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M E M O R A N D U M

TO: Members of the APA Council of Representatives

FROM: Patti L. Harrison, PhD, NCSP, NASP 2009–2010 President
Susan Gorin, CAE, Executive Director

SUBJECT: **Exemption J-3 of the Proposed Model Act for State Licensure of Psychologists**

DATE: February 10, 2010

On behalf of the National Association of School Psychologists (NASP), we are writing to share information regarding the *APA Model Act for State Licensure of Psychologists* (MLA) proposed for consideration during your Council of Representatives meeting next week.

Specifically, Exemption J-3 in the proposed MLA will change the existing exemption for school psychologists credentialed by their state education agencies. The proposed exemption language is:

J. Exemptions

3. The prior version of this Model Act included an exemption for the use of the terms *school psychologist* or *certified school psychologist* for all individuals credentialed by the state agency regulating practice in public schools. This version restricts the use of the term *school psychologist* or *certified school psychologist* to individuals who: (1) have a doctoral degree in psychology; (2) are certified by the state education agency; and (3) are using the terms only during their practice in the public schools.

Unlicensed individuals who have been certified in the area of school psychology by the (cite relevant state education authority or statutory provisions) shall be permitted to use the terms "psychology" and "psychological" in their title. In addition, individuals who are credentialed by the state education agency in the area of school psychology and who possess a doctoral degree in psychology from a regionally accredited institution may use the title "school psychologist" or "certified school psychologist." All individuals to whom this section applies shall be restricted in their practice to those settings under the purview of the state education agency. This provision is not intended to apply to licensed psychologists. This provision will become effective five years following adoption of this Act.

The MLA Task Force is presenting the restriction as one that would only require state education agencies (SEAs) to change the title used for nondoctoral school psychological service providers. However, there are serious (even if unintended) consequences to the proposed changes. Among the most critical are infringement on the authority of SEAs to credential and title their employees and, as a result, significant and dysfunctional conflicts within existing federal and state laws and among state regulatory agencies and disruption to needed services for children and schools. Moreover, there is no compelling evidence that changing the exemption and risking these outcomes is warranted or in the public interest.

NASP respectfully requests your careful consideration of the implications and potential negative consequences of the proposed changes to the school psychologist exemption in the MLA. We ask the APA Council of Representatives to:

(a) Recognize the authority of SEAs to credential and identify titles for school personnel and to regulate practices under their administration.

(b) Restore the exemption to recognize use of the term "school psychologist" by specialist-level and doctoral-level individuals credentialed by their SEAs.

We offer the following information for your consideration:

- **The proposed APA Model Act will infringe on the established authority of SEAs to credential and provide oversight for professionals who provide services in schools.** In all states but one (Texas), the SEA credentials school psychologists. In over 90% of states, the term "school psychologist" is used in the title of the SEA credential. Adoption of the proposed MLA will result in state-level battles to retain the title "school psychologist" in the SEA credential for both specialist- and doctoral-level practitioners. National education groups, state superintendents of public instruction/education, and others who administer and guide the important work in our nation's schools will respond negatively and use every means to prevent infringement on the legal authority of SEAs. This includes the rights of SEAs to select and use titles in the credentials they issue, regulate school-based practice, and establish standards and qualifications regarding who may provide services.

National education groups and state superintendents of education have gone on record to (a) support retaining the current exemption for school psychologists credentialed by their state education agencies that appears in your 1987 model act AND (b) oppose any attempts to infringe on the authority of SEAs to regulate the credentialing, title, and practice of school personnel. Over 10,000 individuals and organizations submitted letters of support for maintaining the exemption during the 2007 public comment period, and almost 20,000 individuals and organizations during the 2009 public comment period. *Many of these submissions were from major education organizations, state departments of education, and local school districts.* Examples of comments from these letters may be found in Attachment A.

