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Military Funeral Honors and Military Cemeteries: Frequently Asked Questions

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Summary

This report is written in response to frequently asked questions (FAQs) about military funeral honors and military cemeteries. It provides information to questions in three general areas: implementation of the Funeral Honors and eligibility criteria; components of the honor detail and the funeral ceremony; and specific questions on burial honors at Arlington National Cemetery. It also cites legislation that mandates that the Department of Defense (DOD) make military funeral honors available to every eligible veteran upon request. This report will be updated as needed. For related reading, see CRS Report R41386, *Veterans' Benefits: Burial Benefits and National Cemeteries*, by Christine Scott.

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Implementation and Eligibility

What Legislation Provides for the Implementation of the Current Military Funeral Honors Program?

The National Defense Authorization Act for FY2000, P.L. 106-65, as amended, sets out the requirements for funeral honors and mandates military honors at funerals for all eligible veterans.¹ The originating language can be found in the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, H. Rept. 105-736, Section 567: “The conferees agree that men and women, who have served honorably, whether in war or peace, deserve commemoration for their military service at the time of their death by an appropriate tribute. Burial honors are an important means of reminding Americans of the sacrifices endured to keep the Nation free.”

What Agency Is Responsible for Administering the Military Funeral Honors Program?

The Department of Defense is responsible for providing military honors to eligible veterans. DOD Instruction 1300.15 updates policy and responsibilities for military funeral support. DOD has established a website that provides information including eligibility criteria, the text of relevant legislation, information for funeral directors, and related links, at <https://www.dmdc.osd.mil/mfh/>.

Questions or comments regarding the program can be addressed to:

Deputy Assistant Secretary of Defense, (Military Community and Family Policy)
4000 Defense Pentagon
Room 5A726
Washington, DC, 20380-400

Who Is Eligible for Military Funeral Honors?

Military members in the following categories are eligible for military funeral honors: military personnel on active duty; former military members who served on active duty and were discharged under conditions other than dishonorable (as described below); members of the Selected Reserve; former members of the Selected Reserve who served at least one term of enlistment or period of initial obligated service and were discharged under conditions other than dishonorable; and former members of the Selected Reserve who were discharged due to a service-related disability.²

¹ 10 U.S.C. 1491.

² According to CRS Report RL30802, *Reserve Component Personnel Issues: Questions and Answers*, by Lawrence Kapp and Barbara Salazar Torreon, “The Selected Reserve contains units and individuals most essential to wartime missions, in accordance with the national security strategy. They have priority over other reservists for training and equipment. Members of the Selected Reserve are generally required to perform one weekend of training each month (‘inactive duty for training’ or IDT, also known as ‘weekend drill’) and two weeks of training each year (‘annual training’ or AT, sometimes known colloquially as ‘summer camp’) for which they receive pay and benefits.”

Who Is Ineligible for Military Funeral Honors?

Veterans are ineligible if convicted of a capital offense (as defined in the National Defense Authorization Act for FY2006, P.L. 109-163, Section 662), or when the circumstances involved would bring discredit upon the person's service or former service. Veterans are also ineligible if they were discharged from the military under dishonorable conditions. These conditions include dishonorable discharge, bad conduct discharge, dismissal from the service awarded by court-martial, other than honorable conditions discharge, and for officers who resign for the good of the service in lieu of courts-martial, which results in a discharge characterization of other than honorable conditions.

P.L. 109-163 (Section 662) modified titles 10 and 38 of the *U.S. Code*, to expand the prohibition against the interment of anyone in a national cemetery, as well as the use of military honors, for anyone convicted of a capital offense (as defined), or when the circumstances involved would bring discredit upon the person's service or former service. This language expands upon P.L. 105-116 that Congress passed in 1997. That law barred those convicted of capital crimes from being buried in a national cemetery. The 1997 law was ostensibly passed to prevent the possibility of Oklahoma City bomber Timothy McVeigh, a veteran, from being buried at Arlington National Cemetery. McVeigh was put to death on June 11, 2001.

