



## Frequently Asked Questions about NYSED Revised Regulation Part 100.2(j)

*(PLEASE NOTE: This publication will be updated as new information is received; check the revision date.)*

***The revised regulation was adopted by the NYSED Board of Regents in May 2017 effective July 1, 2017. What is new or different from the previous version and when are we required to implement them?***

This regulation describes what districts must include in their comprehensive developmental school counseling/guidance program beginning September 2019. The key changes are:

- all students K-12 shall have access to a certified school counselor & the comprehensive program;
- the program is developed by certified school counselors along with other constituents;
- information is provided on college and careers for students in grades K-5 as well as 6-12;
- an annual individual progress review is conducted by certified school counselors for students grades 6-12;
- school counseling/guidance core curriculum instruction is provided K-12 by a certified school counselor addressing multiple student competencies in college/career, and academic and social/emotional development standards;
- Advisory Council meets at least twice a year and provides an annual report to the board of education;
- a program outcomes report is provided to the board of education annually;
- school and district plans are posted on the district website.

### ***Are school districts required to have an elementary school counseling/guidance program?***

The previous version of Part 100.2(j) already required school districts to have an elementary school counseling/guidance program to address attendance, academic, behavioral or adjustment problems, to educate students concerning avoidance of child sexual abuse, and to encourage parental involvement. What is different in the revised regulation is that a school counselor must be involved in the development of the program and all students must have access to the program and to a certified school counselor. Also, college and career information must be provided; and school counseling/guidance core curriculum instruction must be provided by a certified school counselor in collaboration with other school professionals addressing student competencies in career/college awareness, academic skills and social/emotional development.

### ***The new regulations states that all K-12 students shall have access to a certified school counselor. Does this mean a certified school counselor needs to be on staff in all buildings?***

The regulation does not impose a requirement for a fulltime school counselor in every school building or for every level. Districts are expected to determine how to provide all students K-12 with access to a certified school counselor and the comprehensive school counseling program. The key is using data to ensure the program addresses student needs K-12, that certified school counselors are available to deliver components of the program, and are available to all K-12 students as needed.

### ***Can social workers or school psychologists deliver the program?***

Some program components are required to be delivered by a certified school counselor, specifically the IPR. This in no way prohibits social workers and psychologists providing similar services; but they are not equivalent to a certified school counselor. It is “and” social workers and school psychologists, not “or”.

As stated in Pt. 100.2(j)(2)(i)(a)

(a) In grades kindergarten through five, the program shall be designed by a certified school counselor in coordination with the teaching staff, and any appropriate pupil personnel service providers, for the purpose of preparing students to participate effectively in their current and future educational programs, to provide information related to college and careers, and to assist students who may exhibit challenges to academic

success, including but not limited to attendance or behavioral concerns, and where appropriate make a referral to a properly licensed professional and/or certified pupil personnel service provider, as appropriate.

***Are school districts expected to replace social workers or psychologists who may already be providing components of the program at the elementary level with certified school counselors?***

No; social workers and psychologists are important providers of program components. However, each district will need to determine how to have a certified school counselor available to the elementary level for some program components to ensure all students have access to a certified school counselor and the comprehensive program. The expectation is to increase the services available to students.

***Are BOCES required to implement this regulation?***

BOCES are not required to implement Part 100.2(j). All students attending a BOCES program, either part or full time, remain the responsibility of their home district and a district school counselor. However, to insure all students have access to the school counseling/guidance program, districts may need to specify in their contract with BOCES the school counseling/guidance program services that need to be delivered by BOCES as well as what data may need to be provided to the district to be included in districts' annual program outcomes report.

***Can anyone who provides counseling in a school be called a school counselor?***

This regulation does not specifically address the certification title of school counselor. However, the New York State Department of Labor states on its website regarding certification titles, "those who do not meet the requirements specified may not use the certified title." (<https://labor.ny.gov/stats/lstrain.shtm>) Therefore, it is not acceptable practice to use a certification title for someone without that certification. Certifications for school counselor, school social worker and school psychologist each have their own specified training and certification requirements, and each title should be used only for the certification earned.

***Can the title "guidance counselor" be used in place of "school counselor"?***

The title "licensed guidance counselor" is specific to the school districts of the City of New York and the City of Buffalo, pursuant to Part 80 of the commissioner's regulation. Otherwise, "certified school counselor" is the title specified in the regulation. What districts choose to use locally is typically dependent upon contract language; we suggest districts consider updating local contracts through collective bargaining with the appropriate title at their next opportunity.

***Can social workers and other school staff play a role in delivering the IPR?***

NYSED school counseling regulations state only certified school counselors are to deliver annual individual progress reviews (IPR). It is important to note, however, that IPR is one component in your school's counseling program. Social workers, teachers and other school staff may deliver classroom lessons, activities, and interventions as part of the school's comprehensive counseling program. The expectation is that your school's comprehensive counseling plan will increase the collaboration and coordination of certified counseling professionals, faculty, and other school staff to increase counseling services available to students.

***My school does not have a certified school counselor; can a social worker deliver the IPR?***

The state is clear that the IPR can only be delivered individually to students by a certified school counselor.

***Meeting with all my students individually sounds great in theory but I am not sure if I have the capacity to meet with my students individually. Can I continue to meet with them in groups?***

Although you can continue to meet with students in small groups to deliver different components of the school counseling program, the state is clear that the IPR must be delivered individually to students. Use every existing opportunity to do the best you can this year and ask your colleagues to help you schedule your students; for example, work with one teacher during their class and pull students out of the classroom to meet with them individually. As you finish working through one class, organize the next class.

***If a student with an IEP continues their education through age 22 (e.g., from ages 17 to 21 and now through 22), do they need an IPR every year that they remain in school?***

Yes, a student is expected to have an IPR every year they remain in school.

IEP students, through age 22, enrolled in district special education program, and on the attendance roll, are required to have an annual IPR until such time they are dismissed as a student in the school district. If there is state aid funding involved and the student is on the attendance register, even in an ungraded situation, then the

IPR is required. The Transition Plan could be combined with the IPR if it includes an academic, career, and SEL focus.

***Oftentimes, the student never steps foot in high school. Does the high school counselor need to “chase” them down at their alternative school site for an IPR?***

If the school receives state aid funding for enrollment through the attendance register, then the school counselor should make a best effort to provide an IPR. For example, a student pursuing the completion of the high school diploma at a community college should have check in for graduation completion requirements and also participate in an IPR.

If the district pays for the student’s education through non-state aid grant money, then it may not be required.

***How do we work with a student who is non-verbal or has limited cognitive functioning and the IPR?***

Oftentimes, the family speaks for the student with transition planning and may need to be present for the IPR meeting.

***PreK and 3K and School Counseling Services***

The school counseling certification is issued PreK-12. The current school counseling amended regulations are for K-12. With the certification stating PreK-12, it allows school counselors to work as the professional servicing PreK. In many districts, PreK has a separate student services professional from the rest of the building.

***What about 3K students?***

There is nothing in the amended regulations that technically address students below PreK including curriculum delivery.

***Does school counselor certification allow the school counselor to provide related services (i.e., mandated counseling) to 3K/PreK?*** This depends on the district. NYSED doesn’t dictate 3K/PreK Education. The Office of Early Learning provides SEL guidelines. Thus, a comprehensive school counseling program is not required for PreK/3K – school social workers, school counselors, and school psychologists can all deliver mandated counseling. Tier 3 can include mandated and non-mandated counseling for K-12 delivered by school social workers, school counselors, and school psychologists.