

Chapter EAB 4

UNFAIR TRADE PRACTICES IN ADVERTISING AND
PROMOTIONAL MATERIAL

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EAB 4.01 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 or deceptive trade practice or the making or causing to be made any false, misleading or deceptive statement 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.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73.

EAB 4.015 Definitions. Within this chapter, "school" includes the school and its officers, agents, representatives and solicitors.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73; renum. from EAB 4.09 and am., Register, June, 1990, No. 414, eff. 7-1-90.

EAB 4.02 Deceptive trade or business names. (1) No school shall use a trade or business name, label, insignia, or designation which has the capacity and tendency or effect of misleading or deceiving 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 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 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 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, 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 "uni-

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versity" in conjunction with its name. This rule shall not apply to those schools approved prior to September 1, 1973.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73.

EAB 4.03 Misrepresentation of extent or nature of accreditation or approval. (1) A school shall not misrepresent directly or indirectly the extent or nature of any approval the school may have received from a state agency or the extent or nature of its accreditation by a nationally recognized accrediting agency, or association.

(2) A school shall not represent that it has been approved by any federal or state agency if such approval was not the result of an evaluation of the school's facilities, courses of instruction, and qualification of directors and instructional personnel. No school shall misrepresent the extent or nature of such approval, and no school or its agent shall advertise or imply that the school is "recommended" or "endorsed" by the board. If reference is made to the approval given by the board, this official reference shall *only* read, "Approved by the State of Wisconsin Educational Approval Board."

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

(4) A school shall not represent directly or by implication that a course of instruction 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 for the receipt of a state or federal license to perform certain functions, unless such is the fact.

(5) A school shall not represent directly or by implication that its courses are recommended by 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.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73.

EAB 4.04 Misrepresentation of facilities, services, qualifications of instructors and status. (1) A school shall not misrepresent 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:

(a) Use or refer to fictional organization divisions or position titles or make any representation which has the tendency or capacity to mislead or deceive students or prospective students, as to the size or importance of the school, its divisions, faculty, personnel, or officials, or in any other material respect.

(b) Misrepresent directly or indirectly the size, importance, location, facilities, or equipment of the school through use of photographs, illustrations, or any other depictions in catalogs, advertisements, or other promotional materials.

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(c) Represent that the school owns, operates or supervises a dormitory, eating, or other living accommodations unless such is the fact.

(d) Falsely or deceptively represent the location or locations at which its courses will be conducted.

(e) Represent directly or indirectly that certain individuals or classes of individuals are bona fide working members of its faculty, or are members of its advisory board, or have played an active part in the preparation of its instruction materials, unless such is the fact, or misrepresent in any manner, directly or by implication, the extent or nature of the association of any person with the school or the courses offered.

(f) Misrepresent the nature and extent of any personal instruction, guidance, assistance, or other attention it will provide for its students either during a course or after completion of a course.

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

(3) A school shall not falsely or deceptively represent that a course has been recently revised, or that it has a revision system or service, or misrepresent in any manner, its facilities, procedures, or ability to keep a course current.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73.

EAB 4.05 Misrepresentation of enrollment qualifications or limitations.

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

(a) Represent that a course is available only to those having a high school diploma or other specific educational qualifications, unless the sale of such a course is limited to persons possessing generally acceptable evidence of such a diploma or educational qualifications.

(b) Represent that only those who make an acceptable grade or complete successfully a certain test or examination will be admitted, if in fact enrollments are not thus limited.

(c) Falsely represent that it will accept for enrollment only a limited number of persons or a limited number of persons from a certain geographical area.

(d) Falsely represent that applications for enrollment will be considered for only a limited period of time, or that they must be submitted by a certain date.

(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 successful completion of a course.

(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. (See s. EAB 9.04)

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73; am (3), Register, June, 1990, No. 414, eff. 7-1-90.

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EAB 4.06 Deceptive use of diplomas, degrees or certificates. (1) A school shall not issue a degree, diploma, certificate of completion, or any document of similar import, which misrepresents directly or indirectly the subject matter, substance or content of the course of study or any other material fact concerning the course for which it was awarded or the accomplishments of the student to whom it was awarded.

(3) A school shall not offer or confer a high school diploma.

