

ELIGIBILITY AUTHORITIES AND ADMINISTRATION OF MEMORIALIZATION BENEFITS

1. REASON FOR ISSUE: To replace, in part, National Cemetery Administration (NCA) Directive 3210/1 Eligibility Requirements, which includes authorities for burial and memorialization benefits. This directive encompasses memorialization eligibility authorities and responsibilities related to the administration of memorial products. NCA Directive 3210, Eligibility Authorities and Administration of Burial Benefits in VA National Cemeteries will include the information about NCA burial benefits.

2. SUMMARY OF CHANGES:

a. Previously, NCA's eligibility authorities for burial and memorialization were contained in a single directive. NCA is separating burial and memorialization authorities into two directives and will no longer include ineligibility information.

b. This directive identifies the roles and responsibilities of program offices that administer NCA memorialization benefits, to include headstones, markers, and medallions, as well as the Presidential Memorial Certificate and burial flag programs.

c. This directive provides information about issues affecting the provision of memorialization benefits, to include application of statutory bars to benefits and special considerations relating to qualifying service and relationships.

d. This directive provides information about the Presidential Memorial Certificate program and the Veterans Benefits Administration burial flag program. This directive provides information about memorialization statutes and regulations in Appendix A.

3. RESPONSIBLE OFFICE: National Cemetery Administration, Legislative and Regulatory Service, 810 Vermont Avenue, NW, Washington, DC 20420, is responsible for the material in this Directive. Questions may be referred NCA42EACTION@va.gov.

4. RELATED PUBLICATIONS:

a. NCA Directive 3210, Eligibility Authorities and Administration of Burial Benefits (June 8, 2020);

b. VA Form 40-10007, Application for Pre-need Determination of Eligibility for Burial in a VA National Cemetery (May 12, 2020);

c. VA Form 40-10088, Request for Reimbursement of Casket/Urn (July 20, 2020);

5. RESCISSIONS:

a. NCA Notice 2018-03, Burial Rights for Hmong Fighters (October 18, 2018).

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c. NCA Notice 2018-02, Public Law 115-136, Eligibility Date for VA Memorial Headstones and Markers for Eligible Spouses and Dependent Children (May 3, 2018).

d. NCA Notice 2017-02, Public Law 114-315, the Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 (January 31, 2017).

e. NCA Notice 2012-02, Public Law 112-154, Provisions Relevant to the National Cemetery Administration.

6. RECERTIFICATION: This publication is scheduled for recertification on the last day of May 2026.

/s/

Ronald E. Walters

Acting Under Secretary for Memorial Affairs

Distribution: Electronic

ELIGIBILITY AUTHORITIES AND ADMINISTRATION OF MEMORIALIZATION BENEFITS

1. PURPOSE:

a. The purpose of this Directive is to identify memorialization eligibility requirements for benefits administered by NCA and authorities affecting NCA's provision of memorialization benefits. This directive also updates information about responsible offices and duties.

b. The statutory authorities for this Directive are found in sections 101, 2306, 2402, 2411, and 2404 of title 38 United States Code (U.S.C.). Implementing regulations are found in sections 38.600, 38.619, 38.620, 38.628, 38.629, 38.630, 38.631, 38.632, and 38.633 of title 38 Code of Federal Regulations (CFR).

2. POLICY:

a. It is NCA policy that adjudication of and processing of appeal decisions affecting requests for memorialization benefits will be in accordance with Title 38 authorities codified in the United States Code (U.S.C.) and Code of Federal Regulations (CFR).

b. NCA will comply with Title 38 authorities to bar burial and memorialization benefits in cases where eligibility has been determined, but there is reason to inquire into whether a decedent's criminal actions would result in application of the bar. Additionally, NCA will reconsider eligibility determinations if there is reason to consider whether the statutory bar to benefits applies to that burial or memorialization decision.

c. The determination of eligibility for burial in a VA national cemetery (see NCA Directive 3210) automatically determines eligibility for a Government-furnished headstone or marker, Presidential Memorial Certificate, and monetary allowances for a privately-purchased outer burial receptacle for casketed remains, and a casket or urn purchased for interment of certain individuals with qualifying military service who meet other requirements.

