



**THE STATE EDUCATION DEPARTMENT/
THE UNIVERSITY OF THE STATE OF NEW YORK/ALBANY, NY 12234
ASSISTANT COMMISSIONER FOR CURRICULUM AND ASSESSMENT**

June 1997

To: District Superintendents of Schools
Superintendents of Public and Nonpublic School
Principals of Public and Nonpublic Schools
Education Associations

From: Edward T. Lalor

Subject: An amendment to Education Law in relation to instruction in the display, use, and proper respect for the flag

The State Legislature and the Governor have recently enacted a new law which requires instruction about the correct use and display of the flag of the United States. The new law amends existing Education Law as follows (text underlined is new; matter in brackets is old law to be omitted):

1. It shall be the duty of the commissioner (of education) to prepare, for the use of the public schools of the state, a program providing for a salute to the flag and a daily pledge of allegiance to the flag, (for) and instruction in its correct use and display which shall include, as a minimum, specific instruction regarding respect for the flag of the United States of America, its display and use as provided by federal statute and regulation and such other patriotic exercises as may be deemed by him to be expedient, under such regulations and instructions as may best meet the varied requirements of the different grades in such schools. However, such instruction shall include, as a minimum, the provisions of sections one hundred seventy through one hundred seventy-seven of title thirty-six of the United States Code.
2. This act shall take effect on the one hundred eightieth day after it shall have become law provided, however, the commissioner of education shall promulgate all necessary rules and regulations necessary to carry out the provisions of this act on or before such effective date.

To assist you with the flag requirements, we have attached "Patriotic Customs," sections one hundred seventy through one hundred seventy-seven, of the United States Code. You can also request information and materials related to flag etiquette from The American Legion, National Americanism Commission, Indianapolis, Indiana 46206 and from the Americanism Department, VFW National Headquarters, 406 West 34th Street, Kansas City, Missouri 64111. If you need further assistance, please contact Jo Ann Larson at (518) 474-5922.

PATRIOTIC CUSTOMS
(Sections 170-177 of *United States Code*)

170.
National anthem; Star Spangled Banner

The composition consisting of the words and music known as the Star Spangled Banner is designated the national anthem of the United States of America.

171.

Conduct during playing

During rendition of the national anthem when the flag is displayed, all present, except those in uniform, should stand at attention facing the flag with the right hand over the heart. Men not in uniform should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should render the military salute at the first note of the anthem and retain this position until the last note. When the flag is not displayed, those present should face toward the music and act in the same manner they would if the flag were displayed there.

172.

Pledge of allegiance to the flag; manner of delivery

The Pledge of Allegiance to the Flag, " I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all," should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute.

173.

Display and use of flag by civilians; codification of rules and customs; definition

The following codification of existing rules and customs pertaining to the display and use of the flag of the United States of America is hereby established for the use of such civilians or civilian groups or organizations as may not be required to conform with regulations promulgated by one or more executive departments of the Government of the United States. The flag of the United States for the purpose of this chapter shall be defined according to title 4, United States Code, chapter 1 and section 2 and Executive Order 10834 issued pursuant thereto.

174.

Time and occasions for display

- a. Displays on buildings and stationary flagstuffs in open; night display**
It is universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstuffs in the open. However, when a patriotic effect is desired, the flag may be displayed twenty-four hours a day if properly illuminated during the hours of darkness.
- b. Manner of hoisting.**
The flag should be hoisted briskly and lowered ceremoniously.
- c. Inclement weather.**
The flag should not be displayed on days when the weather is inclement, except when an all weather flag is displayed.
- d. Particular days of displayed.**
The flag should be displayed on all days, especially on New Year's Day, January 1; Inauguration Day, January 20; Lincoln's Birthday February 12; Washington's Birthday; third Monday in February; Easter Sunday (variable); Mother's Day, second Sunday in May; Armed Forces Day, third Saturday in May; Memorial Day (half-staff until noon), the last Monday in May; Flag Day, June 14; Independence Day, July 4; Labor Day, first Monday in September; Constitution Day, September 17; Columbus Day, second Monday in October; Navy Day, October 27; Veterans Day, November 11; Thanksgiving Day, fourth Thursday in November; Christmas Day, December 25; and such other days as may be proclaimed by the President of the United States; the birthdays of States (date of admissions); and on State holidays. (Also on Dr. Martin Luther King, Jr. Day; Peace Officers Memorial Day, May 15; and Pearl Harbor Day, December 7.)
- e. Display on or near administration building of public institutions.**
The flag should be displayed daily, on or near the main administration building of every public institution.
- f. Display in or near polling places.**
The flag should be displayed in or near every polling place on election days.
- g. Display in or near schoolhouses.**
The flag should be displayed during school days in or near every schoolhouse.

175.

Position and manner of display

The flag, when carried in a procession with another flag or flags, should be either on the marching right; that is, the flag's own right, or, if there is a line of other flags, in front of the center of that line.