(4) A school shall not offer high school courses unless such courses are substantially equivalent to those offered by a resident secondary school, *and* unless the student is informed by means of a clear and conspicuous disclosure in writing prior to his enrollment, that the school cannot guarantee or otherwise control the recognition which will be accorded such courses 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 those agencies.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73; renum. (2) to be EAB 5.02 (1) (e), Register, June, 1990, No. 414, eff. 7-1-90.

EAB 4.07 Deceptive sales practices. (1) **DECEPTIVE "HELP WANTED" ADVERTISING.** The use of "help wanted" or other employment columns in a newspaper or other publication to get in touch with prospective students in such a manner as to lead such prospective students into the belief that a job is offered is deemed a deceptive sales practice. In obtaining leads to prospective students, a school shall not use advertisements or promotional materials which are classified, designated or captioned, "Men wanted to train for . . .", "Help Wanted", "Employment", "Business Opportunities" or by words or terms of similar import, so as to represent directly or by implication that employment is being offered.

(2) **BLIND ADVERTISING.** The use of "blind" advertisements or sales literature 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.

(3) **FALSE REPRESENTATION AS TO EARNINGS.** The making of false or deceptive statements or representations or any statement or representation which has 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:

(a) The salary or income is equal to or less than the average salary of persons employed less than 5 years in the indicated position and the advertisement or representation states the basis for calculation of the average salary or income; or the advertisement or representation states the basis for calculation of the salary stated and also discloses the average salary or income of persons employed less than 5 years in the indicated position and;

(b) 1. The advertisement or representation *states clearly* and conspicuously that no guarantee is made that a person who purchases the advertisement, Register, June, 1990, No. 414

tised services will earn the stated salary or income, unless the guarantee is actually offered by the school.

2. The words "EARN \$ _____" or "EARN UP TO \$ _____" or words of similar import or meaning constitute a representation that a person who attends the school will earn the stated salary or income within the meaning of this rule.

(4) **MISREPRESENTATION OF OPPORTUNITY.** The making of false, untrue, or deceptive statements or representations or any statement or representation which has 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.

(5) A school shall not deceptively designate or refer to its sales representatives and solicitors as "registrars", "counselors", "advisors", or by words of similar import or misrepresent in any other manner, the titles, qualifications, training, experience or status of its salesmen, agents, employees, or other representatives.

(6) In obtaining leads to prospective students, a school shall not represent 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.

(7) A school shall not use any photograph, cut, engraving, or illustration in catalogs, sales literature, or otherwise in such a manner as to convey a false impression as to the size, importance, or location of the school or its equipment.

(8) **FALSE REPRESENTATIONS AS TO THE STUDENT'S OBLIGATION TO PAY.** The making of 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:

(a) It is an unfair trade practice to represent in advertising or otherwise that a student may "Train now, pay later" or make similar statements unless such representations actually describe a school policy of deferring the student's obligation until after the completion of training. Such representations may be used only where the school will not collect from the student or from a third party on the student's behalf payments of tuition or fees until the course of instruction has been completed by the student.

(b) It is an unfair trade practice to represent to the student that the student may withdraw from a course of instruction and owe no further payments to the school or a third party unless by the terms of the con-

tract the student's obligations actually are terminated by withdrawal, or to misrepresent in any other manner the cancellation and settlement policy of the school.

(c) It is an unfair trade practice to represent falsely the nature of financial aids which may be available through any source so as to mislead the student about the amount of repayments, the schedule for repayments, or the source of the financial aids; to obtain any form or document which must be submitted for the purpose of obtaining financial aids if such form or document is signed in blank by the student; or to represent falsely the extent of the financial aids to which a student may be entitled.

(d) It is an unfair trade practice to make any statement or representation or suggest any action on the part of the student which tends to defeat the purpose of the 3-business-day cancellation period provided for in ch. EAB 5 or any other "cooling off," cancellation, or affirmation period provided for in federal or state law or regulation.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73; cr. (8), Register, November, 1976, No. 251, eff. 12-1-76.

EAB 4.08 Required disclosures. A school shall disclose in all advertising and promotional material used in Wisconsin:

(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.

(5) In conjunction with the description of a program which the school describes in that material as measured in vocational credits, that the school does not award a degree to students who complete the program.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73; am., cr. (5), Register, June, No. 414, eff. 7-1-90.

EAB 4.10 Substantiation of claims. Any school making any material representation of fact must maintain records adequate to substantiate that representation.

History: Cr. Register, December, 1972, No. 204, eff. 1-1-73.