

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

**2003-04**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on  
Colleges and  
Universities  
(AC-CU)**

(Form Updated: 11/20/2008)

**COMMITTEE NOTICES ...**

➤ Committee Reports ... CR  
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**INFORMATION COLLECTED BY COMMITTEE  
FOR AND AGAINST PROPOSAL ...**

➤ Appointments ... Appt  
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Name:

➤ Clearinghouse Rules ... CRule

**\*\*03hr\_CRule\_02-135\_AC-CU\_pt01**

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

➤ Miscellaneous ... Misc  
\*\*



## State of Wisconsin / Educational Approval Board

30 West Mifflin Street  
P.O. Box 8696  
Madison, Wisconsin 53708-8696  
Phone: (608) 266-1996  
Fax: (608) 264-8477  
EABmail@eab.state.wi.us

*Jim Doyle*  
Governor

*David C. Dies*  
Executive Secretary

January 14, 2003

The Honorable John Gard  
Speaker  
Wisconsin State Assembly  
211 West, State Capitol  
Madison, WI 53702

Dear Speaker Gard:

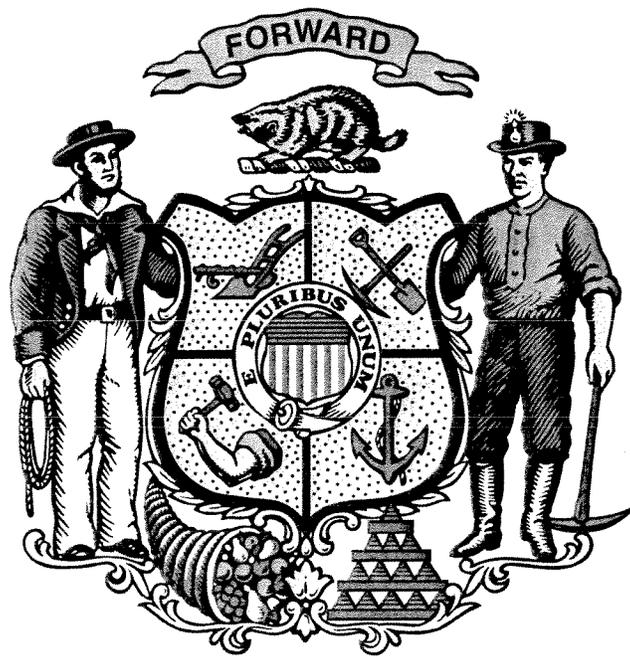
In accordance with s.227.19, *Wis. Stats.*, Clearinghouse Rule 02-135 is being submitted for legislative review. Should you have questions regarding the proposed order, please contact me at 266-7733.

Sincerely,

A handwritten signature in cursive script that reads "David C. Dies".

David C. Dies  
Executive Secretary

c: The Honorable Rob Kreibich



## Hub, Brad

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**From:** Hub, Brad  
**Sent:** Monday, January 27, 2003 6:26 PM  
**To:** Rep.Balow; Rep.Black; Rep.Gottlieb; Rep.Jeskewitz; Rep.Krawczyk; Rep.Kreibich; Rep.Nass;  
Rep.Pocan; Rep.Schneider; Rep.Shilling; Rep.Towns; Rep.Underheim; Ladwig, Chris  
**Subject:** CORRECTED DATE CLEARINGHOUSE RULE 02-135

**TO:** Assembly Committee on Colleges and Universities

**FROM:** Representative Rob Kreibich, Chairperson

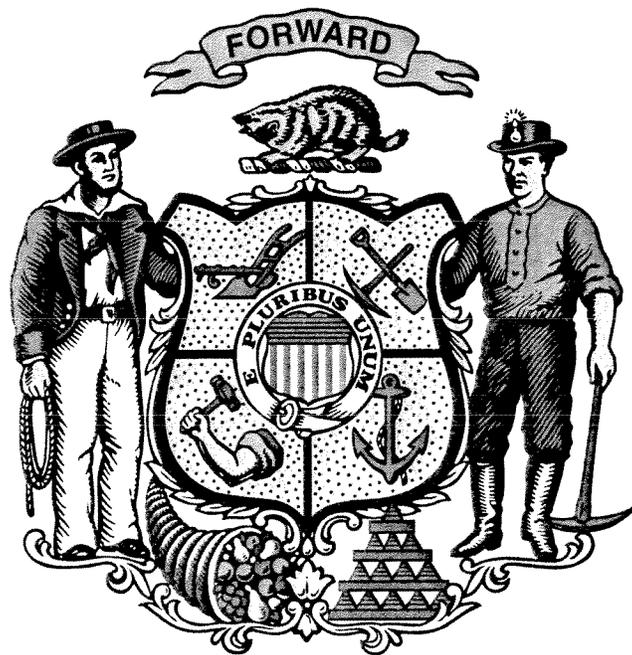
**DATE:** January 27, 2002

**RE:** **CLEARINGHOUSE RULE 02-135**

Today, the following rule was referred to the Assembly Committee on Colleges and Universities:

**Clearinghouse Rule 02-135**, relating to the collage savings program.

Please contact Brad in my office (266-0660) if you would like a copy of the rule. The deadline for committee action on this rule is **Monday, February 24, 2003**. If you are interested in requesting a hearing or submitting comments on the rule, please do so prior to the deadline date.



DATE: January 24, 2003  
TO: Brad Hub  
Committee on Colleges and Universities  
FROM: Patrick E. Fuller, Assembly Chief Clerk  
RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

### **CLEARINGHOUSE RULE 02-135**

AN ORDER to to repeal EAB 1.01 (3); to amend EAB 1.01 (7), (10), (20) and (26), chapter EAB 3 (title), 3.02 (5) and (8), 4.01 (1), (2), (5) (a) and (b), and (6), 4.02 (1), 4.03 (1) (i) and (n), 4.06 (1), (3) and (5), 4.08 (2) (b) 1., 4.10 (2) (d) 3., chapter EAB 4 (note), 7.02 (intro.), 7.03 (intro.), 8.05 (intro.), 8.07 (3), 10.04 (3); to repeal and recreate EAB 1.01 (23); and to create EAB 1.01 (19m) and (29m), 3.02 (8), 4.01 (2m) (a) and (b), (4m), (5m) (a) and (b), (6) (b) and (7), 4.06 (6), 4.10 (1) (e) and (2) (g), 7.05 and 8.07 (2m) and chapter EAB 11, relating to the regulation of for-profit postsecondary schools; out-of-state, nonprofit colleges and universities; and in-state, nonprofit institutions incorporated after 1991.

