

Public Notice

Education

State Board of Education

Notice of Receipt of Petition for Rulemaking

State Board of Examiners and Certification

Swimming and Water Safety

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

Petitioner: Tom Scott.

Take notice that on October 27, 2020, 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 another option for the entity that issues the safety training certificates required for a swimming and water safety endorsement to an instructional certificate.

The petitioner specifically requests the State Board adopt amendments to N.J.A.C. 6A:9B-11.10(a)2, 3, and 4, to add Lifeguard-Pro as an issuer of each of the following required certificates:

- A valid Cardiopulmonary Resuscitation for Professional Rescuer 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 ProgramTM).

The petitioner's request indicates that Lifeguard-Pro offers Lifeguard, Cardiopulmonary Resuscitation for Professional Rescuer (CPR), First Aid, and Water Safety Instructor certification services in all 50 states, all U.S. territories, and more than 35 countries. The petitioner's request also states that Lifeguard-Pro was reviewed and evaluated by the New Jersey Department of Health and approved in October 2015, to provide Lifeguard, CPR, First Aid, and Water Safety Instructor training in New Jersey. The petitioner's request further states that Lifeguard-Pro's Lifeguard, CPR, First Aid, and Water Safety Instructor certifications are valid for employment in New Jersey.

The petitioner's request contends that Lifeguard-Pro has a civil right under the 14th Amendment to conduct business in New Jersey without government prejudice or favor being provided to any private businesses, such as American Red Cross or YMCA.

The petitioner's request also states that Lifeguard-Pro has a current legal business interest in providing CPR, Lifeguard, and Water Safety Instructor training and certifications to employees and related individuals of the Department of Education (Department).

Full text of the requested amendments is as follows (additions indicated in boldface **thus**):

Chapter 9B, State Board of Examiners and Certification

Subchapter 11. Additional Requirements or Exceptions to Requirements for Instructional Certification with Special Endorsements

6A:9B-11.10 Swimming and water safety

(a) To be eligible for the swimming and water safety endorsement, candidates shall hold:

1. (No change.)

2. A valid Cardiopulmonary Resuscitation for Professional Rescuer Certificate **or equivalent** issued by **Lifeguard-Pro**, the American Red Cross, or the YMCA;
3. A valid Lifeguard Certificate issued by **Lifeguard-Pro**, the American Red Cross, or the YMCA; and
4. A valid Water Safety Instructor Certificate issued by **Lifeguard-Pro**, the American Red Cross, the YMCA, or the Flotation Aided Swim Training Program (FAST Swim ProgramTM).

(b) – (c) (No change.)

In accordance with N.J.A.C. 1:30-4.2, the Department shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.