

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART II - PERSONNEL

CHAPTER 75 - DECEASED PERSONNEL

SUBCHAPTER II - DEATH BENEFITS

§ 1491. Funeral honors functions at funerals for veterans

(a) **Availability of Funeral Honors Detail Ensured.**— The Secretary of Defense shall ensure that, upon request, a funeral honors detail is provided for the funeral of any veteran, except when military honors are prohibited under section 985 (a) of this title.

(b) **Composition of Funeral Honors Details.**—

(1) The Secretary of each military department shall ensure that a funeral honors detail for the funeral of a veteran consists of two or more persons.

(2) At least two members of the funeral honors detail for a veteran's funeral shall be members of the armed forces (other than members in a retired status), at least one of whom shall be a member of the armed force of which the veteran was a member. The remainder of the detail may consist of members of the armed forces (including members in a retired status), or members of veterans organizations or other organizations approved for purposes of this section under regulations prescribed by the Secretary of Defense. Each member of the armed forces in the detail shall wear the uniform of the member's armed force while serving in the detail.

(c) **Ceremony.**— A funeral honors detail shall, at a minimum, perform at the funeral a ceremony that includes the folding of a United States flag and presentation of the flag to the veteran's family and the playing of Taps. Unless a bugler is a member of the detail, the funeral honors detail shall play a recorded version of Taps using audio equipment which the detail shall provide if adequate audio equipment is not otherwise available for use at the funeral.

(d) **Support.**—

(1) 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.

(2) The Secretary of Defense shall prescribe annually a flat rate daily stipend for purposes of paragraph (1)(A). Such stipend shall be set at a rate so as to encompass typical costs for transportation and other miscellaneous expenses for persons participating in funeral honors details who are members of the armed forces in a retired status and other persons who are not members of the armed forces or employees of the United States.

(3) A stipend paid under this subsection to a member of the armed forces in a retired status is in addition to any compensation to which the member is entitled under section 435 (a)(2) of title 37 and any other compensation to which the member may be entitled.

(e) **Waiver Authority.**—

(1) The Secretary of Defense may waive any requirement provided in or pursuant to this section when the Secretary considers it necessary to do so to meet the requirements of war, national

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emergency, or a contingency operation or other military requirements. The authority to make such a waiver may not be delegated to an official of a military department other than the Secretary of the military department and may not be delegated within the Office of the Secretary of Defense to an official at a level below Under Secretary of Defense.

(2) Before or promptly after granting a waiver under paragraph (1), the Secretary shall transmit a notification of the waiver to the Committees on Armed Services of the Senate and House of Representatives.

(f) Regulations.— The Secretary of Defense shall prescribe regulations to carry out this section. Those regulations shall include the following:

(1) A system for selection of units of the armed forces and other organizations to provide funeral honors details.

(2) Procedures for responding and coordinating responses to requests for funeral honors details.

(3) Procedures for establishing standards and protocol.

(4) Procedures for providing training and ensuring quality of performance.

(g) Annual Report.— The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report not later than January 31 of each year beginning with 2001 and ending with 2005 on the experience of the Department of Defense under this section. Each such report shall provide data on the number of funerals supported under this section, the cost for that support, shown by manpower and other cost factors, and the number and costs of funerals supported by each participating organization. The data in the report shall be presented in a standard format, regardless of military department or other organization.

(h) Veteran Defined.— In this section, the term “veteran” means a decedent who—

(1) served in the active military, naval, or air service (as defined in section 101 (24) of title 38) and who was discharged or released therefrom under conditions other than dishonorable; or

(2) was a member or former member of the Selected Reserve described in section 2301 (f) of title 38.

(Added Pub. L. 105–261, div. A, title V, § 567(b)(1), Oct. 17, 1998, 112 Stat. 2030; amended Pub. L. 106–65, div. A, title V, § 578(a)(1), (b)–(e), (k)(1), title X, § 1067(1), Oct. 5, 1999, 113 Stat. 625–627, 630, 774; Pub. L. 107–107, div. A, title V, §§ 561(a), 564, Dec. 28, 2001, 115 Stat. 1119, 1120; Pub. L. 107–314, div. A, title V, § 571, Dec. 2, 2002, 116 Stat. 2556; Pub. L. 109–163, div. A, title VI, § 662(b)(4), Jan. 6, 2006, 119 Stat. 3315.)

Amendments

2006—Subsec. (a). Pub. L. 109–163 inserted “, except when military honors are prohibited under section 985 (a) of this title” before period at end.

2002—Subsec. (d)(1). Pub. L. 107–314, § 571(1), designated existing provisions as par. (1) and substituted “ To support a” for “To provide a”. Former par. (1) redesignated (1)(A).

