March 22, 2016

Ms. Mary Ellen Elia
Commissioner
State Education Department
89 Washington Avenue
Albany, N.Y 12234

Re: Proposed Amendments to School Counselor Regulations: I.D. No. EDU-06-16-000004-P

Dear Commissioner Elia,

On behalf of the over 20,000 members of the New York State, and NYC Chapters of the National Association of Social Workers and the New York State Society for Clinical Social Work, we offer the following comments on the Proposed Amendments to Sections 52.21 and 100.2(j) and Part 80 of the Commissioner’s Regulations relating to School Counseling, Certification Requirements for School Counselors and the School Counselor Program Registration Requirements. While we understand and support the intent of the proposed amendments to provide additional district support, enhance services available to the student body and broaden the academic requirements of School Guidance Counselors, we have a number of concerns.

The State Education Department created a 16 member “School Counselor Advisory Council” (SCAC) that proposed the subject regulations. It was comprised of eight School Guidance Counselors from across New York State and eight representatives from school counselor preparation programs. In addition, membership included two New York State United Teachers representatives, and one United Federation of Teachers representative. However, this group did not include other pupil personnel service providers who are authorized to provide services to students in NY’s public schools. The interaction between inter-disciplinary team members is vital to the success of the student body, and we believe this model should be used to develop recommendations by including representatives from the other pupil personnel service teams (such as School Social Workers and School Psychologists). Moving forward, we request that any further dialogue be conducted with a more inclusive body of individuals representing the professions who have a long history of providing activities and services set forth in the comprehensive developmental school counseling programs. Allowing for such discussion will encourage the creation of a cohesive, comprehensive plan that embodies best practices for those serving the needs of all P-12 students in New York State.

Coursework – While we presume the proposed amendments to educational requirements for School Guidance Counselor preparation programs are intended to increase competencies within the six core areas of school guidance counseling, we note, with caution, that several areas of
additional coursework have considerable overlap with School Social Workers and School Psychologists; particularly as it relates to the provision of mental health services. While we understand and support the benefits of having School Guidance Counselors and other pupil personnel service providers well versed in mental health issues for the purposes of symptom recognition and referral to the School Social Worker or School Psychologist, we are very concerned with the following language as it currently reads:

Group and individual counseling theories and techniques, including the use of a variety of research-based counseling approaches to provide prevention, intervention, and responsive services to meet the academic, personal, social and career needs of all students.

The use of terms such as “group” and “individual counseling” connote the provision of mental health services—tasks that should only be performed by appropriately educated, experienced and statutorily authorized personnel. As such, we strongly advocate an amendment to expressly prohibit school guidance counselors from rendering mental health services and making an assessment, evaluation or diagnosis.

**Proposed Title Change** - We support the notion that School Social Workers, School Psychologists, and School Guidance Counselors are all vital members of a district’s interdisciplinary team. We find it necessary however, given the proposed changes and consistently reported confusion from school district administrators and school boards, to clarify the pronounced demarcation between disciplines. Specifically, the School Social Worker is a licensed mental health provider, whereas the main function of the School Guidance Counselor is to help move students toward college and career readiness.

School Social Workers possess both certification (issued by the New York State Education Department Office of Teaching Initiatives) *and* a license as a Licensed Master Social Worker (LMSW) or Licensed Clinical Social Worker (LCSW) under Article 154 of the Education Law. Within the context of such licenses, strict comprehensive clinical educational and experiential requirements are defined for each protected scope of practice.

When counseling services are included in a student’s IEP, school districts can bill for Medicaid reimbursement when such services are delivered by the following licensed professionals: a NYS Licensed Clinical Social Worker (LCSW) and a NYS Licensed Master Social Worker (LMSW) “under the supervision of” a NYS Licensed Clinical Social Worker (LCSW), a NYS licensed Psychologist, or a NYS licensed Psychiatrist.

Tasks associated with the practice of school social work include:

- Identifying biological, psychological, cultural, sociological, emotional, economic, and environmental factors that impact student learning.

- Implementing appropriate school intervention and prevention programs in response to demonstrated needs, which may include but not be limited to crisis intervention, conflict
resolution, violence prevention, substance abuse prevention, child abuse prevention, positive self-image building, social skills and character education via consultation and/or individual, group and/or family counseling or classroom lessons.

