



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: State Board of Psychology

FROM: Michael Bender, Business Advocate

DATE: June 7, 2024

RE: **CSI Review – FYR – Implementing HB 509 – School Psychologist Regulation and No Change (OAC 4732-1-01, 4732-1-02, 4732-1-03, 4732-1-04, 4732-1-05, 4732-1-06, 4732-1-07, 4732-1-08, 4732-1-09, 4732-1-10, 4732-1-11, 4732-1-12, 4732-1-13, 4732-2-01, 4732-2-02, 4732-3-01, 4732-5-01, 4732-5-02, 4732-7-01, 4732-9-01, 4732-9-01.2, 4732-9-02, 4732-9-02.1, 4732-9-03, 4732-9-04, 4732-9-05, 4732-9-06, 4732-11-01, 4732-11-03, 4732-13-01, 4732-13-02, 4732-13-03, 4732-13-04, 4732-15-01, 4732-17-01, 4732-17-01.1, 4732-17-01.2, 4732-17-02, 4732-17-03, 4732-17-04, 4732-19-01, and 4732-21-01)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Board as provided for in ORC 107.54.

Analysis

This rule package consists of two new rules, twenty-two amended rules, seventeen no-change rules, and one rescinded rule proposed by the State Board of Psychology (Board) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on March 29, 2024, and the public comment period was held open through April 12, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 29, 2024.

Ohio Administrative Code (OAC) 4732-1-01 provides for the public notice of Board meetings. OAC

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4732-1-02 requires those seeking to obtain licensure as a psychologist or school psychologist to file a written application with the Board. The rule is amended to differentiate between the two different types of school psychologist licenses to be issued by the Board. OAC 4732-1-03 specifies the fees for application and licensure, licensure renewal, licensure reinstatement, retaking examination, and permission for nonresidents to practice. The rule is amended to incorporate the renewal fee for licensed school psychologists. OAC 4732-1-04 authorizes the entrance examiner appointed by the Board to deny applications for licensure for failure to meet certain statutory requirements. OAC 4732-1-05 requires all Board licensees to display their license certificate and verification of active licensure at their principal place of professional practice. OAC 4732-1-06 provides for the renewal and reinstatement of a Board license. The rule is amended to incorporate the school psychologist license. OAC 4732-1-07 requires the Board to provide proper public notice when it holds a public hearing to consider the adoption, amendment, or rescission of any of its rules. OAC 4732-1-08 describes how the Board must protect any personal information system that it maintains. OAC 4732-1-09 contains definitions regarding access to confidential personal information. OAC 4732-1-10 establishes procedures for accessing confidential personal information maintained by the Board. OAC 4732-1-11 outlines the valid reasons that a Board employee may access confidential personal information. OAC 4732-1-12 lists the federal and state statutes and regulations/rules that make personal information maintained by the Board confidential. OAC 4732-1-13 sets forth requirements for the Board to restrict and log access to confidential personal information in computerized personal information systems.

OAC 4732-2-01 establishes the continuing education requirements for Board licensees. The rule is amended to incorporate licensed school psychologists. OAC 4732-2-02 establishes the procedures for recording, filing, and reporting continuing education. The rule is amended to incorporate licensed school psychologists. OAC 4732-3-01 contains definitions pertaining to the practice of psychology or school psychology. The rule is amended to add a definition for the “Local Professional Development Committee” and differentiate between the two different types of school psychologist licenses to be issued by the Board. OAC 4732-5-01 outlines the psychological procedures that are a serious harm to mental health and which require professional expertise in psychology. OAC 4732-5-02 describes the exemptions from Board licensure requirements. The rule is amended to remove reference to those holding a license to practice school psychology from the Ohio State Board of Education. OAC 4732-7-01 provides for the licensure of applicants who are licensed or certified by another jurisdiction. The rule is amended to incorporate licensed school psychologists.

OAC 4732-9-01 sets forth the requirements for admission to the examination for a psychologist license. OAC 4732-9-01.2 sets forth the requirements for applicants with degrees earned from educational institutions outside the United States. OAC 4732-9-02 sets forth the requirements for admission to the examination for an independent school psychologist license. The rule is amended to update the rule title and add clarifying language. OAC 4732-9-02.1, a new rule, sets forth the

requirements for licensure as a school psychologist. OAC 4732-9-03 specifies the experience requirements for the psychologist license and the independent school psychologist license. The rule is amended to add clarifying language. OAC 4732-9-04 requires all applicants for Board licensure to submit to a criminal records check. The rule is amended to differentiate between the two different types of school psychologist licenses to be issued by the Board. OAC 4732-9-05 requires the Board to give special consideration and priority to license applications submitted by active duty service members, Veterans, and qualifying spouses. The rule is amended to differentiate between the two different types of school psychologist licenses to be issued by the Board. OAC 4732-9-06 authorizes the Board to issue temporary licenses to members of the military and their spouses if certain criteria are met. The rule is amended to differentiate between the two different types of school psychologist licenses to be issued by the Board.