- Use of the title by both specialist- and doctoral-level school psychologists is well established in federal and state law and regulation, including the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Act (IDEA). **In fact, the title "school psychologist"—and the recognition that it applies to both specialist- and doctoral-level practitioners—is imbedded in a complex matrix of regulations that govern state education agency credentialing AS WELL AS general education, special education, and an array of other state requirements for important school services for children. Conflicts caused by APA's attempt to change the title risk setting off a chain reaction of confusion and regulatory gridlock that can wreak havoc on the provision of services.**

SEAs will be forced to block attempts to change the title of school psychologists in order to prevent major regulatory difficulties that pose a disservice to the needs of children, families, and schools. For example, section 14.123 of the Public School Code of Pennsylvania reads,

(a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.306 (relating to determination of eligibility), shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, mental retardation, multiple disabilities, other health impairments, specific learning disability or traumatic brain injury.

As noted by Gerald Zahorchak, Secretary of Education, Pennsylvania, in an April 3, 2009, letter to APA's Task Force on Model Licensure Act: "Within Pennsylvania's state Special Education regulations, School Psychologists are required members of evaluation teams for specific disabilities. Thus, simply changing a title for non-doctoral level practitioners is not an option in our state."

- **There is no evidence that restricting the school psychologist exemption as proposed will serve the public good. In fact it is likely to cause harm.** The existing exemption (i.e., from

1987) carries a 40+ year precedent and a long history of successfully serving the needs of children, families, and schools. Specialist-level and doctoral-level school psychologists are widely recognized by federal and state education regulations with the title "school psychologist" and engage in a range of important school psychology practices for which they are credentialed and well qualified and that schools find essential. A change in title of school psychologists would create public confusion and potentially impact public perception about the important services provided by school psychologists. Access to the specialized services provided by highly qualified and credentialed school psychologists is critical to schools' ability to support students' diverse educational, psychological, and developmental needs.

As noted by Nancy Grasmick, State Superintendent of Schools, Maryland in an April 22, 2009, letter to James Bray, APA President:

[APA] has an obligation to provide evidence of harm that has been caused by the exemption for school psychologists in the existing act and evidence of potential benefits for consumer and the public if the exemption is removed. This evidence is lacking, and claims are inconsistent with feedback from critical stakeholders including educators and school systems ."

As State Superintendent Grasmick further noted:

"If the proposed changes to the model act are enacted by states, it will cause confusion and impede the delivery of needed educational, behavioral, emotional, and social services to children and youth in school settings. The proposed changes, especially at this time of great need in schools, and the untenable removal of a title most associated with school-based practice, has a high risk of harming children, families, and schools by creating barriers to delivering important psychological services...."

NASP appreciates APA's commitment to ensure the integrity of psychological services to children and youth. We share this commitment and promote it through, among other means, our rigorous and widely recognized and adopted NASP standards that emphasize the minimum requirement for credentialing as a school psychologist at the *specialist level* (a minimum of 60 hours of graduate education and one-year internship). The title "school psychologist" accurately reflects the well-established requirements for graduate study and supervised field-based experiences in psychology and education for both specialist-level and doctoral-level school psychologists and the resulting strong qualifications of school psychologists credentialed by their SEAs. Approximately 75% of school psychologists hold the specialist-level degree or its equivalent and serve effectively in schools across the country.

We urge the APA Council of Representatives, in its MLA, to recognize the authority of SEAs to credential and identify titles for school personnel and to regulate practices under their administration and to restore the exemption to recognize use of the term "school psychologist" by specialist-level and doctoral-level individuals credentialed by their SEAs. We thank you and look forward to working with our colleagues in APA to promote high quality services to students in schools.

Attachment A
FOR THE INFORMATION OF THE APA COUNCIL OF REPRESENTATIVES

Sample Comments in Letters to APA From
National Education Organizations and State Education Agency Authorities
During MODEL LICENSURE ACT Public Comment Periods

Dennis Van Rooke, President, National Education Association, in a January 26, 2009, letter to James Bray, APA President: "First, the exemption, which has been in place for over 30 years, reflects the right of our school psychologist members who are certified by their state education agencies to use the term 'psychologist.' In this regard, the title 'school psychologist' accurately reflects the level of training and supervised field experiences that school psychologists are required to achieve as they work to achieve the outcomes for children, families, and schools."

