

To AACPS BOE  
RE: POLICY IS – DISPLAY OF FLAGS  
June 23, 2023

Hello,  
I'm responding to the BOE's attempt to modify the current flag display policy in AACPS.

The first thing I notice when I read the policy is the reference to the IKA and IKA-RA. These policies are to reflect what is written in the Maryland statutes and I notice that the current IKA has watered down the wording of the statutes changing the focus to patriotic exercises, from that of displaying of flags. It appears the new policy being proposed is headed down the same path. When the focus is on the display of flags, the limitation of the statute becomes clear. The statute is limiting, but the IKA policy because of the improper wording is not; the limitations intended by the legislators has been lost.

The statute states - ([MD. Education Code § 7-105 \(2022\)](#))(b)(1) "Each county board SHALL REQUIRE the display of an American Flag on site of each public school building in its county while the school is in session;"

And the purpose of this is stated in the statute in paragraph (a) "...so that the love of freedom and democracy, shown in the devotion of all true and patriotic Americans to their flag and country, shall be instilled in the hearts and minds of the youth of America."

The purpose of displaying any flag in the classroom is to show the devotion of Americans to THEIR flag, the American flag, and THEIR country, United States of America. No other reason exists. Not educational, not to provide equality, not to be inclusive, not anything.

The stated purpose of the IKA is to provide guidance related to opening and patriotic exercises. It doesn't say anything about flying of flags or instilling freedom and democracy in the minds of the youth.

The IKA also then reduces the requirement to an option, contradicting the statute.

So the first problem I see is that this new policy is being based on an existing policy that conflicts with the state level statutes.

If the existing policy were correctly codified from the statutes, all the flags currently being displayed in the schools other than the American flag would be violating policy and this new policy would not even be needed.

Second, just in case this board fails to correct the existing codification of the current policy prior to moving forward, the new policy – Display of Flags, also violates the state statutes. The statutes are silent on other flags and only talk specifically about the American flag. To add a paragraph about flags for educational purposes is intentionally adding to the **unambiguous** wording of the statute. This is illegal statute application.

Look at any appellate level court case. A case only gets to the appellate level through errors made by the legal professionals usually through improper statute application. The wise appellate judges use the same approach every time to determine if a statute was properly applied or not. And they tell you what that approach is. They will state in their rulings - “We neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute” *Donlon v. Montgomery Cnty. Pub. Sch.*, 460 Md. 62, 76 (Md. 2018) There are over 68 cases of this exact wording being used in appellate cases in Maryland dealing with public schools for one thing or another. (And hundreds more for cases other than public schools.)

Adding the option to display a flag for educational purposes is adding words to the interpretation of the Maryland state statute and is wrongful application of the statute and wrongful construction of the policy. But it is understandable why one would do this if one were basing that wording on the improperly constructed IKA policy in the first place.

The IKA policy wording needs to better reflect what the statute states. Then the new policy will not even be needed. And if the BOE decides to ignore my concerns and go forward with the new policy then the following changes should also be made to the new proposed policy:

1. Paragraph C.1 – definition of a flag is not needed. Only the American flag as defined in [4 USC Chapter 1](#) is the only acceptable definition. According to the statute other flags showing patriotism can be displayed and the state and county flags would meet that definition. Again the definitions of those flags are in the Maryland codes (Chapter 48, Acts of 1904, effective March 9, 1904), and the AACO codes which you can easily reference.

2. Both paragraphs 3 and 4 should be eliminated. No other flags should be displayed unless as the statute states they are showing patriotism. Here is a [definition of patriotism](#) - “‘love for and devotion to one’s country.’ ... Believing in the promise of America enough to give their lives for it...” It has to do with the country as a whole, the land that makes up the country (state and county), and the principles on which that land was first founded. The USC includes current federal level recognized patriotic organizations and it doesn’t include BLM, gay rights, LGBTQ or any other symbols of immoral associations or even religions.
3. Do not leave it up to “bona fide”. This is far too broad and one principle may decide something is bona fide educational when that flag may be considered sacrilegious or immoral to another or to the parents of the young people in the school. Just because a person holds the title of principle doesn’t mean they will make the right decision of whether a flag has a bona fide educational purpose. In fact any flag could meet this definition and the decision will rest in the hands of one person – the principal. The only flags that **shall** be displayed according to the state statutes are the American and other **PATRIOTIC** flags. No others!

Thank you for this opportunity to voice my concerns. I strongly encourage this BOE to make the recommended changes.

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