Submitted by **Educational Approval Board.**

Report received from Agency on **January 14, 2003.**

To committee on **Colleges and Universities.**

Referred on **Friday, January 24, 2003.**

Last day for action - **Monday, February 24, 2003.**

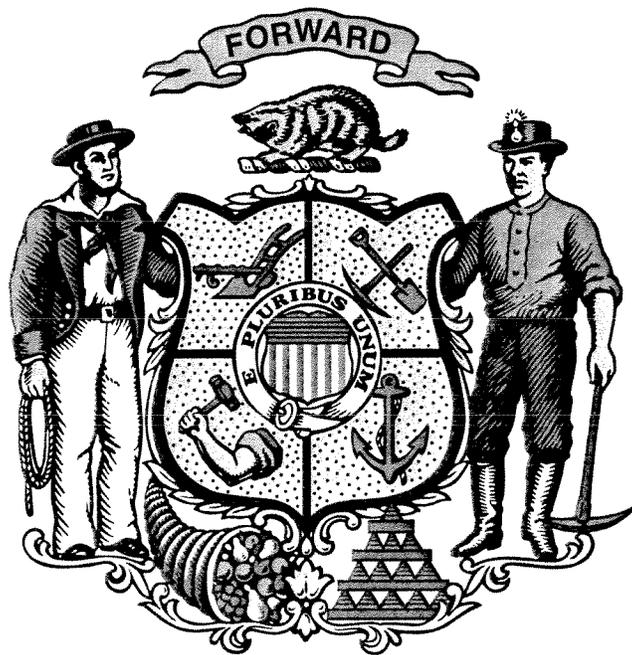
Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. **(Please note that the text of Rules beginning with the prefix "01" is available online in the Clearinghouse Rules infobase in FOLIO.)** Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Ken Stigler (6-2406) or your Legislative Council attorney. If you wish to learn more on this subject, read section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 02-135

AN ORDER to to repeal EAB 1.01 (3); to amend EAB 1.01 (7), (10), (20) and (26), chapter EAB 3 (title), 3.02 (5) and (8), 4.01 (1), (2), (5) (a) and (b), and (6), 4.02 (1), 4.03 (1) (i) and (n), 4.06 (1), (3) and (5), 4.08 (2) (b) 1., 4.10 (2) (d) 3., chapter EAB 4 (note), 7.02 (intro.), 7.03 (intro.), 8.05 (intro.), 8.07 (3), 10.04 (3); to repeal and recreate EAB 1.01 (23); and to create EAB 1.01 (19m) and (29m), 3.02 (8), 4.01 (2m) (a) and (b), (4m), (5m) (a) and (b), (6) (b) and (7), 4.06 (6), 4.10 (1) (e) and (2) (g), 7.05 and 8.07 (2m) and chapter EAB 11, relating to the regulation of for-profit postsecondary schools; out-of-state, nonprofit colleges and universities; and in-state, nonprofit institutions incorporated after 1991.

Submitted by **EDUCATIONAL APPROVAL BOARD**

11-06-2002 RECEIVED BY LEGISLATIVE COUNCIL.

11-25-2002 REPORT SENT TO AGENCY.

RS:RW

**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



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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*Clearinghouse Director*

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### CLEARINGHOUSE RULE 02-135

#### 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 2002.]**

#### 1. Statutory Authority

a. Section EAB 4.01 (4m) provides in part that if a school fails to comply with agency rules, the Educational Approval Board may impose a fine on the school, not to exceed \$500 per day. This is clearly a reference to s. 45.54 (10) (e), Stats., providing that any person who violates sub. (10) (a) may be required to forfeit not more than \$500 and providing that each day of operation in violation of sub. (10) (a) constitutes a separate offense. However, it is not clear that the board has the authority to impose the forfeiture. Rather, it appears that a court has this authority through the enforcement of the statutes by the Attorney General or a district attorney under s. 45.54 (10) (d), Stats. If the board believes that the authority exists for it to impose a \$500 per day fine, it should explain the source of this authority.

b. The agency should cite specific statutory authority for the provision in s. EAB 4.01 (7) that permits an appeal of the Educational Approval Board's decision to an administrative law judge.

c. Section 45.54 (10) (c), Stats., provides that the board must promulgate rules to establish fees and that the fees, among other things, must be sufficient to cover all costs that the board incurs in examining and approving proprietary schools. Further, the board must give consideration to establishing a variable fee structure based on the size of a proprietary school. Section EAB 4.10 (2) (g) provides that the board may waive a fee if the fee is less than \$50. The analysis to the rule states that the authority to waive an annual renewal fee is a cost efficiency measure. It could be argued that if the fees are meant to cover all costs of the board in

examining and approving proprietary schools, and if a fee of less than \$50 is not cost efficient, then perhaps the fee should be raised rather than waived. The board should explain why, in essence, it is proposing that fee-paying schools absorb the cost of fee waivers to smaller enterprises.

## 2. Form, Style and Placement in Administrative Code

a. The note preceding ch. EAB 1, relating to definitions should be incorporated into the text of the rule.

b. In s. EAB 1.01 (19m), citations to the United States Code should be included.

c. In s. EAB 3.02 (5), the phrase "in these rules of procedure" should be amended to read: "in this section."

d. In s. EAB 3.03, the notations "(1)" and "(a)" are unnecessary since the section is not divided into subunits. [See also ss. EAB 7.05 and 11.02.] Also, the first occurrence of the notation "ch." Should be replaced by the notation "s." Finally, the reference "ch. EAB 4 through 11" should be replaced by the reference "chs. EAB 4 to 11." The latter style of cross-reference should be used throughout the rule.

e. In s. EAB 4.01 (2m) (a), each occurrence of the notation "ch." should be replaced by the notation "s. EAB."

f. In s. EAB 4.01 (4m), the subunits should be renumbered as pars. (a) to (c).

g. In s. EAB 4.01 (5) (a) and (b), the reference to "rules" should be replaced by appropriate numerical cross-references.

h. Also, in s. EAB 4.08 (2) (b) 2., the notation "ch" should be replaced by the notation "s. EAB." [See also s. EAB 4.10 (1) (e).]

i. The punctuation in s. EAB 4.08 (2) (b) detracts from the clarity of the provision. The agency may wish to eliminate the semi-colons at the end of the clauses to improve clarity.

j. In s. EAB 8.05, the notation "s. EAB" should be inserted after the word "under."

k. In s. EAB 8.07 (2m), the word "must" should be replaced by the word "shall."

l. A title to ch. EAB 11 should be created in the rule.

m. In s. EAB 11.03, the introductory material should be unnumbered and the paragraphs should be renumbered as subs. (1) to (10). In newly renumbered s. EAB 11.03 (10), the word "program(s)" should be replaced by the word "programs." [ss. 227.27 (1) and 990.001 (1), Stats.]

n. In ss. EAB 11.04 and 11.05, the notation "s." should be inserted before each occurrence of the notation "EAB." Also, in s. EAB 11.05 (1), the hyphen should be replaced by the word "to." Finally, in s. EAB 11.05 (2), the reference "par. 1" should be replaced by a reference to "sub. (1)."

o. The reference to the "state records board" in s. EAB 7.05 (1) should be changed to "public records board."

