



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: State Board of Psychology

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Regulation/Package Title (a general description of the rules' substantive content):

FYR-Implementing HB509-School Psychologist Regulation and No Change

Rule Number(s): 4732-1-01, 1-02, 1-03, 1-04, 1-05, 1-06, 1-07, 1-08, 1-09, 1-10, 1-11, 1-12, 1-13, 2-01, 2-02, 3-01, 5-01, 5-02, 7-01, 9-01, 9-01.2, 9-02, 9-02.1 (New), 9-03, 9-04, 9-05, 9-06, 11-01, 11-03 (Rescind), 13-01, 13-02, 13-03, 13-04, 15-01, 17-01, 17-01.1, 17-01.2 (new), 17-02, 17-03, 17-04, 19-01, and 21-01.

Date of Submission for CSI Review: March 29, 2024

Public Comment Period End Date: April 12, 2024

Rule Type/Number of Rules:

New/ 2 rules

No Change/ 17 rules (FYR? x)

Amended/ 22 rules (FYR? x)

Rescinded/ 1 rule (FYR? x)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. Requires specific expenditures or the report of information as a condition of compliance.**
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

- 2. Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

This proposed filing is required to implement HB509 (124th GA) and also serves as the Five Year Review (FYR) for all rules in OAC 4732.

Highlights of Proposed Rules for Ohio's Licensed School Psychologists:

The proposed amendments and new rules will:

- 1) Clarify and expand on the (HB509) that transfers regulation of the school psychologist license to the Ohio Board of Psychology, including new license applications and 5-year license renewal.
- 2) Waive the CE requirements for all licensed school psychologists during the first license renewal, deadline 9/30/2025, although all licensed school psychologists will be required to renew the license with the Ohio Board of Psychology by the 9/30/25 deadline. Renewal will be every five years. The \$300 new license application fee and the \$365 renewal fee due every five years is set in law, not rules.
- 3) Require CE for renewal starting in 2030 with flexible options to demonstrate compliance (50 clock hours or LPDC report) or exemption from the requirements (NCSP or holding a permanent license issued by the Ohio Department of Education and Workforce (DEW).
- 4) Establish a chapter of professional conduct rules based on the current code for Ohio educators but more specific to the practice of school psychology.

Specific Proposed Amendments to Twenty-two (22) Rules

The following rules are proposed for amendment to implement HB509, which ordered DEW to cease licensing school psychologists effective January 1, 2025, at which point the regulation of all school psychologists will be the responsibility of the Ohio Board of Psychology:

4732-1-02 Application for licensure. This rule includes requirements for licensure/admission to examination for the psychologist license, Independent School Psychologist license, and the new "licensed school psychologist" license, the license being transferred from DEW. The proposed changes are intended to clarify that there are two (2) school psychologist licenses regulated by the Board, effective 1/1/2025--"independent school psychologist" (licensed for practice outside of school settings), and "licensed school psychologist" (licensed for practice for employment in a school).

4732-1-03 Fees. This rule specifies fees for application and license renewal, license reinstatement, exam retakes, and nonresident permission to practice applications. We add the new "licensed school psychologist" license, and we parrot the \$300 fee for quinquennial renewal (\$300) from statute.

4732-1-06 Biennial registration. This rule specifies the license renewal requirements for the three licenses issued under 4732: psychologist, independent school psychologist, and the new "licensed school psychologist." The primary change is to specify the quinquennial renewal requirement for the "licensed school psychologist" license. We propose in (B) that all licensed school psychologists will be exempt from the CE requirements during the first license renewal conducted by the State Board of Psychology (deadline 9/30/2025)--in order to reduce the burden to comply with 50 clock hours so quickly after the Psychology Board assumes the regulation. The Board takes over regulation of the licensed school psychologists effective 1/1/2025, and by statute all of them must renew nine months later (9/30/2025). That is a burden from the statute, so we propose to waive CE for all licensed school psychologists only for the initial renewal, so they can all get renewed with clear information about options for CE compliance starting with the 2030 renewal. There are also proposed amendments to clarify the reinstatement process for school psychologist licenses in expired and retired status.

