

GENERAL GOVERNMENT CABINET

Department of Military Affairs (New Administrative Regulation)

106 KAR 4:020. Commonwealth of Kentucky Military Burial Honor Guard Trust Fund and Military Burial Honor Guard.

RELATES TO: KRS 36.390, 36.392, 36.394, 36.396, 10 U.S.C. 1491

STATUTORY AUTHORITY: KRS 36.390(3), 36.394(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 36.392(1) establishes the Military Burial Honor Guard Trust Fund. KRS 36.390(3) requires the Kentucky Department of Military Affairs to implement and administer this fund and to implement a state burial honor guard program that complies with, and supplements, the federal, United States Department of Defense, Military Funeral Honors Program as established by 10 U.S.C. 1491. This administrative regulation establishes the requirements, policies, procedures, and operational criteria for the Military Burial Honor Guard Program.

Section 1. Definitions.

- (1) "Casualty Assistance Office" means the designated United States Department of Defense element for civilian funeral directors to request military funeral honors support.
- (2) "Eligible veteran" means a Kentuckian who has met the requirements of Section 3 of this administrative regulation.
- (3) "Fund" means the Commonwealth of Kentucky, Military Burial Honor Guard Trust Fund established by KRS 36.392(1) to appropriate monies for the Military Burial Honor Guard Program activities required by KRS 36.390 through 36.396.
- (4) "Military funeral honors authorized provider" means any veteran's service organization or other military or civil entity that has been trained to Department of Defense military funeral honors standards recognized by the Department of Defense to provide military funeral honors.
- (5) "Selected reserve" means military units and individuals in each reserve component that participates in paid, federal training periods and serves on paid, federal active duty for training and includes members and former members of the Kentucky National Guard.
- (6) "Military Burial Honor Guard Program Coordinator" means the representative designated by the Adjutant General of Kentucky to implement the Military Burial Honor Guard Program.
- (7) "Military Burial Honor Guard Program" means the program, funded by the Military Burial Honor Guard Trust Fund, to render military funeral honors to eligible Kentucky veterans.

Section 2. Military Burial Honor Guard Trust Fund.

- (1) Money derived from the fund shall be expended for an approved program that:
 - (a) Appropriates monies for activities of the Military Burial Honor Guard Program for costs incurred or deemed necessary by the Department of Military Affairs;
 - (b) Provides for honorable military burials for Kentuckians who have served their state and nation in the armed forces;
 - (c) Encourages and assists veteran's organizations and other authorized military funeral honors providers;
 - (d) Works with public and private sectors to honor and recognize the service and sacrifice of veterans.
- (2) Fundraising.
 - (a) The Fund may accept appropriated monies, gifts, donations, or grants from an individual, a corporation, or government entity.
 - (b) Gratuitous donations may be accepted by the Fund.

1. Checks shall be made out to the Kentucky State Treasurer.
2. Checks shall be sent to the Adjutant General of Kentucky, Attention: Military Burial Honor Guard Coordinator, Building 100, Boone National Guard Center, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168.
- (3) Incidental costs. Program encumbrances and disbursements shall be approved by the Executive Director, Office of Management and Administration, Department of Military Affairs, if the funeral honor detail meets the standards and requirements set forth in this administrative regulation. In addition, program expenditures shall not be made for a commodity or service otherwise provided by an existing federal or state entitlement or program.

Section 3. Eligibility.

- (1) Kentucky Veterans shall be eligible for military honors if the Veteran:
 - (a) Served the state and nation in the armed forces and was discharged or released under conditions other than dishonorable by means of an honorable or under honorable conditions (general) discharge;
 - (b) Completed at least one (1) enlistment as a member of the selected reserve or, in the case of an officer, completed the initial obligated service as a member of the selected reserve;
 - (c) Was a member or former member of the selected reserve, to include the Kentucky National Guard;
 - (d) Was discharged before completion of the person's initial enlistment as a member of the selected reserve or, in the case of an officer, period of initial obligated service as a member of the selected reserve, for a disability incurred or aggravated in line of duty;
 - (e) Died while a member of the active component or selected reserve; or
 - (f) Retired from an active component or selected reserve.
- (2) An individual ineligible to receive military honors shall include individuals:
 - (a) Who have, at any time, been discharged or released from military service with a:
 1. Dishonorable discharge;
 2. Bad conduct discharge;
 3. Dismissal from service awarded by a court-martial;
 4. Other than under honorable conditions;
 5. Resignation by an officer for the good of the service in lieu of court-martial, which results in a discharge of under other than honorable conditions.
 - (b) Convicted of a federal or state capital crime not commuted by the Governor or the President;
 - (c) Convicted of a federal or state crime causing the person to:
 1. Be a tier III sex offender for purposes of the Sex Offender Registration and Notification Act; and
 2. Sentenced to a minimum of life in prison; or
 3. Be sentenced to a period of Ninety-nine (99) years or more; and
 4. Have a conviction that has not been commuted.
 - (d) Who avoided a trial or conviction for crimes established in paragraphs (b) or (c) of this subsection due to death or flight to avoid prosecution.