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

a. In s. EAB 4.05 (5) (b), the phrase "inspection by EAB staff" is amended by striking the phrase "by EAB staff." Why is this phrase stricken? Who else will be allowed to reasonably inspect a school?

b. In s. EAB 4.01 (5m) (a), the word "in" should be replaced by the word "on."

c. In s. EAB 4.01 (6) (a), the amended phrase "within 10 days of receiving notice" should be rewritten to read "within 10 days after receiving notice."

d. Section EAB 4.01 (6) (c) should include a phrase such as "except as provided under as sub. (5m) (b)."

e. In s. EAB 4.01 (7), the phrase "within 10 days of the effective date" should be rewritten to read "within 10 days after the effective date."

f. The repeal of s. EAB 4.04 (8) relating to distance education also eliminates a requirement relating to "periodic student-to-faculty interaction." Is this intended to eliminate a requirement for any interaction, or only personal interaction where student and faculty are in the same location? This may need to be clarified in other definitions.

g. In s. EAB 4.06 (1), the last occurrence of the word "of" should be replaced by the phrase "in an amount of." In sub. (3), the second occurrence of the phrase "as a result of the" is not necessary and should be deleted.

h. In s. EAB 4.06 (3), the proposed change from "course or courses" to "program or programs" leaves unclear how "course or courses" will be treated under the provision.

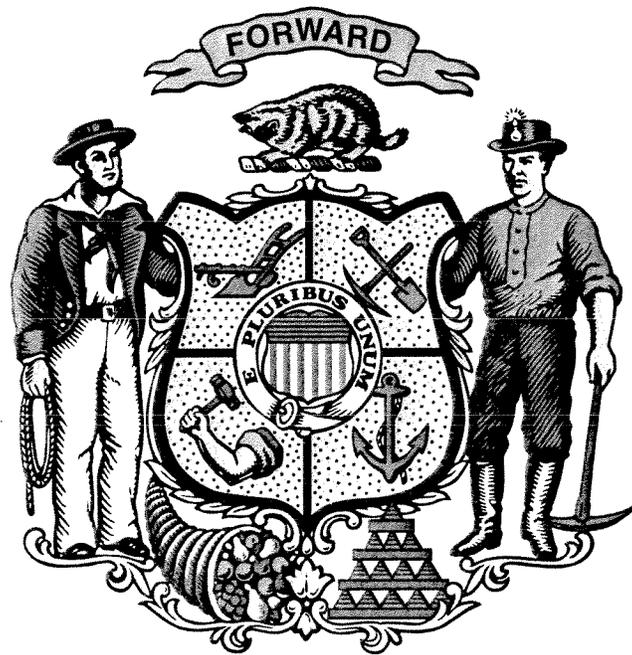
i. The term "constructive notice" is used in ss. EAB 8.07 (2m) and (3). The clarity of the rule could be improved if a definition of the term were included in the rule.

j. The definition of "distance learning program" in s. EAB 11.02 is unclear and should be redrafted to clarify its intended meaning.

k. In s. EAB 11.03, the introductory material should be rewritten to read: "A private, postsecondary school delivering distance learning programs shall meet the following standards:"

l. In s. EAB 11.04 (1), the phrase "make an application" could be more concisely changed to "apply."

m. The agency may wish to specify an initial applicability date to clarify which applications and programs will be subject to the revised regulations.





## State of Wisconsin / Educational Approval Board

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Jim Doyle  
Governor

David C. Dies  
Executive Secretary

### PROPOSED ORDER OF THE EDUCATIONAL APPROVAL BOARD AMENDING, REPEALING AND CREATING RULES

The Wisconsin Educational Approval Board (EAB) proposes an order to amend EAB 1.01 (7), (10), (20), and (26), Chapter 3 (title), 3.02 (5) and (8), 4.01 (1), (2), (5) (a) and (b), and (6), 4.02 (1), 4.03 (1)(i) and (n), 4.06 (1), (3), and (5), 4.08 (2)(b)1., 4.10 (2)(d)3., (5)(c) and (d), Chapter EAB 4 (note), 7.02 (intro), 7.03 (intro), 8.05 (intro), 8.07 (3), 10.04 (3); repeal and recreate EAB 1.01 (3) and (23); and create EAB 1.01 (19m), (29m), 3.02 (8), 4.01 (2m)(a) and (b), (4m), (5m)(a) and (b), (6)(b) and (7), 4.06 (6), 4.10 (1)(e), (2)(g) and (5)(f), 7.05, 8.07 (2m), and Chapter EAB 11; relating to the regulation of for-profit postsecondary schools; out-of-state, non-profit colleges and universities; and in-state, non-profit institutions incorporated after 1991.

### ANALYSIS PREPARED BY THE EDUCATIONAL APPROVAL BOARD

Statutory Authority: Sections 45.54(2) & (3), 227.11(2), and 227.42 (1), *Wisconsin Statutes*.

Statutes Interpreted: Sections 45.54(2), (3), (7) & (10), *Wisconsin Statutes*.

The rules under chapter EAB were last amended in 1997. As part of a comprehensive update, this rule will clarify existing provisions, correct inconsistencies between rule and statute, codify current board administrative practices, and create new provisions to facilitate the board's regulatory authority.

- Create a definition of "constructive notice".

The proposed rule will create a definition of "constructive notice" as it relates to refund standards for students who withdraw from a school. This definition will clarify when a student will be considered withdrawn from a school because the student failed to attend classes, utilize instructional facilities or submit lessons without providing an explanation to the school regarding the inactivity.

- Create a definition of a "recognized accrediting body".

Accreditation is a formal status granted to an institution meeting or exceeding state educational criteria. The purposes of accreditation are to assess and enhance consistency in institutional operations, promote improvement, and provide for public accountability. There are presently hundreds of different accrediting agencies. However, the U.S. Department of Education (ED)

recognizes only certain regional, national, and specialized accrediting agencies to serve as reliable authorities as to the quality of educational institutions. The proposed rule defines an accrediting body as those recognized by the ED.

