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### Advisory Council Guidelines; Series I; File 2

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# ADVISORY COUNCIL GUIDELINES

Martha L. Orr, MN, RN  
Executive Director



Constituent of The American  
Nurses Association

## NEW YORK STATE NURSES ASSOCIATION

2112 Western Avenue, Guilderland, N.Y. 12084, (518) 456-5371

March 11, 1988

TO: Presidents and Executive Directors, Constituent  
District Nurses Associations

FROM: Martha L. Orr, Executive Director

RE: STATEMENT ON THE IMPACT OF DISTRICT ACTIVITY ON  
THE NYSNA ECONOMIC AND GENERAL WELFARE PROGRAM

This statement is being offered in response to the requests of some district leadership, and because of the possible impact of constituent district nurses association activity on NYSNA's ability to be recognized as a bona fide representative of nurses for collective bargaining purposes. It is strongly recommended that the information in this memorandum be shared with district nurses association boards of directors and with interested district members. Please feel free to disseminate it.

It is critical that district leadership and members recognize that there are types of district activity which could have a detrimental effect on NYSNA members' ability to be represented by NYSNA for collective bargaining purposes. It is equally as important that district leadership and members have a full understanding of the reasons for this circumstance.

### THE PRECEDENT AND THE LEGAL ISSUES

There were two basic underlying issues involved in the protracted proceedings which ultimately resulted in NYSNA's loss of the ability to represent nurses at North Shore University Hospital (final decision, 1985).

One of the underlying issues is whether the presence of statutory supervisors on the NYSNA Board of Directors constitutes an actual or potential conflict of interest sufficient to interfere with the affairs of a bargaining unit.

Another issue is whether employers (i.e., management) are compromised in their dealings with the elected representatives of nurses by the fact that statutory supervisors (of their own or of competing hospitals) can and do serve on the NYSNA Board of Directors.



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## RELEVANCE TO THE ISSUES OF THE PERCEIVED AND THE REAL NYSNA/DNA RELATIONSHIP

NYSNA does not abridge the rights of any of its members. All members are permitted to be candidates for and to hold all Association-wide offices. Hence, NYSNA members who are "statutory supervisors" may hold (and have held in the past, and do hold) elected positions, including positions on the Board of Directors. NYSNA firmly believes that this condition is essential to its nature and purposes, and is compatible with all of its purposes and activities. (Statutory supervisors are defined by labor law as individuals who act in the interest of an employer to hire, fire, or discipline employees, or who have the authority to effectively recommend such actions.)

It was necessary for NYSNA to make modifications in its structure to provide for and to sufficiently prove the effectiveness of insulation of NYSNA's collective bargaining program (E&GW program) from NYSNA's Board of Directors. These modifications do not compromise NYSNA's mission, its multipurpose nature or the effectiveness of any of its activity.

District nurses associations also permit all of their members to hold district office. Hence, statutory supervisors may have positions on district boards of directors. District nurses associations have no insulation mechanisms in place, nor would it be appropriate for them to have such mechanisms since they do not represent nurses for collective bargaining purposes.

The fact is that district nurses associations do not engage in collective bargaining activity and have no affiliation of any kind with NYSNA's Economic and General Welfare Program. DNAs have no administrative or programatic mechanisms in place that would enable them to engage in collective bargaining activity. Regrettably, however, the NLRB and the courts have demonstrated that there is pervasive misconception about the relationship of districts to NYSNA and about what districts actually do, and do not do. Unfortunately, what is fact has been displaced in importance by what is perceived (albeit erroneously) to be true by authorities (the NLRB, the courts).

What we know to be fact but others misunderstand about the corporate and structural nature of NYSNA constituent district nurses associations is that they are separately incorporated organizations. They have no corporate affiliation with NYSNA. In fact, they have no legal obligation to have a relationship with NYSNA. The constituency relationship is formally enabled and acknowledged by bylaws, and those bylaws are compatible with provisions of laws that apply to NYSNA and DNAs. The essential and determining nature of the relationship itself, however, is in fact a matter of choice.

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## THE STRUGGLE WITH BEING MISUNDERSTOOD

Nurses should be represented for collective bargaining purposes by their professional organization. Their professional organization is endowed to represent them - by every legitimate (structural/organizational) means essential to preserve, while representing them, all of their rights as workers and as human beings. But, NYSNA is different from traditional labor organizations. We must grapple with the tendency toward shallow deduction. Authorities (the NLRB, the courts) who are not familiar with the structure and the multipurpose nature of the professional nursing organization are obliged to contemplate the word "constituent." They are obliged to contemplate it within the context of the fact that one of NYSNA's legitimate activities is the representation of nurses for collective bargaining purposes. In the process of that contemplation - in that context - the traditional labor organization "state-local," "parent-affiliate" image colors the meaning of the word "constituent." The true nature of our organizational relationship is lost.