3. BACKGROUND:

a. Under 38 U.S.C. § 2306, VA is authorized to issue numerous memorialization products that have different eligibility requirements, but in most cases, require decedents to be eligible for burial under 38 U.S.C. § 2402. Not all memorial products are available to all individuals who are eligible for burial in a VA national cemetery and § 2306 may impose eligibility restrictions based on the type of cemetery, (e.g., national cemetery versus private cemetery.)

b. For all memorialization requests, NCA must consider whether statutory bars apply that would prohibit NCA from providing the benefit. This includes consideration of the capital crime or sex offender prohibition in 38 U.S.C. § 2411. For cases that involve

other bars to benefits under 38 U.S.C. § 5303 and implementing regulations in 38 CFR § 3.12, NCA must refer such cases to the Veterans Benefits Administration for an administrative decision.

c. In some instances, NCA benefit eligibility may be affected by one or more components of eligibility that relate to qualifying military service. Such considerations include the following:

- (1) Line of duty and misconduct, 38 U.S.C. § 105, 38 CFR § 3.301;
- (2) Certain service deemed not to be active service, 38 U.S.C. § 107;
- (3) Minimum active duty service requirement, 38 U.S.C. § 5303A;
- (4) Character of discharge, 38, U.S.C. § 5303, 38 CFR § 3.12;
- (5) Periods of war, 38 U.S.C. §101, 38 CFR § 3.2;
- (6) Duty periods, 38 U.S.C. §§101, 106, 38 CFR § 3.6;
- (7) Certain service deemed to be active service; 38 CFR § 3.7.

4. RESPONSIBILITIES

a. **Under Secretary for Memorial Affairs (USMA)** is responsible for reviewing cases and providing findings in accordance with VA regulations that implement the statutory bar to benefits under 38 U.S.C. § 2411.

b. **Deputy Under Secretary for Field Programs and Cemetery Operations (DUSFPCO)** is responsible for assigning resources as necessary to support the administration of memorial benefits.

c. **Executive Director, Office of Engagement and Memorial Innovations (OEMI)** is responsible for ensuring NCA public outreach materials, press releases, responses to public inquiries, and other communications materials reflect current eligibility requirements.

d. **Executive Director, Field Programs** is responsible for:

(1) Managing the National Cemetery Scheduling Office (NCSO) and the Memorial Products Service (MPS) and their subordinate programs that provide eligibility determinations for burial in national cemeteries, memorial products, and appeals of adverse decisions;

(2) Addressing in coordination with NCA Business Transformation and Requirements service issues that affect NCA's infrastructure, databases, and systems that support the provision of burial in national cemeteries and memorial products (e.g., headstones, markers, medallions, Presidential Memorial Certificates, provision of

monetary allowances for caskets and urns and outer burial receptacles, and burial flags) as applicable, in cemeteries under NCA control, VA grant-funded State or Tribal Veterans cemeteries, and non-VA cemeteries (other Federally administered national cemeteries and private or local governmental cemeteries).

(3) Coordinating with NCA program offices to update *Federal Register* notices for annual updates of reimbursement rates for caskets and urns purchased for unclaimed Veterans interred in VA national and VA grant funded State or Tribal Veterans cemeteries.

e. **Director, Memorial Products Service (MPS)** is responsible for:

(1) Ensuring employees are appropriately trained on Title 38 authorities and relevant NCA or VA policies and procedures affecting requests for burial and associated memorialization products at national cemeteries under NCA control, VA grant-funded State or Tribal Veterans' cemeteries, and non-VA cemeteries (other federally administered national cemeteries and private or local governmental cemeteries);

(2) Providing the Executive Director, Field Programs, and as needed by the situation, the Executive Director, Cemetery Operations with timely notice of complex or controversial eligibility requests that require review or approval by NCACO leadership.

(3) Managing communications of burial eligibility decisions that meet the statutorily mandated requirements under the VCAA to provide claimants with timely notice of required information and evidence to substantiate their claims, assistance to claimants to obtain such information or evidence, and timely written notice of decisions on their claims, to include appeal rights for adverse decisions.

f. **District Executive Directors** are responsible for providing NCA Finance Service with outer burial receptacle information for the annual update of the monetary allowance payment in the *Federal Register* notice.

g. **Director, Human Capital Management (HCM) Training and Safety** is responsible for ensuring any NCA training materials, references, and other informational resources that discuss eligibility and reflect current authorities.

h. **Director, Legislative and Regulatory Service** is responsible for:

(1) Advising NCA program offices on applicable authorities, changes to those authorities, and the impact such changes may have on NCA benefits administration.