- a. The flag should not be displayed on a float in a parade except from a staff, or as provided in subsection (i).
- b. The flag should not be draped over the hood, top, sides, or back of a vehicle or of a railroad train or boat. When the flag is displayed on a motorcar, the staff shall be fixed firmly to the chassis or clamped to the right fender.
- c. No other flag or pennant should be placed above or, if on the same level, to the right of the flag (Editor's note: to the flag's own right) of the United States of America, except during church services conducted by naval chaplains at sea, when the church pennant may be flown above the flag during church services for the personnel of the Navy. No person shall display the flag of the United Nations or any other national or international flag equal, above, or in a position of superior prominence or honor to, or in place of, the flag of the United States at any place within the United States or any Territory or possession thereof: Provided, That nothing in this section shall make unlawful the continuance of the practice heretofore followed of displaying the flag of the United Nations in a position of superior prominence or honor, and other national flags in positions of equal prominence or honor, with that of the flag of the United States at the headquarters of the United Nations.
- d. The flag of the United States of America, when it is displayed with another flag against a wall from crossed staffs, should be on the right, the flag's own right, and its staff should be in front of the staff of the other flag.
- e. The flag of the United States of America should be at the center and at the highest point of the group when a number of flags, of the States or localities or pennants of societies are grouped and displayed from staffs.
- f. When flags of States, cities, or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak. When the flags are flown from the adjacent staffs, the flag of the United States should be hoisted first and lowered last. No such flag or pennant may be placed above the flag of the United States or to the United States flag's right.
- g. When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.
- h. When the flag of the United States is displayed from a staff projecting horizontally or at an angle from the windowsill, balcony, or front of a building, the union of the flag should be placed at the peak of the staff unless the flag is at half-staff. When the flag is suspended over a sidewalk from a rope extending from a house to a pole at the edge of the sidewalk, the flag should be hoisted out, union first, from the building.
- i. When displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag's own right, that is, to the observer's left. When displayed in a window, the flag should be displayed in the same way with the union or blue field to the left of the observer in the street.
- j. When the flag is displayed over the middle of the street, it should be suspended vertically with the union to the north in an east and west street or to the east in a north and south street.
- k. When used on a speaker's platform, the flag, if displayed flat, should be displayed above and behind the speaker. When displayed from a staff in a church or public auditorium, the flag of the United States of America should hold the position of superior prominence, in advance of the audience, and in the position of honor at the clergyman's or speaker's right as he faces the audience. Any other flag so displayed should be placed on the left of the clergyman or speaker or to the right of the audience.
- l. The flag should form a distinctive feature of the ceremony of unveiling a statue or monument, but it should never be used as the covering for the statue or monument.
- m. The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. On Memorial Day the flag should be displayed at half-staff until noon only, then raised to the top of the staff. By order of the President, the flag shall be flown at half-staff upon the death of principal figures of the United States Government and the Governor of a State, territory, or possession, as a mark of respect to their memory. In the event of the death of other officials or foreign dignitaries, the flag is to be displayed at half-staff according to Presidential instructions or orders, or in accordance with recognized customs or practices not inconsistent with the law. In the event of the death of a present or former official of the government of a State, territory, or possession may proclaim that the National flag shall be flown at half-staff. The flag shall be flown at half-staff thirty days from the date of death of the President or a former President; ten days from the date of death of the Vice President, the Chief Justice or a retired Chief Justice of the United States, or the Speaker of the House of Representatives; from the day of death until interment of an Associate Justice of the Supreme Court, a Secretary of an executive or military department, a

former Vice President, or the Governor of a State, territory, or possession; and on the day of death and the following day for a Member of Congress. The flag shall be flown at half-staff on Peace Officers Memorial Day, unless that day is also Armed Forces Day. As used in this subsection:

1. the term "half-staff" means the position of the flag when it is one-half the distance between the top and bottom of the staff;
 2. the term "executive or military department" means any agency listed under sections 101 and 102 of title 5, United States Code; and
 3. the term "Member of Congress" means a Senator, a Representative, a Delegate, or the Resident Commissioner for Puerto Rico.
- n. When the flag is used to cover a casket, it should be so placed that the union is at the head and over the left shoulder. The flag should not be lowered into the grave or allowed to touch the ground.
- o. When the flag is suspended across a corridor or lobby in a building with only one main entrance, it should be suspended vertically with the union of the flag to the observer's left upon entering. If the building has more than one main entrance, the flag should be suspended vertically near the center of the corridor or lobby with the union to the north, when entrances are to the east and west, or to the east when entrances are to the north and south. If there are entrances in more than two directions, the union should be to the east.

176.

Respect for flag

No disrespect should be shown to the flag of the United States of America. The flag should not be dipped to any person or thing. Regimental colors, State flags, and organization or institutional flags are to be dipped as a mark of honor.

- a. The flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property.
- b. The flag should never touch anything beneath it, such as the ground, the floor, water, or merchandise.
- c. The flag should never be carried flat or horizontally, but always aloft and free.
- d. The flag should never be used as wearing apparel, bedding, or drapery. It should never be festooned, drawn back, nor up in folds, but always allowed to fall free. Bunting of blue, white, and red, always arranged with the blue above (Editor's note: blue is the honor color of the flag because it contains the stars which represent each state of the Union.), the white in the middle, and the red below, should be used for covering a speaker's desk, draping the front of the platform, and for decoration in general.
- e. The flag should never be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way.
- f. The flag should never be used as a covering for a ceiling.
- g. The flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature.
- h. The flag should never be used as a receptacle for receiving, holding, carrying, or delivering anything.
- i. The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard. Advertising signs should not be fastened to a staff or halyard from which the flag is flown.
- j. No part of the flag should ever be used as a costume or athletic uniform. However, a flag patch may be affixed to the uniform of military personnel, firemen, policemen, and members of patriotic organizations. The flag represents a living country and is itself considered a living thing. Therefore, the lapel flag pin, being a replica, should be worn on the left lapel near the heart.
- k. The flag, when it is in such condition that is no longer a fitting emblem for display (Editor's note: the flag is torn, worn, faded, or dirty beyond cleaning.), should be destroyed in a dignified way, preferably by burning.

177.

Conduct during hoisting, lowering or passing of flag

During the ceremony of hoisting or lowering the flag or when the flag is passing in a parade or in review, all persons present, except those in uniform, should face the flag and stand at attention with the right hand over the heart. Those present in uniform should render the military salute. When not in uniform, men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Aliens should stand at attention. The salute to the flag in a moving column should be rendered at the moment the flag passes.