- Offering classroom management strategies and professional development programs to teachers to enhance their knowledge of social/emotional and behavioral needs to generate positive results in academics.
- Forming collaborative relationships with community agencies and practitioners to address needs of student learners.
- Conducting assessments, educational planning, and transition services.
- Understanding theories of normal and exceptional development in early childhood, latency, adolescence, and early adulthood and their application to all students.
- School Social Workers who are licensed as a Licensed Clinical Social Worker (LCSW) can diagnose mental, emotional, behavioral, addictive and developmental disorders and disabilities. Licensed Clinical Social Workers also administer and interpret tests and measures of psychosocial functioning, develop and implement appropriate assessment based treatment plans, and provide behavior therapy and psychotherapy.
- Utilizing family strengths and structures to enable families to function in ways that support their children’s education and well being.
- Incorporating diversity issues to plan for the unique educational needs of culturally and linguistically diverse populations.
- Providing resources and information pertaining to community services/agencies and making referrals to appropriate agencies.

While interdisciplinary team members understand the specific clinical skill set required to legally perform the above iterated tasks, the services are often generically referred to by school administrators and parents as “counseling services.” Such generic use of the terminology has historically led to confusion in cash-strapped districts attempting to consolidate services and line items. The instances of such practices have been so widespread, NASW-NYS, in conjunction with the New York State School Social Work Association recently created an informative resource guide for the purpose of clarifying such common misperceptions, clarifying (for administrators and school boards) the role and value of School Social Workers and the specific tasks associated with school social. We strongly contend that a formal shift to the term “School Counselor” will serve to proliferate such confusion and oppose this title as not in the public interest.

Development and Delivery of Guidance Plan – Proposed amendments call for the development and delivery of “Comprehensive developmental school counseling programs” to extend beyond the current practice of grades 7-12 and instead reach students from pre-kindergarten through grade 12. While we believe the intent of extending such a service is beneficial to the student body, we are concerned with language that requires services provided by School Social Workers and School
Psychologists, such as “advisory, group and individual counseling” (in relation to such a plan), be done so “in cooperation with school counselors.” We contend that such language implies a hierarchical schematic whereby School Counselors are in a supervisory role over school Social Workers and School Psychologists, each of whom are currently legally authorized to provide such services independently.

Caseload Ratios – The National Association of Social Workers – New York State and New York City and the New York State Society for Clinical Social Work support the proposed language seeking to implement student-to-School Guidance Counselor ratios and as such, we would strongly recommend such a practice be applied to the school social work arena as well. School Social Workers often spend the majority of their time exclusively in the delivery of mental health counseling mandated in a student’s IEP, leaving little if any time to deliver a more comprehensive array of school social work interventions to create a safe and positive social and emotional learning environment that supports the NYS Education Department’s expectations for student academic achievement for all students.

The NASW Standards for School Social Work Services recommend that “the local education agency should establish and implement a School Social Worker-to-student population ratio to ensure reasonable workload expectations. The local education agency should provide school social work services at a level that is sufficient to address the nature and extent of student needs. Appropriate ratios for school social work staff to students depend on the characteristics and needs of the student population to be served, as well as other resources in the local education agency and community available to address these needs. Each local or state education agency should establish adequate levels and types of school social work services on the basis of comprehensive needs assessment data. School social work services should be provided at a ratio of one School Social Worker to each school building serving up to 250 general education students, or a ratio of 1:250 students. When a School Social Worker is providing services to students with intensive needs, a lower ratio, such as 1:50, is suggested.”

We thank you for the opportunity to provide comments and look forward to continuing the conversation. Attached hereto is language to amend the proposed regulations to address the concerns raised in this comment letter.

Respectfully,

Ronald Bunce, LMSW
Executive Director, NASW-NYS

Marsha Wineburgh, DSW, LCSW
Legislative Chair, New York State Society for Clinical Social Work

Robert Schachter, DSW
Executive Director, NASW-NYC

Cc: Regent Merryl H. Tisch, Chancellor
Regent Anthony S. Bottar, Vice Chancellor
Regent James R. Tallon, Jr.
Regent Roger Tilles
Regent Betty A. Rosa
Regent Lester W. Young, Jr.
Regent Christine D. Cea
Regent Wade S. Norwood
Regent Kathleen M. Cashin
Regent James E. Cottrell
Regent T. Andrew Brown
Regent Josephine Victoria Finn
Regent Judith Chin
Regent Beverly L. Ouderkirk
Regent Catherine Collins
Regent Judith Johnson
Regent Nan Eileen Mead
Deputy Commissioner Douglas Lentivech
Deputy Commissioner John D’Agati
David Hamilton, Executive Secretary, Office of the Professions
Senator Carl L. Marcellino
Senator Kenneth P. LaValle
Assemblymember Catherine Nolan
Assemblymember Deborah Glick
School Counselor Proposed Regulations – suggested Amendments:

Coursework:

Section 52.21 (d) (2) (i) (f) [add underlined language]

Group and individual counseling theories and techniques, including the use of a variety of research-based counseling approaches to provide prevention, intervention, and responsive services to meet the academic, personal, social and career needs of all students; provided however such coursework shall be intended solely for the purposes of identifying and referring students in need of mental health services.