(2) Coordinating SME input from NCA Finance Service and Contracting Service necessary for the annual calculation of updated reimbursement rates for caskets and urns; and,

(3) Coordinating with NCA program offices to update *Federal Register* notices for annual updates of reimbursement rates for caskets and urns and outer burial receptacles.

i. **Director, National Cemetery Scheduling Office (NCSO)** is responsible for:

(1) Managing the casket and urn reimbursement program by adjudicating claims and providing written notification of NCA's decision to deny claims letters and provide appellate rights;

(2) Resolving issues related to casket and urn reimbursement claims from applicants or other stakeholders;

(3) Providing training for national, state and tribal cemetery directors and their designees on the responsibilities and process to complete casket and urn reimbursement applications.

(4) Coordinating with NCA program offices to update *Federal Register* notices for annual updates of reimbursement rates for caskets and urns.

j. **Director, NCA Finance Service** is responsible for:

(1) Establishing a vendor payment file in the VA Invoice Payment Processing System (IPPS) and uploading the application for reimbursement of caskets/urns and invoice into IPPS for review by NCSO;

(2) Contacting applicants who submit an invalid invoice to request a valid invoice within 30 days;

(3) Maintaining a register of all containers for which NCA either certified or refused and providing a monthly report to NCA Office of Field programs; and,

(4) Coordinating with NCA program offices to update *Federal Register* notices for annual updates of reimbursement rates for caskets and urns and outer burial receptacles.

k. **Directors, National Cemeteries** are responsible for:

(1) Executing the procedures as defined in the Casket and Urn Reimbursement Program SOP (41-SOP-004) if the applicant indicates a burial is for the unclaimed remains of a Veteran;

(2) Ensuring the burial system is annotated to indicate when a private Outer Burial Receptacle (OBR) is provided by the family to initiate reimbursement,

(3) Issuing on-site Presidential Memorial Certificates (PMCs);

(4) Maintaining a limited supply of burial flags for families who do not have one at the

time of the service.

I. **NCA Historian, History Program** is responsible for conducting research to support eligibility determinations that have a historical component relating to an individual, era of service, incident or event, verification of service documentation, or other relevant issue.

5. REFERENCES: Please see Appendix A for additional information about Title 38 memorialization authorities and benefits.

APPENDIX A –TITLE 38 MEMORIALIZATION AUTHORITIES AND BENEFITS ADMINISTRATION

I. Overview: The following chart sets out Title 38 authorities for different beneficiaries and NCA benefits. Where applicable, the chart provides information about the placement of certain memorial products and memorialization benefits, when all other eligibility requirements prescribed by VA, Army, or DOI are met. Please note the following abbreviations that are used in the chart: **NC** = national cemetery; **ANC** = Arlington National Cemetery; **DOI** = Department of Interior; **VCGP** = VA-grant funded State/Tribal Veterans Cemeteries; **POST** = VA and Army Post cemeteries; and, **OTHER** = cemeteries owned/operated by private entities, local governments, family plots.

<u>VETERAN</u> Person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable							
<u>SERVICEMEMBER</u> Person who died in the active military, naval, or air service							
BURIAL H/M	MEMORIAL H/M	SECOND H/M	MEDALLION (IN LIEU OF 2ND H/M)	OUTER BURIAL RECEPTACLE	CASKET/URN ALLOWANCE	PRESIDENTIAL MEMORIAL CERTIFICATE	BURIAL FLAG
TITLE 38 CITATIONS							
38 U.S.C. § 2306(a)(1) and (2)	-38 U.S.C. § 2306(b) -38 CFR § 38.630(c)	-38 U.S.C. § 2306(d) -38 CFR § 38.6301	38 U.S.C. § 2306(d)(4)	-38 U.S.C. § 2306(e) -38 CFR § 38.629	38 U.S.C. § 2306(f) 38 CFR § 38.628	38 U.S.C. § 112	-38 U.S.C. § 2301 -38 CFR 1.10(a)(i)-(iii)
LOCATION INFORMATION							
NC ANC DOI POST VCGP OTHER	NC ANC DOI POST VCGP OTHER	OTHER	OTHER	NC ANC DOI	NC VCGP	NC (NCA provides at committal service; or, mails to requester)	NC (NCA maintains a supply of burial flags to provide families who do not have a flag with them at time of service)