The distinction between NYSNA and its constituent district nurses associations and the distinction between NYSNA and DNA activities are conditions particular to the professional nursing organization structure that have proven to be extremely difficult to explain. Obviously, in some cases, explanation has not resulted in understanding. When misunderstanding prevails about how NYSNA's collective bargaining activity relates to its structure dangerous precedent can be, and has been, established.

District nurses associations cannot engage in activity relating to or discussion about collective bargaining matters - e.g., contractual terms and conditions of employment, bargaining strategy, negotiations and any other proceedings. This prohibition is necessary not only because statutory supervisors may sit on DNA boards of directors, - but also because of the involvement in such activity and even the potential (and likely) presence at the site of such discussion of district MEMBERS who are statutory supervisors (and, hence, considered to be "agents" of their employers).

A key element in a case now pending before the NLRB is statutory supervisors' active involvement in their district nurses association. These members' district activity is, of course, wholly appropriate. However, the possibility of DNA involvement in the collective bargaining process may be, and frequently is, called into question whenever it comes to the attention of the NLRB that statutory supervisors are active district members.

In the presence of the North Shore precedent, other hospitals may (and have) cited the case's findings as demonstrating that the Association's Economic and General Welfare Program is influenced/dominated/controlled by persons who are statutory supervisors. Because the understanding of the distinction between NYSNA and DNA activities is so elusive, the presence of

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statutory supervisors on DNA boards - and even the presence of statutory supervisors at district meetings - may pose a threat to nurses' ability to be represented by NYSNA for collective bargaining purposes that is fully as grave as the threat posed by the presence of statutory supervisors on NYSNA's Board. Matters related specifically to the collective bargaining process should not be discussed in district meetings at which statutory supervisors and bargaining unit members are present. The occurrence of such a discussion could be cited as demonstrating that NYSNA's E&GW Program is influenced by statutory supervisors.

## SOME VERY SPECIFIC ADVICE

Please consider carefully these guidelines:

Discussion at district meetings of employment conditions in general - that is, conditions or situations that do not relate in any way to specific contractual terms, or to strategy or to proceedings - is appropriate and permissible. It is acknowledged that: district members' needs and interests must be served; and such service would necessarily involve deliberation over practice conditions.

Programs and discussions should be framed to be on topics relating to professional concerns and practice issues that are common to all members, and should be guided carefully to prevent consideration of any topic which relates to the collective bargaining process or to conditions in specific institutions.

Discussion at district meetings of organizing as a possible solution to practice problems should be avoided.

## QUESTIONS: WHOM TO ASK

District leadership and district members should direct to me all questions that may arise about whether contemplated activity and discussion would be appropriate or may have any effect on NYSNA members' ability to be represented by NYSNA for collective bargaining purposes. The NYSNA Executive Director has full responsibility for the conduct (and for delegation of conduct) of the Association's Economic and General Welfare Program. It is important to remember that you should feel free to ask me anything about which you have doubt or concern.

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THE NEW YORK STATE NURSES ASSOCIATION  
GUIDELINES FOR REVIEW AND EVALUATION OF  
BYLAWS OF CONSTITUENT DISTRICT NURSES ASSOCIATIONS AND  
NURSES ASSOCIATIONS WISHING TO BECOME CONSTITUENT ASSOCIATIONS  
(in compliance with provisions contained in  
NYSNA Bylaws Article XVIII)

## INTRODUCTION

These Guidelines are intended for use by:

1. Constituent district nurses associations and nurses associations wishing to become constituent associations in their preparation of bylaw provisions affected by NYSNA Bylaws Article XVIII - Constituent District Nurses Associations.
2. The NYSNA Committee on Bylaws in its advice to constituent district nurses associations concerning proposed bylaws amendments related to constituency requirements and its examinations of such amendments for compliance with NYSNA Bylaws Article XVIII, and in its review of bylaws of nurses associations wishing to become constituent associations.
3. The NYSNA Board of Directors in its consideration of the Committee's findings concerning compliance with NYSNA Bylaws Article XVIII of constituent district nurses association's bylaws and bylaws of nurses associations wishing to become constituent associations.

All evaluations of and actions concerning bylaws of constituent district nurses associations and nurses associations wishing to become constituent associations shall be made in accordance with the provisions of NYSNA bylaws. In their evaluations and actions, the Committee on Bylaws and the Board of Directors shall not, in any circumstance, exceed the scope of authority established by the provisions of NYSNA bylaws.

