

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

1997-98

(session year)

Senate

(Assembly, Senate or Joint)

Committee on
Education
(SC-Ed)

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr_AC-Ed_RCP_pt01a
- 05hr_AC-Ed_RCP_pt01b
- 05hr_AC-Ed_RCP_pt02

NOTICES ...

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Committee Reports ... CR

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

INFORMATION COLLECTED BY COMMITTEE
CLERK FOR AND AGAINST PROPOSAL

➤ Appointments ... Appt

➤ **

Name:

➤ Clearinghouse Rules ... CRule

**97hr_CRule_97-035_SC-
Ed_pt01**

➤ Hearing Records ... HR (bills and resolutions)

➤ **

➤ Miscellaneous ... Misc



State of Wisconsin

EDUCATIONAL APPROVAL BOARD

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May 20, 1997

The Honorable Fred Risser
President, Wisconsin State Senate
Room 102
119 MLK Jr. Blvd.
Madison, WI 53707

The Honorable Ben Brancel
Speaker, Wisconsin State Assembly
Room 211 West, State Capitol
Madison, WI 53707

RE: Proposed Administrative Rule EAB 1 - 10
Notification of Legislative Standing Committees
Clearinghouse Rule 97- 035

Gentlemen:

Enclosed is a copy of Clearinghouse Rule 97-035 relating to the oversight of private schools and colleges. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,


Joseph L. Davis

Enclosure

cc Gary Poulson (Dep. Rev. of Statutes)
Sen. Richard Grobschmidt
Rep. Glenn Grothman

CLEARINGHOUSE RULE SENATE

97-035

CLEARINGHOUSE RULE SENATE

AN ORDER to . . . relating to approving and licensing schools and programs, setting fees, advertising, setting bond levels, defining tuition refund policy and procedures, outlining complaint procedures, mandating records retention and all matters related to the oversight of approved postsecondary educational institutions.

Submitted by Educational Approval Board

3-12-97 Received by Legislative Council.
4-9-97 Report sent to Agency.
4-9-97 Report received by Agency
5-14-97 Public Hearing HEEDS
5-20-97 Submitted to State Senate
5-20-97 Approval received from Agency
5-22-97 Referred to Committee on Education

Donna
This "appeared"
from
somewhere
Sorry Paul

CR 97-035

The Wisconsin Educational Approval Board proposes an order to repeal §§ EAB 1.06 through 1.08; 1.11 and 1.12; 1.16; 1.21; 1.28 (NOTE); 1.30; 1.45; 1.485; 4.03; 4.04 (1) (a) through (f); 4.04 (3); 4.05 (1) (a) through (d); 4.07 (1); 4.07 (3) (a) and (b); 4.07 (5); 4.07 (7); 4.07 (8) (a) through (d); 4.08 (5); 4.10; 5.02 (1) (a) through (f); 5.02 (5); 5.02 (7); 5.03 (3); 5.04; 5.05 (1) and (2); 5.06 (3); 5.06 (6); 5.06 (8); 5.07 (3); 5.09; 5.10 (2); 5.11 (1); 5.11 (3) (c) and (e) through (g); 5.11 (4) (c) 1 through 5 and (5); 5.11 (8); 5.11 (9) (a) through (f) and (10); 5.12; 6.01 (Definitions); 6.03 (2) (a) through (c); 8.05 through 8.11; 8.12 (3) and (4); 9.05 (2); 10.02 (1) (Applicable); 10.025; 10.04; to renumber §§ EAB 1.02; 1.03; 1.10; 1.17 and 1.18; 1.20; 1.27 and 1.28; 1.33; 1.34; 1.38; 1.42; 1.44; 1.46; 1.50; 1.51; 1.52; 1.54; 1.55; Chapter 4; 4.02 through 4.06; 4.06 (3); 4.07 and 4.08; Chapter 5; 5.02 and 5.03; 5.03 (2); 5.05 and 5.06; 5.06 (7); 5.065; 5.065 (3m); 5.07 and 5.08; 5.10 and 5.11; 5.11 (2); 5.11 (3) (b) and (d); 5.11 (3) (i); 5.11 (6); 5.11 (11); 6.05; 8.12 through 8.14; 10.02 (5); 10.05; to renumber and amend §§ EAB 1.19; 1.24; 1.26; 1.29; 1.36; 1.39; 1.395; 1.40; 1.47 through 1.49; 4.01; 4.015; 4.03 (3) through (5); 4.06 (4); 4.07 (6); 4.07 (8); 4.08 (1) through (4); 5.02 (3) and (4); 5.05 (1); 5.06 (4) through (7); 5.065 (4) and (5); 5.07 (2); 5.11 (2); 5.11 (3) (a); 5.11 (3) (h); 5.11 (4); 5.11 (4) (b) and (c); 5.11 (7); 5.11 (9); 5.11 (12) and (13); 6.02 through 6.04; 8.07; 10.02 (2) through (4); 10.02 (6); to amend §§ EAB 4.02 (1) through (3); 4.03 (1); 4.04; 4.04 (2); 4.05 (1) through (3); 4.06 (1); 4.07 (1) through (4); 4.08 (2) through (4); 5.02 (1) and (2); 5.02 (6); 5.03 (1) and (2); 5.06 (1) and (2); 5.065 (1) through (3); 5.07 (1); 5.07 (4) and (5); 5.08 (1) and (2); 5.10 (1); 5.11 (3) (c); 5.11 (3) (e); 5.11 (4) (a); 5.11 (7) (c) and (d); Chapter 6; 8.01 and 8.02; 8.03 (1) through (3); 8.04; 8.12 (3); 9.01; 9.02 (2) (c); 9.03 (2); 9.04; Chapter 10; 10.01; 10.03; 10.05 (1); to create §§ EAB 1.01; 1.01 (4); 1.01 (7); 1.01 (20); 1.02 (37); 4.01 (1); 4.03 (1) and (2); 4.08; 4.10 (2) (d); 5.02 (3); 5.06 (5); 5.06 (7); 5.07 (1); 5.07 (2); 5.11 (4) (B); Chapter 7; 7.01 through 7.04; 8.05; 8.06; 8.07 (3); 9.04 (1), relating to approving and licensing schools and programs, setting fees, advertising, setting bond levels, defining tuition refund policy and procedures, outlining complaints procedures, mandating records retention and all matters related to the oversight of approved postsecondary educational institutions.

**REPORT OF THE EDUCATIONAL APPROVAL BOARD
ON THE FINAL RULE DRAFT**

This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

Part 1 – Analysis prepared by the Educational Approval Board

Part 2 – Rule text in final draft form.

Part 3 – Recommendations of the Legislative Council.

Part 4 – Analysis prepared pursuant to the provisions of s. 227.19 (3), Stats.

Submitted by:

Joseph L. Davis, Executive Secretary
Educational Approval Board
310 Price Place
P. O. Box 7874
Madison, WI 53707

Part 1

Analysis Prepared by the Educational Approval Board

STATUTORY AUTHORITY: §§ 38.51 (3), (7), (8) and (10) (a), (b), (c), Stats.

STATUTES INTERPRETED: §§ 38.51 (3), (7), (8) and (10) (a), (b), (c), Stats.

General Summary of Proposed Rule. This proposed order affects postsecondary institutions subject to the approval requirements of § 38.51 (10) (a), Stats. It constitutes a major simplification of regulatory requirements and practices and a parallel simplification in the assessment of fees. It modifies policies and procedures; deletes many regulatory requirements; and, creates new standards and practices. The changes are in the context of the EAB's re-engineering: from 1995 through 1996 the EAB reoriented its philosophical and policy underpinnings, shifting focus from strict procedural compliance (with an emphasis on operations) to concern with educational quality, program results and the general role of private education. It restructured its oversight around two guiding principles: protecting students and ensuring quality programming.

The proposed rule changes simplify, clarify and make more understandable the basic requirements schools must meet to secure approval to operate in Wisconsin. They streamline the application process, specifically outlining required information which schools must provide (and policies they must have in place) in order to become licensed and set parallel standards for information to be included in school catalogs. The changes condense and speed up the program approval process by placing more responsibility with the schools to engage in and document quality program development. Staff will, thereby, have less need to do invasive analysis, or contract with third-party reviewers, and will, instead, be able to rely on information about how schools developed their programs. The proposed changes encourage continuous improvement on the part of schools by removing the impediment of EAB approval of minor program modifications. They also clarify the process for the evaluation of innovative programs by more carefully defining approval criteria and also establish operational standards for distance education.

The proposed changes make the following key revisions:

- greatly simplify the fee structure, in general, making it simpler for the EAB to administer fees and easier for schools to comprehend them;
- simplify prescriptions and prohibitions regarding advertising by concentrating on broad categories of behavior;
- clarify the school bonding requirement by basing it on highest point of "unearned tuition" and add criteria so stable schools can have their bond requirement lowered (without risk to students);
- simplify the administrative procedure for bonding school representatives by removing the requirement for separate bonding

and, instead, enabling schools to cover representatives under their school bond;

- greatly reduce complexity regarding partial payments to students who do not complete their programs, clearly outlining conditions for pro-rata partial reimbursements based upon a single scale for all types of programs; and,
- establish a clearer complaints procedure and more carefully delineate data collection and retention requirements.

Following is an analysis of the proposed rules modifications broken out by discrete subject and operational areas:

SCHOOL APPROVAL:

The proposed rules modification simplifies, clarifies and makes more understandable the requirements schools must meet. Standards are codified in such a way as to permit the EAB to collapse many individual applications (i.e., for new school, new program, etc.) into a more easily comprehensible *Single Application*.

The various modifications emphasize the need for schools to focus on outcomes and establish their own, monitorable, methods for self-evaluation and continuous improvement. The modifications seek to strike a balance between prudent oversight, over rigidity and lax oversight.

PROGRAM APPROVAL:

The proposed rules modification simplifies the program approval/evaluation process by placing more responsibility with the individual school to engage in and document quality program development. It also assumes that EAB itself can more readily assess programs if it receives better information about the developmental process used by schools. This will speed up approval of programs.

The changes give schools an incentive for continuous improvement by deleting the requirement for review of minor program modifications: i.e., those changes affecting less than 25% of content. They also clarify and improve procedures for EAB's evaluation of innovative programs (a previous failing) and set new standards for Distance Education. The changes streamline the process for reviewing how schools develop programs.

FEES:

The EAB receives no General Purpose Revenue. It charges schools fees to support its activities – statutes direct that EAB: set fees by rule, collect fees “ . . .

sufficient to cover all costs that the board incurs," and establish "a variable fee structure based on the size of a school." Major categories of fees include:

- fees connected to reviewing applications for various school actions: like opening a new school, starting a new program, revising a program;
- fees for amending incomplete and non-complying applications; and,
- fees for renewing yearly approval (including a fixed fee of \$500 and a variable fee which is a percentage levied on each school's annual gross revenue).

It is important to note that there are two main sorts of functions the EAB carries out which have a direct relation to its need for and level of financial support: EAB staff do direct hands-on work with school applications. These functions are tied, pretty directly, to fees. However, there are many generic functions which the EAB performs which cannot be connected to a specific school action and it is these activities which largely rely on the variable renewal payment. These include: monitoring/visiting schools, responding to consumer inquiries, responding to information requests, sending applications to/deal with schools and potential schools which do not become approved, tracking law breakers, working with out-of-compliance schools, responding to school closures, responding to complaints and policing non-complying schools.

While the fee structure has adequately supported the agency, it has become too complex and unwieldy for both the EAB and the schools. Problem areas include:

- the level of fees charged for opening a new school and starting a new program have not fully covered actual agency costs;
- the inclusion of out-of-state colleges produced needless complexity in charging amending fees for various sorts of programs (B.A., M.A., etc.);
- maintaining a permanent new program fee reduction for out-of-state non-profit colleges has produced a double standard;
- the fee for minor program modifications has stifled ongoing program improvement; and,
- the variable fee based on size of school changed annually and suffered from the undercharging in categories noted above

The proposed rules modification greatly simplifies the fee structure, makes the variable renewal fee more predictable and does a better job of setting fees based on actual agency costs. The proposed changes increase fees for new school and new program approval to account for more intensive up-front work. They remove one category of program approval fee entirely and give schools the flexibility to change less than 25% of program content. They also greatly streamline fees for dealing with incorrect and incomplete applications by replacing roughly 30 levels of fee with two simple fees.

The proposed rules also level the playing field for licensed schools by ending the 50% program fee reduction for out-of-state non-profit colleges. This provision was needed to not unfairly assess the colleges for programs they had been offering in Wisconsin for some years and was used as a prudent way to make the transition to oversight by the State of Wisconsin. Having operated now under EAB oversight, it seems appropriate for out-of-state non-profit colleges to pay for new programs the same way as do all other licensed institutions.

Finally, the proposed modification adds some predictability to the variable renewal fee. It retains an annual second renewal payment based on a percentage of gross revenue (as a way to account for differences in school size), however, it establishes a procedure to set the variable fee percentage for a two-year period so as to enable schools to more adequately plan. During the preparation of the modifications to current rules, the EAB tested various methods to reconfigure the method for assessing annual renewal payment, but discovered that the current approach (with some needed streamlining) remained the most equitable, especially for smaller schools.

ADVERTISING:

Consistent with the context out of which the EAB and its rules grew, the stipulations, criteria and standards governing advertising are extremely detailed and prescriptive with an underlying distrust of schools. The level of exactitude has been extreme, with the defense that consumers are vulnerable to all sorts of potential fraud and misrepresentation. The attempt to account for nearly all sorts of potential abuse created confusion which schools have found burdensome and which has resulted in a very time consuming role for EAB staff.

The rules modification streamlines the guidelines schools must follow to produce honest and ethical advertising. It relies more on broad categories of acceptable and unacceptable behavior and removes levels of detail which really do not further the goal of ensuring that consumer are given information with which they can make informed decisions.

BONDING:

Statutes require that schools under the EAB's oversight must hold surety bonds as a way to protect students against financial loss. Current rules set the bond limit at \$25,000, but give the board the ability to adjust his upward and/or downward depending upon the risk posed to students by a given school. Individual school bond requirements have been set by policy derived from this rule: the key point being that the greatest risk to students was a school closure and that the greatest financial risk of such a closure was when a school held the maximum amount of up-front paid tuition (i.e., commonly called 'unearned' tuition). Based on past experience, schools have been required to post bonds equal to 125% of the highest point of their unearned tuition.

While the current policy does provide maximum protection to all students (in a worst case scenario sense), it places an undue financial and administrative burden on many schools whose solidity belies the need for extremely high bonds. The proposed modification sets the 125% of highest point of unearned tuition as a base bond amount and adds clarification that the bond is based only on revenue from Wisconsin students. It also delineates specific criteria (using stability measures) whereby a school can have its bond amount reduced.