Section 404 of P.L. 109-461 required the removal of Russell Wayne Wagner's remains from the columbarium at Arlington National Cemetery. An honorably discharged Vietnam veteran, Wagner was convicted of killing an elderly Maryland couple in 1994. Wagner died in 2005 while serving two life terms in prison. Because he was eligible for parole, he qualified for burial at Arlington. Following protests from the murdered couple's son, language was included in the Veterans Benefits, Health Care and Information Technology Act of 2006, P.L. 109-461, requiring the removal of Wagner's remains. The Superintendent of the Arlington Cemetery reported that the cremated remains of Russell Wayne Wagner have been removed from Arlington National Cemetery and turned over to his sister.³

Funeral Components

What Are Military Funeral Honors?

The Department of Defense (DOD) defines military funeral honors as the ceremonial paying of respect and the final demonstration of the country's gratitude to those who, in times of war and peace, have faithfully defended our nation. Members of the funeral honors detail fold and present the American flag to the veteran's survivor and "Taps" is sounded.⁴

³ Document available at <http://www.arlingtoncemetery.net/rwwagner.htm>.

⁴ Department of Defense Instruction 1300.15, "Military Funeral Support," October 22, 2007, at <http://www.dtic.mil/whs/directives/corres/pdf/130015p.pdf>.

What Is the Composition of a Military Funeral Honors Detail?

The military services operate under service-specific policies; the honors vary from service to service and are dependent upon available resources. At the minimum, a funeral honors detail consists of two members of the Armed Forces, at least one of which is a member of the veteran's military service.

Funeral honors details may be augmented with volunteers who are military veterans and who are members of veterans' service organizations, such as the American Legion and the Veterans of Foreign Wars, or other appropriate organizations. The Authorized Provider Partnership Program (AP3) was established to provide training for these volunteers to standardize the quality of the honors rendered. Volunteers can participate as firing party members, pallbearers, and buglers, among other duties. When a trained bugler is not available, a recorded version of "Taps" may be played. DOD also approved the use of a ceremonial bugle, which contains a device in the bell of the bugle that plays a recorded version of "Taps."⁵

What Is the Protocol for the Flag Presentation to Next of Kin? Are There Any Recent Changes?

After "Taps" has been played, the flag is folded into the tri-cornered shape.⁶ The folded flag is then presented to the next of kin or appropriate family member. Please note: A number of Internet postings have suggested that the flag presentation speech was changed from "On behalf of a grateful nation and the President of the United States" to "On behalf of a grateful nation and the Secretary of Defense." There is no new policy regarding the U.S. flag presentation.

However, effective April 17, 2012, the Department of Defense standardized the flag presentation language for military funeral honors ceremonies. The following language will be used when presenting the American flag during the funeral service:

"On behalf of the President of the United States, (the United States Army; the United States Marine Corps; the United States Navy; or the United States Air Force), and a grateful Nation, please accept this flag as a symbol of our appreciation for your loved one's honorable and faithful service."

The United States Coast Guard is invited to use the same wording.

Are Military Bands Used at Military Funerals?

According to the historian at the Department of Veterans Affairs (VA) National Cemetery System (NCS), the use of military bands is extremely rare and the NCS does not maintain statistics on the use of military bands at military funerals.⁷ The historian noted that even President Kennedy's

⁵ See DOD's Ceremonial Bugle page for more detail at <https://www.dmdc.osd.mil/mfh/getLinks.do?tab=Bugle>.

⁶ Department of Defense, Flag Presentation Protocol and Flag Folding at <https://www.dmdc.osd.mil/mfh/getLinks.do?tab=Flag>.

⁷ Information provide by Sarah Leach, historian with the VA's National Cemetery System, on July 7, 2011.

funeral with full military honors at Arlington National Cemetery consisted of the 3rd Infantry's Colonial Fife and Drum Corps and not a military band.⁸

Who Is Responsible for Making the Arrangements for Honors to be Performed?

Honors are not performed automatically; they must be requested. Families of eligible veterans must request funeral honors through their funeral director. The funeral director is to contact the appropriate military service to arrange for the funeral honors detail. See the FAQs for Funeral Directors at <https://www.dmdc.osd.mil/mfh/getLinks.do?tab=DirFAQ>.

Are Members of the Military Honors Detail Paid?