4732-2-01 Scope, responsibilities, and requirements for continuing education. This rule contains the continuing education (CE) requirements for license renewal for each license type. All proposed changes relate to the new "licensed school psychologist" license: we parrot the statutory requirement to complete 50 clock hours of CE every 5 years, and it is also proposed in (D) that there be flexible pathways for complying with the quinquennial CE requirements. Namely, the rule would allow licensed school psychologists, in lieu of completing 50 clock hours

over a 5-year period, to continue the existing process of completing a quinquennial professional development plan currently in place with the DEW by demonstrating professional development compliance to a Local Professional Development Committee (LPDC) affiliated with the employing school district. To also maintain consistency, the rule would also exempt two categories of licensed school psychologist from demonstrating quinquennial CE compliance to maintain current processes of DEW: 1) Those who hold the Nationally Certified School Psychologist (NCSP) credential (maintenance of which required more CE than 50 quinquennial clock hours); and 2) Those who hold a "permanent" license issued by DEW and have been exempt from the CE requirements for license renewal under DEW (so we do not add a burden). In addition, paragraph (C)(9) is being proposed to offer a fair proration of the renewal CE requirements for those initially licensed in the middle of a 5-year renewal period.

4732-2-02 Procedures for recording, filing, and reporting continuing education. This rule details the processes for recording and reporting CE compliance to the Board as part of license renewal requirements. Psychologists and independent school psychologists are required by statute to complete 23 hours biennially and to cause OPA-MCE or OSPA-MCE to make a CE compliance report to the Board. Proposed changes also specify that licensed school psychologists are required to register with OSPA-MCE (from statute) and cause that entity to report to the Board their compliance with the CE requirements or provide evidence of exemption (NCSP or permanent license issued by DEW).

4732-3-01 Definitions. This chapter contains definitions of major terms and concepts used throughout OAC 4732. Two changes are proposed related to the new requirements in HB509-- specifying the new license to be regulated the Psychology Board and defining "LPDC" because it represents one of the pathways for school psychologists to demonstrate CE compliance for license renewal.

4732-5-02 Exemptions from licensure requirements. This rule echoes the exemptions from licensure requirements in statute. The proposed change to strike paragraph (A) is required because the "department of education" will no longer license any school psychologists effective 1/1/2025, so that exemption is no longer relevant.

4732-7-01 Licensure for applicants licensed or certified by another jurisdiction. This rule contains guidance for license of applicants who are license in other jurisdictions and specifies examination requirements. The proposed changes would add the new license "licensed school psychologist," and in (D), specifies the requirement that an applicant for the school psychologist license shall provide evidence of a passing score on the relevant national examination (the Praxis).

4732-9-02 Requirements for admission to the examination for a school psychologist license. This rule contains the requirements for the independent school psychologist license. The only change is to specify the name of this license in the first line--to differentiate it from the new "licensed school psychologist" license. The requirements are not changing, only the name of the license.

4732-9-03 Computation and attainment of experience. This rule contains information about the experience requirements for the psychologist license and for the independent school psychologist license. The only proposed change is to add the word "independent" in (B) so that the independent school psychologist license experience requirements are correctly identified and differentiated from the "licensed school psychologist" license.

4732-9-04 Criminal records check. This rule echoes statutory requirements for the criminal background check (required for initial license applicants only). The proposed changes clarify that there are two school psychologist licenses.

4732-9-05 Consideration of military experience, education, training, and term of service. This rule requires the Psychology Board to give special consideration and priority to license applications submitted by active duty service members, veterans, and qualifying spouses. The rule waives the biennial registration fee and CE requirements for those who have been on active duty during biennium leading up to the renewal deadline. The proposed changes serve to include applicants for the new "licensed school psychologist" and to those who hold that license, so they get the same priority treatment as psychologists and independent school psychologists.

4732-9-06 Temporary licensure for members of the military and spouses. This rule is required by statute and relates to the process of applying for a temporary license as a member of the military or a spouse of a member who has been ordered to relocate to Ohio as part of active duty. The two proposed changes serve to clarify that there are two school psychologist licenses at issue now--licensed school psychologist and independent school psychologist.

4732-11-01 Licensure examinations. This rule clarifies which specific national examination score is required for each license--psychologist (EPPP) and each school psychologist license (Praxis). The only proposed changes are to clarify that there are two school psychologist licenses now, pursuant to HB509.

4732-13-01 Psychologist and school psychologist scope of supervision. The proposed changes are required to clarify that the Supervision Rules (OAC 4732-13) are only relevant to psychologists and independent school psychologists, and they do not apply to the new "licensed school psychologist."

4732-13-02 Purposes of supervision. This rule contains the purposes of supervision provided by psychologists and independent school psychologists. It is a contextual rule without specific requirements. It is being proposed for amendment to clarify that the supervision rules only apply to psychologists and independent school psychologists, not to the new licensed school psychologists.

