

## **Public Notice**

### **Education**

#### **State Board of Education**

#### **Notice of Receipt and Action on Petition for Rulemaking**

#### **State Board of Examiners and Certification**

#### **Swimming and Water Safety**

#### **N.J.A.C. 6A:9B-11.10(a)**

Petitioner: Linda Bolger.

**Take notice** that on November 26, 2018, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioner requesting the State Board of Education amend N.J.A.C. 6A:9B-11.10(a) to include a third option for the entity that issues a Water Safety Instructor Certificate required for a swimming and water safety endorsement to an instructional certificate. The Department of Education (Department) sought clarification from the petitioner, which was received on December 11, 2018.

The petitioner specifically requested the State Board adopt an amendment to N.J.A.C. 6A:9B-11.10(a)4 that requires candidates to hold a valid Water Safety Instructor Certificate issued by the American Red Cross or YMCA, to add the Flotation Aided Swim Training Program (FAST Swim Program<sup>TM</sup>) as an issuer of the required certificate.

The petitioner's request indicated the FAST Swim Program<sup>TM</sup> has a high standard of safety because the program uses a U.S. Coast Guard-approved Type III life jacket (flotation device) during instruction for non-swimmers, as well as a student-to-teacher ratio of 1:3. The petitioner stated the FAST Swim Program<sup>TM</sup> also emphasizes that a non-swimmer who is not wearing a life jacket should be directly supervised within an arm's length by a certified instructor. The petitioner's request also stated the FAST Swim Program<sup>TM</sup> will provide a starter kit of 10 life jackets for each facility that adopts the program if the adopting facility is unable to

apply for grants toward the cost of life jackets from the Association of Aquatics Professionals, USA Swimming, or Aquatics Research Group.

The petitioner submitted articles about children who have drowned in swimming pools and about the need for regulation of infant swimming instruction. The petitioner also stated that her recent visits and telephone calls to YMCAs and fitness facilities in New Jersey and other states indicate that non-swimming children are not being monitored within an arm's length when taking swim lessons and, instead, are using noodles during swim lessons or standing on a platform in water that is over their heads.

As stated in the notice of action regarding the petitioner's previous petitions on the same matter (see 50 N.J.R. 1443(a) and 50 N.J.R. 1908(a)), the Department does not possess the expertise to ascertain whether the petitioner's FAST Swim Program<sup>TM</sup> is comparable to the American Red Cross or YMCA programs. The petitioner did not submit evidence that the FAST Swim Program<sup>TM</sup> meets or exceeds the components of the currently required programs. The petitioner stated there is no agency that accredits swim instructor programs or a governing body that assesses whether one program is better than another. The petitioner submitted a Lifeguard and Swimming Instructor Equivalency Advisory list issued by the Florida Department of Health stating that the FAST Swim Program<sup>TM</sup> is an approved swimming instructor course; however, the approval is not evidence of program comparability.

Educator certification rules at N.J.A.C. 6A:9B are not the appropriate location to mandate class sizes or a school district's use of life jackets in swimming and water safety classes. The State Board also does not have the authority to require a pool facility operated by a private or nonprofit entity, or a public entity that is not a school district (for example, a county college), to provide equipment.

Therefore, the petitioner's request is hereby denied.