- Amend the definition of a "school" so that it is consistent with its statutory usage.
- Amend the definition of a "sponsor" to include a government agency.

Many EAB-approved schools enroll individuals who received funding from government agencies, such as the state Department of Workforce Development and the U.S. Department of Education. These sponsors provide assistance through worker retraining grants, vocational rehabilitation funding, and federal student financial aid, among others. The proposed rule amends the current definition of a sponsor to include a government agency.

- Create a definition of a "teach-out".

The proposed rule defines a teach-out, a term that refers to the completion of an EAB-approved program in which a student enrolled. Typically, a teach-out is used to fulfill the promises made to students when a school closes or does not fulfill its contractual obligations to provide certain education or training services.

- Amend board operating procedures.

The procedures for conducting board meetings are presently identified in rule. In the absence of a specific rule provision, Roberts Rules of Order apply. This proposed rule would give the board the authority to adopt by resolution alternative procedures regarding the manner in which business is conducted, so long as they do not conflict with the rules of Roberts Rules of Order. In addition, the proposed rule would allow board members to participate in board meetings via teleconference or videoconference.

- Clarify the delegation of board responsibilities to staff.

The Educational Approval Board is a seven-member policy-making body whose purpose is to protect the general public by inspecting and approving certain schools doing business within the state. Under current law, the board employs an executive secretary that is charged with performing the administrative functions of the board. This provision is intended to clarify that the board has delegated the executive secretary to perform the board's administrative functions.

- Create a set of intermediate sanctions that the EAB can place upon a school for regulatory violations.

Under current administrative rule, the EAB's authority is restricted to granting, denying, or revoking the approval of a school. While these actions are appropriate for serious school violations, the EAB lacks the ability to address school violations that do not necessarily warrant denying or revoking the school's approval. By creating intermediate sanctions, the EAB would have additional options for dealing with schools that are non-compliant. The proposed rule would allow the board to: [1] require the submission and implementation of a school

improvement plan to address or correct problems identified by the board; and, [2] suspend the enrollment of students for one or more of the approved programs offered by the school. The board would also be able to issue a cease and desist order to any school that operates without proper approval.

- Create a provision allowing the board to waive second payment renewal fees in certain instances.

As a cost efficiency measure, the proposed rule will allow the EAB to waive annual renewal fees that are less than \$50.

- Allow the board to waive the fee associated with a change of ownership if the board determines that no work is required.

This provision is intended to address ownership interest changes that will have no effect on the operations of the school and will require no work by EAB staff other than to file an updated form.

- Clarify that a hearing requested by a school regarding a board action would pertain to either a denial or revocation of approval and would be before an administrative law judge.

The proposed rule makes it explicit that the board has the ability to deny an initial request for school approval, clarifies that a school may request a hearing before the board to contest a decision to deny or revoke school approval, and that any appeal of a board decision would be before an administrative law judge. In addition, the rule specifies the manner in which the board is required to provide notice of such actions.

- Create a provision that requires schools to have a minimum surety bond.

The proposed rule will require schools to have a \$10,000 minimum surety bond. Several years ago, the need for a minimum bond of \$25,000 was eliminated and the current provision to set a bond based on a school's unearned tuition was substituted. The current provision works well for established schools which have unearned tuition. However, in the case of a new school seeking board approval, the current method of determining an appropriate bond level does not work well. Because there is no "history" of unearned tuition, staff must rely on enrollment and revenue projections. It can be a year or more before reliable data is available to know if the bond is set at an appropriate level.

- Allow the board to use a surety bond on which it collects for a teach-out.

The proposed rule would allow the board to use bond proceeds to contract with a provider to teach-out students affected by a school that cannot fulfill its obligations to provide certain education or training services. This authority would help to ensure that a student completes the education or training that they had initially intended to attain.

- Amend the retention of records by schools.

Under current rule, a school only needs to retain student records for 6 years after graduation or the last date of enrollment. This provision clarifies that a school must keep student transcripts indefinitely.

- Create a provision for the retention of closed school records by the board.

In certain situations, the board has become the custodian of student records (e.g., when a school closes and the board secures them to ensure their safekeeping). This provision specifies that the student records in the possession of the board are to be maintained in accordance with retention and disposition authorization procedures established by the state records board and the federal family educational rights and privacy act (FERPA) of 1974.

- Amend the refund provisions pertaining to partial refunds.

Under current rules, there are no provisions that address refunds to students who withdraw or are dismissed prior to beginning classes. This rule clarifies that students who have not started classes are entitled to a partial refund, as determined by rule. In addition, to facilitate refund determinations involving students who stop attending classes but fail to inform the school, the proposed rule will require all schools to have a constructive notice of an intention to withdraw policy. This provision was (inadvertently) eliminated when the rule was last revised.

- Create specific provisions regarding the regulation of distance learning.

Section 45.54 (2), *Wisconsin Statutes*, states that the purpose of the educational approval board is to protect the general public by "approving schools...doing business within the state whether located within or outside this state..." Further, EAB 4.01 (1) states, "[a] school shall not operate, conduct business, offer any programs, advertise or enroll students unless it has been approved or determined to be exempt." Clearly, out-of-state, on-line schools offering programs via distance learning to Wisconsin residents are subject to EAB oversight and regulation.

The educational approval board's current regulatory framework and fee structure for initial school approval was based on an assumption that out-of-state schools delivered programs to classes of students at specific Wisconsin locations. With distance learning via the Internet, delivery is no longer place specific and a new fee structure must reflect this new reality.

Through distance learning, schools can now offer programs in all 50 states and have no physical presence. As in the traditional school model, online schools make money by enrolling classes of students, but those classes are no longer tied to a location. For example, an online class can literally consist of 20 students in 20 different states. Based on the EAB's current fee structure, it can be cost prohibitive for schools to be approved to offer online courses in Wisconsin.

Confronted with this reality, an online school will choose to either not operate in the state or ignore the approval requirements. While a school that chooses not to operate in the state ultimately limits the educational opportunities available to Wisconsin residents, a school that ignores the need for approval sets in motion an enforcement effort that is legally complex, expensive, and time consuming.

Under current rule, a school meeting certain conditions may be granted a fee reduction. While this fee reduction might provide some relief, it is not an effective way to deal with the issue presented by distance learning providers. Moreover, the fee reduction was intended to address larger, traditional institutions.

