



# EDUCATION LAW CLIENT ALERT

OSBORN MALEDON

## MUST SCHOOL COUNSELORS NOW BE LICENSED? THE ATTORNEY GENERAL WEIGHS IN

On March 15, 2024, the Arizona Board of Behavioral Health Examiners (the “Board”) withdrew a 2003 substantive policy statement that exempted school counselors from licensure requirements so long as they were certified or endorsed by the Arizona Department of Education and employed by a school district or a charter school. The Board’s rescission of the policy left school counselors and social workers wondering whether they must now be licensed to avoid the potential criminal penalties associated with “practicing behavioral health” without a license.

On August 26, 2024, the Arizona Attorney General’s Office issued a reassuring opinion, concluding that school counselors and social workers employed by the Scottsdale Unified School District were exempt from licensure requirements so long as they “were acting within the scope of their job duties.” **Ariz. Atty. Gen. Op. I24-013 (Aug. 26, 2024)**. If so, those employees “were not performing behavioral health services.” Those job duties reflected the following tasks:

- Supports the development of students’ peer relationships and effective social skills (counselor job description)
- Provides opportunities for peer facilitation (counselor job description)
- Supports the development of communication, problem-solving, decision-making, conflict resolution, copying strategies, and study skills (counselor job description)
- Supports site implemental of the “multi-tiered system of supports” (MTSS) (social worker job description)
- Provides evidence informed and trauma informed individual and group support for identified students (social worker job description)
- Mediates conflicts between parents, teachers, and/or students to resolve issues that may impeded student success using a restorative approach (social worker job description)

Although these job descriptions were specific to the District’s employees, they are reflective of the types of tasks that school counselors and school social workers generally perform. Therefore, the Opinion should offer some comfort that school counselors and social workers performing work traditionally associated with those roles will not need to be licensed by the Board.

However, as a caution, the Opinion notes that: (a) school-related counseling or providing social services could cross the line into “clinical behavioral health services” and thus require licensing, and (b) analysis “may often be a fact-specific inquiry.” Thus, if the services of your school counselor or school social worker deviate from the general descriptions noted above, licensing may still be required.

If you have any questions about your school counselors or social workers and whether they might need to be licensed based on their specific job duties, please contact us, and we can help analyze the facts of your situation.

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