



SECRETARY OF THE ARMY
WASHINGTON

23 MAR 2015

MEMORANDUM FOR Executive Director, Army National Military Cemeteries

SUBJECT: Inurnment Eligibility of Active Duty Designees at Arlington National Cemetery (ANC)

1. This memorandum establishes the policy and process for handling future inurnments in ANC when an inurnment was improperly authorized under Section 401 of Public Law 95-202. Section 401 authorizes the Secretary of Defense to declare that certain groups be considered "... active duty for the purposes of all laws administered by the Veterans' Administration." These Active Duty Designees include such groups as the Women's Air Forces Service Pilots (WASPs) and the American Merchant Marines in Oceangoing Service who served during World War II.

2. In June 2002, the ANC Superintendent directed the Interment Services Branch to allow those Active Duty Designees who had gone through the necessary procedures to obtain a DD Form 214 to be inurned in the Columbarium if so desired. The Army General Counsel's office has opined¹ that the ANC Superintendent was without authority to issue the June 2002 memorandum. More importantly, the policy outlined in the memorandum is not supported by current Federal law. While Section 401 gives the Secretary of Defense the authority to declare that certain groups are "active duty," this is only "for the purposes of all laws administered by the Veterans' Administration" and does not extend to laws administered by the Secretary of the Army. The National Cemeteries Act of 1973 clearly places the responsibility for operating and maintaining ANC in the hands of the Secretary of the Army. Likewise, Army regulations² provide that ANC is under the jurisdiction of the Department of the Army, and recently enacted Federal law³ specifically directs the Secretary of the Army to administer and oversee ANC. Therefore, absent a specific directive from the Secretary of the Army, Active Duty Designees are not eligible for inurnment in ANC. Consequently, the ANC Superintendent's June 2002 memorandum is hereby rescinded.

3. Under current law, as Secretary of the Army, I have the authority to determine eligibility policy for interment or inurnment in ANC.⁴ Army Regulation 290-5 (Army National Cemeteries), paragraph 2-10(a), provides that, "[i]nterments [and inurnments] in Army national cemeteries are considered permanent." In accordance with this authority, as a matter of policy, all Active Duty Designees and their derivatively eligible

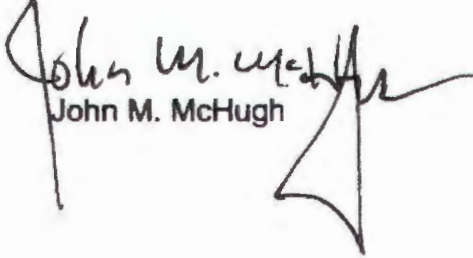
¹ See Army General Counsel Opinion dated 6 October 2014; Subject: Inurnment Eligibility of Active Duty Designees at Arlington National Cemetery.

² 32 C.F.R. § 553.4.

³ 10 U.S.C. § 4721.

⁴ 10 U.S.C. § 4722 ("The Secretary of the Army, with the approval of the Secretary of Defense, shall determine eligibility for interment or inurnment in the Cemeteries.").

family members who are *already* inurned in the Columbarium shall be allowed to remain undisturbed on the presumptive basis that their inurnment, although inconsistent with eligibility rules, was not due to a misrepresentation on their part. If and when the Army receives a request for a subsequent inurnment in the same niche occupied by a previously inurned Active Duty Designee or a derivative family member, the administrative record shall be thoroughly reviewed and, when appropriate under the circumstances, an exception to policy may be processed in accordance with the Army's policy and procedures for considering exceptions.


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