Subsec. (d)(1)(A). Pub. L. 107–314, § 571(2), redesignated par. (1) as subpar. (A) of par. (1) and amended it generally. Prior to amendment, text read as follows: “Transportation, or reimbursement for transportation, and expenses for a person who participates in the funeral honors detail and is not a member of the armed forces or an employee of the United States.”

Subsec. (d)(1)(B). Pub. L. 107–314, § 571(3), redesignated par. (2) as subpar. (B) of par. (1), substituted “For” for “Materiel, equipment, and training for”, and inserted “and for members of the armed forces in a retired status, materiel, equipment, and training” before period at end.

Subsec. (d)(1)(C). Pub. L. 107–314, § 571(4), redesignated par. (3) as subpar. (C) of par. (1), substituted “For” for “Articles of clothing for”, and inserted “, articles of clothing” after “subsection (b)(2)”.

Subsec. (d)(2), (3). Pub. L. 107–314, § 571(5), added pars. (2) and (3). Former pars. (2) and (3) redesignated subpars. (B) and (C), respectively, of par. (1).

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2001—Subsec. (b)(2). Pub. L. 107–107, § 561(a), inserted “(other than members in a retired status)” after “members of the armed forces” in first sentence and inserted “(including members in a retired status),” after “members of the armed forces” in second sentence.

Subsec. (d)(3). Pub. L. 107–107, § 564, added par. (3).

1999—Pub. L. 106–65, § 578(k)(1), substituted “Funeral honors functions at funerals for veterans” for “Honor guard details at funerals of veterans” as section catchline.

Subsec. (a). Pub. L. 106–65, § 578(a)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary of a military department shall, upon request, provide an honor guard detail (or ensure that an honor guard detail is provided) for the funeral of any veteran that occurs after December 31, 1999.”

Subsec. (b). Pub. L. 106–65, § 578(b), substituted “Funeral Honors Details” for “Honor Guard Details” in subsec. (b) heading, designated existing provisions as par. (1), substituted “a funeral honors detail” for “an honor guard detail” and “two or more persons.” for “not less than three persons and (unless a bugler is part of the detail) has the capability to play a recorded version of Taps.”, redesignated subsec. (c) as subsec. (b)(2), struck out former subsec. (c) heading “Persons Forming Honor Guards”, and substituted “At least two members of the funeral honors detail for a veteran’s funeral shall be members of the armed forces, at least one of whom shall be a member of the armed force of which the veteran was a member. The remainder of the detail” for “An honor guard detail” and “Each member of the armed forces in the detail shall wear the uniform of the member’s armed force while serving in the detail.” for “The Secretary of a military department may provide transportation, or reimbursement for transportation, and expenses for a person who participates in an honor guard detail under this section and is not a member of the armed forces or an employee of the United States.”

Subsec. (c). Pub. L. 106–65, § 578(c)(2), added subsec. (c). Former subsec. (c) redesignated subsec. (b)(2).

Subsecs. (d), (e). Pub. L. 106–65, § 578(c)(2), added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated (f) and (g), respectively.

Subsec. (f). Pub. L. 106–65, § 578(d), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “The Secretary of Defense shall by regulation establish a system for selection of units of the armed forces and other organizations to provide honor guard details. The system shall place an emphasis on balancing the funeral detail workload among the units and organizations providing honor guard details in an equitable manner as they are able to respond to requests for such details in terms of geographic proximity and available resources. The Secretary shall provide in such regulations that the armed force in which a veteran served shall not be considered to be a factor when selecting the military unit or other organization to provide an honor guard detail for the funeral of the veteran.”

Pub. L. 106–65, § 578(c)(1), redesignated subsec. (d) as (f). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 106–65, § 1067(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

Pub. L. 106–65, § 578(c)(1), redesignated subsec. (e) as (g).

Subsec. (h). Pub. L. 106–65, § 578(e), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: “In this section, the term ‘veteran’ has the meaning given that term in section 101 (2) of title 38.”

Pub. L. 106–65, § 578(c)(1), redesignated subsec. (f) as (h).

Effective Date of 2006 Amendment

Amendment by Pub. L. 109–163 applicable with respect to funerals and burials that occur on or after Jan. 6, 2006, see section 662(e) of Pub. L. 109–163, set out as a note under section 985 of this title.

Effective Date of 1999 Amendment

Pub. L. 106–65, div. A, title V, § 578(a)(2), Oct. 5, 1999, 113 Stat. 625, provided that: “Section 1491 (a) of title 10, United States Code, as amended by paragraph (1), shall apply with respect to funerals that occur after December 31, 1999.”