



## State of Wisconsin / Educational Approval Board

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### ORDER OF THE EDUCATIONAL APPROVAL BOARD AMENDING AND CREATING RULES

The Wisconsin Educational Approval Board (EAB) proposes an administrative rule order to amend EAB 4.06 (2)(b) and create EAB 4.06 (2)(b)1. & 2.; relating to student protection fees paid by schools subject to the approval of the EAB.

### ANALYSIS PREPARED BY THE EDUCATIONAL APPROVAL BOARD

#### RULE SUMMARY

Statutes Interpreted: Sections 38.50 (2), (3), (7) & (10), *Wisconsin Statutes*.

Statutory Authority: Sections 38.50 (2), (3), (10)(c)4. and 227.11 (2), *Wisconsin Statutes*.

The EAB was required to promulgate administrative rules specifying a student protection fee under s.38.50 (10)(c)4. This requirement is limited by s.38.50 (10)(cm), which requires the EAB to discontinue collecting student protection fees when the appropriation balance exceeds \$1,000,000. The related rule provisions are contained in s.EAB 4.06.

#### RULE ANALYSIS

Under s.EAB 4.06, schools regulated by the EAB are assessed a student protection fee. The amount of the fee is currently based on a rate of \$0.50 per \$1,000 of adjusted gross annual school revenue as reported by the schools. These fees are deposited into an appropriation under s.20.292(2)(gm) and are used to indemnify certain persons suffering loss from such events as a catastrophic school closure.

This proposed rule would allow the EAB to assess a student protection at a rate based on a multiplier equal to the percentage of all schools' total adjusted gross annual revenue needed to bring the appropriation under s.20.292 (2)(gm) to \$500,000, but not to exceed \$10,000 for an individual school.

At the present time, the appropriation for this student protection fund contains \$79,582. Based on reported school revenues for the 2006 renewal year, it is estimated that the FY 06 fund balance will increase to approximately \$141,300 as a result of the standard fee assessment. This increase is based on total reported school revenues of approximately \$123.5 million.

In addition, provisions contained in the 2005-07 biennial budget (2005 Wisconsin Act 25) will transfer \$250,000 of retained earnings from the EAB's general operating budget into the appropriation on June 30, 2006. After the transfer, the estimated balance for the student protection fund will be \$391,300.

Because the fund balance is currently less than \$500,000, the proposed rule would give the EAB the authority to assess a fee at a rate higher than the current rate of \$0.50 per \$1,000. However, the rule does not require the board to assess the higher rate, and once the fund balance is in excess of \$500,000, the board would be specifically prohibited from assessing a higher fee. In addition, the EAB would be limited in assessing any individual school a student protection fee that exceeds \$10,000.

### **COMPARATIVE ANALYSIS**

A 2003 survey of state regulators conducted by the National Association of State Administrators and Supervisors of Private Schools (NASASPS) indicates that roughly one-half of states have established some type of student protection (or tuition recovery) fund. In addition to a student protection fund, about one-third of states also require schools to be bonded. Wisconsin falls into the latter category.

A comparison of rules in adjacent states indicates that none currently have established student protection funds. However, with the exception of Iowa, which only requires private schools to be registered, the other states require schools to be bonded. Bonds in Minnesota range from \$10,000 to \$250,000. Illinois requires bonds ranging from \$10,000 to \$1.4 million. Information was not available for the state of Michigan. Comparatively, bonds required in Wisconsin range from \$1,000 to \$25,000.

Because the governance of postsecondary education is a responsibility of individual states, there are no existing or proposed federal regulations that are intended to be addressed in the activities regulated by this rule.

### **IMPACT ON SMALL BUSINESS**

The potential impact of this rule on small businesses is limited to the extent that such businesses meet the statutory definition of a school and are subject to the EAB approval. The EAB currently approves 140 for-profit and non-profit postsecondary schools. These schools consist of technical, career, distance-learning, and degree-granting institutions that offer more than 600 degree and non-degree programs to over 30,000 Wisconsin adults annually. Typical programs includes truck driving, massage therapy, home inspection, teacher licensure, IT certifications, CAD drafting, as well as traditional bachelor and master degrees.

### **CONTACT INFORMATION**

The person responsible for the processing of this rule is David C. Dies, executive secretary for the Educational Approval Board. Comments or questions regarding the rule may be directed to him at 608/266-1996 or <david.dies@eab.state.wi.us>.

**TEXT OF RULE**

SECTION 1. EAB 4.06 (2)(b) is amended to read:

EAB 4.06 (2)( b) The fee shall be ~~based on a rate of \$0.50 per \$1,000 of adjusted gross annual school revenue as reported in accordance with ss. EAB 4.01 (4) and 4.10 (2) (d) established as follows.~~

SECTION 2. EAB 4.06 (2)(b)1. and 2. are created to read:

EAB 4.06 (2)(b)1. Except as provided in subd. 2., at a rate of \$0.50 per \$1,000 of adjusted gross annual school revenue as reported in accordance with ss. EAB 4.01 (4) and 4.10 (2) (d).

EAB 4.06 (2)(b)2. If at any time the appropriation balance of s.20.292 (2)(gm) is less than \$500,000, at a rate determined by the board based on a multiplier equal to the percentage of all schools' total adjusted gross annual revenue needed to bring the appropriation under s.20.292 (2)(gm) to \$500,000, but not to exceed \$10,000 for an individual school.

SECTION 3. 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.

Dated at Madison, Wisconsin, March 7, 2006

STATE OF WISCONSIN  
EDUCATIONAL APPROVAL BOARD



David C. Dies, Executive Secretary