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8820. OPENING EXERCISES

Pledge of Allegiance to the United States Flag

The decision by the Federal District Court will in no way supersede or change the requirement of New Jersey Law that the flag salute be conducted daily in schools. The one change which will occur is that a pupil who does not wish to stand in respectful silence or pay tribute to the flag of the United States may now remain seated during the flag salute and cannot be penalized for doing so, provided that the pupil receives written permission from his/her parent(s) or legal guardian(s).

Any pupil whose parent(s) or legal guardian(s) chooses this option, should not be singled out for special treatment. All pupils are still required to refrain from engaging in any disruptive action while classmates are saluting the flag.

Legal Basis

That portion of New Jersey statute which reads "shall be required to show full respect to the flag while the pledge is being given merely by standing at attention" is, according to the Judge's decision "an unconstitutional requirement that the pupil engage in a form of speech and may not be enforced". The decision goes on to say "of course, the pupil has no right to disrupt the classroom, has no right to jump up and down, play a drum, sing a song, pound on the table, and a pupil who disrupts the classroom during the pledge or at any other time is subject to appropriate discipline."

However, any requirement of this statute that a non-participating pupil be required to stand at attention is invalid.

N.J.S.A. 18A:36-3 does not require the use of the Pledge of Allegiance during assemblies or other gatherings. It does, however, specifically require that the flag be saluted and that the pledge be recited once each day by pupils.

Regulations

1. All teachers, Principals and pupils are directed and required to continue to observe the law. The flag is to be saluted each day by teachers and pupils.
2. Pupils who decide to "sit down" during the flag salute are permitted to do so as long as they are not doing anything to disrupt the saluting process.
3. The school shall request written permission from the parent(s) or legal guardian(s) of each pupil who decides to "sit down" during the flag salute.
4. The school or teacher cannot punish pupils who "sit down" during the flag salute. Pupils may not be penalized for sitting down during the flag salute, nor may pupils be required to leave the classroom during the flag salute.
5. Any disruptive behavior during the flag salute, or at any other time, is subject to appropriate disciplinary action.

Adopted: November 17, 2011