

1 GENERAL GOVERNMENT CABINET

2 Department of Military Affairs

3 (New Administrative Regulation)

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

5 Military Burial Honor Guard.

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

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

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 36.392(1) establishes the Military

9 Burial Honor Guard Trust Fund. KRS 36.390(3) requires the Kentucky Department of Military

10 Affairs to implement and administer this fund and to implement a state burial honor guard

11 program that complies with, and supplements, the federal, United States Department of Defense,

12 Military Funeral Honors Program as established by 10 U.S.C. 1491. This administrative

13 regulation establishes the requirements, policies, procedures, and operational criteria for the

14 Military Burial Honor Guard Program.

15 Section 1. Definitions.

16 (1) "Casualty Assistance Office" means the designated United States Department of

17 Defense element for civilian funeral directors to request military funeral honors support.

18 (2) "Eligible veteran" means a Kentuckian who has met the requirements of Section 3 of

19 this administrative regulation.

20 (3) "Fund" means the Commonwealth of Kentucky, Military Burial Honor Guard Trust

21 Fund established by KRS 36.392(1) to appropriate monies for the Military Burial Honor Guard

1 Program activities required by KRS 36.390 through 36.396.

2 (4) "Military funeral honors authorized provider" means any veteran's service
3 organization or other military or civil entity that has been trained to Department of Defense
4 military funeral honors standards recognized by the Department of Defense to provide military
5 funeral honors.

6 (5) "Selected reserve" means military units and individuals in each reserve component
7 that participates in paid, federal training periods and serves on paid, federal active duty for
8 training and includes members and former members of the Kentucky National Guard.

9 (6) "Military Burial Honor Guard Program Coordinator" means the representative
10 designated by the Adjutant General of Kentucky to implement the Military Burial Honor Guard
11 Program.

12 (7) "Military Burial Honor Guard Program" means the program, funded by the Military
13 Burial Honor Guard Trust Fund, to render military funeral honors to eligible Kentucky veterans.

14 Section 2. Military Burial Honor Guard Trust Fund.

15 (1) Money derived from the fund shall be expended for an approved program that:

16 (a) Appropriates monies for activities of the Military Burial Honor Guard Program for
17 costs incurred or deemed necessary by the Department of Military Affairs;

18 (b) Provides for honorable military burials for Kentuckians who have served their state
19 and nation in the armed forces;

20 (c) Encourages and assists veteran's organizations and other authorized military funeral
21 honors providers;

22 (d) Works with public and private sectors to honor and recognize the service and sacrifice
23 of veterans.

1 (2) Fundraising.

2 (a) The Fund may accept appropriated monies, gifts, donations, or grants from an
3 individual, a corporation, or government entity.

4 (b) Gratuitous donations may be accepted by the Fund.

5 1. Checks shall be made out to the Kentucky State Treasurer.

6 2. Checks shall be sent to the Adjutant General of Kentucky, Attention: Military Burial
7 Honor Guard Coordinator, Building 100, Boone National Guard Center, 100 Minuteman
8 Parkway, Frankfort, Kentucky 40601-6168.

9 (3) Incidental costs. Program encumbrances and disbursements shall be approved by the
10 Executive Director, Office of Management and Administration, Department of Military Affairs,
11 if the funeral honor detail meets the standards and requirements set forth in this administrative
12 regulation. In addition, program expenditures shall not be made for a commodity or service
13 otherwise provided by an existing federal or state entitlement or program.

14 Section 3. Eligibility.

15 (1) Kentucky Veterans shall be eligible for military honors if the Veteran:

16 (a) Served the state and nation in the armed forces and was discharged or released under
17 conditions other than dishonorable by means of an honorable or under honorable conditions
18 (general) discharge;

19 (b) Completed at least one (1) enlistment as a member of the selected reserve or, in the
20 case of an officer, completed the initial obligated service as a member of the selected reserve;

21 (c) Was a member or former member of the selected reserve, to include the Kentucky
22 National Guard;

23 (d) Was discharged before completion of the person's initial enlistment as a member of

1 the selected reserve or, in the case of an officer, period of initial obligated service as a member of
2 the selected reserve, for a disability incurred or aggravated in line of duty;

3 (e) Died while a member of the active component or selected reserve; or

4 (f) Retired from an active component or selected reserve.