While ensuring continued protection for students in schools which appear financially and administratively unstable, this approach is more flexible, equitable and realistic. It relies on staff expertise and experience to judge school stability using definite benchmarks. The modification also shifts the required \$2,000 solicitor bond to dedicated coverage under the school bond – thus avoiding unneeded work from all parties concerned.

REFUNDS:

The EAB gives students the ability to recoup money in the event that the program they entered does not meet their expectations. Beyond a basic three-day cooling off period which allows students to walk away from enrollment with minimal financial loss, the rules provide for partial refunds – i.e., to allow students to recoup tuition for classes not yet taken, if they stop attending class.

The proposed rules modification retains necessary protections with far less complexity. While students have been able to get refunds, the current partial refund procedures try to account for matriculation in various sorts of programs: short, long, correspondence, etc. The concept was to tailor refunds to the length and cost of particular programs. This, placed a tremendous burden on staff and schools. Often staff would have to utilize intricate calculations to figure out a partial refund for a given student.

The proposed rules modification establishes a single procedure for partial refunds to replace the current case-by-case scenario. This should make it much easier for all concerned to deal with a withdrawal from a program and save many hours of EAB staff time. It also modifies the concept of 'passive' withdrawal, or the belief that students should be considered to have ceased participation (and hence be eligible for partial refund) if they simply stop attending class; this causes harm to schools acting in good faith with students and is retained only for compliance with federal grant and loan programs and the G. I. Bill.

COMPLAINTS:

Over the years the EAB has received a steady volume of student complaints. Current rules authorize EAB investigation, but the overall complaints process and actual procedures have really emanated from past practice and precedent.

While complaints have been handled appropriately, the lack of detailed rule has placed too much of a reliance on policy.

The proposed rules modification delineates procedures for the EAB to follow in handling complaints. It emphasizes mediation and negotiation at the school level, but authorizes state investigation, if necessary. The changes also clarify how student and school need to interact prior to and during EAB intervention. In general, the new policy clarifies how complaints should be handled.

RECORDS:

Current rules contain minor requirements for records maintenance and progress reports to students. The EAB's shift from concern with educational inputs to assessing outcomes puts a new premium on data. Because schools will be more accountable for their success, it will be necessary for them to document performance – and, performance cannot be documented without clear data. This is a different operational philosophy than that previously held by the EAB which placed undue attention on how a school was structured and not on what it did.

The proposed rules modification creates a new chapter dealing specifically with records. It lists what schools must collect and retain, includes requirements for reporting to students and requires annual report data. Finally, it details what will happen to records in the event a school closes – this eventuality occurs with some regularity and has been handled through convention and historical practice. The result has been periodic difficulty in ensuring that records exist so that students have perpetual access to grades and can, in certain cases, claim financial recompense from surety companies, if a school should close.

Fiscal Effect. Under the provisions of § 38.51 (10) (c), Stats., fees paid by schools must cover costs for the examination and approval (i.e., licensing) of such schools. The proposed rules modifications would: end fees for minor program modifications; end fees for program name changes; raise fees for new school approval; raise fees for new program application; and, establish greater predictability by setting the second renewal payment (based on annual gross revenues) for two year periods. Given the intended goal of simplification and reduction of the number of fees, the board estimates that revenue from all the changes will be sufficient to meet its operating expenses.

Preparation and Copies of Proposed Rule. Preparation of this proposed rule was done by Joseph L. Davis. Copies of the proposed rule may be obtained, upon request, by writing to Nancy Warner, Educational Approval Board, 310 Price Place, P. O. Box 7874, Madison, WI 53707, or by calling (608) 266-1996.

Part 2
Text of proposed rule

Under the authority vested in the state of Wisconsin, educational approval board, by §§. 38.51 (3), (7), (8) and (10) (a), (b), (c), Stats., the educational approval board proposes an order to amend rules interpreting §§ 38.51 (3), (7), (8) and (10), (a), (b), (c), Stats., relating to the oversight of various categories of postsecondary school.

SECTION 1. EAB 1.01 is created to read:

EAB 1.01 Definitions

SECTION 2. EAB 1.02 is renumbered EAB (1).

SECTION 3. EAB 1.06 through 1.08 are repealed.

SECTION 4. EAB 1.03 is renumbered EAB 1.01 (2).

SECTION 5. EAB 1.10 is renumbered EAB 1.01 (3).

SECTION 6. EAB 1.11 and 1.12 are repealed.

SECTION 7. EAB 1.16 is repealed.

SECTION 8. EAB 1.01(4) is created to read:

EAB 1.01 (4) Degree. "Degree" means a designation, including associate, bachelor, master or doctor which signifies satisfactory completion of a program of study beyond the secondary school level, but does not include a certificate or diploma.

SECTION 9. EAB 1.17 and 1.18 are renumbered EAB 1.01 (5) and EAB 1.01 (6).

SECTION 10. EAB 1.01 (7) is created to read:

(7) Distance Education. "Distance Education" means instruction provided by means other than face-to-face student to teacher interaction; including video, computer-based, and correspondence instruction.

SECTION 11. EAB 1.19 is renumbered EAB 1.01 (8) and amended to read:

(8) Enrollment agreement. "Enrollment agreement" means a document by which a student contracts to enroll in a ~~subject~~ school or program.

SECTION 12. EAB 1.20 is renumbered EAB 1.01 (9).

SECTION 13. EAB 1.21 is repealed.

SECTION 14. EAB 1.24 is renumbered EAB 1.01 (10) and amended to read:

(10) Gross annual school revenues. "Gross annual school revenues" means the total revenues recognized in the school's method of accounting during the past fiscal year from the sale of goods and services to Wisconsin students, unreduced by any costs of the sales. It includes all revenues from tuition, and fees, and charges for books, supplies and equipment ~~, whether the sources of these revenues were Wisconsin students or sponsors of Wisconsin students. It~~ and includes revenues from room and board charges to Wisconsin students required to use room and board facilities which the school provided. It also includes all revenues from contracts with third parties to provide school goods and services to Wisconsin students or groups of Wisconsin students, such as job training partnership act contracts, or contracts with employers to provide training to their employes.

SECTION 15. EAB 1.01 (11) is created to read:

(11) Hour. "Hour" means either 50 or 60 minutes as determined by a school's policies.

SECTION 16. EAB 1.26 is renumbered EAB 1.01 (12) and amended to read:

(12) Inactive. "Inactive" means the ~~board-recognized~~ status of a school which is not currently soliciting enrollments, advertising for students, or providing instruction, ~~but which continues to provide non-instructional services to former students to whom the school is obligated.~~

SECTION 17. EAB 1.27 and EAB 1.28 are renumbered EAB 1.01 (13) and EAB 1.01 (14).

SECTION 18. EAB 1.28 NOTE is repealed.

SECTION 19. EAB 1.29 is renumbered EAB 1.01 (15) and amended to read;

(15) Lesson. "Lesson" means a single unit in a ~~correspondence subject or program~~, ~~at the conclusion of which the school requires the student to complete an evaluative instrument such as a test or other written exercise.~~

SECTION 20. EAB 1.30 is repealed.

SECTION 21. EAB 1.33 is renumbered EAB 1.01 (16).

SECTION 22. EAB 1.34 is renumbered EAB 1.01 (17).

SECTION 23. EAB 1.36 is renumbered EAB 1.01 (18) and amended to read:

(18) Program. "Program" means a course of instruction an organized unit of subject matter in which instruction is offered within a given time and which leads to a certificate, diploma or degree, or to an occupational, educational or vocational objective.

SECTION 24. EAB 1.38 is renumbered EAB 1.01 (19)

SECTION 25. EAB 1.01 (20) is created to read:

(20) Representative. "Representative" means an individual employed by or representing a school who, in places other than the school, attempts to secure student enrollments.

SECTION 26. EAB 1.39 is renumbered (21) and amended to read:

(21) Resident program instruction. "Resident program instruction" means a program which a school offers at a teaching location.

SECTION 27. EAB 1.395 is renumbered EAB 1.01 (22) and amended to read:

(22) Revised program. "Revised program" means any approved program in which the school proposes to increase or decrease the hours or credits by less more than 25% from the approved length of the program, change less more than 25% of the approved content of the program, or change the content of the program as the result of changes to the occupational licensing requirements of an agency of this state.

SECTION 28. EAB 1.40 is renumbered EAB 1.01 (23) and amended to read:

(23) School. "School" means any person who maintains, advertises or conducts in Wisconsin any postsecondary ~~subject or program for profit or a tuition charge~~ and who is not excepted under s. 38.51 (9), Stats.

SECTION 29. EAB 1.42 is renumbered EAB 1.01 (24).

SECTION 30. EAB 1.44 is renumbered EAB 1.01 (25).

SECTION 31. EAB 1.45 is repealed.

SECTION 32. EAB 1.46 is renumbered EAB 1.01 (26).

SECTION 33. EAB 1.47 is renumbered EAB 1.01 (27) and amended to read:

(27) Student. "Student" means ~~a natural person~~ an individual who has pursued, is pursuing, or has stated an intent to pursue any ~~subject or program~~ which a school offers.

SECTION 34. EAB 1.48 is renumbered EAB 1.01 (28) and amended to read:

(28) Subject. "Subject" means instructional material in a course program.

SECTION 35. EAB 1.485 is repealed.

SECTION 36. EAB 1.49 is renumbered EAB 1.01 (29) and amended to read:

(29) Teaching location. "Teaching location" means the area and facilities, ~~including any office, classroom, meeting room, laboratory, shop or range,~~ used or designated for instructional use by a school.

SECTION 37. EAB 1.50 is renumbered EAB 1.01 (30).

SECTION 38. EAB 1.51 is renumbered EAB 1.01 (31).

SECTION 39. EAB 1.52 is renumbered EAB 1.01 (32).

SECTION 40. EAB 1.01 (33) is created to read:

(33) Unearned tuition. "Unearned Tuition" means that portion of tuition, fees and other charges paid to a school for which a student has not yet received instruction.

SECTION 41. EAB 1.54 is renumbered EAB 1.01 (34).

SECTION 42. EAB 1.55 is renumbered EAB 1.01 (35).

SECTION 43. EAB Chapter 4 is renumbered Chapter EAB 5.

CHAPTER EAB 5

UNFAIR TRADE PRACTICES IN ADVERTISING AND

PROMOTIONAL MATERIAL

SECTION 44. EAB 4.01 is renumbered EAB 5.01 and amended to read:

5.01 General principles. Each school shall maintain high ethical standards in the conduct of its operations, solicitation of its students, and in its advertising and promotional material. The use of any unfair, substandard, fraudulent or deceptive trade practice or the making ~~or causing to be made~~ any false, misleading or ~~deceptive statement~~ statements in any advertising or promotional material ~~which has the tendency or capacity to mislead or deceive students, prospective students, or the public shall be cause for the refusal or revocation of approval.~~

SECTION 45. EAB 4.015 is renumbered EAB 5.015 and amended to read:

5.105 Definitions. Within this chapter, "school" includes the school and its officers, agents and representatives ~~and solicitors~~.

SECTION 46. EAB 4.02 is renumbered EAB 5.02.

SECTION 47. EAB 4.02 (1), (2), (3) are is renumbered EAB 5.02 (1), (2), (3) and amended to read:

(1) No school shall use a trade or business name, ~~label, insignia, or designation~~ which has ~~the capacity and tendency or effect of~~ may misleading mislead or ~~deceiving~~ deceive prospective students with respect to the nature of the school, its accreditation, ~~programs of instruction or methods of teaching, or any other~~ material fact.

(2) A school shall not falsely represent ~~directly or by implication~~ through the use of a trade or business name or in any other manner that:

(a) It is a part of or connected with the federal or state ~~a branch, bureau, or agency of the United States government, or of any state, or civil service commission;~~

(b) It is ~~affiliated with or otherwise~~ connected with public or private religious or charitable ~~organization~~ organizations or any public or private university, college or other institution of higher learning;

(c) It is an employment agency or ~~that it is~~ an employment agent or authorized training facility for ~~another~~ an industry or member of such industry, or otherwise ~~deceptively~~ conceal the fact that it is a school.

(3) If a school conducts its instruction wholly by correspondence or home study, it shall disclose ~~a clear and conspicuous disclosure should be made in immediate conjunction with its trade or business name~~ that it is a correspondence or home study school. ~~No school conducting its instruction wholly by correspondence or home study shall use the words "college" or "university" in conjunction with its name. This rule shall not apply to those schools approved prior to September 1, 1973.~~

SECTION 48. EAB 4.03 is renumbered EAB 5.03.

SECTION 49. EAB 4.03 (1) is renumbered EAB 5.03 (1) and amended to read:

(1) A school shall not falsely represent ~~directly or indirectly~~ the extent or nature of any approval ~~the school~~ it may have received from a state agency or the extent

or nature of its accreditation by a nationally recognized accrediting agency, or association.

SECTION 50. EAB 4.03 (2) is repealed.

SECTION 51. EAB 4.03 (3), (4), (5) are renumbered EAB 5.03 (2), (3), (4) and amended to read:

(2) A school shall not falsely represent directly or by implication that students successfully completing a program course or program of instruction may transfer credit therefor to an accredited institution of higher education unless such is in fact true.

(3) A school shall not falsely represent directly or by implication that a course of instruction program has been approved by a particular industry, or that successful completion thereof qualifies the student for admission to a labor union, or similar organization, or apprenticeship program, or for the receipt of a state or federal license to perform certain functions, unless such is the fact.

(4) A school shall not falsely represent directly or by implication that its courses programs are recommended by a third-party vocational counselors, high schools, colleges, educational organizations, employment agencies, or members or officials of a particular industry, or that it has been the subject of unsolicited testimonials or endorsements from former students or anyone else unless such is the fact. Testimonials or endorsements which do not accurately reflect current practices of the school, or current conditions or employment opportunities in the industry or occupation to which the training pertains, should not be used.

SECTION 52. EAB 4.04 is renumbered EAB 5.04.

SECTION 53. EAB 4.04 (1) is renumbered EAB 5.04 (1) and amended to read:

(1) A school shall not falsely represent ~~directly or indirectly in any manner the size, location, facilities or equipment of its school or the number or educational qualifications of its faculty and other personnel.~~ A school shall not: in its advertising materials its size, location, facilities, equipment, or the number of years of educational experience and the qualifications of its faculty.

SECTION 54. EAB 4.04 (1) (a) through (f) are repealed.

