

POLICY CONCEPT FORM FLAG PROTOCOL

All policy proposals including new policy concepts, recommendations to revise, or requests to repeal must be submitted via this form to the University Secretary. The Secretary will forward completed concept forms to the President's Policy Advisory Council for consideration pursuant to I.03.01 Policy on University Policies. When submitting a policy concept form, please keep the following university definition of "policy" in mind:

A University Policy ("Policy") is a policy that (1) has broad application or impact throughout the University community, (2) must be implemented to ensure compliance with state or federal law, (3) is necessary to enhance the University's mission, to ensure institutional consistency and operational efficiency, or to mitigate institutional risks; or (4) is otherwise designated by the Board or the President as a University Policy subject to the Policy- Making Process authorized in section 4. A policy establishes rights, requirements or responsibilities. Excluded from this definition are things such as, but not limited to, implementation guides, operating guidelines, internal procedures, and similar management controls and tools.

Proposer Information	
Name:	Kassy Fisher
Email:	kmfisher@uoregon.edu
Phone:	541-346-2807
University Affiliation:	Office of the VP for Finance and Administration

Policy Subject Matter (please included existing policy number(s) if available):

Flag Protocol, <http://policies.uoregon.edu/policy/by/1/04-facilities/flag-protocol>
Formerly **UO Policy Statement 04.00.04**

Proposed Action (i.e., new, revision, repeal)

Repeal

Statement of Need and Desired Result (please describe what we accomplish with the proposed action):

We propose repealing the Flag Protocol because it is problematic in the following ways:

- Section 1 unnecessarily states the University's obligation to comport with federal and state statutes but the policy does not need to exist in order to ensure that obligation.
- In contradiction to the assertion in section 1 that the university complies with federal statutes, sections 3 and 4 describe a practice that is counter to the US Code on flag etiquette and protocol (see "Relevant Information" below) in that it says that the UO president may order the US flag at the EMU to be flown at half-staff (section 3) and under extraordinary circumstances in the absence of a presidential or gubernatorial directive (section 4).
- Different from section 2 which says that contacts in units responsible for the display of the US flag shall consult with the Office of the President before responding to any request to fly the flag at half-staff, the current procedure in use at the University is that these contacts only fly the flag at half-staff at the direction of the Office of the President which, in turn, comes from the Oregon Department of Administrative Services (DAS). The UO is permitted two members on the "Flag Notifications" listserv held by DAS, both of which are president's office representatives who maintain an email list that includes at least one contact in each unit responsible for the display of

the US flag or state flag. The flag is only lowered to half-staff in compliance with directives that come through the DAS "Flag Notifications" list. These are forwarded by the president's office representatives to the UO contacts. Representation on the UO contacts email list is periodically reviewed and updated by the Office of the President.

- Contrary to the assertion in section 5 that the UO president can order the university flag to be flown at half-staff, this is not current practice.
- All current and correct text in this policy (and even the policy's name, "Flag Protocol") speak to procedures and practices and do not meet the definition of university policy as defined above. That is, it does not have "broad application or impact throughout the University community", it need not be "implemented to ensure compliance with state or federal law," and it is not "necessary to enhance the University's mission, to ensure institutional consistency and operational efficiency, or to mitigate institutional risks."

Affected Policy Stakeholders (please list all known impacted stakeholders and the nature of those impacts):

Change to the policy as proposed will not affect relevant stakeholders which include contacts in the Office of the President and contacts in units responsible for the display of a US or state flag (e.g., EMU, Military Science, Housing, Athletics and the Alumni Center).

Consulted: Military Science personnel, widely seen as our campus experts on flag protocol, were consulted and endorse the proposed change. Staff in the Office of the President were also consulted and endorse the repeal. **Kevin Reed in the Office of the General Counsel has been asked to review as well.**

Current Policy Text:

Reason for Policy:

To establish criteria for the proper display of the United States flag.