## RELEVANT NYSNA BYLAWS PROVISIONS

NYSNA Bylaws Article XVIII - Constituent District Nurses Associations, states, in part:

### Section 1.

District nurses associations which have been or which hereafter may be organized, whose bylaws are in harmony with the bylaws of this association and have been

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approved by a majority vote of the Board of Directors of this association, shall be recognized as constituent associations of this association.

## Section 3.

It shall be the duty of each constituent district nurses association of this association to:

- a) require that all of its members have the qualifications specified in Article II - Members, Dues, of these bylaws;
- b) confer with the Committee on Bylaws of this association concerning any proposed amendments related to constituent requirements;
- c) adopt and maintain bylaws in harmony with the bylaws of this association and send to this association up-to-date copies;

## Section 4.

Any constituent district nurses association which fails to comply with the constituent requirements of these bylaws, or for other cause deemed sufficient, may be disqualified as a constituent association of The New York State Nurses Association by a two-thirds vote of the Board of Directors, provided due notice has been given the constituent district nurses association at least three months before the vote is taken.

## Section 5.

A constituent district nurses association which has been disqualified may be reinstated by a two-thirds vote of the Board of Directors.

NYSNA Bylaws Article II - Members, Dues, states, in part:

### Section 1. Qualifications

A member is one:

- a) who has been granted a license to practice as a registered nurse in at least one state, territory, possession or District of Columbia of the United States or is otherwise lawfully so entitled to practice and who does not have a license under suspension or revocation, and
- b) whose application for membership has been accepted in accordance with association policy, and
- d) who has not been suspended or expelled by this association.

NYSNA Bylaws Article VI - Standing Committees, Section 3. Committee on Bylaws, states, in part:

### b) the committee shall:

- 2) advise constituent district nurses associations concerning proposed bylaws amendments related to

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- constituent requirements;
- 3) review the bylaws of a nurses association wishing to become a constituent association of this association and report its findings to the Board of Directors.

## DEFINITIONS OF CONSTITUENCY REQUIREMENTS

NYSNA bylaws require that, in order to be recognized as constituent associations of NYSNA, district nurses associations:

1. Maintain bylaws which are "in harmony with" those of NYSNA; and
2. Require that all of their members have the qualifications specified in Article II - Members, Dues, of NYSNA bylaws.

The Association deems the term "in harmony with" to express the elemental aspect of the constituency issue, incorporating both its own intrinsic definition and the Article II requirements concerning membership composition. Hence, the Association interprets the term "in harmony with" to mean that:

1. DNA stated purposes and functions can be greater than or less than the stated purposes and functions of NYSNA, but not in opposition to or in conflict with those of NYSNA.
2. DNA membership qualifications must specify that a member is one: (a) who has been granted a license to practice as a registered nurse in at least one state, territory, possession or District of Columbia of the United States or is otherwise lawfully so entitled to practice and who does not have a license under suspension or revocation, and (b) whose application for membership has been accepted in accordance with association policy, and (c) who has not been suspended or expelled by this association.\*

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\*It should be noted that, although Article XVIII requires that all constituent district nurses association members "have the qualifications specified in Article II," deliberate exceptions are made of the qualification "who has paid the current dues" in Section 1 and all qualifications contained in Section 2/Dues. Members of separately incorporated and/or organized, autonomous constituent associations who are not also members of NYSNA have no obligation to remit the organizational dues to which these qualifications refer - i.e., NYSNA dues. Inclusion of these qualifications as constituency requisites would be tantamount to requirement that constituent association members be NYSNA members as well. Such requirement would be wholly inappropriate in all cases. In the cases of incorporated nurses associations wishing to become or remain constituent associations, such requirement may be unlawful.



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## PROCEDURE FOR SUBMISSION AND EVALUATION OF PROPOSED BYLAWS

Constituent district nurses associations should submit proposed bylaws amendments to the NYSNA Committee on Bylaws by October 1 or by March 1 of the year. The Committee will review bylaws in meetings scheduled in November and in April. The Committee will identify provisions of constituent district nurses associations bylaws amendments which may require modification and advise and provide assistance to the constituent associations concerning such modification.

The bylaws of nurses associations wishing to become constituent associations will be reviewed and evaluated by the Committee and Board according to the timetable contained herein.

The Committee will make any necessary recommendations resulting from its evaluations to the Board of Directors at its regularly scheduled meetings in January and in May (or June).