SECTION 55. EAB 4.04 (2) is renumbered EAB 5.04 (2) and amended to read:

(2) A school shall not represent ~~directly or indirectly~~ that it is a nonprofit organization unless it submits evidence that it has secured status as a non-profit organization from the United States internal revenue service.

SECTION 56. EAB 4.04 (3) is repealed.

SECTION 57. EAB 4.05 is renumbered EAB 5.05.

SECTION 58. EAB 4.05 (1) is renumbered EAB 5.05 (1) and amended to read:

(1) A school shall not falsely represent ~~the nature or extent of any its prerequisites it has established for enrollment in a course or program of instruction program.~~ It shall not:

SECTION 59. EAB 4.05 (1) (a) through (d) are repealed.

SECTION 60. EAB 4.05 (2) is renumbered EAB 5.05 (2) and amended to read:

(2) A school shall not falsely represent that the lack of a high school education or prior training or experience is ~~not a handicap or impediment to~~ will not reduce the likelihood of successful completion of a course program.

SECTION 61. EAB 4.05 (3) is renumbered EAB 5.05 (3) and amended to read:

(3) A school shall ~~endeavor to establish the qualifications which an applicant should have to assimilate successfully the subject matter of the course. Applicants should be informed of these prerequisites, and those who are not so qualified should not be enrolled~~ not enroll a student when it is clear that the student is unlikely to complete a program of study, or is unlikely to qualify for employment in the field for which the education is designed, unless this fact is disclosed to the student in the writing (See s. EAB 9.04).

SECTION 62. EAB 4.06 is renumbered EAB 5.06.

SECTION 63. EAB 4.06 (1) is renumbered EAB 5.06 (1) and amended to read:

(1) A school ~~school's~~ shall ~~not issue a degree, diploma, certificate of completion, or any similar document~~ must accurately describe ~~of similar import, which misrepresents directly or indirectly the subject matter, substance or content of the course of study program or any other material fact concerning the course for which it was awarded or the accomplishments of the student to whom it was awarded.~~

SECTION 64. EAB 4.06 (3) is renumbered EAB 5.06 (2).

SECTION 65. EAB 4.06 (4) is renumbered EAB 5.06 (3) and amended to read:

(3) A school shall ~~not~~ only offer high school courses ~~unless if~~ such courses are substantially equivalent to those offered by a resident secondary school approved by the State Superintendent of Public Instruction, and unless the student is informed ~~by means of a clear and conspicuous disclosure~~ in writing prior to his the student's enrollment, that the school cannot guarantee or

otherwise control the recognition which will be accorded such courses programs by institutions of higher education, other schools or by prospective employers, and that the degree to which such courses are recognized is a matter solely within the discretion of these agencies.

SECTION 66. EAB 4.07 is renumbered EAB 5.07.

SECTION 67. EAB 4.07 (1) is repealed.

SECTION 68. EAB 5.07 (1) is created to read:

(1) DECEPTIVE "HELP WANTED" ADVERTISING. A school shall not use "help wanted" advertising, or other techniques to convey the impression that it is an employment agency or agent, or offering jobs in a way to conceal that it is an educational institution.

SECTION 69. EAB 4.07 (2) is renumbered EAB 5.07 (2) and amended to read:

(2) BLIND ADVERTISING. The A school shall not use of "blind" advertisements or sales literature which conceals the fact that a program for fee is being offered to attract prospective students when such advertisements or literature fail to set forth that courses of instruction or other educational services are being offered for sale is deemed a deceptive and unfair trade practice.

SECTION 70. EAB 4.07 (3) is renumbered EAB 5.07 (3) and amended to read:

(3) FALSE REPRESENTATION AS TO EARNINGS. The making of A school shall not make false or deceptive statements or representations or any statement or representation which has have the tendency or capacity to mislead or deceive students, prospective students, or the public regarding actual or probable earnings or opportunities in any vocation or field of activity is an unfair trade

~~practice. It is unfair and deceptive practice for a school or person subject to this rule to represent or imply in advertising or otherwise that persons employed in a particular position earn a stated salary or income or that persons completing the training course will earn the stated salary or income or "up to" the stated salary or income unless:~~

SECTION 71. EAB 4.07 (3) (a) and (b) are repealed.

SECTION 72. EAB 4.07 (4) is renumbered EAB 5.07 (4) and amended to read:

(4) ~~MISREPRESENTATION~~ FALSE REPRESENTATION OF OPPORTUNITY. ~~The making of A school shall not make false, untrue, or deceptive statements or representations or any statement or representation which has have the tendency or capacity to mislead or deceive students, prospective students, or the public regarding any opportunities in any vocation or field of activity as a result of the completion of any given course of instruction or educational service is an unfair and deceptive trade practice. Whenever reference is made to a course in accounting or law, there must be affirmative disclosure of the fact that the successful completion of the course will not entitle the student to take the Wisconsin C.P.A. examination or the Wisconsin bar examination of a program.~~

SECTION 73. EAB 4.07 (5) is repealed.

SECTION 74. EAB 4.07 (6) is renumbered EAB 5.07 (5) and amended to read:

(5) ~~In obtaining leads to prospective students, a school shall not represent A school shall not falsely claim that it is conducting a talent hunt, contest, or similar test, unless such is the fact and such representation is accompanied by a clear and conspicuous disclosure of the industry member's name and address and the~~

~~fact that it is a school if such is not apparent from its name. An industry member which conducts a talent hunt, contest, or similar test among the prospective students should keep accurate records concerning the results thereof.~~

SECTION 75. EAB 4.07 (7) is repealed.

SECTION 76. EAB 4.07 (8) is renumbered EAB 5.07 (6) and amended to read:

(6) FALSE REPRESENTATIONS AS TO THE STUDENT'S OBLIGATION TO PAY. ~~The making of A school shall not make false or deceptive statements or representations or any statement or representation which has the tendency to deceive students or prospective students regarding the amount or nature of the student's financial obligation to the school or to third parties. is an unfair trade practice. Unfair trade practices under this subsection shall include but not be limited to the following:~~

SECTION 77. EAB 4.07 (8) (a) through (d) are repealed.

SECTION 78. EAB 4.08 is renumbered 5.08.

SECTION 79. EAB 4.08 (1) through (4) are renumbered EAB 5.08 (1) through (4) and amended to read:

(1) The school name and address and, if different from the address, the teaching location of the school.

(2) The fact that the school is offering educational services or vocational training for sale, if not apparent from the context of the advertising or promotional material.

(3) The total cost of the program or term, if the school makes in that material any representations as to the cost of the program or term.

(4) Whether any endorsements or recommendations in that material are paid testimonials ~~if in fact the school paid consideration for the testimonials.~~

SECTION 80. EAB 4.08 (5) is repealed.

SECTION 81. EAB 4.10 is repealed.

SECTION 82. EAB Chapter 5 is renumbered Chapter EAB 4.

CHAPTER EAB 4

APPROVAL OF SCHOOLS

SECTION 83. EAB 5.02 is renumbered EAB 4.01.

SECTION 84. EAB 5.02 (1) (a) through (f) are repealed.

SECTION 85. EAB 4.01 (1) is created to read:

(1) APPROVAL REQUIRED. A school shall not operate, conduct business, offer any program, advertise or enroll students unless it has been approved or determined to be exempt.

SECTION 86. EAB 5.02 (2) is renumbered 4.01 (2) amended to read:

(2) INVESTIGATION AND INSPECTION. Upon application, the board ~~or its duly authorized representative or staff~~ shall investigate and evaluate ~~inspect~~ schools doing business within this state, whether located within or outside this state, and ~~courses of instruction~~ programs offered by these schools, and ~~the board shall approve schools and programs~~ courses of instruction meeting its requirements and standards and complying with its rules including schools with branches in more than one location.

SECTION 87. EAB 4.01 (3) is created to read:

(3) COMPLIANCE. After a school is approved, it shall immediately report any significant changes in its program, facilities, finances or personnel.

SECTION 88. EAB 5.02 (3) is renumbered EAB 4.01 (4) and amended to read:

(4) RENEWAL OF APPROVAL. (a) Except as provided in par. (b), a school approved to operate or do business in this state shall, after June 30 but no later than September 1 of each year, apply for renewal of approval on forms which the board furnishes board forms and shall submit with the forms the appropriate fee which s. EAB 5.11 (3) requires.

SECTION 89. EAB 5.02 (4) is renumbered EAB 4.01 (5) and amended to read:

(5) REVOCATION OF APPROVAL. (a) ~~Upon a determination by the board that there has been a failure~~ Failure to maintain the standards or to continue to comply with the rules or meet the requirements for approval, ~~approval of the school or the course of instruction shall be revoked~~ shall result in revocation of either school or program approval, or both. Notice of withholding or revocation of approval of a school or program shall be sent by certified mail, return receipt requested, to the last address of the school involved.

(b) Refusal by a school to allow reasonable inspection by EAB staff, or to supply information after written request therefor or failure to comply with any and all of ~~by the executive secretary~~ these rules shall be grounds for revocation of approval.

SECTION 90. EAB 5.02 (5) is repealed.

SECTION 91. EAB 5.02 (6) is renumbered EAB 4.01 (6) amended to read:

(6) HEARING. Any school whose legal rights, duties, or privileges are directly affected by ~~an action of the executive committee, its duly authorized representative, or the board~~ a board or staff action may request a hearing to contest the action taken. Such a hearing must be requested within 10 days of the effective date of the action taken. If a hearing is requested it will be held within a reasonable time after receipt of the request. Notice of such hearing shall be sent to the school 10 days prior to the date of such hearing, giving the school notice of date, time and place.

SECTION 92. EAB 5.02 (7) is repealed.

SECTION 93. EAB 5.03 is renumbered EAB 4.02.

SECTION 94. EAB 5.03 (1) is renumbered EAB 4.02 (1) and amended to read:

(1) CRITERIA. ~~Approval of schools~~ Schools planned or proposed for operation within the state may be made by the board can be approved upon application as provided by s. EAB ~~5.05~~ 4.05 which gives evidence that the planned or proposed school meets approval requirements. ~~Purchase or rental of physical facilities, materials, and equipment and hiring of instructional staff need not be accomplished prior to consideration of approval if the proposed physical facilities, materials, and equipment are fully described, the qualifications of instructor positions have been clearly stated, and such descriptions and qualifications, if carried out in practice, would meet the criteria for approval as set forth in s. EAB 5.06.~~

SECTION 95. EAB 5.03 (2) is renumbered EAB 4.02 (2).

SECTION 96. EAB 5.03 (3) is repealed.

SECTION 97. EAB 5.04 is repealed.

SECTION 98. EAB 5.05 is renumbered EAB 4.03.

SECTION 99. EAB 5.05 (1) and (2) are repealed.

SECTION 100. EAB 4.03 (1) is created to read:

Application for approval. (1) No school shall be approved unless it makes application, through its officers or an owner, upon board forms. An application for approval shall include, at a minimum:

- (a) Mission of the school;
- (b) Bylaws and regulations established for the school's governance and operation;
- (c) A description of the degrees and programs offered, including learning outcomes;
- (d) A copy of the enrollment agreement, if any, the school anticipates using in Wisconsin; meeting the requirements of ch. EAB 6;
- (e) A statement of its cancellation policy meeting the minimum requirements set out in ch. EAB 8;
- (f) A description of the school's placement services;
- (g) A copy of all advertising recently used or reasonably expected to be used in Wisconsin by the school;
- (h) A current balance sheet and income statement using board forms;
- (i) A surety bond as required by s. EAB 4.07;
- (j) A description of the school's location, buildings, and equipment;

(k) A list of faculty members indicating their education, preparation and experience;

(l) Documentation that applicable fire, safety, and health codes are met at schools and teaching locations (except for public school buildings);

(m) A statement that the school provides equal opportunity for all persons regardless of age, race, creed, disability, sex, religion, sexual preference, or political affiliation.

(n) Any other information so that the school and its programs may be evaluated according to the criteria set forth in s. EAB 4.06.

SECTION 101. EAB 4.03 (2) is created to read:

(2) Each application shall be accompanied by a school catalog or bulletin containing at a minimum:

(a) Volume number and date of publication.

(b) Name of school and its governing body and officials.

(c) A calendar showing holidays, vacation periods, and the beginning and ending date of each term or semester.

(d) A mission statement.

(e) A description of the educational program, listing degrees and majors offered and a brief description of entrance and completion requirements.

(f) School policy and regulations regarding attendance, leave, absences, tardiness, standards of progress policy, grading policy, rules of conduct and a policy for handling student complaints.

(g) A description of the school's self-evaluation process.

(h) A schedule of tuition, fees, other charges and refund policy.

(i) A description of the school's placement services.

SECTION 102. EAB 5.06 is renumbered EAB 4.04.

SECTION 103. EAB 5.06 (1) is renumbered EAB 4.04 (1) and amended to read:

(1) **CONTENT AND INSTRUCTION.** (a) ~~The content, length, and instruction of courses and courses of instruction shall be consistent in quality with program, curriculum and instruction must be of such quality, content and length as may reasonably and adequately achieve the stated objective for which offered and comparable to similar courses and courses of instruction programs in public approved schools or private schools with standards which have been examined by the board and are deemed to be acceptable.~~

(b) The administrators and instructors of the school shall have suitable educational qualifications and experience, and be of good reputation and character.

(c) The school shall have a sufficient number of instructors for its courses and courses of instruction to provide adequate student-teacher relationships ratios.

~~(d) The course of instruction will be of value in preparing students for employment in the vocational field for which it was designed.~~

~~(e) The course of instruction is capable of qualifying students for employment in a vocational position if it is represented to do so.~~

(d) The approval of programs, which are innovative and not comparable to currently approved private or public programs, shall be based on demonstrable

quality and documented labor market needs, a description of the program development process and evidence of third-party review.

SECTION 104. EAB 5.06 (2) is renumbered EAB 4.04 (2) and amended to read:

(2) FACILITIES. The school shall have adequate space, suitable and sufficient equipment, and sufficient and appropriate instructional materials to carry out its program. ~~Said facilities shall be consistent in quality with similar facilities in public schools or private schools with facilities which have been examined by the board and are deemed acceptable.~~

SECTION 105. EAB 5.06 (3) is repealed.

SECTION 106. EAB 5.06 (4) is renumbered EAB 4.04 (3) and amended to read:

(3) ADVERTISING. All advertising and promotional materials shall be consistent with the requirements set forth in ch. EAB 4 5.

SECTION 107. EAB 5.06 (5) is renumbered 4.04 (4) and amended to read:

(4) REFUND POLICY. ~~The school's~~ school shall have a policy for refund of unused portions of tuition, fees and other charges ~~if a student does not enter a course or course of instruction or withdraws or is discontinued therefrom must provide for refunds which are~~ at least equal to the ~~board's~~ established minimum standards as set forth in ch. EAB 8.

