

SCHOOLS: A flag of the United States shall be flown during school hours, except during rainy or stormy weather.

December 17, 1935.



Mr. J. C. Kennedy
Superintendent
Richards Public Schools
Richards, Missouri

Dear Sir:

This is to acknowledge your letter as follows:

"The School Law of Missouri states that the flag of the United States of America shall be flown while school is in session. Is there any exception made to this law when the weather is rainy, or otherwise stormy? I would appreciate a clarification of this law on this matter from your department."

The statute referred to in your letter, pertaining to the display of the flag of the United States, is found in Laws of Missouri, 1931, page 352, Section 9270a, and reads as follows:

"Every school in this state which is supported in whole or in part by public moneys shall, during the hours while school is in session, display in some prominent place either upon the outside of the school building or upon a pole erected in the school yard the flag of the United States of America."

The above section is mandatory and requires the displaying of the flag of the United States during school hours.

However, the question arises as to whether the flag should be flown during inclement weather. The above statute makes no exception as to weather. Consequently, we must look to other sources of information pertaining to the proper display of the flag.

The flying of the flag in inclement weather does not amount to a desecration of the flag, in our opinion. There is no United States law that prohibits the flag of the United States from being flown in inclement weather. United States Code Annotated, 1934 Cumulative Annual Pocket Part, Title 4, page 27, Article 3, says the following:

"The desecration or improper use of the national flag outside the District of Columbia has not been made a federal offense, but should Congress wish to assume such control, it has power under the Constitution to do so. (1925) 34 Op. Atty. Gen. 483."

The Army Regulations issued by the War Department, Washington, November 20, 1931, page 7, has the following to say relative to the flying of the flag at Army Posts:

"The post flag will be 10 feet hoist by 19 feet fly. It will be furnished to all garrisoned posts, national cemeteries, and nongarrisoned historic posts, and will be hoisted in pleasant weather."

Mr. Harrison S. Kerrick in his book on "The Flag of the United States--Your Flag and Mine", at pages 100-101 says the following:

"Flags can be kept bright and joyous if care is exercised when raising and lowering the flag, and by exposing it to the elements only in the daytime and in clear weather, from a modern, tubular steel pole with revolving truck."

And at page 107, further writes:

"The Flag should be displayed only from sunrise to sunset, or between such hours as may be designated by proper authority. The Flag should be hoisted briskly but should be lowered slowly and ceremoniously. The Flag should be displayed on all National and State holidays and on historic and special occasions. (However, being the Emblem of our County, it ought to fly from every flag pole every day throughout the year, weather permitting.)"

When the Legislature enacted Section 9270a, supra, we believe that it was their intention that the flag should be displayed in accordance with standard principles and rules pertaining to the displaying of the flag of the United States. We do not believe that the Legislature intended that the flag should be displayed in inclement or bad weather. It is common knowledge that flags cost money, and if a flag is flown in stormy or rainy weather it would cause it to deteriorate much more rapidly and thus add extra expense to the district in purchasing new ones. It is, therefore, our opinion that the flag must be displayed during school hours, weather permitting.

It is our further opinion that if the flag is not flown on stormy or rainy days that failure thereof would not be a violation of Section 9270a, supra.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney-General

JLH:EG