

Public Notice

Education

State Board of Education

Notice of Receipt and Action on Petition for Rulemaking

Display of and Salute to Flag; Pledge of Allegiance

N.J.S.A. 18A:36-3

Petitioner: Vincent Del Priore.

Take notice that on January 5, 2022, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the petitioner requesting that the State Board amend a provision at N.J.S.A. 18A:36-3 that requires students to show full respect to the United States flag while the pledge of allegiance is recited by standing at attention and by “the boys removing the headdress.”

The petition states that *Lipp v. Morris* (579 F.2d 834 (3d Cir. 1978)) suggests that students do not have to stand at attention to show full respect to the flag. The petitioner requested that the statute be amended to remove “standing at attention” and to replace “boys” with the gender-neutral “pupils.”

The petition also states that the language at N.J.S.A. 18A:36-3 runs counter to *Lipp v. Morris*, which poses a challenge for New Jersey school administrators when trying to enforce the statute. The petition further states that girls (or boys who identify as a girl) do not have to remove their headdress due to the statute’s gendered language, which increases the complexity of enforcing the statute. The petition states the amending the statute will ensure the law is gender-neutral and aligns with the Third Circuit Court of Appeals decision.

The State Board does not have the authority to amend State law as that is the responsibility of the New Jersey Legislature. Therefore, the petitioner’s request is denied.