4732-13-03 Supervision definitions. This rule contains definitions of terms critical to supervision conducted by psychologists and independent school psychologists. The proposed changes are intended to clarify that the supervision rules do not apply to the new "licensed school psychologists."

4732-13-04 Requirements pertaining to supervision. This rule contains the requirements for the supervision of others by psychologists and independent school psychologists. The changes are intended to clarify that the supervision requirements do not apply to the new "licensed school psychologist" license. Supervision of others is only applicable to psychologists and independent school psychologists, and several minor changes are proposed to add the word "independent" to clarify this point.

4732-15-01 Titles to be used by unlicensed persons. This rule specifies restricted titles for use only by license holders, and we clarify that there are now two different school psychologist licenses.

4732-17-01 General rules of professional conduct pursuant to section 4732.17 of Revised Code. These are the rules of professional conduct for psychologists and independent school psychologists. These are the enforceable standards of the profession. Several changes are proposed to clarify that these rules are only related to psychologists and independent school psychologists (and not to licensed school psychologists)

4732-17-03 Bases and procedures for disciplinary actions. This rule spells out due process rights and pre-hearing and hearing procedures for license holders subject to formal disciplinary proceedings due to alleged violations of the Rules of Professional Conduct. The two proposed changes are intended to clarify that the Psychology Board now has two school psychologist licenses to regulate, and these bases and procedures apply to all license holders.

4732-19-01 Enforcement and discipline. This one-sentence rule requires the Board to discipline license holders in accord with ORC 119 and 4732. The proposed change clarifies that there are two school psychologist licenses.

Two (2) Proposed New Rules

4732-9-02.1 Requirements for the school psychologist license. This new rule is proposed to specify the requirements for licensure as a “licensed school psychologist,” the license being taken over by the Psychology Board. The requirements are consistent with the requirements of the current licensing entity—DEW—a qualifying master's degree in school psychology and a qualifying one-year internship. The proposed rule also specifies that applicants can qualify for licensure based on reciprocity (from SB131), meaning holding a school psychologist license in another U.S. state or territory for a minimum of one year.

4732-17-01.2 Licensed school psychologist rules of professional conduct. This new rule is proposed to promulgate rules of professional conduct for licensed school psychologists. Professional conduct rules for psychologists and independent school psychologists are in 4732-17-01, and this new rule is explicitly for the new group of licenses holders being transferred to the Psychology Board from DEW.

The proposed rule is based on the existing professional standards for school psychologists published by DEW. The rule contains the standards for practice against which the conduct of licensed school psychologists is measured, including rules governing: negligence; welfare of the client/student; competence; confidentiality; and, record keeping.

One (1) Rule Proposed to be Rescinded

4732-11-03 School psychology and psychology examination committees. This rule is being rescinded because HB509 deleted reference to the Board appointing a School Psychology Examination Committee (struck from 4732.11). That committee had not done Board business for over 20 years, and it needed to be struck.

“No Change” Proposed for Seventeen (17) Rules

4732-1-01 Board meetings; miscellaneous forms of public notice.

4732-1-04 Entrance examiner.

4732-1-05 License certificate and card.

4732-1-07 Board hearings on rules: methods of public notice.

4732-1-08 Personal information systems.

4732-1-09 Definitions.

4732-1-10 Procedures for accessing confidential personal information.

4732-1-11 Valid reasons for accessing confidential person information.

4732-1-12 Confidentiality statutes.

4732-1-13 Restricting and logging access to confidential personal information.

4732-5-01 Psychological procedures which create a serious hazard to mental health.

4732-9-01 Requirements for admission to the examination for a psychologist license.

4732-9-01.2 Requirements for degrees earned from institutions outside of the U.S.

- 4732-17-01.1 Youth sports concussion assessment and clearance.
- 4732-17-02 Research ethics and safeguards.
- 4732-17-04 Impaired practitioner rules and safe haven program.
- 4732-21-01 Independent rules.

The purpose of the Board’s rules spans a range from mandated rules to comply with statewide requirements (e.g., handling confidential information, criminal background checks) to highly specific rules governing licensure, supervision, and professional conduct standards for the practice of psychology, independent school psychology, and school psychology.

Although several of the No Change rules have been judged to not cause adverse impact, they are nevertheless included in this filing to put all rules before CSI: 4732-1-01, 4732-1-04, 4732-1-07, 4732-1-08, 4732-1-09, 4732-1-10, 4732-1-11, 4732-1-12, 4732-1-13, 4732-19-01; 4732-21-01.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

4732.06

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.

No.