Members of the Ready Reserve⁹ or retired military personnel who are part of a military funeral detail may receive pay, allowances, travel, and transportation reimbursements.¹⁰ Ready Reserve personnel may also receive service credit for performing this duty.¹¹ Survivors are not charged for these services.

Section 571 of P.L. 107-314, the Bob Stump National Defense Authorization Act for FY2003, enacted December 2, 2002, provides for a flat rate daily stipend for members of the funeral honors detail who are not active duty military personnel. The current daily stipend is \$50. The *U.S. Code* provides at 10 U.S.C. 1491(d) (1) that to support a funeral honors detail under this section, the Secretary of a military department may provide the following:

(A) For a person who participates in a funeral honors detail (other than a person who is a member of the Armed Forces not in a retired status or an employee of the United States), either transportation (or reimbursement for transportation) and expenses or the daily stipend prescribed under paragraph (2).

(B) For members of a veterans organization or other organization referred to in subsection (b) (2) and for members of the Armed Forces in a retired status, materiel, equipment, and training.

(C) For members of a veterans organization or other organization referred to in subsection (b)(2), articles of clothing that, as determined by the Secretary concerned, are appropriate as a civilian uniform for persons participating in a funeral honors detail. Volunteers seeking reimbursement should complete DOD Standard Form 1164 and submit it to the unit with which they are volunteering.

⁸ *The Last Salute: Civil and Military Funerals 1921-1969*, Chapter 23, "President John F. Kennedy State Funeral 22-25 November 1963" at http://www.history.army.mil/books/Last_Salute/ch23.htm. For more information on military bands, see "Strike up the Band" by Mark Cantrell, *Military Officer*, October 2011, pp. 50-55.

⁹ According to CRS Report RL30802, *Reserve Component Personnel Issues: Questions and Answers*, by Lawrence Kapp and Barbara Salazar Torreon, "The Ready Reserve is the primary manpower pool of the reserve components. Members of the Ready Reserve will usually be called to active duty before members of the Standby Reserve or the Retired Reserve. The Ready Reserve is made up of the Selected Reserve, the Individual Ready Reserve, and the Inactive National Guard."

¹⁰ 37 U.S.C. 435.

¹¹ 10 U.S.C. 12732(a) (2) (E).

How Many Military Funeral Honors for Veterans Requests Are Supported Only by Veterans Service Organizations?

DOD officials stated that the military, in accordance with the law, provides military personnel in every instance in which the eligible survivors have requested such honors. Defense officials note, however, that in some instances, funeral directors contact VSOs for such services with or without seeking military personnel assistance. It is not possible to know how often this occurs. Financial or other assistance (such as transportation, a stipend, or reimbursement for expenses) from the military for VSO services may be provided by a nearby military unit. This assistance comes from that unit's funds. In some instances, state governments have provided assistance or benefits to VSOs who perform these services.¹² For a list of current VSOs, see the VA's Directory of Veterans Service Organizations at <http://www.va.gov/vso/>.

Arlington National Cemetery

What Military Honors Are Afforded to Individuals Interred or Inurned at Arlington Cemetery?

Eligibility criteria for interment or inurnment can be obtained from the Arlington National Cemetery Website: <http://www.arlingtoncemetery.mil/FuneralInformation/EstablishServices.aspx> or by calling the Arlington Cemetery directly at (703) 607-8585 (Press option #3). Once eligibility is determined, honors are afforded according to rank. Enlisted personnel receive standard honors and a firing party. Commissioned and warrant officers receive standard honors, a firing party, and may request the caisson and escort troops. Those individuals who are eligible for inurnment in the columbarium receive the standard honors and a firing party. All may request a military chaplain to preside over the services. Effective January 1, 2009, all servicemembers who die from wounds received as a result of enemy action and are being interred, inurned, or memorialized at Arlington National Cemetery are eligible to receive full military funeral honors. Additional details are available at <http://www.arlingtoncemetery.mil/funeralinformation/BurialInformation.aspx>.

What Are the Available Emblems of Belief for Placement on Government Headstones and Markers at Arlington and VA Cemeteries?

