



**TO:** Higher Education Committee

**FROM:** William P. Murphy *William P. Murphy*

**SUBJECT:** Proposed Amendment of Section 80-3.12 of the Regulations of the Commissioner of Education Relating to the Requirements for Certification as a School Counselor through Individual Evaluation

**DATE:** August 31, 2023

**AUTHORIZATION(S):** *Dom N. P. Bellotti*

#### **SUMMARY**

#### **Issue for Decision**

Should the Board of Regents adopt the proposed amendment of section 80-3.12 of the Regulations of the Commissioner of Education relating to the requirements for certification as a school counselor through individual evaluation?

#### **Reason(s) for Consideration**

Review of policy.

#### **Proposed Handling**

The proposed amendment is submitted to the Higher Education Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at its September 2023 meeting. A copy of the proposed amendment (Attachment A) and a Statement of Facts and Circumstances which necessitate emergency action (Attachment B) are attached.

#### **Procedural History**

A Notice of Emergency Adoption and Proposed Rule Making will be published in the State Register on September 27, 2023, for a 60-day public comment period. Supporting materials are available upon request from the Secretary to the Board of Regents.

## **Background Information**

At its May 2017 meeting, the Board of Regents adopted regulatory amendments establishing new Initial and Professional School Counselor certificates and the registration requirements for school counselor education programs that lead to these certificates. Institutions of higher education admitting new candidates for school counselor certification were required to register programs leading to Initial and Professional School Counselor certification by September 1, 2021. The Initial and Professional School Counselor certificates became available on February 2, 2023.

Candidates for the Permanent School Counselor certificate under the previous requirements must either have: (1) met all requirements for the Permanent certificate prior to February 2, 2023; (2) or been issued a Provisional School Counselor certificate and have met all requirements for the Permanent certificate prior to February 2, 2023, or while holding a valid Provisional, time-extended Provisional, or Provisional Renewal certificate that was in effect after that date. Candidates who are unable to meet these requirements would need to pursue the new Initial or Professional School Counselor certificate instead.

The previous coursework and clinical experience requirements for Provisional and Permanent School Counselor certification and registered programs leading to this certificate are different from the coursework and clinical experience requirements for the new Initial and Professional School Counselor certification and registered programs leading to these certificates. As such, candidates who completed a registered program leading to Provisional and Permanent School Counselor certification may not be eligible for an Initial or Professional School Counselor certificate through the individual evaluation pathway.

The Department has, for example, learned of candidates who hold a valid Provisional, time-extended Provisional, or Provisional Renewal School Counselor certificate but will not be able to meet all requirements for the Permanent certificate prior to the expiration of those certificates. To hold these candidates harmless, the Department is proposing to revise the requirements for Initial School Counselor certification through the individual evaluation pathway.

## **Proposed Amendments**

The proposed amendment provides two additional options for candidates to satisfy the practicum and internship requirement.

The first option would allow a candidate who completed a preparation program leading to Provisional and Permanent School Counselor certification (which included an internship component, as required) to be considered as having met the practicum and internship requirement for an Initial School Counselor certificate.

The second option would consider the practicum and internship requirement as met for candidates who completed a master's or higher degree program in school counseling accredited by the Council for the Accreditation of Counseling and Related Education Programs (CACREP) from an institution of higher education (IHE) that is accredited by an institutional accrediting agency recognized for this purpose by the United States Department of Education from another state or territory of the United States or the District of Columbia, provided that such program leads to initial or similar certification in the jurisdiction where the IHE is located.

This will ensure that these candidates are more likely to be able to obtain Initial certification so that there will be a larger pool of candidates to provide school counselor services. School counselor services are of critical importance, particularly given their important role in working with children who are dealing with challenges stemming from the COVID-19 pandemic.

The proposed amendment also makes several technical revisions to conform the language of section 80-3.12 of the Regulations to that of other sections of Part 80 and removes a requirement that a candidate enter into an agreement with the internship employing school or district, as this requirement is only applicable to the preparation program pathway and is unrelated to the individual evaluation pathway.