MLO:WMB:b  
5/31/86  
(B:BY2)

Approved by the NYSNA Board of Directors July 1986

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Martha L. Orr, MM, RN  
Executive Director



Constituent of The American  
Nurses Association

**NEW YORK STATE NURSES ASSOCIATION**  
2113 Western Avenue, Guilderland, N.Y. 12064, (518) 456-5371

August 28, 1987

To: Advisory Council  
Board Committee to Study the Role of the Advisory Council

From: Martha L. Orr, Executive Director

The following information is provided to assist in your orientation to the purposes and functions of the Advisory Council.

1902 - 1918

The original bylaws of the Association do not mention any type of advisory council. The first such mention of an advisory council is found in bylaws amendments of 1918, in which the following article was adopted:

#### Advisory Council

Section 1. The officers of this Association, the Chairmen of Standing Committees, the Chairmen of Sections, ex-Presidents, District Presidents, the Presidents of Alumnae Associations, the Editor in Chief of the American Journal of Nursing, the President of the State League of Nursing Education, the President of the State Public Health Nurses' Association, and the Director of the Department of Nursing and Health at Teachers' College, shall constitute an Advisory Council to consider and promote the interests of the New York State Nurses' Association.

Section 2. Meetings of the Advisory Council shall be held in connection with each annual meeting at such times as shall be designated in the program.



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Documentation of the activities of this body has not been found except for scant references in early minutes of the Board of Directors.

1918 - 1951

The above section of the bylaws is found in much the same form through 1951. In 1935, the bylaws were changed to require that representatives on the Council be nurses and, in 1945, that they be members of the Association. In 1951, there was a proposed amendment to delete this section from the bylaws.

The transcript of the 1951 House of Delegates indicates that the Advisory Council recommended the deletion. Discussion referred to the inability of the Council to take "final steps" in the business of the organization. There was also considerable discussion about the desirability of Alumnae Associations being represented on the Council. The motion to delete the section lost.

A review of meeting summaries and minutes of the Board of Directors has not revealed any substantive discussion of the purposes and functions of the Advisory Council. Recurrent topics of discussion included such items as proposed legislation, establishment and use of a relief fund, business practices of Districts, membership dues, and membership recruitment.

1953

A proposed amendment to delete the Advisory Council and to substitute an "Open Forum" passed the House of Delegates with no discussion. The substitute section specified:

There shall be an open forum meeting held in conjunction with the meeting of the House of Delegates of the New York State Nurses Association. All members of this association are eligible to attend. This group will discuss matters of particular interest to the association and make recommendations to the House of Delegates.

Board minutes prior to this meeting state:

The Board members strongly favored Mrs. Delehanty's proposal that the Advisory Council be changed to an open forum which any member might attend and gain information from the discussion of the various problems. It was agreed that such an arrangement will be recommended to the Advisory Council.

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1953 - 1967

During this interval of time, it appears that several meetings of District Nurses Association officers and the President of NYSNA were held. These meetings were sometimes called "District Officers' Institutes." A 1964 memorandum to DNA Presidents from then Executive Director Marion Klappmeier cites these purposes of these meetings:

The purposes of the institute are to lend assistance to district officers with their responsibilities in this role, particularly as pertains to interrelationships with the state and national associations; to familiarize them with certain procedures, especially membership processing, and to acquaint them with their state headquarters office.

Board of Directors' minutes in December, 1965 refers to a pattern of meetings with District Presidents:

There was a review of the pattern which has been followed for Board meetings in the past, i.e., on the first day of the Board meeting, the district presidents are invited to attend and this is followed by executive session of the Board. It was noted that only nine of the 18 district presidents were able to be in attendance at the meeting today, and that the agenda was completed by 11:30 a.m. There was general discussion about the primary purpose of a Board of Directors meeting and whether this was the most effective means of giving assistance to districts. Some of the members present, who had also been in the position of district president, commented on their experiences and noted particularly the value that they attached to the all day meeting of district presidents and executive directors. Other methods of assistance and closer working relationships with the district were reviewed and discussed. The difficulty, and resultant frustration, of going through the agenda without taking action was commented upon. The general feeling was expressed that it might be more effective and more satisfying for both the Board of Directors and the District Presidents if the present pattern of meetings were to be changed. The comment was offered that with the increasing number of major issues the Board needs to consider, it might soon become necessary to expand the number of days for the Board meeting unless the present time could be used more effectively.

Miss Notter moved that in view of the success of the all day meetings for district presidents and executive directors and of the other means used to assist and keep the presidents informed on all board action and association activities, it would be a more effective use of both the district presidents and of the NYSNA

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Board of Directors time, to continue, and to increase such means of assistance, and to discontinue the district presidents' forum and meeting with the board of the first day. This new approach to be tried for a two year period of time. Seconded. Carried.