SECTION 108. EAB 4.04 (5) is created to read:

(5) ACCESS. (a) A school may not deny enrollment to any student, or make any distinction or classification of students, solely on account of sex, race or creed.
(b) A school must make reasonable accommodations for students and employes with disabilities.

SECTION 109. EAB 5.06 (6) is repealed.

SECTION 110. EAB 5.06 (7) is renumbered EAB 4.04 (6) and amended to read:

(6) FINANCIAL STABILITY. The school must be shown to be in sound financial condition to the satisfaction of the board.

SECTION 111. EAB 4.04 (7) and (8) are created to read:

(7) OUTCOMES AND EVALUATION. (a) A school shall have procedures to evaluate its educational programs, improve instruction and review overall operations.

(b) Evaluations shall include student, alumni and employer feedback on the effectiveness of the curriculum.

(c) The school shall provide annual enrollment information, using its definitions, delineating number of dropouts, completers, graduates and employed.

(8) DISTANCE EDUCATION. Distance education, home study and correspondence programs must be comparable in content, faculty and resources to those offered in residency and include provision for periodic student-to-faculty interaction.

SECTION 112. EAB 5.06 (8) is repealed.

SECTION 113. EAB 5.065 is renumbered EAB 4.05.

SECTION 114. EAB 5.065 (1) is renumbered EAB 4.05 (1) and amended to read:

(1) A school may measure a ~~resident program and the subjects within the program~~ in degree credits if:

(a) The ~~board has approved the program~~ was approved as a degree program; or

~~(b) The board school has approved one or more degree programs for the school and all subjects within the program transfer to one or more of the degree programs at the school.~~

SECTION 115. EAB 5.065 (2) is renumbered EAB 4.05 (2) and amended to read:

(2) A school may measure a resident program and the subjects within the program in vocational credits if the board has program was approved measurement in vocational credits for the program.

SECTION 116. EAB 5.065 (3) is renumbered EAB 4.05 (3) amended to read:

(3) A school which seeks approval to offer a new or substantially revised program on a credit basis shall:

- (a) Pay the fee specified in s. EAB ~~5-11~~ 4.11 (4);
- (b) Specify on the application for approval whether the school uses quarter or semester credits;
- (c) Specify on the application for approval whether the school desires to use degree credits or vocational credits; and
- (d) Meet the requirements of ss. EAB ~~5-05~~ 4.05, ~~5-06~~ 4.06, ~~5-07~~ 4.07 and ~~5-08~~ 4.08.

SECTION 117. EAB 5.065 (3m) is renumbered EAB 4.05 (4) and amended to read:

(4) A school which seeks approval to ~~offer a revised program on a credit basis or~~ to convert an approved program from clock hours or contact hours to credits shall:

- (a) Pay the fee specified in s. ~~EAB-5.11~~ 4.11 (5);
- (b) Specify on the application for approval whether the school uses quarter or semester credits;
- (c) Specify on the application for approval whether the school desires to use degree credits or vocational credits; and
- (d) Meet the requirements of ss. ~~EAB 5.05~~ 4.05, ~~5.06~~ 4.06, ~~5.07~~ 4.07 and ~~5.08~~ 4.08.

SECTION 118. EAB 5.065 (4) is renumbered EAB 4.05 (5) and amended to read:

(5) In addition to meeting the requirements in sub. (3) or ~~(3m)~~ (4) as appropriate, a school which seeks approval of a resident program or subject measured on a quarter credit basis shall:

- (a) Award one quarter credit for no fewer than 10 contact hours of lecture, plus 20 hours of outside preparation or the equivalent.
- (b) Award one quarter credit for no fewer than 20 contact hours of laboratory work plus necessary outside preparation.
- (c) Award one quarter credit for no fewer than 30 clock hours of shop.
- (d) Award one quarter credit for no fewer than 30 clock hours of off-campus practical training such as a residency, externship, internship, or practicum.

SECTION 119. EAB 5.065 (5) is renumbered EAB 4.05 (6) and amended to read:

(6) In addition to meeting the requirements in sub. (3) or ~~(3m)~~ (4) as appropriate, a school which seeks approval of a resident program or subject measured on a semester credit basis shall:

(a) Award one semester credit for no fewer than 15 contact hours of lecture, plus 30 hours of outside preparation or the equivalent.

(b) Award one semester credit for no fewer than 30 contact hours of laboratory work plus necessary outside preparation.

(c) Award one semester credit for no fewer than 45 clock hours of shop.

(d) Award one semester credit for no fewer than 45 clock hours of off-campus practical training such as a residency, externship, internship, or practicum.

SECTION 120. EAB 5.07 is renumbered EAB 4.06.

SECTION 121. EAB 5.07 (1) is renumbered EAB 4.06 (1) and amended to read:

(1) ~~Before any school will be given approval, the school must provide the board with a surety bond in the amount of \$25,000 executed by the applicant as principal and by a surety company qualified and authorized to do business in the state of Wisconsin as surety. As a condition of obtaining and retaining approval, a school must provide a surety bond on a board form in an amount equal to 125% of its highest point of unearned tuition from Wisconsin residents and provide coverage for each representative of \$2,000 as specified in s. EAB 10.02.~~

SECTION 122. EAB 4.06 (2) is created to read:

(2) The bond shall be executed by the school as principal and by a surety company qualified and authorized to do business in the state of Wisconsin as a surety.

SECTION 123. EAB 5.07 (2) is renumbered 4.06 (3) and amended to read:

(3) The surety bond shall ~~be conditioned to~~ provide indemnification to any student, ~~or enrollee or his parent, or guardian, or sponsor~~ suffering loss or damage as a result of any fraud or ~~misrepresentation~~ false representation used in procuring his enrollment, violation of chs. EAB 3 through 8, or as a result of the student being unable to complete the course or courses because the school failed to perform its contractual obligations with such student, or as a result of the student being refused a tuition refund to which the student is entitled under ch. EAB 8. Such indemnification under the surety bond ~~to any or all students, or parents, or guardians, or sponsors~~ shall, in no case, exceed the advanced tuition, book fees, supply fees, or equipment fees paid or liable to be paid for ~~by said student or students or any such parent, or guardian, or sponsor,~~ and regardless of the number of years that a school's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

SECTION 124. EAB 5.07 (3) is repealed.

SECTION 125. EAB 5.07 (4) is renumbered EAB 4.06 (4).

SECTION 126. EAB 5.07 (5) is EAB 4.06 (5) and amended to read:

(5) The bonding requirements set forth in this section may be ~~increased or reduced in the sole discretion of the board~~ upon a determination that it is ~~inadequate or excessive~~ in relation to the risk of economic loss to which Wisconsin residents are exposed in the case of any particular school, upon evidence of a stable fiscal history, satisfactory completion and placement rates,

accreditation by a recognized accrediting body and other such stability criteria as the schools may offer for board review. Schools shall have the opportunity to present their case for lowering the bond level either to staff or the board.

SECTION 127. EAB 5.08 is renumbered EAB 4.07.

SECTION 128. EAB 5.08 (1) and (2) are renumbered EAB 4.07 (1) and (2) and amended to read:

(1) All schools seeking approval ~~from the board~~ must furnish ~~the board with~~ provide the name and Wisconsin address of a designated agent upon whom any process, notice, or demand may be served. The executive secretary of the educational approval board may be appointed for this purpose.

(2) If during any period a school ~~approved by the board~~ fails to appoint or maintain in this state an agent for service of process, such failure shall be cause for revocation of approval.

SECTION 129. EAB 5.09 is repealed.

SECTION 130. EAB 4.08 is created to read:

Investigation and review. (1) PERIODIC REVIEW. The board shall investigate and review evaluate all approved schools and programs. The method of review shall include:

(a) Information from the following: federal trade commission, better business bureaus, the Wisconsin department of justice, other state or other official approval agencies, local school officials or interested persons.

(b) Review of reports and statements from the school involved.

(c) Conferences with officials or representatives of the school involved or with interested persons including former students or parents of former students.

(d) Investigation by visitation of the school involved.

(2) COMPLAINTS. In addition to investigation upon its own initiative, the board may investigate any school and its programs upon receipt of a complaint from an interested person.

(a) A student with a complaint against a school shall make a reasonable effort to resolve the complaint directly with the school.

(b) The board shall conduct an investigation upon receipt of a written complaint filed within one year after the student's last recorded date of attendance;

1. If preliminary findings indicate a violation(s), the board shall attempt, through mediation to bring about a settlement;

2. If no agreement is reached, the board shall conduct a hearing and the school may be subject to summary suspension of its approval;

3. If a complaint charging fraud or false representation used in procuring a student's enrollment is upheld and if a settlement cannot be reached, the board shall make a demand upon the school's bond and if not paid shall bring action in any court in the state of Wisconsin.

SECTION 131. EAB 5.10 is renumbered EAB 4.09.

SECTION 132. EAB 5.10 (1) is renumbered EAB 4.09 (1) and amended to read:

(1) DISTRIBUTION. A directory of approved schools and ~~courses of instruction programs~~ shall be distributed by the board to all approved schools and to others upon request. ~~Cumulative supplements to such directory bringing it up to date by~~

~~showing additions and removals subsequent to the distribution of the directory shall be distributed by the board from time to time. The directory shall be brought up to date by distribution of a new directory of approved schools and courses of instruction whenever the changes from the last directory are sufficient therefor.~~

SECTION 133. EAB 5.10 (2) is repealed.

SECTION 134. EAB 5.11 is renumbered EAB 4.10.

SECTION 135. EAB 5.11 (1) is repealed.

SECTION 136. EAB 5.11 (2) is renumbered EAB 4.10 (1) and amended to read:

(1) FEES FOR INITIAL SCHOOL APPROVAL. (a) A school which is not approved to operate or do business in this state and which is applying for approval shall pay a fee of:

1. ~~\$1,500~~ 2,000, if the school is applying for approval of one program which does not lead to a degree.
2. ~~\$2,000~~ 2,500, if the school is applying for approval of one program which leads to an associate degree.
3. ~~\$2,800~~ 3,300, if the school is applying for approval of one program which leads to a baccalaureate degree.
4. ~~\$3,400~~ 3,900, if the school is applying for approval of one program which leads to a master's degree.
5. ~~\$4,600~~ 5,100, if the school is applying for approval of one program which leads to a doctoral degree.

(b) If the school is applying for approval of more than one program, the school shall pay the highest applicable fee specified in par. (a), plus the fee specified in sub. (4) for each additional program for which the school requests approval.

(c) If the school is applying for approval of additional teaching locations in addition to the main location listed on the application for approval, the school shall pay, in addition to the fee specified in par. (a), the fee specified in sub. (6) for each teaching location.

(d) The board shall reduce the fees specified in par. (a) shall be reduced by 50% of the program fee specified in sub. (4) (a) for a program of the same level if all of the following conditions are met:

1. The school making application for approval of the program is incorporated in a state other than Wisconsin, has its main campus outside Wisconsin, and offers in Wisconsin only programs leading to a baccalaureate or higher degree.

2. The school presents written evidence of authorization from its home state to offer the program and degree which it desires to offer to Wisconsin residents. The evidence which the school submits to meet this requirement shall include unabridged copies of all findings and program reviews which the home state authorizing agency completed regarding the program.

3. If the school is requesting authorization to enroll Wisconsin residents in a program which it offers in a state other than its home state, the school presents written evidence of program and degree authorization from the state in which the program is offered. The evidence which the school submits to meet this

requirement shall include unabridged copies of all findings and program reviews which the state authorizing agency completed regarding the program.

4. The school presents written evidence that it is accredited by an accrediting agency recognized by the U. S. department of education to offer the program and degree which it desires to offer to Wisconsin residents. The evidence which the school submits to meet this requirement shall include unabridged copies of all self-studies which the school submitted to the accrediting agency and unabridged copies of all findings and reviews which the accrediting agency completed regarding the program.

5. The school presents written evidence that its home state gives similar Wisconsin schools at least an equivalent fee reduction in comparable licensing and oversight fees. The evidence which the school submits to meet this requirement shall include a copy of the applicable statutory and regulatory language from the home state.

SECTION 137. EAB 5.11 (3) (a) is renumbered EAB 4.10 (2) (a) and amended to read:

(2) FEES FOR RENEWAL OF SCHOOL APPROVAL. (a) ~~The board may renew the~~ Renewal of approval of a school shall not be for not more than one calendar year. Except as provided in par. (b), a school applying for renewal of approval shall pay an application fee renewal fees in payments as provided in pars. (c) and (d).

SECTION 138. EAB 5.11 (3) (b) is renumbered EAB 4.10 (2) (b)

SECTION 139. EAB 5.11 (3) (c) is repealed.

SECTION 140. EAB 5.11 (3) (d) is renumbered EAB 4.10 (2) (c).

SECTION 141. EAB 5.11 (3) (e) through (g) are repealed.

SECTION 142. EAB 4.10 (2) (d) is created to read:

(d) Licensed schools shall pay annual renewal fees in two parts.

1. Each licensed school shall make a first payment, in the amount of \$500, no later than September 1 prior to the calendar year for which the school is applying for renewal of approval. Each licensed school shall make a second renewal payment, in the amount determined as provided in subd. 2 through 4 no later than March 1 of the calendar year for which the school is applying for renewal of approval.

2. The EAB shall levy a second renewal fee based on licensed schools' adjusted gross annual revenues and set the fee multiplier for two year periods at a time.

3. The fee shall be in the form of multiplier equal to the percentage of all schools' total adjusted gross annual revenue needed to equal the cost of regulating schools subject to s. 38.51 (10), Stats., less revenue from all other fees.

4. The multiplier derived in subd. 3 shall be applied to each school's adjusted gross annual revenue to determine its second renewal payment.

SECTION 143. EAB 5.11 (3) (h) is renumbered EAB 4.10 (2) (e) and amended to read:

(e) If a school fails or refuses to provide ~~the board with~~ reliable financial information by with which to ~~the board may~~ determine the amount of the second payment, the board may revoke the approval of the school or may use other means to compare the school with other schools by size, estimate the adjusted

gross annual revenues of the school and require a second payment based on the estimated adjusted gross annual revenues of the school. The board may also request the department of justice or any district attorney to take action under any other applicable provision of law.

SECTION 144. EAB 5.11 (3) (i) is renumbered EAB 4.10 (2) (f).

SECTION 145. EAB 5.11 (4) is renumbered EAB 4.10 (3) and amended to read:

(3) FEES FOR APPROVAL OF NEW OR SUBSTANTIALLY REVISED PROGRAMS.