### **Related Regents Items**

April 2023: [Proposed Amendment of Section 80-2.1 of the Regulations of the Commissioner of Education Relating to the Deadline to Apply and Qualify for the Provisional School Counselor Certificate](https://www.regents.nysed.gov/sites/regents/files/423hea1.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/423hea1.pdf>)

September 2021: [Proposed Amendment to Sections 80-2.1 and 80-3.1 of the Regulations of the Commissioner of Education Relating to Permanent School Counselor Certificate Requirements](https://www.regents.nysed.gov/common/regents/files/921brca3.pdf)

(<https://www.regents.nysed.gov/common/regents/files/921brca3.pdf>)

July 2019: [Proposed Amendments to Sections 52.21, 80-2.1 80-3.1, 80-3.11, 80-3.12, and 80-5.23 and the Titles of Subparts 80- 2 and 80-3 of the Commissioner's Regulations Relating to School Counseling Program Registration, School Counselor Certification Requirements, and a One-Year Time Extension for Institutions of Higher Education to Meet the New Program Registration Requirements](http://www.regents.nysed.gov/common/regents/files/719brca1.pdf)

(<http://www.regents.nysed.gov/common/regents/files/719brca1.pdf>)

May 2017: [Proposed Amendment of Sections 52.21, 100.2\(j\) and Part 80 of the Commissioner's Regulations Relating to School Counseling, Certification Requirements for School Counselors and Program Registration Requirements for School Counseling Preparation Programs](https://www.regents.nysed.gov/common/regents/files/517brca14.pdf)

(<https://www.regents.nysed.gov/common/regents/files/517brca14.pdf>)

## **Recommendation**

It is recommended that the Board of Regents take the following action:

VOTED: That section 80-3.12 of the Regulations of the Commissioner of Education be amended, as submitted, effective September 27, 2023, as an emergency rule upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to ensure that candidates for the Initial School Counselor certificate are able to meet the educational requirements through individual evaluation in order to be certified and eligible for employment in our public schools.

## **Timetable for Implementation**

If adopted as an emergency rule at the September 2023 Regents meeting, the emergency rule will become effective September 27, 2023. It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at the January 2024 meeting after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act (SAPA). Because the emergency action will expire before the January Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the November 2023 meeting. If adopted at the January meeting, the proposed amendment will become effective as a permanent rule on January 24, 2024.

**Attachment A**

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 208, 305, 308, 3001, 3004, and 3009 of the Education Law.

1. Paragraph (4) of subdivision (a) of section 80-3.12 of the Regulations of the Commissioner of Education is amended to read as follows:

(4) Practicum and internship. The candidate shall satisfactorily complete one of the following:

(i) (a) a college-supervised practicum of a minimum of 100 clock hours [of practicum] in a [K-12] school counseling program [setting] that shall consist of:

[(a)] (1) a minimum of 40 clock hours in group counseling, individual counseling, and school counseling core curriculum lesson delivery; and

[(b)] (2) a minimum of 60 clock hours on developing, implementing, and evaluating key school counseling program elements such as:

[(1)] (i) student outcomes and standards;

[(2)] (ii) curriculum;

[(3)] (iii) individual student needs and plans;

[(4)] (iv) responsive services;

[(5)] (v) consultation with others on behalf of student;

[(6)] (vi) time management;

[(7)] (vii) school counseling program goals;

[(8)] (viii) data analysis;

[(9)] (ix) action plans;

[(10)] (x) calendars/schedules; and

[(11)] (xi) advisory panels, councils, and committees; and

[(ii)] (b) a college-supervised internship of a minimum of 600 clock hours [in a supervised internship] in a [K-12] school counseling program [which] that shall consist of:

[(a)] (1) a minimum of 240 clock hours of supervised direct student service hours in group counseling, individual counseling, and school counseling core curriculum lesson delivery;