The EAB seeks to address the reality of distance learning by more fairly regulating online schools, while maintaining adequate oversight. An initial school approval fee that recognizes the unique characteristics associated with online instruction will help encourage providers to have their online programs approved in Wisconsin. As required under 45.54 (10)(c), the new fee structure would need to be sufficient to cover the costs incurred by the EAB to approve the school.

- The rule makes changes to correct erroneous technical information and inconsistent references to other provisions.

During the most recent rule update in 1997, a number of references were inadvertently amended to reference erroneous provisions. The proposed rule amends those provisions to correct these errors.

#### TEXT OF RULE

SECTION 1. EAB 1 (Note) is repealed.

SECTION 2. EAB 1.01 is amended to read:

EAB 1.01 Definitions. In chs. EAB 1 to 11:

SECTION 3. EAB 1.01 (3) is repealed and recreated to read:

EAB 1.01 (3) CONSTRUCTIVE NOTICE. "Constructive notice" means the period of time, designated by the school, after which a student will be considered withdrawn by the school, because the student failed to attend classes, utilize instructional facilities or submit lessons without providing, prior to or during that period, an explanation to the school regarding the inactivity.

SECTION 4. EAB 1.01 (7) is amended to read:

EAB 1.01 (7) DISTANCE ~~EDUCATION~~ LEARNING. "Distance ~~education~~ learning" means instruction provided by means other than face-to-face student to teacher interaction; including video, computer-based, and correspondence instruction.

SECTION 5. EAB 1.01 (10) is amended to read:

EAB 1.01 (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, fees, books, supplies and equipment 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~~ workforce investment act contracts, or contracts with employers to provide training to their employees.

SECTION 6. EAB 1.01 (19m) is created to read:

EAB 1.01 (19m) RECOGNIZED ACCREDITING BODY. "Recognized accrediting body" means a regional, national, or specialized accrediting agency recognized by the U.S. department of education under 20 USC 1099b for the purposes of federal Title IV funding under the higher education act of 1965.

SECTION 7. EAB 1.01 (20) is amended to read:

EAB 1.01 (20) REPRESENTATIVE. "Representative" means an individual employed by or representing a school who, in places other than the school, attempts to secure ~~student enrollments~~ enrollment agreements.

SECTION 8. EAB 1.01 (23) is repealed and recreated to read:

EAB 1.01 (23) SCHOOL. "School" means any person, located within or outside this state, maintaining, advertising or conducting a program for profit or a tuition charge not exempted under s.45.54 (1)(e), Stats.

SECTION 9. EAB 1.01 (26) is amended to read:

EAB 1.01 (26) SPONSOR. "Sponsor" includes any person or government agency who makes a payment on behalf of a student or awards a loan, grant or scholarship to a student.

SECTION 10. EAB 1.01 (29m) is created to read:

EAB 1.01 (29m) TEACH-OUT. "Teach-out" means an arrangement for the completion of an EAB-approved program in which a student is enrolled in the event of a school's closure or a school's failure to perform its contractual obligations.

SECTION 11. EAB 3 PROCEDURE (title) is amended to read:

EAB 3 PROCEDURE AND AUTHORITY

SECTION 12. EAB 3.02 (5) is amended to read:

EAB 3.02 (5) RULES OF ORDER. Meetings of the board shall be conducted according to and governed by Roberts Rules of Order except as otherwise provided in ~~these rules of procedure~~ this section or as adopted by resolution by the board.

SECTION 13. EAB 3.02 (8) is created to read:

EAB 3.02 (8) TELECONFERENCE. Members of the board may attend a properly noticed meeting of the board via teleconference or videoconference and shall have all rights and powers afforded to them as if they were physically present.

SECTION 14. EAB 3.03 is created to read:

EAB 3.03 DELEGATED AUTHORITY. Except as provided under s.EAB 4.01 (6), 4.08 (2)(b)2. and 10.04 (3), the board authorizes the executive secretary to act as its agent regarding all matters under chs. EAB 4 to 11.

SECTION 15. EAB 4.01 (1) is amended to read:

EAB 4.01 (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 under 45.54 (1)(e), stats. The board may issue a cease and desist order to any school that is in violation of this subsection.

SECTION 16. EAB 4.01 (2) is amended to read:

EAB 4.01 (2) INVESTIGATION AND INSPECTION. Upon application, the board ~~or staff~~ shall investigate and evaluate schools doing business within this state, whether located within or outside this state, and programs offered by these schools, and approve schools and programs including schools with branches in more than one location.

SECTION 17. EAB 4.01 (2m)(a) and (b) are created to read:

EAB 4.01 (2m) DENIAL OF APPROVAL. (a) The board may deny an initial request for school or program approval if the school fails to provide the information required under s. EAB 4.03 or fails to meet the criteria under s. EAB 4.04, as determined by the board.

EAB 4.01 (2m)(b) A decision to deny initial school approval shall be sent by certified mail, return receipt requested, to the last address of record.

SECTION 18. EAB 4.01 (4m) is created to read:

EAB 4.01 (4m) INTERMEDIATE SANCTIONS. If a school fails to comply with the provisions under chs. EAB 4 to 11, the board may progressively impose one or more of the following sanctions.

- (a) Require the submission and implementation of a school improvement plan to address or correct problems identified by the board.
- (b) Suspend the ability of a school to enroll students for one or more of the approved programs offered by the school.

SECTION 19. EAB 4.01 (5)(a) and (b) are amended to read:

EAB 4.01 (5) REVOCATION OF APPROVAL. (a) Failure to maintain the standards or to comply with ~~the rules chs. EAB 4 to 11~~ or meet the requirements for approval 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.~~

EAB 4.01 (5)(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 these rules chs. EAB 4 to 11~~ shall be grounds for revocation of approval.

SECTION 20. EAB 4.01 (5m) (a) and (b) are created to read:

EAB 4.01 (5m) NOTICE. (a) Except as provided under par (b), an action to revoke a school's approval as provided under sub. (5) shall be sent by certified mail, return receipt requested, to the last address of record, 20 days prior to the date on which the revocation is to be effective.

EAB 4.01 (5m)(b) The board may revoke a school's approval without notice if it determines that the health, safety, or financial welfare of any person is at risk.

SECTION 21. EAB 4.01 (6) is amended to read:

EAB 4.01 (6) HEARING. ~~Any school whose legal rights, duties, or privileges are directly affected by a board or staff action~~ (a) A school whose approval has been denied or revoked as provided under subs. (2m) or (5) may request a hearing before the board to contest the action taken. Such a hearing must be requested within 10 days ~~of the effective date of the action taken~~ after receiving notice. 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 22. EAB 4.01 (6)(b) is created to read:

EAB 4.01 (6)(b) Except as provided under sub. (5m)(b), if a school requests a hearing to contest an action under sub. (5), the board shall not revoke the school's approval until a hearing has been held and a final decision has been rendered.