SECTION 146. EAB 5.11 (4) (a) is renumbered EAB 4.10 (3) (a) amended to read:

(a) When applying for approval of a new or substantially revised program, a school shall pay the following fee:

1. ~~\$900~~ 1,500, if the program for which the school seeks approval does not lead to a degree.
2. ~~\$1,400~~ 2,000, if the program for which the school seeks approval leads to an associate degree.
3. ~~\$2,300~~ 3,000, if the program for which the school seeks approval leads to a baccalaureate degree.
4. ~~\$2,800~~ 3,500, if the program for which the school seeks approval leads to a master's degree.
5. ~~\$3,800~~ 4,500, if the program for which the school seeks approval leads to a doctoral degree.

SECTION 147. EAB 4.10 (3) (b) is created to read:

(b) If a school's ongoing program modifications result in more than a 50% change in program content within 3 years, it shall pay the fee specified in par.

(a).

SECTION 148. EAB 5.11 (4) (b) is renumbered EAB 4.10 (3) (c) and amended to read:

(c) ~~The board shall reduce the fees specified in par. (a) shall be reduced~~ by 25% if the program for which the school requests approval meets all of the following conditions:

1. The program prepares students to meet the occupational licensing requirements of an agency of this state.
2. The agency to which subd. 1. refers has reviewed the program.
3. The agency to which subd. 1. refers has notified the board in writing that successful completion of the program will meet the educational requirements for initial licensure in the occupation.

SECTION 149. EAB 5.11 (4) (c) is repealed.

SECTION 150. EAB 5.11 (4) (c) 1. through 5. and (5) are repealed.

SECTION 151. EAB 5.11 (6) is renumbered EAB 4.10 (4).

SECTION 152. EAB 5.11 (7) is renumbered EAB 4.10 (5) and amended to read:

(5) CHANGE OF OWNERSHIP OR CONTROL. (a) Approval of a school terminates at the time when the ownership or control of the school changes from that indicated on the school's most recent application ~~the school filed with the board under sub-~~ (2) ~~or (3)~~ unless the school files within 10 business days after the change of

ownership or control a complete application for approval after a change of ownership or control under par. (c).

SECTION 153 EAB 5.11 (7) (c) and (d) are EAB renumbered 4.10 (5) (c) and (d) and amended to read:

(c) The school shall submit to the board within ten business days after the change of ownership or control an application reflecting the change of ownership or control and a fee of ~~\$600~~ 1,000.

(d) If a school files an application requesting approval of a change of ownership or control more than 10 business days after the change of ownership or control takes effect, ~~or if the application and its attached materials indicate that the new owner has not assumed the responsibility for refunds due to students and sponsors as of the date of the change of ownership or control or has not agreed to honor enrollment documents signed by students prior to the change of ownership or control,~~ the board shall treat such an application will be considered as an application for initial approval, and the school shall pay the fees specified in sub. (2).

SECTION 154. EAB 5.11 (8) is repealed.

SECTION 155. EAB 5.11 (9) is renumbered EAB 4.10 (6) and amended to read:

(6) ~~FOR AMENDING AN INCOMPLETE APPLICATION.~~ AMENDING FEE A school shall pay a the fee when an application submittal requires amendment or correction. The fee shall be \$200 for errors which require less than four hours of staff work and \$1,000 for corrections which require a day or more of staff work. ~~specified in this subsection each time the school submits any form, materials, documents, or~~

~~information which the rules of the board require as part of an application but which the school failed to provide with the application as originally submitted:~~

SECTION 156. EAB 5.11 (9) (a) through (f) and (10) are repealed.

SECTION 157. EAB 5.11 (11) is renumbered EAB 4.10 (7).

SECTION 158. EAB 5.11 (12) is renumbered EAB 4.10 (8) and amended to read:

(8) REAPPLICATIONS. A school which reapplies for approval of the school, a new or substantially revised program, a ~~revised program~~, a change in school name, a ~~revised program title~~, or a teaching location for which the board has was denied approval shall again pay the fees specified in this section.

SECTION 159. EAB 5.11 (13) is renumbered EAB 4.10 (9) and amended to read:

(9) WAIVER OF FEES. ~~The board may in its sole discretion waive, in whole or in part, fees~~ Fees otherwise payable by schools for reinstatement of approval which has been revoked or has expired, ~~if the board determines~~ may be waived upon determination that a staff re-evaluation of the school's programs ~~courses of instruction~~ is unnecessary.

Note: A person may obtain a Single Application any of the following forms by writing the Educational Approval Board at P.O. Box 7874, Madison, WI 53707, or by telephoning (608) 266-1996.

Form EAB 1.01, Application, initial school approval, Wis. stats. s. 38.51

Form EAB 1.07, Application, renewal of school approval, Wis. stats. s. 38.51

~~Form EAB 1.08, Application, school approval after a change of ownership or control, Wis. stats. s. 38.51~~

~~Form EAB 1.09, application for approval, teaching location, Wis. stats. s. 38.51~~

~~Form EAB 1.11, application for approval, course of instruction, Wis. stats. s. 38.51.~~

SECTION 160. EAB 5.12 is repealed.

SECTION 161. Chapter EAB 6 is amended to read:

CHAPTER EAB 6

ENROLLMENT DOCUMENTS

SECTION 161. EAB 6.01 Definitions I is repealed.

SECTION 162 EAB 6.02 is renumbered EAB 6.01 and amended to read:

6.01 Enrollment agreements. (s. 38.51 (7) (f), Stats.). ~~All enrollment agreements used by a school~~ If a school chooses to use an enrollment agreement it shall contain the following:

- (1) The name and address of the school;
- (2) ~~Clear and conspicuous disclosure~~ Disclosure that the enrollment agreement is a legally binding contract upon acceptance of the student by the school unless the student cancels the enrollment agreement ~~during the~~ within 3-business day ~~cancellation period~~ days of acceptance by the school;
- (3) Disclosure of the 3-business-day cancellation privilege;
- (4) The total cost of the ~~course of instruction~~, or, if the school elects to apply the refund provisions of s. EAB 8.07, the total cost of the term and any application and registration fees which are required to be paid program;

~~(5) The name of the course of instruction, program, the number of hours or units of instruction or lessons and the date the program is to begin and end a description of the course of instruction or a reference to the specific page in the school catalog or bulletin on which a description may be found, the number of hours of classroom instruction in a resident course of instruction, the number of lessons in a correspondence course of instruction and the number of correspondence lessons and the number of hours of classroom instruction in a combination course of instruction;~~

~~(6) Whether the school offers any placement or employment counseling service, and the nature and extent of the service;~~

~~(7) The school's refund policy in compliance with ch. EAB 8; and,~~

~~(8) Disclosure that refunds owing as the result of withdrawal or dismissal after the 3-business-day cancellation period shall be made within 30 calendar days after the school dismisses the student or receives notice of withdrawal and A clear and conspicuous disclosure of truth-in-lending requirements where the tuition is paid in installments.~~

~~(9) Disclosure of each of the following that are appropriate to the course of instruction for which the enrollment agreement is used:~~

~~(a) For a course of instruction with a fixed class schedule, or for the resident portion of a combination course of instruction, that a student who does not attend classes for a period of 10 consecutive class days and who does not give the school, prior to or during that period, an explanation regarding the absences is considered to have withdrawn from school;~~

- ~~(b) For a course of instruction without a fixed class schedule, or for a course of instruction offered on a lesson-by-lesson basis, that a student who does not attend classes or utilize instructional facilities for a period of 60 consecutive calendar days and who does not give the school, prior to or during that period, an explanation about the absences is considered to have withdrawn from school;~~
- ~~(c) For a correspondence course of instruction, or for the correspondence portion of a combination course of instruction, that a student who does not submit a lesson for a period of one year and who does not give the school, prior to or during that period, an explanation regarding the inactivity is considered to have withdrawn from school.~~

SECTION 163. EAB 6.03 is renumbered EAB 6.02 and amended to read:

EAB 6.02 Enrollment applications. (s. 38.51 (7) (f), Stats.)

(1) A school may use an enrollment application in lieu of an enrollment agreement.

(2) If a school uses an enrollment application, it must include language providing equal opportunity for all persons regardless of age, race, creed, disability, sex, religion, sexual preference, or political affiliation. ~~the school catalog or bulletin shall contain, in addition to the information required by s. EAB 5.05 (1) (c), the following:~~

SECTION 164. EAB 6.03 (2) (a) through (c) is repealed.

SECTION 165. EAB 6.04 is renumbered EAB 6.03 and amended to read:

EAB 6.03 Cancellation privilege. (s. 38.51 (7) (e), Stats.) (1) A student shall have the right to cancel an enrollment application or enrollment agreement for a

~~course program or course of instruction not exempted by sub. (40) (8), until midnight of the third business day as defined by s. 421.301 (6), Stats., after receipt of notice of acceptance.~~

~~(2) Two copies of a A typed or printed notice of the cancellation privilege shall be given to the student. The notice must:~~

~~(a) Be printed in capital and lowercase letters of not less than 12-point boldface type;~~

~~(b) Appear under the conspicuous caption: "CUSTOMER'S RIGHT TO CANCEL";~~

~~(c) Read read as follows:~~

NOTICE OF CANCELLATION

~~(enter date of transaction)~~

~~You may cancel this transaction, without any penalty or obligation, within three business days from the above date. (Saturdays, Sundays and holidays are not business days.)~~

~~If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instruments executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.~~

~~If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions~~

of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to

_____ ,
(name _____ of _____ seller)
at _____

(address _____ of _____ seller's _____ place _____ of _____ business)

not later than _____ midnight _____ of _____
(date)

Note: Purchase of educational goods and services offered by a school is deemed to take place when written and final acceptance is communicated to the student by the school. If the representative who enrolls you is authorized to grant written acceptance at the time you enroll, and does so, the cancellation period ends at the time specified above. If you have not been accepted in writing at the time you enroll, the cancellation period does not end until midnight of the third business day after the day you receive written acceptance by certified mail from the school.

I hereby cancel this transaction.

(Date)
(Buyer's Signature)
(Buyer's Name Print)
(Street Address)
(City, State, Zip Code)

(3) Except in those cases where the student is granted written acceptance at the time of application, the school shall send to each student written notice upon the acceptance of the student by the school. ~~The notice of acceptance shall be sent by certified mail. Notice of acceptance is deemed received by the student upon attempted delivery by the United States postal service at the address stated by the student in the enrollment application or enrollment agreement.~~

(4) The student may cancel an enrollment application or enrollment agreement during the 3-business-day period by delivering or mailing a signed written notice to the school at the address set forth in the notice of cancellation privilege.

(5) The notice of cancellation privilege required by sub. (2) shall be attached to, and easily detachable from, the enrollment application or enrollment agreement. ~~if the application or agreement is completed by the student in the presence of a school representative. If a school representative is not present at the time the student completes the application or agreement, the notice of~~

~~cancellation privilege shall be attached to, and easily detachable from, the written notice of acceptance sent by the school.~~

~~(6) If the notice of cancellation privilege required by sub. (2) is not delivered to the student at the time specified in sub. (5), the time allowed for cancellation is extended until midnight of the third business day after the day on which the school furnishes the student with the required notice of cancellation privilege.~~

~~(7) Notice of cancellation, if given by mail, is deemed to be given when it is postmarked not later than the third business day after the day on which the student receives written notice of acceptance. A school may not require that a student mailing notice of cancellation send such notice by certified or registered mail.~~

~~(6) Notice of cancellation need not take any particular form, and is sufficient if it indicates by any means a written expression of the intention of the student to cancel the enrollment application or enrollment agreement.~~

~~(7) The school shall, within 10 business days after receiving notice of cancellation from the student, make any refund owing as a result of the cancellation and arrange for a termination of the student's obligation to pay any sum.~~

~~(8) This section shall not be construed to apply to any program course of instruction for which the total cost of the course of instruction is less than \$150 and which is offered in less than 6 class days, provided that the course of instruction program is not one of a sequence of courses of instruction.~~

SECTION 166. EAB 6.05 is renumbered EAB 6.04.

SECTION 167. Chapter EAB 7 is created to read:

CHAPTER EAB 7

RECORDS

7.01 Student Records. A school shall keep records of attendance, progress, and grades. A school shall periodically report progress to each student.

7.02 Records Retention. Each school shall maintain, for a minimum of six years from graduation or termination, student records that shall include at least the following:

- (1) A copy of the enrollment agreement and other instruments relating to payment for educational services;
- (2) Student information, including student name; permanent or other address at which the student may be reached; records relating to financial payments and refunds; and, record of attendance;
- (3) Date of completion or termination and the reason(s) thereof; and,
- (4) Record of any student grievance and subsequent resolution

7.03 Transcripts. Each school shall provide upon request a transcript to the student who has satisfied all financial obligations currently due and payable to the school. The transcript must provide at least the following:

- (1) Name of the student;
- (2) Title of the program, including total number of credit or hours of instruction received and dates of enrollment;
- (3) Grade record for each course, lesson or unit of instruction and the cumulative grade for the program; and

(4) Explanation of the grading system on the transcript.

7.04 Change in Status. (1) In the event of merger, consolidation, change of ownership, or dissolution of a school, the school owner or designee shall:

(a) Notify the board at the time the decision is made to merge, consolidate, sell, or close, but at a minimum, seventy-two hours before such action;

(b) Submit a plan to provide for the retention and disposition of records. If necessary, the board may seize the records and negotiate for assignment of said records to another school or agency;

(c) Provide a record of the names, addressees and financial records of students currently enrolled whose programs have not been completed; and

(d) Surrender the EAB license.

(2) In the event it appears that the official records of a school discontinuing its operation are in danger of being destroyed, secreted, mislaid or otherwise made unavailable, the board may seek a court order to take possession of the records.

SECTION 168. EAB 8.01 is amended to read:

(1) ~~It shall be the policy of the~~ The board to shall approve only those schools which publish and adhere to refund provisions which are designed to improve the educational quality of the school and are based upon sound educational, as well as economic, principles consistent with the standards below.

(2) The refund standards required by this rule are based upon these principles:

(a) ~~The purchase of educational opportunity to learn through any course of instruction is different from any other kind of purchase because of the number of~~

intangibles and unknowns involved in education. As a result, it is common that students Students make numerous "false starts" in their educational programs. These starts are to some degree minimized through good counseling educations. It is important, however, to preserve for the student the right to a change of mind (recognition of a false start) without too serious a penalty, since this action itself may be important in the student's growth, maturation and learning.

(b) It is the responsibility of the school, through pre-enrollment counseling, to make reasonable reasonably certain before enrollment is completed that the student has the ability to profit from the program course of instruction under consideration. In making a determination regarding the student's ability to profit from a course of instruction, a school may apply criteria such as educational background, success as a high school or post high school student, practical experience in a related activity, physical ability to engage in the type of employment for which the course of instruction is represented to prepare students, and results of a valid qualifying test.