<u>SOLDIERS OF THE UNION AND CONFEDERATE ARMIES OF THE CIVIL WAR</u>							
BURIAL H/M	MEMORIAL H/M	SECOND H/M	MEDALLION (IN LIEU OF 2 ND H/M)	OUTER BURIAL RECEPTACLE	CASKET/URN ALLOWANCE	PRESIDENTIAL MEMORIAL CERTIFICATE	BURIAL FLAG
TITLE 38 CITATIONS							
38 U.S.C. § 2306(a)(3)	-38 U.S.C § 2306(b)(2)(A) -38 CFR §38.630(c)(1)(i)	N/A	N/A	-38 U.S.C. § 2306(e)(1)(A) -38 CFR 38.629(b)	N/A	38 U.S.C. §112(a)	-38 U.S.C. § 2301(a)(1) -38 CFR 1.10(a)(1)
LOCATION INFORMATION							
NC ANC DOI POST VCGP OTHER (Union or Confederate)	(Union only) NC ANC DOI POST VCGP OTHER	N/A	N/A	Union only	N/A	Union only	Union only

<u>RESERVISTS</u>							
Members of a Reserve component of the Armed Forces, Army or Air National Guard, who die under honorable conditions while hospitalized/treated for injury/disease contracted/incurred under honorable conditions while on active duty for training or inactive duty training							
<u>RESERVE OFFICERS' TRAINING CORPS</u>							
(ROTC - Army, Navy, or Air Force) who die under honorable conditions while attending authorized training, on travel to/from training; hospitalized treated, for injury/disease contracted/incurred under honorable conditions							
<u>RETIRED RESERVISTS</u>							
Retirees who at time of death were entitled to retired pay under chapter 1223 of title 10 or would have been entitled to retired pay was under 60 years of age							
BURIAL H/M	MEMORIAL H/M	SECOND H/M	MEDALLION (IN LIEU OF 2 ND H/M)	OUTER BURIAL RECEPTACLE	CASKET/URN ALLOWANCE	PRESIDENTIAL MEMORIAL CERTIFICATE	BURIAL FLAG
TITLE 38 CITATIONS							
38 U.S.C.	-38 U.S.C. § 2306(b)	-38 U.S.C. § 2306(d)	38 U.S.C. § 2306(d)(4)	-38 U.S.C. § 2306(e)	38 U.S.C. § 2306(f)	38 U.S.C. § 112(a)	-38 USC 2301(a)(2)

§ 2306(a)(1) and (2)	-38 CFR § 38.630(c)	-38 CFR § 38.631		-38 CFR § 38.629	38 CFR § 38.628		-38 CFR § 1.10(a)
LOCATION INFORMATION							
NC DOI POST OTHER	NC DOI POST OTHER	OTHER	OTHER	NC ANC DOI	NC VCGP	NC (NCA provides at committal service; or, mails to requester)	NC (NCA maintains a supply of burial flags to provide families who do not have a flag with them at time of service)

<i>U.S. CITIZEN WITH WARTIME SERVICE IN THE ARMED FORCES OF A GOVERNMENT ALLIED WITH THE U.S.</i>							
BURIAL H/M	MEMORIAL H/M	SECOND H/M	MEDALLION (IN LIEU OF 2ND H/M)	OUTER BURIAL RECEPTACLE	CASKET/URN ALLOWANCE	PRESIDENTIAL MEMORIAL CERTIFICATE	BURIAL FLAG
TITLE 38 CITATIONS							
- 38 U.S. Code § 2306(a)(1) and (a)(2)	N/A	N/A	N/A	-38 U.S.C. § 2306(e) -38 CFR § 38.629	-38 U.S.C. § 2306(f) -38 CFR § 38.628	N/A	N/A
LOCATION INFORMATION							
NC ANC DOI VCGP	N/A	N/A	N/A	NC ANC DOI	NC VCGP	N/A	N/A

SPOUSE, SURVIVING SPOUSE, MINOR CHILD, UNMARRIED ADULT CHILD:							
BURIAL H/M	MEMORIAL H/M	SECOND H/M	MEDALLION (IN LIEU OF 2ND H/M)	OUTER BURIAL RECEPTACLE	CASKET/URN ALLOWANCE	PRESIDENTIAL MEMORIAL CERTIFICATE	BURIAL FLAG
TITLE 38 CITATIONS							
38 U.S.C. § 2306(a)(1) and (a)(4)	-38 U.S.C. § 2306(b)(2) (B) and (C); (b)(3) – (5) -38 CFR § 38.630(c)(1)(ii) - (iii); (c)(2), (c)(3)	N/A	N/A	-38 U.S.C. § 2306(e) -38 CFR § 38.629	N/A	N/A	N/A
LOCATION INFORMATION							
NC ANC DOI POST VCGP	NC ANC DOI POST VCGP	N/A	N/A	NC ANC DOI	N/A	N/A	N/A