SECTION 23. EAB 4.01 (7) is created to read:

EAB 4.01 (7) APPEAL. Any school who has contested an action under sub. (6) may appeal the decision of the board before an administrative law judge. A request for such a hearing must be requested within 10 days of the effective date of the action taken. 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 24. EAB 4.02 (1), 4.03 (1)(i) and (n) are amended to read:

EAB 4.02 (1) CRITERIA. Schools planned or proposed for operation can be approved upon application as provided by s. EAB ~~4.05~~ 4.03 which gives evidence that the planned or proposed school meets approval requirements.

EAB 4.03 (1)(i) A surety bond as required by s. EAB ~~4.07~~ 4.06;

EAB 4.03 (1)(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~~ 4.04 .

SECTION 25. EAB 4.04 (8) is repealed

SECTION 26. EAB ~~4.06~~ (1), (3), and (5) are amended to read:

EAB 4.06 (1) 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, but not less than \$10,000, and provide coverage for each representative in an amount of \$2,000 as specified in s. EAB 10.02.

EAB 4.06 (3) The surety bond shall provide indemnification to any student, parent, guardian, or sponsor suffering loss or damage as a result of any fraud or false representation used in procuring ~~his~~ a student's enrollment, violation of chs. EAB 3 ~~through to~~ 8, or ~~as a result of~~ the student being unable to complete the ~~course or courses~~ program or programs 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 shall, in no case, exceed the advanced tuition, book fees, supply fees, or equipment fees paid or liable to be paid for regardless of the number of years that a school's bond is in force, ~~the~~. The aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

EAB 4.06 (5) The bonding requirements set forth in this section may be reduced upon a determination that it is 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 or 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 27. EAB 4.06 (6) is created to read:

EAB 4.06 (6) The board may use a bond on which it has collected to arrange for a teach-out of the students who attended the bonded school.

SECTION 28. EAB 4.08 (2)(b)1., is amended to read:

EAB 4.08 (2)(b)1. If preliminary findings indicate a ~~violation(s)~~ violation of s. ~~45.54, stats.~~ or chs. EAB 4 to 11, or of an established school policy, the board shall attempt, through mediation to bring about a settlement;

SECTION 29. EAB 4.08 (2)(b)2., is repealed and recreated to read:

EAB 4.08 (2)(b)2. If a settlement proposed by the board is rejected by a school, the board may conduct a hearing and impose any of the intermediate sanctions under s. EAB 4.01 (4m) or subject the school to a summary suspension of its approval.

SECTION 30. EAB 4.10 (1)(e) is created to read:

EAB 4.10 (1)(e) If the board denies an initial school approval under s. EAB 4.01 (2m), the fees collected under this subsection shall be returned.

SECTION 31. EAB 4.10 (2)(g) is created to read:

EAB 4.10 (2)(g) The board may waive a fee under this subsection if it is less than \$50.

SECTION 32. EAB 4.10 (5)(c) and (d) are amended to read:

EAB 4.10 (5)(c) ~~The~~ Except as provided under sub. (f), the school shall submit to the board within 10 business days after the change of ownership or control an application reflecting the change of ownership or control and a fee of \$1,000.

EAB 4.10 (5)(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, such an application will be considered as an application for initial approval, and the school shall pay the fees specified in sub. ~~(2)~~ (1).

SECTION 33. EAB 4.10 (5)(f) is created to read:

EAB 4.10 (5)(f) The fee charged under this par. may be waived if it is determined that no work will be required to process the change of ownership.

SECTION 34. EAB 4 (Note) is amended to read:

EAB 4 Note: A person may obtain a Single Application by writing the Educational Approval Board at P.O. Box ~~7874~~ 8696, Madison, WI ~~53707~~ 53708-8696, or by telephoning (608) 266-1996.

SECTION 35. EAB 7.02 (intro.) is amended to read:

EAB 7.02 **Records retention.** Each school shall maintain, for a minimum of 6 years from graduation or ~~termination~~ last date of attendance, student records that shall include at least the following:

SECTION 36. EAB 7.03 (intro.) is amended to read:

EAB 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. A school

shall permanently retain original transcripts for all students. The transcript must provide at least the following:

SECTION 37. EAB 7.05 is created to read:

EAB 7.05 **Access to records.** The board shall maintain and make available records in its possession in accordance with retention and disposition authorization procedures established by the public records board and the federal family educational rights and privacy act (FERPA) of 1974 under 34 CFR Part 99.

SECTION 38. EAB 8.05 (intro) is amended to read:

EAB 8.05 **Partial refunds.** A student who withdraws or is dismissed after ~~attending at least one class or submitting at least one lesson~~ the period of time identified under s. EAB 8.03 (1) has passed, 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.

SECTION 39. EAB 8.07 (2m) is created to read:

EAB 8.07 (2m) All schools shall have a constructive notice of an intention to withdraw policy.

SECTION 40. EAB 8.07 (3) is amended to read:

EAB 8.07 (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 41. EAB 10.04 (3) is amended to read:

EAB 10.04 (3) **REQUEST FOR APPEARANCE.** Within 20 days of the receipt of notice of the board's refusal to issue or renew a permit or of the revocation of a permit, the applicant or holder of the permit may request ~~that he be permitted~~ to appear before the board in person, with or without counsel, to present reasons why the permit should be issued or reinstated. Upon receipt of such request, the board shall grant a hearing to the applicant or holder of the permit within 30 days, giving ~~him~~ the person at least 10 days notice of the date, time and place.

SECTION 42. EAB 11 is created to read:

## Chapter EAB 11

### DISTANCE LEARNING

#### EAB 11.01 Principles.

- (1) The board acknowledges that distance learning, especially via the Internet, presents a materially new context for the state's responsibility to protect consumers by regulating private, postsecondary schools.
- (2) The board believes the following principles should guide its regulation of private, postsecondary schools offering programs primarily through distance learning:
  - (a) The board's regulatory process ought to encourage schools offering programs through distance learning to become approved since the board's consumer protection role works best when schools are approved.
  - (b) The board's regulatory process must be rigorous and standards-based so only quality schools are approved to provide options to Wisconsin residents.
  - (c) While the board's regulatory process must be rigorous and consistent with the basic school approval process, it should also be user-friendly to schools using distance learning and honor other rigorous state approval processes so schools do not have to duplicate effort and incur unreasonable costs.
  - (d) The board's regulatory process should include a fee structure that pays for itself, is fair to the other approved schools, and is not cost prohibitive to schools using distance learning.