Policy Statement:

1. *The United States flag shall be displayed at the University of Oregon to conform with federal and state statutes.*
2. *The Director of the Erb Memorial Union and directors of other University units responsible for the display of the United States flag shall consult with the Office of the President before responding to any request to fly the flag at half mast.*
3. *The United States flag displayed in the Erb Memorial Union flag staff shall be flown at half mast only under the following conditions:*
 - *Upon direction of the President of the United States.*
 - *Upon direction of the Governor of the State of Oregon.*
 - *Upon direction of the President of the University of Oregon.*
4. *Presidential Proclamation 3044 prescribes rules for display of the United States flag at half mast as a symbol of national grief or tribute. In deference to established national custom, the President will authorize the lowering of the United States flag on the University campus in the absence of a Presidential or Gubernatorial direction only under very extraordinary circumstances.*
5. *When an event takes place which is clearly a matter of grief shared by the University community, and when the President judges that grief is best expressed by an outward symbolic gesture, the University of Oregon flag shall be scheduled to be flown at half mast.*

Relevant Information (for members of the PAC and other reviewers):

Flag etiquette and protocol are outlined in the United States Code, Title 36, Chapter 10, Sections 173-178. Most pertinent to the university's practices are select parts of Section 174, specifically sections relevant to public institutions, inclement weather and night display, and the conditions upon which the flag may be lowered to half-staff, which are outlined in Section 175. Below are relevant excerpts

Section 174, "Time and occasions for display" includes the following:

"(a) Display on buildings and stationary flagstaffs in open; night display

It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, when a patriotic effect is desired, the flag may be displayed twenty-four hours a day if properly illuminated during the hours of darkness.

(c) Inclement weather

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

(d) Particular days of display

The flag should be displayed on all days, especially on New Year's Day, January 1; Inauguration Day, January 20; 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; 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) Display on or near administration building of public institutions

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

Section 175, "Position and manner of display" covers in what position it should be when being marched, carried on floats and vehicles, during church services and funerals, collocated with other flags, etc., and specifies when the flag should be flown at half-staff:

"(m) The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. On Memorial Day the flag should be displayed at half-staff until noon only, then raised to the top of the staff. By order of the President, the flag shall be flown at half-staff upon the death of principal figures of the United States Government and the Governor of a State, territory, or possession, as a mark of respect to their memory. In the event of the death of other officials or foreign dignitaries, the flag is to be displayed at half-staff according to Presidential instructions or orders, or in accordance with recognized customs or practices not inconsistent with law. In the event of the death of a present or former official of the government of any State, territory, or possession of the United States, the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff. The flag shall be flown at half-staff thirty days from the death of the President or a former President; ten days from the day of death of the Vice President, the Chief Justice or a retired Chief Justice of the United States, or the Speaker of the House of Representatives; from the day of death until interment of an Associate Justice of the

Supreme Court, a Secretary of an executive or military department, a former Vice President, or the Governor of a State, territory, or possession; and on the day of death and the following day for a Member of Congress. As used in this subsection -

- (1) the term 'half-staff' means the position of the flag when it is one-half the distance between the top and bottom of the staff;
- (2) the term 'executive or military department' means any agency listed under sections 101* and 102* of title 5; and
- (3) the term 'Member of Congress' means a Senator, a Representative, a Delegate, or the Resident Commissioner from Puerto Rico."

**Note: "101" refers to the Executive departments: The Department of State. The Department of the Treasury. The Department of Defense. The Department of Justice. The Department of the Interior. The Department of Agriculture. The Department of Commerce. The Department of Labor. The Department of Health and Human Services. The Department of Housing and Urban Development. The Department of Transportation. The Department of Energy. The Department of Education. The Department of Veterans Affairs. "102" refers to the military departments: The Department of the Army. The Department of the Navy. The Department of the Air Force.*

As context, the other sections in the flag chapter (Chapter 36) of the US Code address the following:

- 173. Display and use of flag by civilians; codification of rules and customs; definition of the flag (e.g., it has 13 stripes, 50 stars...)
- 176. Respect for flag
- 177. Conduct during hoisting, lowering or passing of flag
- 178. Modification of rules and customs by President (of the US, that is)
- 179. Design for service flags (a flag for use in the residences of service personnel)