



The United States Flag: Federal Law Relating to Display and Associated Questions

John R. Luckey
Legislative Attorney

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(c) The flag should not be displayed on days when the weather is inclement, except when an all-weather flag is displayed.

(d) The flag should be displayed on all days, especially on New Year's Day, January 1; Inauguration Day, January 20; Martin Luther King Jr.'s birthday, the third Monday in January;¹⁵ 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; National Korean War Veterans Armistice Day, July 27;¹⁶ 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 admission); and on State holidays.

(e) The flag should be displayed daily on or near the main administration building of every public institution.

(f) The flag should be displayed in or near every polling place on election days.

(g) The flag should be displayed during school days in or near every schoolhouse.

§ 7. 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) of this section.

(b) The flag should not be draped over the hood, top, sides, or back of a vehicle or of a railroad train or a boat. When the flag is displayed on a motorcar, the staff should 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 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 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.

¹⁵ Martin Luther King Jr.'s birthday was added by P.L. 106-80, 113 Stat. 1285.

¹⁶ Nation Korean War Veterans Armistice Day was added by P.L. 111-41, 123 St. 1962.

1989,³⁹ struck down albeit on grounds unrelated to this specific point,⁴⁰ prohibited *inter alia* “knowingly” burning of a flag of the United States, but excepted from prohibition “any conduct consisting of disposal of a flag when it has become worn or soiled.”

Display of United States Flag with Flags of Other Nations or of States

The Flag Code sets out rules for position and manner of display of the flag in 4 U.S.C. § 7. The question as to the propriety of flying the flag of another nation at an equal level with that of the flag of the U.S. is not clear from the face of the statute. Section 7 contains two subsections on point and these provisions appear to be contradictory. Subsection 7(c) states:

(c) No other flag or pennant should be placed above or, if on the same level, to the right of the flag 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 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.⁴¹

Subsection 7(g) states:

(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 of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.⁴²

The wording of § 7(g) is identical to that of the original Flag Code enacted in 1942.⁴³ The second sentence of § 7(c) prohibiting flying international flags equal in height to the flag of the United States was not in the original Flag Code. This provision was added in 1953.⁴⁴ The legislative history of this amendment clearly states that its purpose was to “make it an offense against the United States to display the flag of the United Nations or any other national or international flag equal to, 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 possession or territory thereof.”⁴⁵ The only exception recognized is at the headquarters of the United Nations.

³⁹ P.L. 101-131.

⁴⁰ See, *United States v. Eichman*, 496 U.S. 310 (1990).

⁴¹ 4 U.S.C. § 7(c).

⁴² 4 U.S.C. § 7(g).

⁴³ P.L. 623, § 3(g), 77th Cong., 56 Stat. 377, 378.

⁴⁴ P.L. 107, 83rd Cong., 67 Stat. 142.

⁴⁵ S. Rept. No. 258, 83rd Cong., 1st Sess. (1953).