A current list of the approved emblems of belief can be found on the U.S. Department of Veterans Affairs website at <http://www.cem.va.gov/hmm/>. An emblem of belief for Wicca, the pentacle, was added to the list in 2007.¹³ According to the website, no graphics (logos, symbols, etc.) are

¹² Information provided in consultation with David F. Burrelli, Specialist in Military Manpower Policy. See also the Authorized Provider Partnership Program (AP3) website at <https://www.dmdc.osd.mil/mfh/getLinks.do?tab=AP3>, and a link to the Standard Form (SF) 1164 "Claim for Reimbursement for Expenditures on Official Business" at <http://www.dtic.mil/whs/directives/infomgt/forms/eforms/sf1164o.pdf>.

¹³ Settlement agreement and stipulation of dismissal in the case of *Circle Sanctuary v. Nicholson*, U.S. Dist. Ct., Western Dist. of Wisconsin, Case No. 06-C-0660-S.

permitted on government-furnished headstones or markers other than the approved emblems of belief, the Civil War Union Shield, the Civil War Confederate Southern Cross of Honor, and the Medal of Honor insignias. The graphics of 20 representative emblems of belief for placement on government-furnished headstones/markers are depicted on p.4 of the form “Claim for Standard Government Headstone or Marker for Placement in a Private Cemetery or a State Veterans’ Cemetery” at <http://www.va.gov/vaforms/va/pdf/VA40-1330.pdf>.

Will Same-Sex Partners Be Allowed Burial at Arlington National Cemetery? What Other Funeral Benefits Are Allowed for Same-Sex Partners?

According to the Defense Department, same-sex partners will be allowed to be buried at Arlington and to receive other benefits that heterosexual military spouses currently receive including death benefits. This is a result of the U.S. Supreme Court decision (5-4) on June 26, 2013, that overturned a key provision of the Defense of Marriage Act (DOMA) that defined marriage as a union between a man and a woman, ruling that legally married same-sex couples were entitled to the same federal benefits as married heterosexual couples.¹⁴

On August 14, 2013, the Department of Defense announced its plan to extend benefits to same-sex spouses of uniformed servicemembers and DOD civilian employees including burial and survivor benefits. For more information, see Defense Secretary Hagel’s implementation memorandum from August 13, 2013, at <http://www.defense.gov/home/features/2013/docs/Extending-Benefits-to-Same-Sex-Spouses-of-Military-Members.pdf>, and further guidance from a memorandum on extending benefits to same-sex spouses of military members from Jessica Wright, Acting Under Secretary of Defense for Personnel and Readiness, at <http://www.defense.gov/home/features/2013/docs/Further-Guidance-on-Extending-Benefits-to-Same-Sex-Spouses-of-Military-M.pdf>.

Secretary Hagel reaffirmed the Defense Department’s policy on Same-Sex Benefits in a statement released on December 13, 2013: “All military spouses and families sacrifice on behalf of our country. They deserve our respect and the benefits they are entitled to under the law. All of DOD is committed to pursuing equal opportunities for all who serve this nation, and I will continue to work to ensure our men and women in uniform as well as their families have full and equal access to the benefits they deserve.”¹⁵

¹⁴ Jennifer H. Svan, “Supreme Court’s Ruling on DOMA Leaves Big Changes for Same-Sex Military Couples,” *Stars and Stripes*, December 29, 2013 at <http://www.stripes.com/news/supreme-court-s-ruling-on-doma-leaves-big-changes-for-same-sex-military-couples-1.259824>.

¹⁵ Statement by Secretary of Defense Chuck Hagel on Same-Sex Benefits, DOD News Release, December 13, 2013, at <http://www.defense.gov/releases/release.aspx?releaseid=16422>.

Note: Generally speaking, members of the National Guard have a dual status in that they serve under the state governors and also have a federal role. When serving in their state role, they are subject to the laws of marriage in that particular state. Some states have refused to recognize same-sex marriages. Therefore, individuals in same-sex marriages may not be acknowledged for certain state benefits, such as burial together in a state cemetery.

For more information, see “National Guard Vows to Extend Same-Sex Benefits in All States,” by Chris Carroll, *Stars and Stripes*, November 19, 2013, at <http://www.stripes.com/national-guard-vows-to-extend-same-sex-benefits-in-all-states-1.253699> and CRS Report R41386, *Veterans’ Benefits: Burial Benefits and National Cemeteries*.

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