

CR 87-119

CERTIFICATE

STATE OF WISCONSIN)
) SS.
EDUCATIONAL APPROVAL BOARD)

I, David R. Stucki, Executive Secretary of the Educational Approval Board and custodian of the official records of the board, certify that the Educational Approval Board duly approved and adopted on December 7, 1987, the annexed rules relating to application and renewal fees required of for-profit postsecondary schools.

I further certify that I have compared this copy with the original on file in the offices of this agency and that the same is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 310 Price Place, in the city of Madison, this 7th day of December, 1987.



David R. Stucki
Executive Secretary
Educational Approval Board

RECEIVED

DEC 9 1987
4:05pm
Revisor of Statutes
Bureau

2-1-88

RECEIVED

DEC 9 1987

Revisor of Statutes
Bureau

ORDER OF THE EDUCATIONAL APPROVAL BOARD
RENUMBERING, AMENDING AND CREATING RULES

1 The Wisconsin Educational Approval Board adopts an order to renumber EAB 2.11 (7)
2 through (9), to renumber and amend EAB 2.11 (1) through (6), to amend EAB 2.02 (3),
3 and to create EAB 2.11 (1), relating to application and renewal fees required of for-
4 profit postsecondary schools.

Analysis by the Educational Approval Board

Statutory Authority: s. 38.51 (3) and (10) (c), Stats., as affected by 1987 Wis. Act 27

Statutes Interpreted: s. 38.51 (10) (b) and (c), Stats., as affected by 1987 Wis. Act 27

These amendments revise the fees contained in s. EAB 2.11, Wis. Adm. Code, which interprets s. 38.51 (10) (b) and (c), Stats., as affected by 1987 Wisconsin Act 27, and are similar, but not identical, to the provisions contained in an emergency rule which the Educational Approval Board adopted on July 31, 1987. Under the provisions of 1987 Wisconsin Act 27, fees paid by proprietary schools must cover all costs of the examination and approval of those schools.

The amendments to s. EAB 2.11 increase the following application fees:

<u>Type of Application</u>	<u>Old Fee</u>	<u>New Fee</u>
Initial School Approval	\$200	\$400
Renewal of School Approval	\$200	varies
Course of Instruction	\$300	varies
Teaching Location	\$ 40	\$100
Change of Ownership	\$150	\$200

New subsection (1) to EAB 2.11 defines terms used in the section.

The rule prior to the changes made by the emergency rule provided for a uniform annual fee (\$200) for application for renewal of approval of a school. The revised permanent rule provides for a fee payable in two or three installments. The first payment, due no later than September 1 when applying for renewal of approval for the following calendar year, is a fixed amount of \$200 for an active school and \$50 for an inactive school. The second payment, due the following March 1, varies according to the size of the school, as measured by the adjusted gross annual school revenues from sales to Wisconsin students. Section 38.51 (10) (c), Stats., as repealed and recreated by section 682f of 1987 Wisconsin Act 27, requires the board to give consideration to a variable fee structure based on the size of a proprietary school. The third payment, required only of inactive schools that resume active status during a calendar year, is due on the date of resumption of active status.

The rule prior to the emergency rule provided for a uniform (\$300) application fee for approval of a course of instruction. The amount of the fee required by the revised rule depends upon the educational objective of the course of instruction: \$300 for a course of instruction not leading to a degree, \$500 for a course of instruction leading to an associate degree and \$1,200 for a course of instruction leading to a degree other than an associate degree. The new fees reflect the costs of evaluating and approving courses of instruction, including the higher costs for the more complex courses of instruction leading to degrees. The rule also provides for reduction in the fee if a course of instruction meets certain criteria, and reflects the reduced costs to the board when another state agency has already reviewed the course to determine if the course meets occupational licensing requirements.

The increased fees for renewal of school approval will apply to applications for renewal of approvals which expire on or after the effective date of the amended rules. For all other applications, the increased fees will apply to applications which are received on or after the effective date of the amended rules.

1 **SECTION 1.** EAB 2.02 (3) is amended to read:

2 (3) RENEWAL OF APPROVAL. (a) Except as provided in par. (b), a school approved
3 to operate or do business in ~~the~~ this state shall, after June 30 but no later than Sep-
4 tember 1 of each year, apply for renewal of approval on forms furnished by the board
5 and shall submit with the forms the fee required by s. EAB 2.11 ~~(3)~~ (4).

6 (b) A school need not apply for renewal of approval ~~in~~ for the calendar year in which
7 the school paid in full the fees required by s. EAB 2.11 ~~(2)~~ (3).

8 **SECTION 2.** EAB 2.11 (1) is renumbered (2) and is amended to read:

9 (2) APPLICABILITY. The fees listed in this section shall apply to:

10 (a) ~~For renewals of school approval, to any~~ Any application for renewal of an
11 approval which expires on or after ~~July 1, 1987~~ the effective date of this section.

12 [Revisor inserts actual effective date.]

13 (b) ~~For all other applications, to~~ Any other applications which the board receives
14 received on or after ~~July 1, 1987~~ the effective date of this section. [Revisor inserts
15 actual effective date.]