#### **EAB 11.02 Definitions.**

In this chapter, "distance learning program" means that a school uses distance learning to deliver more than 50 percent of a program.

#### **EAB 11.03 Standards for distance learning programs.**

A private, postsecondary school delivering distance learning programs shall meet the following standards:

- (1) The program shall be consistent with the school's mission.
- (2) The learning outcomes promised to students shall be achievable with the technology used.
- (3) The school shall use appropriate and effective instructional materials and teaching methods to ensure active student involvement.
- (4) The program shall be developed by qualified faculty, administrators and technologists.
- (5) Accepted students shall have the background, knowledge and technical skills needed to complete the program.

- (6) The school shall provide for assessment and documentation of student achievement during the program and at its completion.
- (7) The school shall ensure appropriate learning resources are available to students.
- (8) The school shall provide adequate support services for students.
- (9) The school shall demonstrate it has adequate financial resources to support the program.
- (10) The school shall demonstrate the educational effectiveness of its programs including assessment of student learning outcomes, student retention, student completion, and student and employer satisfaction, where relevant.

**EAB 11.04 Application for approval.**

- (1) Except as provided under s.45.54 (1)(e)(8), a school shall apply for approval upon board forms meeting the requirements of s. EAB 4.03.
- (2) If a school has approval from another state, which is substantially equivalent to the requirements of s. EAB 4.03 and meets the standards of s. EAB 11.03, the board may accept that state's approval as fulfilling all or parts of the approval process.

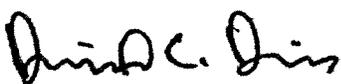
**EAB 11.05 Fees.**

- (1) For a school that delivers a distance learning program, it shall pay the highest applicable fee specified in s. EAB 4.10(1)(a)1 to 5 and \$500 for each additional or new program.
- (2) Except as provided for in sub. (1), schools approved under this section shall be subject to all other fees under EAB 4.10.

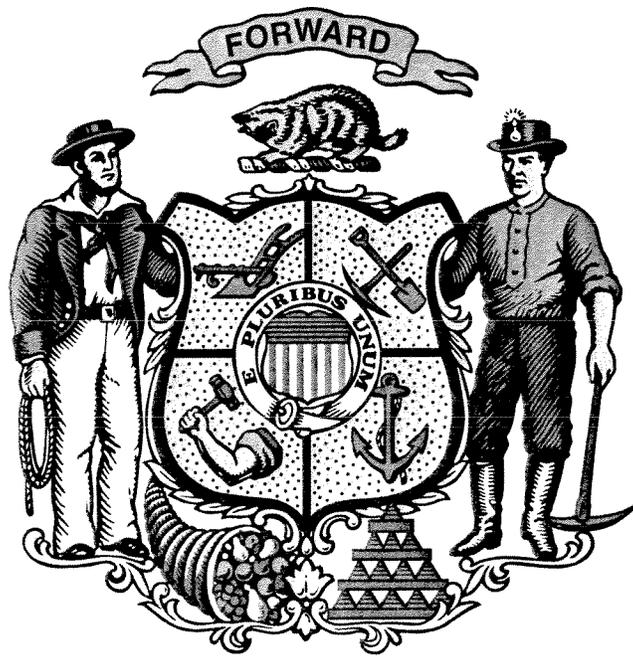
SECTION 43. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s.227.22(2) (intro.) Stats.

Date at Madison, Wisconsin, January 14, 2003

STATE OF WISCONSIN  
EDUCATIONAL APPROVAL BOARD



David C. Dies, Executive Secretary





## State of Wisconsin / Educational Approval Board

30 West Mifflin Street  
P.O. Box 8696  
Madison, Wisconsin 53708-8696  
Phone: (608) 266-1996  
Fax: (608) 264-8477  
EABmail@cab.state.wi.us

*Jim Doyle*  
Governor

*David C. Dies*  
Executive Secretary

### REPORT AND ANALYSIS OF CLEARINGHOUSE RULE 02-135

#### ▪ STATEMENT OF NEED FOR THE PROPOSED RULES

A statement explaining the need for adopting the proposed rules is explained in the analysis section of the enclosed order.

#### ▪ RESPONSE TO LEGISLATIVE COUNCIL REPORT

In general, the EAB found the comments provided in the Legislative Council (LC) report to be helpful and well taken. Although most of the comments pertain to rule format and construction, there are several substantive issues pertaining to the EAB's statutory authority. The following discussion addresses these statutory authority issues, as well as those format and construction issues that the EAB did not incorporate into the final rule submitted to the Legislature.

#### *Statutory Authority*

##### Comment 1a.

The Legislative Council report questions the board's general authority to assess a fine under s. EAB 4.01 (4m) as one of the intermediate sanctions created by the rule. Although the report cites s.45.54 (10), which provides that a court has the authority to assess fines through the enforcement of the statutes by the Attorney General and a district attorney, the EAB believes this section is limited to violations by a school that is not approved (i.e., they are operating or advertising without EAB approval).

The intermediate sanctions being created by the proposed rule order seek to address issues in which an already approved school fails to take necessary corrective actions identified by the board. Because withdrawing a school's approval has serious and significant implications, such action may not always be the most appropriate. Thus, the ability of the board to assess fines as an intermediate sanction differs from the issue raised in the report.

Regardless, the LC report does raise a valid concern regarding the statutory authority of the board to assess a fine. While the board has been granted broad authority to develop rules, it does not speak directly to this issue like it does in other sections. Therefore, the EAB has withdrawn this language until clear statutory authority can be enacted.

##### Comment 1b.

The Legislative Council report asks that a specific statutory cite for s. EAB 4.01 (7) be provided which permits an appeal of a board decision to an administrative law judge. EAB staff believes this authority is

contained generally in s.227.41 (1) and it has added as one of the statutory citations under which the EAB is submitting the rule.

Comment 1c.

The Legislative Council report requests an explanation as to why the board is proposing to waive a renewal fee if it is less than \$50. Concern was raised that waiving the fee would require other schools to absorb these costs. In addition, the report suggests that the board consider raising its fees if the proposal is a cost efficiency measure as the board claims.

This proposed waiver provision would affect only those fees assessed under s. EAB 4.10 (2) that pertain to the annual renewal of schools. In accordance with current provisions under the rule, the board uses a formula [described under s. EAB 4.10 (2)(d)] to determine the fees for schools. Because fees are determined by a formula, those fees under \$50 that would be waived could not be shifted to other schools. Moreover, because the renewal fee is assessed in two parts, a flat fee to cover basic administrative work is already collected.