(c) Since it is the responsibility of the school to select its students carefully, charges to the student upon cancellation or withdrawal before the program course of instruction begins should be a smaller portion of the total cost of the course of instruction than upon withdrawal after partial completion.

(d) After the course of instruction is begun, the student's responsibility for progress increases with the passage of time and the completion of work. If it is fair to expect the school to select students carefully, it is fair (assuming

~~competent instruction) to expect the individual student to bear increasing responsibility for progress. Furthermore, the school's investment in the student's learning increases as the student progresses, and fair and ethical refund standards should encourage the school to invest generously in the instruction of continuing students with adequate safeguard of that investment. Consequently, the refund standards of this rule permit an ever larger portion of the total cost of the course of instruction to be charged as the student progresses through the course of instruction.~~

SECTION 169. EAB 8.02 is amended to read:

8.02 Definitions. ~~The definitions in s. EAB 6.01 shall also apply to this chapter.~~

History: ~~Cr. Register, December, 1980, No. 300, eff. 1-1-81; am. Register, June, 1990, No. 414, eff. 7-1-90. Unit. "Unit" means credits, hours, class days, correspondence lessons, or other approved instructional time periods.~~

SECTION 170. EAB 8.03 (1) through (3) is amended to read:

- (1) The student cancels the enrollment agreement ~~or enrollment application~~ within 3 business days under s. EAB 6.04;
- (2) The student accepted was unqualified, and the school did not secure a disclaimer under s. EAB 9.04;
- (3) The school procured the student's enrollment ~~was procured~~ as the result of any ~~microrepresentations~~ false representations in the written materials used by the school or in oral representations made by or on behalf of the school.

SECTION 171. EAB 8.04 is amended to read:

8.04 No refund in ~~courses of instruction~~ programs which have fixed class schedules, are shorter than 6 class days and cost less than \$150. If for any reason a student withdraws or is dismissed by the school from a ~~course of instruction~~ program which has a fixed class schedule, is shorter than 6 class days, is less than \$150 in total cost and is not one of a sequence of ~~courses of instruction~~ programs, the student is not entitled to any refund, except that the student is entitled to a full refund in the following instances:

- (1) The student accepted was unqualified, and the school did not secure a disclaimer under s. EAB 9.04;
- (2) The student's enrollment was procured as the result of any ~~misrepresentations~~ false representations in the written materials used by the school or in oral representations made by or on behalf of the school.

SECTION 172. EAB 8.05 through 8.11 are repealed.

SECTION 173. EAB 8.05 is created to read:

8.05 Partial Refunds. A student who withdraws or is dismissed after attending at least one class or submitting at least one lesson, but before completing 60% of the potential units of instruction in the current enrollment period, shall be entitled to a pro rata refund, as calculated below, less any amounts owed by the student for the current enrollment period, less a one-time application fee of \$100.

- (1) Pro rata refund shall be determined as the number of units remaining after the last unit completed by the student, divided by the total number of units in the enrollment period, rounded downward to the nearest ten percent. Pro rata refund

is the resulting per cent applied to the total tuition and other required costs paid by the student for the current enrollment period.

(2) All efforts will be made to refund prepaid amounts for books, supplies and other charges unless the student has consumed or used those items and they can no longer be used or sold to new students, or returned by the school to the supplier.

(3) Refunds shall be paid within forty days after the effective date of termination.

(4) After the student's first period of enrollment, if a student withdraws or is dismissed in a subsequent enrollment period, the school may also retain an administrative fee of 15% of the total cost of a resident program, or \$400, whichever is less.

(5) No refund is required for any student who withdraws or is dismissed after completing 60% of the potential units of instruction in the current enrollment period unless a student withdraws due to mitigating circumstances, which are those that directly prohibit pursuit of a program and which are beyond the student's control.

SECTION 174. EAB 8.06 is created to read:

8.06 Good Faith Effort A school is considered to have made a good faith effort to make a refund, if the student's file contains evidence of the following attempts:

(1) Certified mail to student's last known address;

(2) Certified mail to the student's permanent address;

(3) Certified mail to the address of the student's parent or listed next of kin, if different from the permanent address

SECTION 175. EAB 8.08 through 8.11 are repealed.

SECTION 176. EAB 8.12 is renumbered EAB 8.07.

SECTION 177. EAB 8.12 (3) and 8.12 (4) are repealed.

SECTION 178. EAB 8.07 (3) is created to read:

(3) For students receiving funds under Title IV and Title 38, schools shall comply with applicable federal guidelines for providing constructive notice of an intention to withdraw.

SECTION 179. EAB 8.13 is renumbered EAB 8.08.

SECTION 180. EAB 8.14 is renumbered EAB 8.09.

SECTION 181. EAB 9.01 is amended to read:

9.01 The placement methods define the ~~role of the~~ school's placement function in the private school. The offer of placement services to students is optional but when made, standards of performance on the part of the school will be required.

SECTION 182. EAB 9.02 (1) is amended to read:

(1) Student referrals must result from direct contact between the school placement service and prospective employer representatives. ~~A list of employers given graduates in and by itself will not be considered a placement service.~~

SECTION 183. EAB 9.02 (2) (c) is amended to read:

(c) Final placement ~~or other disposition (when this information is available).~~

SECTION 184. EAB 9.03 (2) is amended to read:

(2) It must be made clear to the student that the placement service provided by the school is offered to him as an assistance in working out his the student's

placement, but is not offered as an assumption of the responsibility for finding the student a job.

SECTION 185. EAB 9.04 is amended to read:

EAB 9.04 Disclaimer. Whenever a school knows or has reason to know that a prospective student is unlikely to successfully complete a course of instruction program or is unlikely to qualify for employment in the vocation or field for which the training is designed to prepare a student, this fact must be affirmatively disclosed to the prospective student. If a prospective student expresses a desire to enroll after such disclosure, a disclaimer may be obtained by the school. A valid disclaimer shall only consist of a statement, separately signed by the student, that the student is fully aware that it is unlikely he or she will be able to successfully complete the course of instruction program and/or fully aware of the improbability or impossibility that he or she will qualify for employment in the vocation or field for which the course program was designed to prepare the student.

SECTION 186. EAB 9.04 (1) is created to read:

(1) This waiver provision does not alleviate a school's responsibility to make reasonable accommodations consistent with the Americans with Disabilities Act.

SECTION 187. EAB 9.05 (2) is repealed.

SECTION 188. EAB Chapter 10 is amended to read:

Chapter EAB 10

REPRESENTATIVES' SOLICITORS' PERMITS

SECTION 189. EAB 10.01 is amended to read:

10.01 No ~~solicitor~~ individual representing any school offering any course or course of instruction shall sell any course or course of instruction or solicit shall secure enrollment of students thereof in this state for a consideration or remuneration, except upon the actual business premises of the school, unless he or she first secures a ~~solicitor's permit from the board~~. If the ~~solicitor~~ individual represents more than one school, a separate permit shall be obtained for each school ~~represented by the solicitor~~. A ~~solicitor's permit~~ shall be valid for one year from the date issued.

SECTION 190. EAB 10.02 (1) Applicable is repealed.

SECTION 191. EAB 10.02 (2) is renumbered EAB 10.02 (1) and amended to read:

(1) ORIGINAL APPLICATION. An individual shall apply for a ~~solicitor's permit on form EAB-2.01~~ board forms and shall submit with the application a \$200 fee and a ~~surety bond acceptable to the board~~ evidence of coverage for that representative of \$2,000 denoted on the school's bond for that solicitor in the sum of \$2,000.

The school for which the individual requests a permit shall concur in the individual's application.

SECTION 192. EAB 10.02 (3) is renumbered EAB 10.02 (2) and amended to read:

(2) RENEWAL APPLICATIONS. ~~A solicitor~~ An individual shall apply for renewal of a ~~solicitor's permit on form EAB-2.01~~ board forms and shall submit with the application a \$200 fee and a ~~surety bond acceptable to the board~~ evidence of

~~coverage for that representative of \$2,000 denoted on the school's bond if the solicitor or school has not already furnished a bond for that solicitor which remains in effect. The school for which the individual requested a renewal of a permit shall concur in the individual's application.~~

~~Note: Any school which desires to have its representative apply for an original solicitor's permit or for renewal of a solicitor's permit may obtain form EAB 2.01, Application to Solicit Students in Wisconsin for Private Schools, by writing the Educational Approval Board at P.O. Box 7874, Madison, WI 53707-7874, or by telephoning (608) 266-1996.~~

SECTION 193. EAB 10.02 (4) is renumbered EAB 10.02 (3) and amended to read:

(3) APPROVAL REQUIRED. Before any permit shall be issued to a solicitor, the school to be represented and the courses of instruction program to be sold must be approved by the board.

SECTION 194. EAB 10.02 (5) is renumbered EAB 10.02 (4).

SECTION 195. (6) is renumbered EAB 10.02(5) and amended to read:

(5) AMENDED REVISED APPLICATIONS. (a) An individual or school shall pay a fee of \$25 \$75 each time the individual or school submits any form, materials, documents, or information which the rules of the board require to accompany an application but which the individual or school failed to provide with the application as originally submitted a submittal requires revision or amending.

~~(b) An individual or school shall pay a fee of \$50 each time the individual or school submits any revised form, materials, documents or information to bring an application into compliance with this chapter.~~

SECTION 196. EAB 10.025 is repealed.

SECTION 197. EAB 10.03 is amended to read:

10.03 Enrollment agreement. (1) INFORMATION REQUIRED. Every enrollment agreement used by a ~~solicitor~~ representative to enroll students shall conform to the requirements of the ch. EAB 6.

(2) COPY TO STUDENT. Every ~~solicitor~~ representative shall deliver a copy of the enrollment agreement and two copies of the Notice of Cancellation to each student at the time the agreement is signed.

~~(3) CHANGES IN AGREEMENT. A copy of every enrollment agreement form used by a solicitor shall be furnished by the school to the board 10 days prior to its first use by a solicitor for the enrollment of students.~~

SECTION 198. EAB 10.04 is repealed.

SECTION 199. EAB 10.05 is renumbered EAB 10.04.

SECTION 200. EAB 10.05 (1) is amended to read:

(1) GROUNDS. The board may refuse to issue or renew, or may revoke any ~~solicitor's~~ permit upon one or any combination of the grounds set forth in s. 38.51

(8) (c), Stats.

The rules contained in this order shall take effect on the first day of the second month following publication in final form in the administrative register, as provided by § 227.22 (2) (intro.), Stats.

FISCAL ESTIMATE

DOA-2048 (R-11/90)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

LRB or BILL No./Adm. Rule No.

CR-97-035

Amendment No. if Applicable

Subject

Fees to accompany applications for initial approval of certain postsecondary educational institutions under 38.51 (10), Stats.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive Mandatory
- 2. Decrease Costs
 - Permissive Mandatory

- 3. Increase Revenues
 - Permissive Mandatory
- 4. Decrease Revenues
 - Permissive Mandatory

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
- Counties Others
- School Districts VTAE Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations
20.292 (2) (g)

Assumptions Used in Arriving at Fiscal Estimate

The intent of the EAB's rules modification is regulatory simplification, including streamlining the structure and administration of fees: reducing the number of fee categories, making the fees more comprehensible and establishing more equity between 'fixed' fees (connected to the specific actions of a school such as a new institutio or a new program) and the second annual renewal payment based on a school's annual revenue. The changes delete one category of program revision fee, simplify the fees for correcting errors on applications, raise the new school and new program fees (by \$600 and \$500 respectively) and the second the second renewal payment multiplier for two years at a time.

Using past history to estimate annual impact of the above changes: we estimate 6 new schools and 15 new programs which would generate \$12,000. At the same time, there would likely be a loss of roughly \$4,000 as a result of the excision of the program fee for changes affecting less than 25% of a program. The slightly increased 'fixed' fee revenue of \$8,000 would be used to offset support needed from the second renewal payment.

The real impact of the proposed changes is not so much a major shift in financial realities for the EAB or the schools, but a great reduction in administrative detail and an overall simplification in how fees will be applied to schools.

Long-Range Fiscal Implications

None

Agency/Prepared by: (Name & Phone No.)

Educational Approval Board

Authorized Signature/Telephone No.

Joseph J. Davi 608 267-7733

Date

5/20/97

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB OF BILL No/Adm. Rule No.

Amendment No.

Subject

Fees to accompany applications for initial approval of certain postsecondary educational institutions under 38.51 (10), Stats.

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:

A. State Costs by Category	Annualized Fiscal Impact on State funds from:	
	Increased Costs	Decreased Costs
State Operations-Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(FTE)	(FTE)
State Operations-Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED	\$	\$ -
PRO/PRS	\$	\$ -
SEG/SEG-S	\$	\$ -
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fees, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS	8,000	
SEG/SEG-S		-
TOTAL State Revenues	\$ 8,000	

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$	\$
NET CHANGE IN REVENUES	\$ -8,000	\$

Agency/Prepared by: (Name & Phone No.)
 Educational Approval Board

Authorized Signature/Telephone No.

Date

Joseph Davis
 608-267-7733

5/20/97

STATE OF TEXAS
LEGISLATIVE COUNCIL

THE LEGISLATIVE COUNCIL HAS THE HONOR TO ANNOUNCE THAT

IT HAS ADOPTED AS HOUSE BILL NO. 1234, **Part 3** OF THE

Recommendations of the Legislative Council



AND THAT IT HAS ALSO ADOPTED AS HOUSE BILL NO. 5678, **Part 3** OF THE



AND THAT IT HAS ALSO ADOPTED AS HOUSE BILL NO. 9101, **Part 3** OF THE



AND THAT IT HAS ALSO ADOPTED AS HOUSE BILL NO. 2345, **Part 3** OF THE



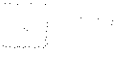
AND THAT IT HAS ALSO ADOPTED AS HOUSE BILL NO. 6789, **Part 3** OF THE



AND THAT IT HAS ALSO ADOPTED AS HOUSE BILL NO. 0123, **Part 3** OF THE



AND THAT IT HAS ALSO ADOPTED AS HOUSE BILL NO. 4567, **Part 3** OF THE



LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 97-035

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

Section EAB 5.11 (3) (e) imposes a fee based on the adjusted gross annual revenues of a school. The percentage used to determine the final fee is scheduled to be set for a two-year period in a report to affected schools. Although s. 38.51 (10) (c) 2., Stats., authorizes the imposition of fees on a variable structure based on the size of a proprietary school, the percentage used to determine the ultimate fee should be promulgated as an administrative rule under ch. 227, Stats.