A summary report of a 1966 meeting confirmed this action:

Miss Klappmeier reviewed the Dec. 6, 1965 Board of Directors' action regarding the significance of an all day meeting of District Presidents and Executive Directors such as this one, instead of merely a forum and attendance at the first day of Board meeting. Due to the increasing need for Districts to mutually explore problems and be aware of activities of other districts, it was felt that an all-day meeting would be more beneficial and profitable. This in turn would be supplemented by materials sent from headquarters office. After discussion it was agreed that these meetings were beneficial and in the future perhaps three or four per year could be scheduled. The possibility of two persons attending from a District was also discussed and will be considered in light of the District paying total expenses for the second person.

Another (undated) paper refers to the policies of a "Presidents' Forum":

Purpose of the Forum: (1) for discussion of mutual problems; (2) for free discussion of state and local questions; (3) to make recommendations to the Board of Directors of NYSNA.

A special report to the Board of Directors by then President Disosway states only that dues processing, a proposed dues increase, and central billing were discussed. No other record of the substance of these meetings has yet been found.

1967

A bylaw amendment was proposed to replace Article XI - Open Forum, with the following Article X: Advisory Council:

Section 1. The president, or an alternate, and the executive director of this association and the presidents and executive directors of the constituent district nurses associations shall constitute an Advisory Council to consider and promote the interests of the New York State Nurses Association.

Section 2. Meetings of the Advisory Council may be held at such times and places as shall be determined by the Board of Directors of this association.

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The convention transcript indicates no discussion of the proposed amendment, which was passed.

1969 to 1987

A review of reports of meetings of the advisory council indicates that there has been a common pattern to the meetings:

- review of NYSNA programs and activities
- review of NYSNA Board action
- review of District activities
- review of ANA activities

Discussion of common concerns has often focused on the following topics:

- membership processing and dues collection/distribution
- membership recruitment
- programming for meetings/convention
- NYSNA legislative program
- ANA House of Delegates matters

From time to time, guests have been invited to meetings of the Advisory Council (e.g., Executive Secretary of the State Board). Continuing education programs have also been incorporated into the meetings (e.g., Parliamentary Procedure, Financial Management; membership recruitment)

Since January, 1986, the subject of the purposes and functions of the Advisory Council has been discussed at each meeting. Excerpts from the meeting summaries of January and April, 1986 meetings are attached.

There have been two minor changes in bylaws respecting the Council since 1967--to permit DNA Presidents to specify alternates who are not necessarily officers, and to structure the bylaws section in three sections: membership, purpose, meetings.

MLO  
(MLO-5:Advisory.Mem)

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1/20/86 Advisory Council Meeting Summary

## VII. OTHER ITEMS

### A. Functions and Purposes of Advisory Council

Advisory Council representatives engaged in a discussion about the purposes and functions of the Council, the nature of meetings and possible ways in which they may be improved, and the uneven pattern of attendance of meetings. The discussion included consideration of these elements of the Council and its operation:

1. There are difficulties inherent in scheduling meetings of twenty-one prospective participants which will continue to exist.
2. Although the practice of sharing DNA activities, successes and problems has been very helpful to district leadership, devotion of a portion of the agenda to concerted discussion of problem resolution could have the potential to be of greater assistance.
3. Designation of portions of the agenda for these subjects might be appropriate and desirable: orientation to DNA leadership roles and responsibilities and the SNA-DNA relationship; leadership development; appropriate resources of SNAs and DNAs.

Advisory Council representatives present at the meeting concurred that consideration of the functions and purposes of the Council should be continued at the next meeting. Staff was requested to notify District representatives not in attendance of the issue and request that they be prepared to discuss it during the next meeting.

4/7/86 Advisory Council Meeting Summary

## V. PURPOSES AND FUNCTIONS OF ADVISORY COUNCIL

District representatives discussed at length various aspects of Advisory Council functioning, including:

- A. The role and relationship of DNA leadership vis-a-vis NYSNA.
- B. Similarity of NYSNA Advisory Council functioning to that of the ANA Constituent Forum.

The following possible functions of the Advisory Council were identified:

- A. Providing vehicle for DNA contribution to NYSNA Board deliberations.
- B. Providing vehicle for soliciting of DNA membership about ANA/NYSNA matters.
- C. Sharing information.
- D. Providing DNA network.
- E. Problem solving.
- F. Providing vehicle for continuing education.

District representatives agreed to schedule a two-day Advisory Council meeting in September. One day would be devoted to orientation of newly placed DNA presidents and executive directors; the second day would be devoted to conduct of a regular Advisory Council business session.