

IN THE MATTER OF  
EDUCATION ARTICLE §7-104

BEFORE THE  
MARYLAND  
STATE BOARD  
OF EDUCATION  
Opinion No. 14-43

## OPINION

### INTRODUCTION

At the May 20, 2014 meeting, this Board published Opinion No. 14-29 dealing with the moment of silence statute, Education Article §7-104. Both parties in the case have requested clarification of the decision.

### FACTUAL BACKGROUND

In the decision issued in May, the Board interpreted how Education Article §7-104 could be implemented. We said:

To decide how the statute should be interpreted as to implementation, we begin with the original bill, HB80, passed in 1964. The bill as introduced would have required each and every principal and teacher to carry out the mandate of a moment of silence. The bill stated:

“Principals and teachers in every public elementary and secondary school in this State SHALL require all students...to meditate silently...” (emphasis added)

The bill was amended to replace “shall” with “may” thus eliminating the mandate and allowing teachers and principals discretion to choose a moment of silence. In doing so, it appears to us that the legislature intended to give that discretion to teachers and principals individually just as it imposed the mandate on them individually.

The local board asked whether a teacher must provide a moment of silence if the principal requires the entire student body to observe a moment of silence. We refer to [Ms. Rutkowski’s] Appellant’s approach here, given that the role of the principal is to establish the operational rules of the school, including the way a school day progresses. Appellant [Ms. Rutkowski] suggests these rules to govern implementation of §7-104:

- (1) If the principal requires the entire school body to provide a daily moment of meditation, teachers must comply with their principal and provide it.
- (2) If the principal does not require the entire school body to provide a daily moment of meditation, it is then up to the individual teacher. The teacher may then decide individually to provide the daily “moment of silence” or not.

That is certainly one way, and we believe a reasonable way, to implement and operationalize the statute in concert with the intent of the legislature. There may be other reasonable ways to do so and we leave that to the principals and teachers to decide.

The parties have requested that we address a third scenario: would the law allow a principal to prohibit a moment of silence school-wide even if an individual teacher(s) wanted to conduct a moment of silence? In our view, the plain language of the statute does not support a prohibition imposed by the principal.

Under the plain meaning rule of statutory construction, “if the words of the statute, construed according to their common and everyday meaning, are clear and unambiguous and express a plain meaning, we will give effect to the statute as written.” *Walzer v. Osborne*, 395 Md. 563, 572 (2006). The plain words of the statute give the principal the discretion to “require” a moment of silence school-wide. Because of the principal’s leadership role, teachers would have to follow the principal’s directive.

The plain words of the statute also give the principal the discretion to “not require” a moment of silence. The meaning of “not require” is much different from the meaning of “prohibit”, however. When something is prohibited it is actively prevented. When something is not required, that is a passive act. To read the statute to mean that the principal not only can decide not to require a moment of silence, but also can prohibit teachers from requiring one, would read into the statute more words than are there. Under the plain meaning rule, we cannot add words to a statute to give it a meaning not reflected by the words the legislature used or “engage in forced or subtle interpretation in an attempt to extend...the statute’s meaning.” *Id.*

## CONCLUSION

Therefore, in clarification of our Opinion, we declare that the statute at issue does not allow a principal to prohibit a moment of silence school-wide.

*Absent*  
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Charlene M. Dukes  
President

*Mary Kay Finan*

Mary Kay Finan  
Vice President

*James H. DeGraffenreidt, Jr.*

James H. DeGraffenreidt, Jr.

*Linda Eberhart*

Linda Eberhart

*S. James Gates, Jr.*

S. James Gates, Jr.

Larry Giammo

*Luisa Montero Diaz*

Luisa Montero-Diaz

*Sayed M. Naved*

Sayed M. Naved

*Madhu Sidhu*

Madhu Sidhu

*Donna Hill Staton*

Donna Hill Staton

*Guffrie M. Smith, Jr.*

Guffrie M. Smith, Jr.

July 22, 2014