*Construction and Format*

Comment 5a.

The report questions why the reference under s. EAB 4.01 (5)(b) pertaining to EAB staff performing inspections is eliminated. This change is part of the comprehensive effort to clarify that the board has delegated certain administrative functions to staff. It is intended that inspection functions would be delegated as provided under s. EAB 3.03 and the reference to staff is unnecessary. Similar changes have been made elsewhere in the rule.

Comment 5f.

The report raises questions regarding the repeal of EAB 4.04 (8) relating to distance education and the requirement included in this section for periodic student-to-faculty interaction. The purpose of creating ch. EAB 11 is to strengthen regulations concerning distance learning. The standards in s. EAB 11.03 are based on current best practice and research in distance learning and they are consistent with the standards of the Distance and Training Education Council (DETC). The EAB staff believes the distance learning standards contained in the rule strengthens the need for appropriate and effective student-to-faculty interaction.

Comment 5h.

The report questions the change under s. EAB 4.06 (3) that replaces the term "course or courses" with the term "program or programs". During the rule revision in 1997, the definition of "course" was replaced with "program" to reflect the fact that the EAB does not approve courses, it approves programs (individual courses make up a program). The changes proposed in this rule simply update the terms so that they are consistent. Because "course" and not "program" is defined in statute, a statutory change will be made as soon as it is possible.

Comment 5j.

The report states that the definition of a "distance learning program" is unclear. Although this definition has been slightly reworded, the EAB believes this definition is clear. "Distance learning" is defined in s. EAB 1.01 (7) and "program" is defined in s. EAB 1.01 (18). The definition of distance learning program in s. EAB 11.02 simply states that if more than 50 percent of the program is delivered via distance learning medium, then the EAB considers it a distance learning program. As postsecondary education evolves, schools are using combinations of traditional classroom delivery with distance learning more and more. This definition merely provides the measure for determining when a program is a distance learning program and this definition is consistent with those of other states.

Comment 5m.

The report indicated that the EAB might want to specify an initial applicability date to clarify that applications and programs will be subject to the revised regulations. Because all of the provisions are to become effective upon adoption of the rule, the EAB does not need to specify an initial date of applicability.

**PUBLIC HEARING SUMMARY**

A public hearing on the proposed order was held on December 17, 2002. The following is a list of those persons who either appeared before the board or submitted written public comments.

*Written Public Comments*

Michael Lambert, representing the Distance Education Training Council

The EAB was requested by the Distance Education Training Council (DETC) to make several changes regarding the distance learning standards. The DETC is the only accrediting body recognized by the U.S. Department of Education which deals solely with distance learning schools. In response to the comments submitted, the rule was changed to clarify the involvement of school officials in program development and incorporate employer and student satisfaction into the standard pertaining to measure educational effectiveness.

In addition, the DETC pointed out the major regulatory issue for states attempting to oversee distance learning via the Internet is the interpretation of the interstate commerce clause under the U.S. Constitution. Some distance learning providers contend that states have no authority to regulate education via the Internet. It is likely that the EAB and states in general will need to eventually confront this legal issue. Presently, the EAB operates under an agreement whereby the DETC assists the EAB in enforcing its consumer protection functions for students enrolled in schools accredited by the DETC.

Sandra Newman, representing Summit Schools, Inc

The chief administrator for the school presented written comments requesting that the EAB waive its change of ownership fee in situations when only a updated form needs to be filed. Under currently rule provisions, a \$1,000 fee is assess for a change of ownership, regardless of the type of change or the

amount of work involved. The fee assumes a change of ownership involves the sale of the school and new owners, requiring a complete and thorough staff analysis. Considering the intent of this rule provision, the board adopted language to waive the change of ownership fee if it is determined that no work will be required to process the change.

Daniel Litteral, representing Phoenix University

Staff counsel of the school presented written comments raising concern about the intermediate sanctions created by the proposed rule. The school questioned the board's authority to assess a fine. Because this concern was raised in the LC report, the provision had already been removed from the proposed rule. In addition, the school sought a notice of non-compliance and cure period prior to which intermediate sanctions could be imposed. Although the Board believes that such provisions are implicitly included in the proposed intermediate sanctions, language was added to clarify their progressive nature. Moreover, because no two compliance issues are the same, the board is concerned that a prescribed non-compliance and cure period could inhibit its ability to take action in a timely manner.

The EAB was also requested to include language that would require the board to approve distance learning programs that are approved by the regulatory body in the institution's home state. The board believes that this is already accomplished by the proposed rule, in which another state's approval will be accepted if it is substantially equivalent to the EAB's approval standards. Under no circumstances does the EAB want to be put into a position whereby it would be *required* to accept another state's approval.

*Appearances and Registrations*

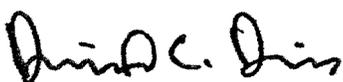
Lori Laun, representing the Great Lakes Higher Education Corporation

The EAB was asked to address the retention of student records for postsecondary schools that close in this state. Although GLHEC is a non-governmental corporate entity, it has become the custodian of records for student who had attended Mount Senario College, a private non-profit school that recently closed. Although the EAB has rule provisions governing the student records, they are limited to those institutions that are subject to the EAB's regulatory oversight. Because Mount Senario was a private non-profit college established before 1992, it was exempt state oversight. Nonetheless, the issue raised is valid and one that bears merit of further examination by the state.

**FISCAL ESTIMATE**

The rules will have no fiscal impact as indicated on the attached fiscal note.

STATE OF WISCONSIN  
EDUCATIONAL APPROVAL BOARD



David C. Dies, Executive Secretary

**Fiscal Estimate — 2001 Session**

- Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number

**Subject**  
 Regulation of for-profit postsecondary schools; out-of-state, non-profit colleges and universities; and in-state, non-profit institutions incorporated after 1991.

**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       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Increase Costs — May be possible to absorb within agency's budget.

- Yes       No

Decrease Costs

Local:  No Local Government Costs

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Increase Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

5. Types of Local Governmental Units Affected:

- Towns     Villages     Cities  
 Counties     Others \_\_\_\_\_  
 School Districts       WTCS Districts

**Fund Sources Affected**

- GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Chapter 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate**

This proposed rule change will have no fiscal effect.

**Long-Range Fiscal Implications**

Prepared By: Educational Approval Board / David C. Dies	Telephone No. 267-7733	Agency EAB
Authorized Signature 	Telephone No. 267-7733	Date (mm/dd/ccyy) 11/06/2002