary was approved 5-0 on a roll call vote.

RECONVENE IN OPEN SESSION

A motion (Oyama-Miller, Cooks) to reconvene in open session was unanimously approved. The board reconvened in open session at 1:06 p.m.

PERFORMANCE & COMPENSATION

A motion (Oyama-Miller, Parks) finding the performance of the EAB executive secretary satisfactory and provided a lump sum discretionary merit compensation award was unanimously approved.

ADJOURNMENT

A motion (Oyama-Miller, Parks) to adjourn was unanimously approved at 1:15 p.m.