OAC 4732-11-01 specifies the passing scores required by type of Board licensure. The rule is amended to differentiate between the two different types of school psychologist licenses to be issued by the Board. OAC 4732-11-03 is rescinded because the School Psychology and Psychology Examination Committees because they have done no business in more than twenty years and because the statutory requirement for the Board to establish those committees has been repealed. OAC 4732-13-01 establishes the scope of supervision for psychologists and independent school psychologists. OAC 4732-13-02 outlines the purposes of supervision provided by licensed psychologists or independent school psychologists for trainees. OAC 4732-13-03 contains definitions pertaining to supervision provided by licensed psychologists and independent school psychologists for trainees. OAC 4732-13-04 sets forth requirements for supervision provided by licensed psychologists and independent school psychologists for trainees. OAC 4732-13-01 through 4732-13-04 are amended to clarify that they do not apply to licensed school psychologists. OAC 4732-15-01 prohibits trainees who do not hold a Board license from using certain titles or descriptions of services. The rule is amended to differentiate between the two different types of school psychologist licenses to be issued by the Board.

OAC 4732-17-01 establishes the standards of professional conduct for licensed psychologists and independent school psychologists, as well as for supervisees and applicants. The rule is amended to clarify that it does not apply to licensed school psychologists. OAC 4732-17-01.1 allows psychologists to assess and clear youth to return to athletic practice or competition if certain requirements are met. OAC 4732-17-01.2, a new rule, establishes the standards of professional conduct for licensed school psychologists as well as for supervisees and applicants. OAC 4732-17-02 specifies research ethics and safeguards for Board licensees. OAC 4732-17-03 describes the bases and procedures for disciplinary actions against a Board licensee. The rule is amended to differentiate between the two different types of school psychologist licenses to be issued by the Board. OAC 4732-17-04 authorizes the Board to compel licensees and applicants for licensure to submit to physical or mental examinations, in addition to establishing a safe haven program for licensees to undergo

treatment for impairment due to drug abuse, illness, or other medical condition without fear of disciplinary action by the Board. OAC 4732-19-01 declares that Board licensees will be disciplined pursuant to applicable statutes for rule violations. The rule is amended to differentiate between the two different types of school psychologist licenses to be issued by the Board. OAC 4732-21-01 declares that the finding of any Board rule to be unconstitutional, void, or ineffective in whole or in part will not affect the validity or constitutionality of the other Board rules.

During early stakeholder outreach, the Board consulted with individuals from the Ohio School Psychologists Association (OSPA), the State Board of Education, the Ohio Department of Education and Workforce (DEW), and the Inter-University Council of Ohio (IUC-Ohio) throughout 2023. Feedback from the OSPA resulted in clarification to the rules that school psychologists were prohibited from using the term “psychologist” to refer to themselves. As a result of discussions with the State Board of Education, the *Licensure Code of Professional Conduct for Ohio Educators*, published and used by DEW to enforce standards of professional conduct for all educators including school psychologists, served as a source of the proposed rules concerning the professional conduct for licensed school psychologists. Input from DEW, previously responsible for licensing school psychologists via the State Board of Education, formed the structure for school psychologist licensure in the rules. The IUC-Ohio provided context and procedures for internship verification as it is currently done by faculty members at school psychology programs across Ohio, and the Board determined to keep this process reflected in the rules. During the CSI public comment period, the Board received comments from eight school psychologists.

The main concern of the commenters was the mandatory renewal of existing school psychologist licenses in 2025. The commenters pointed out that many licensees would already be required to renew their licenses with DEW just prior to the transfer of responsibilities to the Board, adding that this could cause a financial strain if two separate renewal fees would have to be paid in such short intervals. The Board told the commenters that the fees and deadlines were set in law by House Bill (HB) 509 of the 134th General Assembly but stressed that it sought to reduce the burden on licensees in other ways, including waiving continuing education requirements for the first renewal in 2025 and providing more flexibility for completing continuing education every five years. Furthermore, the Board said that the State Board of Education was considering a fee reduction for license renewals due in 2024. CSI reached out to the OSPA, who agreed that the 2025 renewal and accompanying fees were indeed statutorily required. One of the commenters who was both a licensed school psychologist and a licensed psychologist requested that the Board recognize an individual’s private practice license as evidence for eligibility of renewal for the school psychologist license, which has been the standard practice for DEW. The Board agreed and revised the rules accordingly. Lastly, the Board made technical and grammatical corrections to the rules.

The business community impacted by the rules includes licensed psychologists, licensed independent

school psychologists, licensed school psychologists, trainees, and applicants for Board licensure. Effective January 1, 2025, the credentials of approximately 3,200 licensed school psychologists will be transferred from DEW to the Board pursuant to HB 509. The adverse impacts created by the rules include requirements associated with obtaining licensure, taking the examination, renewing licensure, receiving continuing education, supervising trainees, working within the proper scope of practice, abiding by proper professional conduct, using proper titles, and discipline for violation of the rules. Fees are established by rule and statute at \$300 for application and licensure, \$365 for biennial renewal of a psychologist license or independent school psychologist license, \$300 for quinquennial renewal of a school psychologist license, \$250 plus the renewal fee for reinstatement of a license, \$50 for retaking any examination administered by the Board, and \$150 for a nonresident psychologist application to practice for no more than thirty days per year. Continuing education hour requirements, as promulgated in statute, are twenty-three hours biennially for licensed psychologists and licensed independent school psychologists and fifty hours every five years for licensed school psychologists. The Board notes that the changes to the rules provide continuing education flexibility to licensed school psychologists by providing options to continue engaging in historical professional development plans. The Board states that the adverse impacts to business are justified to implement statutory requirements, reduce the risk of harm, and ensure the public's right to safe and competent services.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.