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

N/A

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

These rules are integral to the Board’s statutory mission to regulate the practice of psychology and school psychology, including rules governing fees, definitions, academic requirements, and professional conduct. As long as the professions of psychology and school psychology are regulated secondary to the inherent risks of harm and the public’s right to safe and competent services, the Board and its stakeholders will continue to review rules for continuation, amendment or rescission to clarify requirements and reduce confusion and redundancy.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

These regulations will be deemed to have successful outcomes if they are clear to the reader and additional significant resources are not required. To assist in this, the proposed rules have been reviewed and recommended to the full Board by the Ohio School Psychologists Association (OSPA). This partnership provides a forum for the regulated community to shape rules on the front end for clarity and relevance to the day-to-day work of Ohio’s school psychologists.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

Rachel Chilton, Executive Director, OSPA: The school psychologist association has been included in this initiative dating to late 2022, when HB509 was amended and passed. Meetings and informal discussions occurred regularly in 2023, and these rules have been made available to the OSPA membership since November 2023. Formal feedback was received on December 11, 2023—minor changes to wording and clarification that school psychologists are prohibited from using the term “psychologist.”

Kelly Edwards, Director, Office of Professional Conduct, State Board of Education: Involved in early discussions about the standards governing the conduct of school-based school psychologists. The Licensure Code of Professional Conduct for Ohio Educators published by DEW is the primary document containing enforceable standards of professional conduct for all educators, including school psychologists. Therefore, those standards were used as the backbone of the proposed rules of professional conduct for licensed school psychologists (New rule 4732-17-01.2).

Tom McGee, Director, Office of Educator Licensure, DEW: Involved in this process dating to January 2023, and assisted with understanding context and rules related to the licensure of school psychologists.

Jo Hannah Ward, Director, Office for Exceptional Children, DEW: Involved in this process dating to January 2023, and assisted with understanding context and rules related to the licensure of school psychologists.

Dr. Jennifer Reynolds, Chair, Dept. of Human Services, University of Toledo, and Chair, InterUniversity Council: Informal feedback dating to early 2023 specific to the rule governing verification of internship for license school psychologists. Provided context and procedures for internship verification as it is currently done by faculty members at school psychology programs across Ohio. Feedback resulted in a proposal to maintain the current process of verifying internship training.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Formal feedback from OSPA was received on December 11, 2023—minor changes to wording and clarification that school psychologists are prohibited from using the term “psychologist.” Dr. Reynolds provided context and procedures for internship verification as it is currently done by faculty members at school psychology programs across Ohio. Feedback resulted in a proposal to maintain the current process of verifying internship training. Leadership from DEW (Edwards, McGee, Ward) pointed to existing licensure and enforcement processes and documents that formed the backbone of these rules implementing HB509.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

N/A. These rule amendments are required by HB509.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

N/A. These rule amendments are required by HB509.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

HB509 explicitly transfers licensure of school psychologists to the State Board of Psychology. In addition to these proposed rules, it is anticipated that there will be a need for one of more Memoranda of Understanding between the Board and DEW to clarify responsibilities and turf related to the school psychologist's licensure and enforcement (Psychology Board) and local issues related to employment/employee rules (school districts/DEW).

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

This BIA and call for comments begins the process of filing rules to implement HB509. The State Board of Psychology will enforce these rules alongside the rules governing psychologists and independent school psychologists.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. Identify the scope of the impacted business community, and**
- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

- a. There are approximately 3,200 licensed school psychologists with active credentials issued by DEW, to be transferred to the Psychology Board effective January 1, 2025.
- b. License application: The application fee of \$300 is set in statute (ORC 4732.15);
Quinquennial Renewal: The quinquennial renewal fee of \$300 is set in statute (ORC 4732.14 (B)).

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

Continuing education flexibility: the proposed rules provide significant regulatory flexibility to licensed school psychologists to prove compliance with quinquennial continuing education requirements. For example, in lieu of mandating 50 clock hours ever five years, license holders are provided options to continue to engage in historical professional development plans (LPDC), and exemptions from the CE requirements are being proposed to maintain current requirements under DEW to avoid new burdens and surprises and to foster consistency/predictability.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

These proposed rules are required to implement HB509.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

See #16 above.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The Psychology Board does not have authority to issue fines and does not impose penalties for paperwork violations.

20. What resources are available to assist small businesses with compliance of the regulation?

The Board's website contains information about each of the rules at issue. The Board staff is comprised of 5 individuals available during business hours by phone and email. The Board has earned a reputation for being responsive and available, and the Executive Director's direct dial telephone number and email address are published on the Board's website.

OSPA will also serve as a good resource for members.