5 (2) An individual ineligible to receive military honors shall include individuals:

6 (a) Who have, at any time, been discharged or released from military service with a:

7 1. Dishonorable discharge;

8 2. Bad conduct discharge;

9 3. Dismissal from service awarded by a court-martial;

10 4. Other than under honorable conditions;

11 5. Resignation by an officer for the good of the service in lieu of court-martial, which
12 results in a discharge of under other than honorable conditions.

13 (b) Convicted of a federal or state capital crime not commuted by the Governor or the
14 President;

15 (c) Convicted of a federal or state crime causing the person to:

16 1. Be a tier III sex offender for purposes of the Sex Offender Registration and
17 Notification Act; and

18 2. Sentenced to a minimum of life in prison; or

19 3. Be sentenced to a period of Ninety-nine (99) years or more; and

20 4. Have a conviction that has not been commuted.

21 (d) Who avoided a trial or conviction for crimes established in paragraphs (b) or (c) of
22 this subsection due to death or flight to avoid prosecution.

23 Section 4. Military Burial Honor Guard Program.

1 (1) Policy.

2 (a) The Military Burial Honor Guard Program shall be the burial honor guard program
3 required by KRS 36.392(1) to render military funeral honors and respect to Kentuckians who
4 faithfully defended the Commonwealth of Kentucky and the nation in the armed services.

5 (b) A Kentucky veteran shall be entitled to military burial honors under the Military
6 Burial Honors Program if:

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

9 2. Monies are available.

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

12 (2) Standards. The Military Burial Honor Guard Program activities shall comply with the
13 standards established by the Department of Defense Military Funeral Honors Program defined in
14 10 U.S.C. 1491.

15 (3) Responsibilities.

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

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

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

23 3. Validate requests for military funeral honor support received from the Casualty

1 Assistance Office and coordinate with Military Burial Honor Guard Program authorized
2 providers;

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

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

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

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

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

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

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

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

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

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

1 understanding of the sacrifices made by the deceased.

2 (4) Military Burial Honor Guard Program procedures.

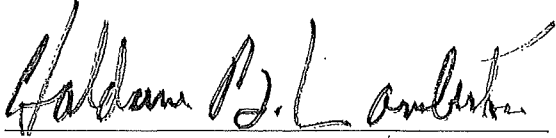
3 (a) Requesting military funeral honors support.

4 1. Funeral directors or families shall contact the appropriate Department of Defense
5 Casualty Assistance Office or the Military Burial Honor Guard Program Coordinator to request
6 military funeral honors support.

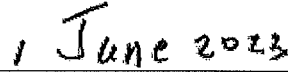
7 2. This Department of Defense component shall coordinate with the Kentucky
8 Department of Military Affairs or other military element to provide the requested support to
9 eligible veterans based on the service component of the deceased (Kentucky National Guard,
10 other Selected Reserve element, U.S.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

12 3. All requests for military funeral honors support shall be a minimum of forty-eight (48)
13 hours in advance of the requested burial ceremony. The Military Burial Honor Guard
14 Coordinator may, if monies, equipment, and personnel are available to accommodate the late
15 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, KYNG
The Adjutant General



Date

PUBLIC HEARING AND PUBLIC 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, KY 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

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

Contact Person: Corey Ann Howard Jackson

Phone: (502) 330-3323

Email: corey.a.jackson23.nfg@army.mil

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does:

This administrative regulation establishes the requirements, policies, procedures, and operational criteria for Kentucky's State Military Burial Honor Guard Program.

- (b) The necessity of this administrative regulation:

This administrative regulation is necessary to carry out the requirements of KRS 36.390(1) and KRS 36.390(3).

- (c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 36.392(1) establishes Kentucky's 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 which complies with and supplements the federal, United States Department of Defense, Military Funeral Honors Program as prescribed by 10 USC 1491.

- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation establishes the requirements, policies, procedures and operational criteria for Kentucky's State Military Burial Honor Guard Program.

- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation: N/A
 - (b) The necessity of the amendment to this administrative regulation: N/A
 - (c) How the amendment conforms to the content of the authorizing statutes: N/A
 - (d) How the amendment will assist in the effective administration of the statutes: N/A

- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This administrative regulation will affect the Department of Military Affairs, Kentucky Department of Veterans Affairs, the Military Burial Honors Coordinator, Department of Defense Casualty Assistance Offices, military funeral honors authorized providers, the Adjutant General, civilian funeral directors, and military funeral directors.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Department of Military Affairs will implement and administer this fund and to implement a burial honor guard program which supplements and complies with the United States Department of Defense, Military Funeral Honors Program as prescribed by 10 USC 1491.

Kentucky Department of Veterans Affairs will support the Department of Military Affairs in the implementation and maintenance of the state Military Burial Honor Guard Program. This assistance includes the coordination of Department of Defense required training of all veteran's service organization and providing a list of organizations recognized as military funeral honors authorized providers.

Military Burial Honors Coordinator will:

- Implement this administrative regulation to conduct military funeral honors support by the Kentucky National Guard and other military funeral honors authorized providers
- Ensure proper decorum for funeral honors including appropriate trained personnel and proper equipment, standardized procedures, and quality control of funeral honors details consistent with Department of Defense guidance
- Validate requests for military funeral honors support received from the Casualty Assistance Office and coordinate with providers who are authorized to provide military funeral honors details
- Be the single point of contact for all matters relating to the conduct of military funeral honors details by the Kentucky National Guard
- Receive and coordinate all requests for military funeral honors support from the Casualty Assistance Office and coordinate support with funeral directors, family members or other authorized sources

Department of Defense Casualty Assistance Offices will provide requests from families of the deceased Veteran for military funeral honors support to the military burial honors coordinator.

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.

Civilian funeral directors contact the appropriate Department of Defense Casualty Assistance Office on behalf of the Veteran's family, to request military funeral honors support.

Military funeral directors shall provide the former service component of the deceased, i.e., Kentucky National Guard, other Selected Reserve element, U.S. Army, Air Force, Navy, Marine Corps, or Coast Guard.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There is no cost to these entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

These entities will complete their goal to support and further the understanding of the sacrifices made by the deceased Kentucky veterans being honored. The entities will do this through the ceremonial paying of respect and final demonstration of the country's and state's gratitude to those Kentuckians who, in times of war and peace, faithfully defended the state and nation in the armed services.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: N/A

(b) On a continuing basis: N/A

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

State and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: N/A.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

This administrative regulation does not establish or relate to fees.

(9) TIERING: Is tiering applied?

Tiering was not used. The regulation will not reduce or modify substantive regulatory requirements, eliminate some requirements entirely, simplify and reduce reporting and recordkeeping requirements, reduce the frequency of inspections, provide exemptions from inspections and other compliance activities, or delay compliance timetables.

FEDERAL MANDATE ANALYSIS COMPARISON

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(1) Federal statute or regulation constituting the federal mandate.

Military Funeral Honors Program as prescribed by 10 USC 1491.

(2) State compliance standards.

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 which complies with and supplements the federal Military Funeral Honors Program as prescribed by 10 USC 1491.

(3) Minimum or uniform standards contained in the federal mandate.

Federal code, through the Secretary of Defense, ensures that upon request, a funeral honors detail is provided for the funeral of any veteran, except when military honors are prohibited. The code sets out the standard minimum for the ceremony which includes the folding of a United States flag, presentation of the flag to the veteran's family, and the playing of Taps.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

FISCAL NOTE

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

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(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Department of Military Affairs and Kentucky Department of Veteran's Affairs.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 36.390(3), 36.394(1), KRS 36.390, 36.392, 36.394, 36.396 and 10 U.S.C. 1491

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

None. The fund has already been established.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?
None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

No additional revenue will be generated.

(c) How much will it cost to administer this program for the first year?

No additional cost will be incurred.

(d) How much will it cost to administer this program for subsequent years?

No additional cost will be incurred.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No additional revenue will be generated by the regulations.

Expenditures (+/-): No additional expenditures will be incurred.

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

No additional cost savings.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

No additional cost savings.

(c) How much will it cost the regulated entities for the first year?

No additional cost will be incurred.

(d) How much will it cost the regulated entities for subsequent years?

No additional cost will be incurred.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings(+/-): No additional cost savings will be realized.

Expenditures (+/-): No additional costs will be incurred

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

The administrative regulation will have no economic impact.