Emily Collins, President, Council of Administrators of Special Education, in a May 29, 2009, letter to APA: "The Council of Administrators of Special Education (CASE), with approximately 5,000 members, is the nation's largest professional association specifically serving and representing special education leaders. Our members work closely with school psychologists and very often have them as staff members. On behalf of our members we strongly urge you to maintain the exemption for school psychologists in your Model Act for the licensure of psychologists. This exemption has contributed to the growth of Educational Specialist Level school psychologists, and these professionals provide valuable and essential services to schools. This exemption that has been in place for over 30 years allows school psychologists to use the professional title of school psychologist and practice the broad role of the school psychologist in their work in our schools."

Gerald Zahorchak, Secretary of Education, Pennsylvania, in an April 3, 2009, letter to APA's Task Force on Model Licensure Act: "My primary concern is the removal of the exemption allowing non-doctoral level practitioners to use the term School Psychologist, even when the right to that title is earned through the Department of Education credentialing process. To remove that exemption, thus denying the use of a legitimately earned title, would affect more than half of Pennsylvania's current practitioners. Within Pennsylvania's state Special Education regulations, School Psychologists are required members of evaluation teams for specific disabilities. Thus, simply changing a title for non-doctoral level practitioners is not an option in our state."

Jack O'Connell, State Superintendent of Public Instruction, California in a June 2, 2009, letter to James Bray, APA President: "To remove that exemption would affect most of California's practitioners ... Non-doctoral level school psychologists have been recognized and practicing in California for more than 60 years. The APA's special recognition of specialist level practitioners has been in effect for more than 30 years. These specialist level professionals have proven to provide invaluable services to our children, families and schools. Without evidence of a need to change the MLA or how services would be improved, I will continue to support maintaining the current specialist level school psychologist."

Mary S. Heath, Deputy Commission of Education, State of New Hampshire Department of Education, in a June 1, 2009, letter to APA's Task Force on Model Licensure Act: "The American Psychological Association's proposed changes would challenge the right of the Department of Education to designate a title for an appropriate credential that the Department has the established authority to issue. The state credentialing standards for school psychology are well established and are designed to ensure the high quality of service in schools. The proposed recommendation by APA, suggesting that state legislators adopt language that disregards these standards, is without merit or justification."

Lynn Boyer, Executive Director, Office of Special Programs, Early and Extended Learning, West Virginia Department of Education in a May 28, 2009, letter to APA's Task Force on Model Licensure Act: "As the educational credentialing agency for school psychologists in West Virginia, the WVDE has set rigorous standards for the certification of school psychologists at the specialist level. The WVDE currently recognizes the right of non-doctoral level school psychologists who meet the credentialing requirements to use the title of 'School Psychologist,' and wishes to continue to recognize specialist level school psychologists in their current title and capacities. Moreover, APA's proposed Model Licensure Act would attempt to remove the right of the State Education Agency (SEA) to choose a title for a credential that the SEA has established authority to issue. The APA Model Licensure Act also attempts to restrain states in regulation of school based practices. The WVDE firmly opposes a model act that would attempt to remove the authority of SEAs to regulate the title, credentials, and practices of school psychology practitioners."

Patricia Hamamoto, Superintendent, Department of Education, Hawaii, in a June 4, 2009, letter to James Bray, APA President: "Additionally, the APA's proposed Model Licensure Act would attempt to remove the right of state education agencies to choose a title for a credential that the state education agency issues. It is inappropriate for the national voice of professional psychology to propose that state regulatory agencies are set up to protect consumers in the marketplace, be given power to restrain state DOE in the regulation of school-based practices, both for the provision of school psychological services and in the standards for providers of school psychological services. I oppose a licensure act that would attempt to remove state education agencies' regulation of title, credentials, and practices of school psychologists."

