

Education

State Board Of Education

Notice of Action of Petition for Rulemaking

State Board of Examiners and Certification

Department-Issued Endorsements and Authorizations

Swimming and Water Safety

N.J.A.C. 6A:9B-9.3 and 11.10

Petitioner: Matthew Teter, American Red Cross.

Take notice that on October 21, 2021, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioner, requesting that the State Board amend N.J.A.C. 6A:9B-9.3 and 11.10 to adjust the names of safety certificates and other language related to qualifications for teaching swimming, diving, and water safety in New Jersey public schools.

The petitioner specifically requested that the State Board adopt amendments at N.J.A.C. 6A:9B-9.3(a)2iv. The rule states that a holder of the swimming and water safety instructor endorsement to an instructional certificate authorizes the holder to teach swimming, diving, and water safety in all public schools. The petitioner sought to delete “instructor” after “swimming and water safety.”

The petitioner also requested that the State Board adopt amendments at N.J.A.C. 6A:9B-11.10(a). The rule requires candidates for the swimming and water safety endorsement to hold a standard New Jersey instructional certificate and the following safety certificates: a valid Cardiopulmonary Resuscitation for Professional Rescuer (CPR) Certificate issued by the American Red Cross or the YMCA; a valid Lifeguard Certificate issued by the American Red Cross or the YMCA; and a valid Water Safety Instructor Certificate issued by the American Red

Cross, the YMCA, or the Flotation Aided Swim Training Program (FAST Swim Program™).

The petitioner specifically sought to replace the “YMCA” with the “American Heart Association” as an issuer of the CPR certificate. The petitioner also sought to replace “Water Safety Instructor Certificate” with “swimming instructor certificate” and to list, as examples of the latter certificate, the Water Safety Instructor issued by the American Red Cross, the YMCA Swim Lesson Instructor issued by the YMCA, or the FAST Aquatics Instructor issued by the FAST Swim Program. The petitioner further sought to add “or equivalent training as determined by the Board of Examiners” for each of the three safety certificates.

The petitioner also requested an amendment at N.J.A.C. 6A:9B-11.10(b)2, which requires the chief school administrator of the employing district board of education to annually forward to the executive county superintendent copies of each valid American Red Cross or YMCA certificate identified at N.J.A.C. 6A:9B-11.10(a)2, 3, and 4 for every person assigned to teach swimming and/or diving. The petitioner sought to delete “American Red Cross or YMCA.”

A notice acknowledging receipt of the petition was published in the December 6, 2021, New Jersey Register at 53 N.J.R. 2090(b). A notice of action stating additional time was needed to deliberate about this petition to enable the Department of Education (Department) to consult with the Department of Health, in accordance with N.J.S.A. 18A:26-2.3, was published in the New Jersey Register on February 22, 2022, at 54 N.J.R. 383(a).

Accordingly, after further deliberations and pursuant to N.J.A.C. 1:30-4.2(a)3, the Department of Education (Department) hereby grants the petitioner’s request, in part, and denies the petitioner’s request, in part, as follows:

- The Department grants the requested amendments at N.J.A.C. 6A:9B-9.3(a)2iv and 11.10(b)2 as requested by the petitioner;

- The Department grants the requested amendment at N.J.A.C. 6A:9B-11.10(a)2 to replace the “YMCA” with the “American Heart Association.” The American Heart Association is an organization approved by the Department of Health to certify individuals in CPR, whereas the YMCA is not an approved organization for the CPR certificate;
- The Department declines to accept the petitioner’s request at N.J.A.C. 6A:9B-11.10(a)4 to replace “Water Safety Instructor Certificate” with “swimming instructor certificate” and to list, as examples of the latter certificate, the Water Safety Instructor issued by the American Red Cross, the YMCA Swim Lesson Instructor issued by the YMCA, or the FAST Aquatics Instructor issued by the FAST Swim Program. Instead, the Department will propose to replace “Water Safety Instructor Certificate” with “water safety/swimming instructor certificate.” The Department’s amendment will encompass the certificates issued by the three authorized entities; and
- The Department declines to add “or equivalent training as determined by the Board of Examiners” at N.J.A.C. 6A:9B-11.10(a)2, 3, and 4 because the Board of Examiners does not have the expertise to determine which organizations adequately train individuals in the three required areas.

The Department will initiate a rulemaking before the State Board in the summer as part of the readoption of N.J.A.C. 6A:9B, which is scheduled to expire on November 11, 2022. The granted amendments outlined above will not be effective until the State Board of Education adopts the rulemaking and a notice of adoption appears in the New Jersey Register.

A copy of this public notice is being mailed to the petitioner.