2. Form, Style and Placement in Administrative Code

a. The rule is inconsistent with the requirements set forth in the Drafting Manual. The entire rule should be reviewed for compliance with the Manual, particularly the sections dealing with amending, renumbering and titles. Due to the large number of occurrences, general comments have been made regarding drafting form rather than repetitive comments.

b. The following general form for renumbering should be used: "EAB 1.02 is renumbered EAB 1.01 (1)." This form should be followed consistently throughout the rule. [See s. 1.04, Manual.]

c. When creating a section, the new material is not shown as underscored; it should be shown without underscoring. [See s. 1.06 (1), Manual. See, for example, SECTIONS 9, 39 and 161 of the rule.]

d. If a rule provision containing a title is amended, the title should be shown even if it is not amended. [See s. 1.05 (3), Manual.] This practice is not followed consistently in the rule. See, for example, ch. EAB 10.

e. When material is deleted and material is added in the same location, the new underscored language should always follow the stricken material. [See s. 1.06 (1), Manual.] This practice is not followed consistently in the rule. See, for example, SECTION 66 of the rule.

f. When major changes are made to an existing rule, it may be preferable to repeal and recreate the rule rather than changing the rule by amendment. [See s. 1.06 (5), Manual.] See, for example, SECTIONS 7 and 125 of the rule.

g. Considering that substantial revisions are being made by the rule, the agency should consider expanding the analysis provided in order to more completely explain the changes proposed. With this type of revision, a more complete description can be particularly helpful.

h. The word "shall" is used in rules to denote a mandatory or absolute duty or directive. [See s. 1.01 (2), Manual.] Use of terms such as "should" or "must" have uncertain meaning and should be replaced by "shall" or "may" as appropriate. See SECTIONS 108 and 140 of the rule.

i. In s. EAB 1.16 (4), the parenthetical notations should be replaced by commas.

j. Use of the terms "e.g." and "etc.," as in SECTION 9, should be avoided. Also, "and/or" in SECTION 98 is not proper form because the meaning is not clear. [See s. 1.01 (9), Manual.] Also, all definitions should be phrased using either the term "means" or the term "includes." For example, in s. EAB 1.01 (7), the definition should read: "'Distance education' means instruction..."

k. The rule contains several typographical errors. [See, for example, SECTION 13 on page 5, line 9, SECTION 127 on page 28, line 17, SECTION 134 on page 31, line 12 and SECTION 183 on page 50, line 9.] The rule should be reviewed in its final form to correct these errors. Also, the rule should be reviewed to assure that subject and verb usage are proper throughout the rule. See, for example, SECTION 46 on page 8, line 16 and SECTIONS 75 and 77 on page 14. In these examples, the word "is" should be replaced by the word "are" since more than the subsection or paragraph are affected.

l. In SECTION 50 of the rule, the proper renumbering should be to "(2), (3), (4)." All renumbering should be carefully reviewed for accuracy in the final rule. Also, when a provision is renumbered in a treatment clause of a section, the text of the rule should simply show the new number of the provision; a strike-through and an underscore should not be used.

m. Throughout the rule, the terms "falsely represent" and "misrepresent" are used interchangeably. See ss. EAB 5.03 (4) and 5.04 (1). Use of a single term consistently throughout the rule would reduce any uncertainties or confusion regarding the terminology.

n. In s. EAB 4.06 (4), the phrase "his/her" should be replaced by the phrase "the student's."

o. In SECTION 66, a new title is added to s. EAB 5.07 (1) without being properly identified. This is also an example of where repealing and recreating the provision would appear to be appropriate.

p. SECTIONS 82 and 83 appear to be redundant. Also, it appears that reference to action "by the board" at the end of the material added to s. EAB 4.01 (1) would be appropriate. [See Comment 5., d., below.]

q. In s. EAB 4.01 (3), the phrase "is responsible for" should be replaced by the word "shall."

r. In s. EAB 4.02 (1), the word "Schools" should be underscored.

s. SECTION 97 amends s. EAB 4.03 (1), but does not show all of the material in current s. EAB 5.05 (1). All material deleted should be shown when provisions are amended. [See s. 1.06, Manual.] See, also, SECTION 183 for the same problem. Also, either the paragraphs in sub. (1) should conclude with a period or each paragraph should conclude with a semicolon. If the latter alternative is used, the word "and" in par. (k) should not be deleted.

t. SECTION 98 is not drafted correctly. It should be redrafted as a "repeal and recreate" rather than a "repeal, amend and renumber." [See Comment 2., f., above.]

u. Section EAB 4.05 (1) should be rewritten as one sentence. A single paragraph should not be created in a subsection.

v. In SECTION 114, s. EAB 4.05 (4) (a) should be shown as a separate paragraph.

w. In SECTION 125, the amendment of s. EAB 4.08 (1) (a) is drafted incorrectly. There is no need to use "Wisconsin" prior to an agency name and the reference to the "department of agriculture, trade and consumer protection" is not complete. Also, in s. EAB 4.08 (2) (b), the subparagraphs should be renumbered as 1., 2. and 3. and the word "violation(s)" should be replaced by the word "violation."

x. In SECTION 140, there is no reason to show created material as underscored.

y. In SECTION 133, which amends s. EAB 4.10 (2) (c), the rule should show "(g)" as stricken and the "(e)" as underscored to conform to drafting format.

z. SECTION 134 needs to be redrafted and reformatted. Also, it is not clear what "Level I" and "Level II" refer to in the section. This is a critical element of the revised rule and therefore should be carefully drafted and fully described.

aa. The terms "simple errors" and "complex changes" are used but not defined in s. EAB 4.10 (6). Given the monetary consequences associated with the meaning of the terms, the agency should either define them or more fully describe the intended scope of the terms.

ab. In s. EAB 6.02 (7), the notation "ch." should be inserted following the word "with."

ac. When any section, or part of a section, is divided into smaller subunits, at least two subunits should be created. Consequently, in s. EAB 7.01, since there are not two or more

subsections, the notation "(1)" should be deleted. Similarly, in s. EAB 7.02, the introduction should be unnumbered and the remaining subunits should be numbered subs. (1) to (4). [See also s. EAB 7.03.]

ad. In SECTION 166, after the term "pro rata" in s. EAB 8.05 (1), the word "refund" should be inserted. Also, the word "below" should be replaced by an appropriate cross-reference. Finally, s. EAB 8.05 (2) should be reviewed; it appears that material on lines 15, 17 and 19 needs to be deleted.

ae. SECTION 168 should be reformatted. Repealing and recreating the section is advisable.

af. In s. EAB 10.02 (1), the appropriate method of amending the word "form" is through the phrase "form forms."

ag. Given the substantial revision of EAB regulations, the agency may wish to provide a delayed initial applicability clause in the rule to facilitate implementation and compliance.

ah. Because of the significant revision in the fee structure for EAB operations, the agency may wish to complete a more detailed fiscal estimate than the summary provided with the rule.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Without explanatory notes or a more complete analysis, the intended effect of many of the changes and deletions is not clear. A more complete description would be helpful.

b. The definition of "degree" in SECTION 7 is not clear. Is the term intended to include other designations that are not specified, such as "certificate" or "diploma"?

c. The term "hour" is defined in s. EAB 1.01 (11) to mean "either 50 or 60 minutes." Who decides whether it is 50 or 60 minutes?

d. Several references in the current rule to education approval board staff are deleted. [See SECTIONS 84 and 125.] The agency may wish to clarify, perhaps in the general authority section, which actions may be taken by staff as agents of the board rather than solely by the board.

e. In several places, language is deleted that refers to decisions "by the board" or material filed "with the board." See, for example, SECTIONS 85, 93, 107, 108, 122, 141, 146 and 152. These instances should be reviewed to assure that the intent is clear with regard to submittals or decisions.

f. In s. EAB 5.02 (2) (b), it appears that the word "organization" should be replaced by the word "organizations."

g. In s. EAB 5.04 (1), it appears that the comma following the word "equipment" should be replaced by the word "or."

h. The use of a double negative in SECTION 59 [s. EAB 5.05 (2)] is confusing. The section should be redrafted for clarity.

i. In s. EAB 5.03 (3), it appears that the word "the" before the word "writing" should be deleted.

j. In s. EAB 5.06 (3), it is not clear what is meant by the term "resident" secondary school. Also, in that section, would a reference to the State Superintendent of Public Instruction be appropriate?

k. A definition or description of the term "blind" advertisement as used in s. EAB 5.07 (2) would clarify the intended meaning of the term.

l. In SECTION 87, which amends s. EAB 4.01 (5), is it intended that revocation of both school and program approval is required? If not, the provision should be revised to allow revocation of either or both school and program approvals.

m. The repeal of s. EAB 5.04 could create an uncertainty with regard to the regulatory authority of the board over schools operating in more than one location. [See Comment 5., a., above.]

n. The term "learning outcomes" is used but not defined in s. EAB 4.03 (1) (c). A more complete description or definition of the term would be helpful in determining the intended meaning of the term. The same comment applies to the term "innovative programs" in s. EAB 4.04 (1) (d).

o. In s. EAB 4.03 (1) (h), the requirement for an independent audit is repealed. Is the intent to permit unaudited income statements to be submitted? Also, if the "board forms" are to be used, the agency should conform to the requirements regarding such forms in s. 227.14 (3), Stats.

p. The rule contains several discrimination provisions. These should be reviewed to assure consistency in the use of terminology and classifications.

q. In s. EAB 4.04 (7) (c), it appears that the semicolon following the word "dropouts" should be replaced by a comma and that a semicolon should be inserted following the word "employed."

r. The term "court of record" is used but not defined in s. EAB 4.08 (2) (b) (iii). The reference could be to "any court" or an "appropriate court" unless the agency has some reason to use the specific term.

s. In s. EAB 7.04 (1) (b), what will be negotiated for "assignment"? A school's records?

t. In s. EAB 8.05, should the comma on line 22 be replaced by the word "and"?

u. In s. EAB 8.05, it appears that subs. (5) and (6) could conflict on occasion. The relationship of these two subsections should be clarified.

Part 4

CR - 97 - 035

ANALYSIS OF FINAL DRAFT OF EAB 1 - 10

(a) **Need for Amended Rule.** Significant parts of current EAB rules date from nearly 25 years ago. The nature of how the EAB and the educational sector(s) over which it has authority now operate has markedly changed. The distrust implicit (and explicit) of schools in current rules is out of step with oversight and assessment principles in use today in the field of education and employment and training. Procedures in current rules set up operational and programmatic requirements which hamper the EAB's efficiency without boosting real effectiveness and unduly intrude upon school activities.

The EAB's reorientation of its philosophical and policy underpinnings, which shifted its focus from strict procedural compliance (with an emphasis on operations) to concern with educational quality, program results and the general role of private education demands a commensurate modification in rules. The principal objectives of the proposed rules modification are: regulatory simplification and increased accountability – to better balance external regulation and institutional responsibility. This proposed major rules modification will enable the EAB to carry out of its oversight and regulatory functions more efficiently and to concentrate on the outcomes of the education and training the schools under its purview provide.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on May 14, 1997.

I Written comments from Capri College:

1. Clarification sought that the intent of amending Section 5.08 (3) [Section 79] was not to require a school to always reveal the total cost of a program, if it did not mention cost in its advertisements.

Previously deleted language was reinserted to avoid confusion.

2. Question why Section EAB 5.02 (5) [Section 90] repealed.

The intent was simplification. However, to avoid undue confusion language requiring EAB to send notice of withholding or withdrawing of school approval by certified mail was added to the previous section: EAB 4.01 (5).

3. Question why Section 5.04 [Section 97] repealed.

This referred to an archaic, special, situation concerning schools with multiple teaching locations. There will be no impact to licensure of schools operating in one more than location under normal circumstances.

4. Question whether the creation of Section 4.03 (1) [Section 100] dealing with non-discrimination prevented a school from prescreening students for potential situations that may be dangerous to other students.

The school would still retain the flexibility, especially manifested in entrance standards, to handle potentially dangerous situations without abrogating equal opportunity requirements.

5. Concern that the new school and new program fee increases are too large [Section 136 and 146].

The EAB's intent is to produce some reduction in the second renewal payment and get schools to pay for work which their actions cause. This seems appropriate for an oversight entity like the EAB which relies on program revenue.

6. Complaint about the program fee relief provided to out-of-state non-profit colleges: EAB 5.11 (4) (c) [Section 149].

The intent of this fee reduction was to ease the transition for already operating colleges to oversight by the EAB. There no longer seems a compelling need to retain the fee reduction. Therefore, the program fee reduction has been repealed in the name of a more level playing field

7. Concern that there is too steep a rise in the first renewal payment: from \$500 to \$1,000.

Upon further analysis of the proposed fee increase and the size of schools to be most heavily affected, it was evident that the greatest impact of the higher fee was on the smallest of schools. The EAB has excised the change to a higher fee in Section EAB 4.10 (2)(d) [Section 142].

8. Question about how EAB defines change of ownership.

The intent is to retain simplicity in the rule and EAB believes that current clarity is sufficient.

9. Question about potential confusion resulting from specific provisions in change of ownership procedures. The rules as initially proposed contained mutually exclusive and conflicting procedural requirements.

EAB has clarified the relevant language: EAB 4.10 (5) (c) and (d) [Section 153].

10. Clarification sought that efforts to refund books and supplies would not affect schools which state that equipment etc. purchased by the student becomes the student's property:

EAB agrees with this analysis.

II Written comments from Professional Bartending School of Wisconsin:

1. Concern expressed with EAB outcome data requirements; specifically dealing with job placement. The school argues that it does not provide 'job placement' and, therefore, has no way of tracking which jobs students pursue and whether or not they secure employment, particularly given the flexible nature of the job market for bartenders. The school further argues that if the EAB were to publish the percentage of students employed this "would not tell the whole story and would discourage people from taking the course.

This comment only peripherally deals with the rules modification insofar as the EAB has always required outcome data though without making it a top agency priority. The EAB believes that documenting outcomes (program completions and job placements) is critical to ensuring quality private education. However, realizing that schools are materially different, it has made it clear that it is willing to work with individual schools to ensure that the publishing of 'raw' data does not give an incorrect or imprecise impression of the school and how it operates.

III Comments of Upper Iowa University

1. Comment that the current levels required for bonds are exceedingly high in relation to risk.

The intent of the revised rules is to give schools the flexibility to have their individual bonds reduced based upon evidence of financial and administrative stability.

2. Concern that the wording of the new rule giving schools the ability to argue for lower bond amounts gives the impression that the board can prescribe additional stability criteria.