16 **SECTION 3.** EAB 2.11 (1) is created to read:

17 (1) DEFINITIONS. In this section:

18 (a) "Adjusted gross annual school revenues" means the amount remaining after sub-
19 tracting from gross annual school revenues the amount of refunds actually made to
20 Wisconsin students or their sponsors during the same fiscal year for which the school
21 reported the gross annual school revenues.

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

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

15 (d) "Past fiscal year" means a twelve-month period ending on a date no earlier than
16 fourteen months before the date of the submission of the financial information
17 requested on the application for renewal of approval.

18 (e) "Sponsors" includes any individual, agency, association, corporation or partner-
19 ship which makes a payment on behalf of a student or awards a loan, grant or scholar-
20 ship to a student.

21 (f) "Students" means those persons who have pursued, are pursuing, or have stated
22 an intent to pursue any course or course of instruction offered by the school.

23 (g) "Wisconsin students" means students (regardless of stated permanent residence)
24 at any Wisconsin location of the school, plus any other students who at the time of
25 enrollment considered Wisconsin to be their state of residence. Students at school
26 locations outside Wisconsin and students enrolled in correspondence courses are

1 Wisconsin students if they gave Wisconsin as their state of residence at the time of
2 enrollment.

3 **SECTION 4.** EAB 2.11 (2) through (6) are renumbered (3) through (7) and are
4 amended to read:

5 (3) APPLICATION FEES FOR INITIAL SCHOOL APPROVAL. A school which is not
6 approved to operate or do business in ~~the~~ this state and which is applying for approval
7 shall pay a fee of ~~\$200~~ \$400, plus:

8 (a) A fee for each course of instruction the school wishes to advertise, offer or
9 teach in ~~the~~ this state, as provided in sub. ~~(4)~~ (5) and

10 (b) A fee for each teaching location, other than the main location of the school as
11 listed on the application for approval, in which the school wishes to use in the state
12 enroll Wisconsin students, as provided in sub ~~(5)~~ (6).

13 (4) APPLICATION FEES FOR RENEWAL OF SCHOOL APPROVAL. (a) A renewal
14 of approval of a school shall be valid for one calendar year. Except as provided in par.

15 (b), a school ~~approved to operate or do business in the state shall, after June 30 but no~~
16 ~~later than September 1 of each year, pay an annual fee of \$200~~ applying for renewal of
17 approval shall pay an application fee in payments as provided in pars. (c) and (d).

18 (b) A school that has not done business in this state in violation of s. 38.51 (10),
19 Stats., prior to the effective date of approval need not pay the annual fee otherwise
20 required by par. (a) first payment in the calendar year in which the school paid in full
21 the fees required by sub. ~~(2)~~ (3), but may defer that payment until March 1 of the
22 following year.

23 (c) A school requesting active status shall make a first payment, in the amount of
24 \$200, no later than the September 1 prior to the calendar year for which the school is
25 applying for renewal of approval, and shall make a second payment, in the amount
26 determined as provided in par. (g), no less than six months after the first payment was

1 due.

2 (d) A school requesting approved inactive status shall make a first payment in the
3 amount of \$50, no later than the September 1 prior to the calendar year for which the
4 school is applying for renewal of approval and shall make a second payment, in the
5 amount determined as provided in par. (g), no less than six months after the first
6 payment was due. If the school resumes active status during the calendar year for
7 which the school is applying for renewal of approval, the school shall make a third
8 payment. The third payment shall be in the amount of \$50 for each full calendar
9 month and any portion of a calendar month which is remaining in the calendar year as
10 of the date of resumption of active status, and shall be due by the date of resumption
11 of active status.

12 (e) The board shall base the second payment on the size of the school. The size of
13 each school shall be measured by the school's adjusted gross annual school revenues, as
14 reported to the board on the application for renewal of approval or as estimated by
15 the board under par. (h). The total of the second payments due from all approved
16 schools, as determined by the board by the December 31 prior to the due date for the
17 second payments, shall recover that portion of the costs of examining and approving
18 schools subject to s. 38.51 (10), Stats., which is not recovered by the total of the first
19 payments plus the total of receipts from all other fees in this section and in s. EAB
20 3.02. The amount to be recovered by the total of the second payments shall be based
21 on the annual budget of the board for the regulation of schools subject to s. 38.51 (10),
22 adjusted by:

23 1. Subtracting the total revenue estimated to be received during the current fiscal
24 year from schools and solicitors in payment of all other application fees, including the
25 first payments of the renewal fee under par. (b) through (d),

26 2. Subtracting any positive balance in excess of \$5,000 in the board's fee revenue

1 account carried over from the previous fiscal year, to the extent that the balance still
2 exists and remains usable by the board,

3 3. Adding an amount equal to the absolute value of any negative balance in the
4 board's fee revenue account at the end of the previous fiscal year, and

5 4. Adding the amounts of any additional costs required by law, regulation, execu-
6 tive order or collective bargaining agreement which were not known or taken into
7 consideration when the annual budget was determined.