PERSONS DESIGNATED AS ELIGIBLE FOR BURIAL BY SECRETARY'S DISCRETIONARY AUTHORITY: Person or class of persons as may be designated by the Secretary.							
BURIAL H/M	MEMORIAL H/M	SECOND H/M	MEDALLION (IN LIEU OF 2ND H/M)	OUTER BURIAL RECEPTACLE	CASKET/URN ALLOWANCE	PRESIDENTIAL MEMORIAL CERTIFICATE	BURIAL FLAG
TITLE 38 CITATIONS							
-38 U.S.C. § 2306(a)(1) -38 CFR § 38.630(c)	N/A	N/A	N/A	NC	N/A	N/A	38 USC § 2301(e)
LOCATION INFORMATION							

NC	N/A	N/A	N/A	N/A	N/A	N/A	NC (NCA maintains a supply of burial flags to provide families who do not have a flag with them at time of service)
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INDIVIDUAL WITH SERVICE IN THE MILITARY FORCES OF THE COMMONWEALTH OF THE PHILIPPINES/GUERRILLA FORCES:
who at time of death was a U.S. citizen or permanent lawfully admitted alien who resided in the U.S. [See, 38 U.S.C. 2402(a)(8) and 107(a) or (b)]

BURIAL H/M	MEMORIAL H/M	SECOND H/M	MEDALLION (IN LIEU OF 2 ND H/M)	OUTER BURIAL RECEPTACLE	CASKET/URN ALLOWANCE	PRESIDENTIAL MEMORIAL CERTIFICATE	BURIAL FLAG
TITLE 38 AUTHORITIES							
38 U.S.C. § 2306(a)(1)	N/A	38 U.S.C. § 2306(d)(1)	N/A	-38 U.S.C. § 2306(e) -38 CFR § 38.629	-38 U.S.C. § 2306(f) -38 CFR § 38.628	N/A	-38 USC § 2301 -38 CFR § 1.10(a)(iv)

LOCATION INFORMATION

NC DOI POST VCGP OTHER	N/A	OTHER	N/A	NC DOI ANC POST	NC VCGP	N/A	NC (NCA maintains a supply of burial flags to provide families who do not have a flag with them at time of service)
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PARENT OF DECEDENT-CHILD WHO WAS A HOSTILE CASUALTY OR DIED IN A TRAINING-RELATED INJURY: If there is space available in the gravesite where the decedent-child is interred in a national cemetery, and at time of biological/adoptive/ mother or father's death, the decedent-child had no spouse, surviving spouse, or child interred or who upon death, may be eligible for burial in a national cemetery. Applies to parents who die on or after October 13, 2010 of the decedent-child who died on or after October 7, 2001.

BURIAL H/M	MEMORIAL H/M	SECOND H/M	MEDALLION (IN LIEU OF 2 ND H/M)	OUTER BURIAL RECEPTACLE	CASKET/URN ALLOWANCE	PRESIDENTIAL MEMORIAL CERTIFICATE	BURIAL FLAG
TITLE 38 CITATIONS							
-38 U.S.C. § 2402(9) -38 U.S.C. § 2306(a)(1) and (a)(2)	N/A	N/A	N/A	-38 U.S.C. § 2306(e) -38 CFR § 38.629	N/A	N/A	N/A
LOCATION INFORMATION							
NC	N/A	N/A	N/A	NC	N/A	N/A	N/A

HMONG FIGHTER: Person who served who was naturalized under the Hmong Veterans' Naturalization Act of 2000, who at the time of death resided in the U.S. Applies to deaths occurring on or after March 23, 2018.

BURIAL H/M	MEMORIAL H/M	SECOND H/M	MEDALLION (IN LIEU OF 2 ND H/M)	OUTER BURIAL RECEPTACLE	CASKET/URN ALLOWANCE	PRESIDENTIAL MEMORIAL CERTIFICATE	BURIAL FLAG
TITLE 38 CITATIONS							
-38 U.S.C. § 2402(a)(10) -38 U.S.C. § 2306(a)(1) and (a)(2)	N/A	38 U.S.C. § 2306(d)(1)	N/A	-38 U.S.C. § 2306(e) -38 CFR § 38.629	N/A	N/A	N/A
LOCATION INFORMATION							
NC OTHER	N/A	OTHER	N/A	NC DOI	N/A	N/A	N/A