Section 4. Military Burial Honor Guard Program.

- (1) Policy.
 - (a) The Military Burial Honor Guard Program shall be the burial honor guard program required by KRS 36.392(1) to render military funeral honors and respect to Kentuckians who faithfully defended the Commonwealth of Kentucky and the nation in the armed services.
 - (b) A Kentucky veteran shall be entitled to military burial honors under the Military Burial Honors Program if:

1. The veteran is eligible under the criteria in Section 1(2) of this administrative regulation; and

2. Monies are available.

(c) The Military Burial Honor Guard Program shall supplement the minimum, two (2) person, flag presentation federal honors ceremony.

(2) Standards. The Military Burial Honor Guard Program activities shall comply with the standards established by the Department of Defense Military Funeral Honors Program defined in 10 U.S.C. 1491.

(3) Responsibilities.

(a) Military Burial Honor Guard Coordinator. The Military Burial Honor Guard Coordinator shall:

1. Implement this administrative regulation to conduct military funeral honors support by the Kentucky National Guard and other military funeral honors authorized providers;

2. Ensure proper decorum consistent with Department of Defense Military Funeral Honors Program defined in 10 U.S.C. 1491 and including trained personnel, proper equipment, standardized procedures, and quality control of funeral honors details;

3. Validate requests for military funeral honor support received from the Casualty Assistance Office and coordinate with Military Burial Honor Guard Program authorized providers;

4. Ensure adequate funding requests to support the Military Burial Honor Guard Program;

5. Coordinate with active and reserve military, veterans service organizations, and other civilian military funeral honors authorized providers for support and assistance in the conduct of a military funeral honors detail;

6. Serve as the single point of contact for all matters relating to the conduct of military funeral honor details by the Kentucky National Guard;

7. Collect standardized data on all military funeral honors rendered by the Kentucky National Guard and supported by the Military Burial Honor Guard Program; and

8. Receive and coordinate all requests for military funeral honors support from the Casualty Assistance Office, funeral directors, family members or other authorized sources.

(b) Department of Veterans Affairs. The Kentucky Department of Veterans Affairs shall:

1. Support the Department of Military Affairs in the implementation and maintenance of the Military Burial Honor Guard Program;

2. Verify veteran's service organizations as military funeral honors authorized providers;

3. Assist military funeral honors authorized providers in procuring sufficient training aides and equipment to conduct military funeral honors;

(c) Military funeral honors authorized providers. Military funeral honors authorized providers may perform, augment, and supplement state military funeral honors details. The Adjutant General may establish on-going liaison and formal agreements with any Department of Defense recognized military funeral honors authorized provider or other entity within the state to assist with obtaining Department of Defense recognition, training, and support or to further the understanding of the sacrifices made by the deceased.

(4) Military Burial Honor Guard Program procedures. Requesting military funeral honors support.

(a) Funeral directors or families shall contact the appropriate Department of Defense Casualty Assistance Office or the Military Burial Honor Guard Program Coordinator to request military funeral honors support.

(b) This Department of Defense component shall coordinate with the Kentucky Department of Military Affairs or other military element to provide the requested support to eligible veterans based on the service component of the deceased (Kentucky National Guard, other Selected Reserve element, U.S. Army, Air Force, Space Force, Navy, Marine Corps, or Coast Guard).

(c) All requests for military funeral honors support shall be a minimum of forty-eight (48) hours in advance of the requested burial ceremony. The Military Burial Honor Guard Coordinator may, if monies, equipment, and personnel are available to accommodate the late request, waive the forty-eight (48) hour notice requirement.

This is to certify that The Adjutant General (TAG) has reviewed and approved this administrative regulation prior to its adoption, as required by KRS 36.390 and KRS 36.394.
HALDANE B. LAMBERTON, Major General

APPROVED BY AGENCY: June 1, 2023

FILED WITH LRC: June 15, 2023 at 10:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, August 23, 2023, at 10:30 a.m. Eastern Time at 100 Minuteman Parkway, Bldg. 100, Room 202 (EOC 2nd Floor Conference Room) Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.