8 (f) The board shall determine the rate in dollars per thousand dollars of adjusted
9 gross annual school revenue for the calendar year in which the second payment is due
10 by dividing the amount in dollars which the board must recover from the total of the
11 second payments for the same calendar year, determined as provided in par. (e), by the
12 total of the actual and estimated adjusted gross annual school revenues in thousands of
13 dollars of all schools which have applied for renewal of approval for the calendar
14 year. The formula is stated algebraically as follows:

$$M = A/R$$

15 where M = the rate in dollars per thousand dollars of adjusted gross annual school
16 revenue

17 A = the amount in dollars which the board shall recover from the total of
18 the second payments for the same calendar year, determined as pro-
19 vided in par. (e)

20 R = the total in thousands of dollars of the actual and estimated adjusted
21 gross annual school revenues of all schools which have applied for
22 renewal of approval for a calendar year

23 (g) The board shall determine the amount of the second payment for each school by
24 multiplying the adjusted gross annual revenues of the school in thousands of dollars, as
25 reported to the board on the application for renewal of approval or as estimated by
26

1 the board under par. (h), by the rate in dollars per thousand dollars of adjusted gross
2 annual school revenue determined as provided in par. (f). The formula is stated alge-
3 braically as follows:

$$4 \quad \quad \quad \underline{a = r \times M}$$

5 where a = the amount of the second payment for a specific school

6 r = the adjusted gross annual revenues of that school in thousands of dollars,
7 as reported to the board on the application for renewal of approval or
8 as estimated by the board under par. (h)

9 M = the rate in dollars per thousand dollars of adjusted gross annual school
10 revenue determined as provided in par. (f)

11 The board may adjust the amount of each second payment by rounding the payment to
12 the nearest whole dollar.

13 (h) If a school fails or refuses to provide the board with reliable information by
14 which the board may determine the amount of the second payment, the board may
15 revoke the approval of the school or may use other means to compare the school with
16 other schools by size, estimate the adjusted gross annual revenues of the school and
17 require a second payment based on the estimated adjusted gross annual revenues of
18 the school. The board may also request the department of justice or any district
19 attorney to take action under any other applicable provision of law.

20 (5) APPLICATION FEES FOR APPROVAL OF COURSES OF INSTRUCTION. A
21 ~~school shall pay an application fee of \$300 when~~ (a) When applying for approval of a
22 course of instruction, a school shall pay the following fee:

23 1. \$300, if the course of instruction for which the school seeks approval does not
24 lead to a degree.

25 2. \$500, if the course of instruction for which the school seeks approval leads to an
26 associate degree.

1 3. \$1,200, if the course of instruction for which the school seeks approval leads to a
2 degree other than an associate degree.

3 (b) The fees specified in par. (a) shall be reduced by 75 per cent if all of the follow-
4 ing conditions are met:

5 1. The course of instruction prepares students to meet the occupational licensing
6 requirements of an agency of this state.

7 2. The course of instruction has been reviewed by the agency referred to in subd.
8 1.

9 3. The agency referred to in subd. 1 has notified the board in writing that success-
10 ful completion of the course of instruction will meet the educational requirements for
11 initial licensure in the occupation.

12 (6) APPLICATION FEE FOR APPROVAL OF TEACHING LOCATIONS. A school
13 shall pay an application fee of \$40 \$100 when applying for approval of a teaching loca-
14 tion.

15 (7) CHANGE OF OWNERSHIP OR CONTROL. (a) Approval of a school terminates
16 at the time when the ownership or control of the school changes from that indicated
17 on the most recent application the school filed with the board.

18 (b) An approved school shall notify the board of any proposed change of ownership
19 or control.

20 (c) The prospective owner or owners shall submit to the board prior to the effective
21 date of the transfer an application reflecting the change of ownership or control. The
22 school shall submit with the application shall be accompanied by a fee of \$150 \$200,
23 plus:

24 1. A fee, as provided in sub. ~~(4)~~ (5), for each course of instruction listed on the
25 application which, at the time the school files the application, is not approved by the
26 board; and

1 2. A fee, as provided in sub. ~~(5)~~ (6), for each teaching location listed on the applica-
2 tion which, at the time the school files the application, is not approved by the board as
3 a teaching location of the school.

4 (d) A school may request an interpretation from the board as to the application of
5 this subsection to a contemplated change of ownership or control.

6 **SECTION 5.** EAB 2.11 (7) through (9) are renumbered (8) through (10).

NOTE TO REVISOR: Please substitute the following for the first sentence of the note following s. EAB 2.11:

Note: A person who desires to apply for initial approval of a school, for renewal of approval of a school, for approval of a course of instruction, for approval of a teaching location, or for approval of a school after a change of ownership or control may obtain 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.

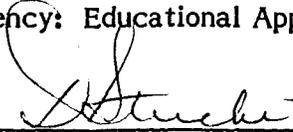
Also, please change references to forms to read "Form EAB 1.(number)," rather than "EAB form 1.(number)."

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

Dated: December 7, 1987

Agency: Educational Approval Board

By:



David R. Stucki, Executive Secretary