[(b)] (2) a minimum of 360 supervised clock hours focused on developing, implementing, and evaluating key school counseling program elements such as:

[(1)] (i) student outcomes and standards;

[(2)] (ii) curriculum;

[(3)] (iii) individual student needs and plans;

[(4)] (iv) responsive services;

[(5)] (v) consultation with others on behalf of student;

[(6)] (vi) time management;

[(7)] (vii) school counseling program goals;

[(8)] (viii) data analysis;

[(9)] (ix) action plans;

[(10)] (x) calendars/schedules; and

[(11)] (xi) advisory panels, councils, and committees;

[(c)] (3) a minimum of 300 clock hours of the internship must be in the elementary grades (K-8) and a minimum of 300 clock hours of the internship must be in the secondary grades (9-12).

[(d) Prior to the candidate's internship, a written agreement shall be executed with the employing school or school district by which the school or school district agrees to consult with the candidate before determining the candidate's load and provide daily mentoring and supervision of the candidate during the internship experience by a certified school counselor. Mentoring and supervision may be provided by other qualified school personnel only if the employing school district cannot provide a certified school counselor in the school building in which the internship occurs.]

(ii) a registered program leading to the provisional and/or permanent school counselor certificate pursuant to part 52 of this Title.

(iii) a master's or higher degree program in school counseling accredited by the Council for the Accreditation of Counseling and Related Education Programs (CACREP) from an institution of higher education that is accredited by an institutional accrediting agency recognized for this purpose by the United States Department of Education from another state or territory of the United States or the District of Columbia, provided that such program leads to initial certification as a school counselor, or similar school counselor certification, in the jurisdiction where the institution of higher education is located.

STATEMENT OF FACTS AND CIRCUMSTANCES THAT NECESSITATE  
EMERGENCY ACTION

At its May 2017 meeting, the Board of Regents adopted regulatory amendments establishing new Initial and Professional School Counselor certificates and the registration requirements for school counselor education programs that lead to these certificates. Institutions of higher education admitting new candidates for school counselor certification were required to register programs leading to Initial and Professional School Counselor certification by September 1, 2021. The Initial and Professional School Counselor certificates became available on February 2, 2023.

Candidates for the Permanent School Counselor certificate under the previous requirements must either have: (1) met all requirements for the Permanent certificate prior to February 2, 2023; (2) or been issued a Provisional School Counselor certificate and have met all requirements for the Permanent certificate prior to February 2, 2023, or while holding a valid Provisional, time-extended Provisional, or Provisional Renewal certificate that was in effect after that date. Candidates who are unable to meet these requirements would need to pursue the new Initial or Professional School Counselor certificate instead.

The coursework and clinical experience requirements for Provisional and Permanent School Counselor certification and registered programs leading to this certificate are different from the coursework and clinical experience requirements for the new Initial and Professional School Counselor certification and registered programs leading to these certificates. As such, candidates who completed a registered program



leading to Provisional and Permanent School Counselor certification may not be eligible for an Initial or Professional School Counselor certificate through the individual evaluation pathway.

The Department has learned of candidates who hold a valid Provisional, time-extended Provisional, or Provisional Renewal School Counselor certificate but will not be able to meet all requirements for the Permanent certificate prior to the expiration of those certificates. To hold these candidates harmless, the Department is proposing to revise the requirements for Initial School Counselor certification through the individual evaluation pathway.

Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (non-emergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the January 2024 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the December meeting, would be January 24, 2024, the date the Notice of Adoption would be published in the State Register.

Therefore, emergency action is necessary at the September 2023 meeting for the preservation of the general welfare to ensure that candidates for the Initial School Counselor certificate through individual evaluation are able to be certified and employed in our public schools to provide necessary supports to students.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at its January 2024 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by

SAPA for State agency rulemaking. However, since the emergency action will expire before the January 2024 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the November 2023 Regents meeting.