Kathy Cox, State Superintendent of Schools, Georgia, in a November 1, 2007, letter to APA's Task Force on Model Licensure Act: "Make no mistake about it: The action that APA proposes would not only disenfranchise a professional specialty in Georgia, but it would cause immediate and extensive harm to school children and their families by denying and delaying needed services in the schools. Many of these services are required by federal law and state regulation. Such a destructive action would be utterly unacceptable and would be utterly opposed by the Georgia Department of Education with all actions and resources available to it ... APA's argument that there is 'public confusion' as to exactly who is a psychologist might have had some credence in the early 1970's. But that argument is long dead as it pertains to school psychologists ... These specialists are a fundamental and respected part of public education."

Nancy Grasmick, State Superintendent of Schools, Maryland in an April 22, 2009, letter to James Bray, APA President: "The proposed recommendations suggest that state legislatures disregard well-established, high quality credentialing standards for specialist-level school psychologists. This recommendation lacks just cause ... APA's proposed *Model Act for State Licensure of Psychologists* would attempt to remove the right of SEAs to choose a title for a credential that the SEA has established authority to issue, and it attempts to restrain states in regulation of school based practices both for the provision of school psychological services and in its standards for the providers of school psychological services. We strongly oppose a model act that would attempt to remove the authority of SEAs to regulate the title, credentials, and practices of school psychologists ... If the proposed changes to the model act are enacted by states, it will cause confusion and impede the delivery of needed educational, behavioral, emotional, and social services to children and youth in school settings. The proposed changes, especially at this time of great need in schools, and the untenable removal of a title most associated with school-based practice, has a high risk of harming children, families, and schools by creating barriers to delivering important psychological services ... The task force developing the revisions to the model act has an obligation to provide evidence of harm that has been caused by the exemption for school psychologists in the existing act and evidence of potential benefits for consumer and the public if the exemption is removed. This evidence is lacking, and claims are inconsistent with feedback from critical stakeholders including educators and school systems. I suggest that APA further collaborate with key stakeholders, including the state and local superintendents, family advocacy, and professional education association stakeholders."

Barbara Bieber, Senior Consultant, Colorado Department of Education, in a May 26, 2009, letter to APA's Task Force on Model Licensure Act: "If APA were to eliminate the longstanding

exemption that allows non-doctoral School Psychologists to use the title of School Psychologist during the time that they are practicing in the schools, this action could potentially cause complications with current policies and regulatory provisions that have been employed successfully for a long period of time in Colorado ... During the 32 years that the current exemption has guided our regulatory practice, no public harm has occurred in Colorado as determined by a study conducted by the Department of Regulatory Agencies (DORA). Nor has public confusion occurred regarding the practice of School Psychologists, who are licensed by CDE to practice only within the schools, and other professional psychologists who practice in our state and are licensed by DORA. By continuing the current exemption for the title of School Psychologist within its current Model Licensure Act for more than 30 years, APA has established a practice with which Colorado regulations are consistent. Changing this longstanding waiver gives the impression that APA is acting in a counterproductive and protectionist manner, rather than from a more appropriate collaborative stance. It would be unfortunate if this action were to limit the availability of services at a time of increasing need in schools."

Judy Jeffery, Director, Department of Education, Iowa, in an April 27, 2009, letter to APA's Task Force on Model Licensure Act: "There is no data that would suggest this change is necessary or that services would improve if this exemption were to be removed ... To remove the exemption would affect more than 80% of all practicing School Psychologists currently working in Iowa's schools."

Nan Gray, State Director of Special Education, Utah State Office of Education, in a May 1, 2009, letter to APA's Task Force on Model Licensure Act: "First, we believe the longstanding exemption appropriately reflects the right of our school psychologists who are licensed by the State Board of Education to use the term 'school psychologist.' This term accurately describes the level of training and supervised field experiences that school psychologists are required to achieve prior to serving children, youth, and their families."