The intent of the revised rule, EAB 4.06 (5) [Section 126], is to give schools the freedom to argue for reduced bond amounts with any sort of stability criteria, with the board only determining if such criteria is satisfactory. The wording was modified to make this clearer.

3. Support for the excision of the program review fee for changes less than 25% of content (EAB 5.11 (5) [Section 150]), but concern as to the precise meaning of the wording – i.e., to what portion of a discrete program does the 25% refer.

Clarification that the intent is to allow schools to engage in continuous program improvement without being financially penalized. The 25% level refers to 25% of the 'program' for which the school holds approval (i.e., not 25% of a course within a program).

4. Clarification about the two period for setting the second renewal payment (EAB 4.10 (2) (d) Section 142)] – is the percentage set for two years?

The intent is to give schools more predictability in budgeting for fees and the percentage assessed on gross annual revenue is set for a two year period.

5. Question about the inclusion of schools' completion and placement rates in the catalog, or bulletin in EAB 4.03 (2) [Section 101].

Insofar as outcome information is mandated in another section of the rules, this proviso is deleted as redundant and not the sort of information schools typically place in a descriptive catalog. The outcome information, by virtue of other requirements will be made available to the public in the EAB's *School Directory*.

6. Clarification sought about the relationship between the terms catalog and bulletin in Section EAB 4.03 (2) [Section 101].

The terms are meant to be understood interchangeably. Furthermore, schools are able to comply with EAB requirements in 'Wisconsin-Only' sections of larger documents, or utilize a 'Wisconsin-Only' Bulletin to meet EAB-required standards. The latter would be distinct from a more general catalog (and thereby save printing costs).

7. Clarification that outcome information required in EAB 4.04 (7) [Section 111] will utilize a school's definitions of outcome terms and that the board does not need to require other information.

EAB confirms that this is the intent of the rule and has made changes accordingly.

8. Concern expressed about annual renewal fees, EAB 4.10 (2) (d) [Section 142], which provide no second payment to schools grossing less than \$50,000 and add .025% for schools which earned more than \$1,000,000. Consider this inequitable.

EAB agrees that this proposal is contrary to the ongoing principal of equity and the rule was modified accordingly.

IV Comments of Lesley College

1. Concern about the ambiguity in the outcome requirements for annual reporting and especially the implicit and explicit expectation of tracking graduates for job placement.

The EAB believes that measuring outcomes is a key measure of a school's effectiveness. However, it recognizes that completion and placements tell only part of the story and intends to work with schools to add necessary balance to the rigid truth of numbers. The EAB also recognizes the difficulty of tracking completers in various sorts of institutions and, again, while maintaining the important concept of documenting outcomes, it intends to work with schools to produce the information needed to assist students in making career choices. And, as noted above, it has clarified that it will rely on school definitions of outcome categories.

V Comments of Nova Southeastern University

1. Proposal that the EAB consider moving to a longer time frame of license – retaining the annual renewal payments and the annual data report, but minimizing the need for additional detail work in actually relicensing schools, EAB 4.10 (2) [Section 137]. It was noted that the state of Maine and Washington pursue this approach.

This suggestion merits follow-up and the subject will be discussed and considered. It is felt that such a question has serious policy and oversight implications and adopting a precipitous shift at this point would not seem prudent.

2. General comment applauding staff for its excellent work in handling a very complicated and the EAB for making the changes in the rules [seconded by Lesley College].

3. Concern that the wording of non-discrimination language, EAB 4.03 (1) [Section 100] and EAB 6.02 (2) [Section 163] is more detailed than commonly used in other states.

EAB agrees and has made necessary modifications.

VI Comments of Capri College

1. Comment on the bonding requirement – questioning whether the fact that a school held a bond to meet a separate compliance (or other) need would obviate the need for separate bond to comply with the EAB.

This point seems exactly the sort of 'stability' information which the revised rules allow a school to bring to the board to have its bond lowered.

VII Comments of Lakeside School of Natural Therapeutics

1. Concern expressed that a number of non-profit schools operating in Wisconsin were 'grandfathered in' and received permanent exemptions from oversight when the EAB authority expanded. Argues that while the major reason for this action may have been long-standing in-state colleges, the fact is that non-colleges which engage in education and training exactly like that offered by smaller for-profit schools are gaining undeserved benefit. Further argues that even if 'grandfathering' was useful as a way to establish a transition period, at some point **all** schools should be licensed and meet the same operating requirements.

This issue, while important, is a statutory and not an administrative rules question. The ongoing exemption granted to in-state colleges and non-profit schools and institutions incorporated prior to 1/1/92 is covered in statute and can only be dealt with in statute.

2. Supports the overall intent of the rules modification and supports the EAB looking at program quality and outcomes rather than institutional process.

3. Points out that the fees pose a burden on smaller schools.

The EAB has, in the revised rules, tried to strike a balance between getting schools to pay more for actions they initiate (such as, opening a school, starting a program, etc.) and relying on the proportional second renewal payment based on adjusted gross annual revenue. However, without support from tax revenues [GPR], the agency must rely on fees to be self-supporting.

Other schools in attendance seconded EAB's rationale as stated in the public hearing. They recognized that the EAB had to charge fees, in part, to keep the 'private' sector as a whole legitimate in the public's eye (Nova Southeastern University).

VIII Professional Dental Assistant Training

1. Question about the bond requirement and the precise definition of financially and administratively shaky. Also, request that schools always be given an ability to make their case for a lower bond (either in person or over the phone).

The terms shaky, which appeared in the analysis section of the rule modification was changed to 'unstable.' And, any action of the EAB is subject to appeal and subsequent appearance. In addition, staff always tries to work collegially with schools. However, to ensure clarity in approach language was added to ensure

that schools always have an ability to argue in behalf of their claim for a reduced bond.

2. Question as to the precise meaning of the term license in EAB 7.04 (1) (d) [Section 167].

Confirmation that the license to be surrendered is the license of approval by the EAB.

3. Questions the utility of requiring that a refund policy adhere to 'sound educational and economic principles,' EAB 8.01 (1) [Section 168].

The EAB agrees that this is imprecise and meaningless language and has changed the rule accordingly.

IX Comments of National-Louis University

1. General comment strongly endorsing the rules changes – especially pleased with the streamlining and simplification and the movement toward concentrating on outcomes.

2. Concern expressed with requirements that refusal to allow reasonable inspection could be grounds for revocation of approval, EAB 4.01 (5) [Section 89] – if this means that a 'required' inspection could not be implemented through no fault of the school. And, concern with requiring documentation of fire and other safety codes, EAB 4.03 (1) (l) [Section 100]. Public schools seem not forthcoming in having and making available fire inspection reports, for example.

The EAB recognizes that public schools ought to be implicitly approvable and appropriate modifications were made in the rules noted above.

X Written Comments of Stratton College

1. Went on record as "in favor of the proposed rule changes submitted. We feel that the direction that the Board is and will be taking by the approval of these changes will be the best for the schools and for the board."

XI Written Comments of Devry Institutes

1. "... concur with the majority of the new definitions and requirements, and welcome the overall changes which will maintain appropriate oversight while simplifying regulatory requirements and practices for the EAB as well as the schools being regulated."

2. Concern about the wording of the bond requirement as "125% of its highest point of unearned tuition, EAB 4.06 (1) [Section 121]. Argues that the bond

should be based only on tuition received from Wisconsin residents and set as 100% of unearned tuition.

The EAB agrees that out-of-state schools should only be held accountable for its level of activity with Wisconsin residents and has made the necessary modifications to the rule in question. The 125% of highest point of unearned tuition was derived from years of experience and the EAB believes that the proviso enabling schools to argue for reduced bonds upon evidence of 'stability' is sufficient to provide needed relief to over-burdened schools, while still ensuring that the State of Wisconsin can protect consumers.

3. Question about the vague meaning of EAB 4.06 (5) [Section 126] dealing with 'stability' criteria to reduce bond requirements.

Other commenters had little problem with the meaning and potential impact of this rule modification and the proposed wording meets the EAB's intent to produce flexibility and the schools' needs to have bonds lowered, if prudent and justifiable.

4. Question the purpose of EAB 4.01(1) (d) [Section 4.10] (1) (d) [Section 136] granting a 50% reduction in initial school fees for schools meeting specific criteria and objects to its continued existence. Claims that no other state with which it deals provides similar fee reduction.

Because of concern with the imposition of a licensure requirement on out-of-state non-profit colleges which had been doing business in Wisconsin the above fee reduction was established. This approach still seems sensible given the nature of out-of-state non-profit colleges. However, the argument that once operating they should be treated like every other institution is logical and has been handled in a previous comment with the result being that the 'program fee' reduction was deleted from rules (see discussion above).

5. Question about the continued need to have acceptance letters sent to students by certified mail, EAB 6.03 (3) [Section 165].

The EAB agrees and has deleted the requirement.

(c) **List of Persons Who Appeared or registered at Public Hearing, or sent in Written Comments.** The following persons appeared/registered at the public hearing:

Philip Langerman, Sr. Vice President
Upper Iowa University
P. O. Box 1857
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Karen L. Pederson
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Denise L. Sirk
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Edna May Duffy
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Dr. Robert Miles
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Claude Gagnon
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Professional Dental Assistant Training
510 Hartbrook Drive
Hartland, WI 53029

James S. Falco
National-Louis University
325 N. Corporate Dr.
Brookfield, WI 53045

Cindy Scarlett
National-Louis University
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Wheaton, Ill 60187

Jennifer L. Campbell
National-Louis University
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Surdudee Churoum
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[Comments sent in the mail]

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Devry Institutes
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Oakbrook Terrace, Ill 60181-4624

Robert H. Ley
Stratton College
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Catherine Gruhlke, Office Manager
Professional Bartending School of Wisconsin
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Milwaukee, WI 53233

(d) **Response to Legislative Council Recommendations.** The following responses correspond by number with comments made by the Legislative Council.

1. The Council's recommendations were adopted. The final rule method of determining the percentage used to set the second renewal payment is now incorporated.

2.a. Efforts were made to bring the rules modification into full compliance with the requirements in the Drafting Manual.

2b. The Council's recommendations were adopted.

2c. The Council's recommendations were adopted.

2d. The Council's recommendations were adopted.

2e. The Council's recommendations were adopted.

2f. The Council's recommendations were adopted. The revised rules were reviewed and in a few instances the clearer method of repeal and recreate was substituted for renumber and amend.

2g. The Council's recommendations were adopted. Additional clarifying and explanatory language was included from the Scope of Statement.

2h. The Council's recommendations were adopted.

- 2i. The Council's recommendations were adopted.
- 2j. The Council's recommendations were adopted.
- 2k. The Council's recommendations were adopted.
- 2l. The Council's recommendations were adopted.
- 2m. The Council's recommendations were adopted.
- 2n. The Council's recommendations were adopted.
- 2o. The Council's recommendations were adopted.
- 2p. The Council's recommendations were adopted.
- 2q. The Council's recommendations were adopted.
- 2r. The Council's recommendations were adopted.
- 2s. The Council's recommendations were adopted.
- 2t. The Council's recommendations were adopted.
- 2u. The Council's recommendations were adopted.
- 2v. The Council's recommendations were adopted.
- 2w. The Council's recommendations were adopted.
- 2x. The Council's recommendations were adopted.
- 2y. The Council's recommendations were adopted.
- 2z. The Council's recommendations were adopted. New language was added which clarifies the method of deriving and utilizing the second renewal fee.
- 2aa. The Council's recommendations were adopted. The terms in question were clarified.
- 2ab. The Council's recommendations were adopted.
- 2ac. The Council's recommendations were adopted.
- 2ad. The Council's recommendations were adopted.

2ae. The Council's recommendations were adopted.

2af. The Council's recommendations were adopted.

2ag. The Council's recommendations were adopted. The agency has added a extra month to the implementation period.

2ah. The Council's recommendations were adopted. However, given the fact that the key modifications to fee structure in the final rule are simpler than in the initial proposal, the EAB believes that schools will readily comprehend the impact of the changes as expressed in the revised fiscal note.

5a. The Council's recommendations were adopted.

5b. The Council's recommendations were adopted.

5c. The Council's recommendations were adopted. The decision-making authority was devolved to individual schools.

5d. The Council's recommendations were adopted. The rule was reviewed and appropriate modifications were made to clarify board and staff authorities.

5e. The Council's recommendations were adopted. The rule was reviewed to ensure that it conforms to intended oversight practice.

5f. The Council's recommendations were adopted.

5g. The Council's recommendations were adopted.

5h. The Council's recommendations were adopted.

5i. The Council's recommendations were adopted.

5j. The Council's recommendations were adopted.

5k. The Council's recommendations were adopted. Clarifying language was added.

5l. The Council's recommendations were adopted.

5m. The Council's recommendations were adopted. The section in question was a reference to an archaic and unique situation – however, language was modified to clarify that schools with more than one teaching location remain under the purview of the EAB.

5n. The Council's recommendations were adopted.

5o. The Council's recommendations were adopted. Intended administrative practice is not require schools to submit only an audited financial statement -- this has proved burdensome for smaller schools and not terribly meaningful in practice.

5p. The Council's recommendations were adopted.

5q. The Council's recommendations were adopted.

5r. The Council's recommendations were adopted.

5s. The Council's recommendations were adopted. The clause was clarified.

5t. The Council's recommendations were adopted.

5u. The Council's recommendations were adopted.

(e) **Final Regulatory Flexibility Analysis**. This proposed rule is not expected to affect small businesses except those engaged in providing education and training as private schools.

In accordance with the requirements of s. 227.19(3)(e), Stats., the EAB provides the following analysis of the administrative rule:

1. The proposed rules already incorporate many of the methods suggested in s. 227.114(2), Stats., for reducing the impact of a regulation upon a small business; i.e., on the private schools under the purview of the EAB. The rules as drafted establish less stringent compliance requirements and simplify reporting demands. They enable the consolidation of previous applications into a Single Application which will reduce administrative and planing demands on schools. In genera, the proposed rule seeks simplification and streamlining in recognition that appropriate oversight by the EAB can ensure needed protection for students and quality programs without placing undue burdens on schools.

2. The summary of comments forwarded to the EAB, or offered at the public hearing, generally came from schools which are, as noted above, meet the definition of small businesses as noted in s. 227.114(1), Stats.

3. The reports required of schools are contained in the body of proposed rules and have been designed to produce the least burden on schools.

4. No measures or investments are required of small businesses, or schools, to comply with this rule.

5. The methods suggested by s. 227.114(2) are already incorporated into EAB practice and procedures and should result in additional cost to the EAB.

6. There is no apparent impact on public health, safety and welfare of including the methods specified in s. 227.114(2).