Development and Delivery of Guidance Plan:

Section 100.2(j)(1)(i)(b) [remove bracketed language, add underlined language]

(1) an annual review of each student’s educational progress and career plans, with such reviews to be conducted with each student individually or with small groups by personnel certified or licensed as school counselors and in consultation with a certified or licensed school psychologist or certified or licensed school social worker when appropriate;

(3) other advisory and individual or group counseling assistance to enable students to benefit from the curriculum, to help students develop and implement postsecondary education and career plans, to help students who exhibit any attendance, academic, behavioral or adjustment problems and to encourage parental involvement, provided that advisory assistance shall be provided by teachers or counselors, or by certified teaching assistants under the supervision of counselors or teachers, and that such individual or group counseling assistance shall be provided by certified or licensed school counselors or by certified or licensed school psychologists or certified or licensed school social workers. [in cooperation with school counselors]. These advisory and other individual and group counseling services provided by school counselors are designed to develop strategies to implement individual student planning, such as strategies for appraisal, advisement, goal-setting, decision-making, social skills, transition or post-secondary planning. Advisory or counseling services to address mental health problems of students shall be referred to district or community resources other than a certified school counselor.

Caseload Ratios:

Section 100.2 (j) (2) [remove bracketed language, add underlined language]

(2) Comprehensive developmental school counseling programs. Beginning with the 2017-2018 school year, each school district shall have a comprehensive developmental school counseling program, developed and provided by a certified school counselor, certified school
psychologist, certified school social worker, and other qualified school personnel for all students in prekindergarten through grade 12. Each school district shall also ensure that all students in grades prekindergarten through twelve have access to a certified school counselor(s), certified school psychologist(s), certified school social worker(s), and other qualified personnel to ensure effective implementation of the comprehensive developmental school counseling program.

(i) For all grades prekindergarten through twelve, district and building level comprehensive developmental school counseling programs shall be designed to address multiple student competencies including career/college readiness standards, and academic and social/emotional development standards recognized by professional associations, such as the American School Counselor Association, the National Association of Social Workers, the National Association of School Psychologists [(The ASCA National Model: A Framework for School Counseling Programs, Third Edition, American School Counselor Association, Alexandria VA., [2012]; available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, New York 12234)] or other comparable national and/or New York State recognized standards. The comprehensive developmental school counseling program shall include the following activities or services:

(c) other direct student services which may include, but need not be limited to, responsive services, crisis response, group counseling, individual counseling, appraisal, assessment and advisement, for the purpose of enabling students to benefit from the curriculum, assisting students to develop and implement postsecondary education and career plans, assisting students who exhibit any attendance, academic, behavioral or adjustment problems and encouraging parental involvement, provided that such individual or group counseling assistance shall be provided by certified school counselors; [and] or by certified or licensed school psychologists or certified or licensed school social workers [in cooperation with school counselors: ] and provided further that any advisory or counseling services to address mental health problems of students shall be referred to district or community resources other than a certified school counselor.

(ii) Each school district shall develop district-wide and building-level comprehensive developmental school counseling plans which set forth the manner in which the district shall comply with the requirements of this subdivision. The New York City Department of Education shall submit separate plans for each community school district, for the High School Division and for the Special Education Division. Such district and building level plans shall be developed by or under the direction of certified school counselor(s), certified school psychologist(s), and certified school social worker(s) and be updated annually, available for review at the district offices and each school building, and made available on the district’s website.

(a) Each plan shall be based upon a school counselor, a school psychologist, school social worker and building leader program agreement, which shall be developed annually and shall include program objectives, activities, program development and maintenance planning, school counseling curriculum and lesson plan development, professional development
planning, evaluation methods based on data analysis of program results and closing the gap in analysis reports to inform program improvement, and assessment of the resources necessary to support positive student outcomes.

Section 100.2 (j) (2) (iv)  [remove bracketed language, add underlined language]

(iv) A successful comprehensive school counseling program should, to the extent practicable, use ratios for certified school counselors, school psychologists, and school social workers to students that conform to [the American School Counselor Association standards (The ASCA National Model: A Framework for School Counseling Programs, Third Edition, American School Counselor Association, Alexandria VA., [2012]; available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, New York 12234) or other] comparable national and/or New York State recognized standards ...