

**STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS
1227 O STREET, ROOM 105
SACRAMENTO, CA 95814**

**TITLE 12. MILITARY AND VETERANS AFFAIRS
DIVISION 2. DEPARTMENT OF VETERANS' AFFAIRS
CHAPTER 3. VETERANS' SERVICES
SUBCHAPTER 5. STATE VETERANS CEMETERY**

Proposed text

45-day changes: proposed in single underline; deleted in single strikethrough

1st 15-day changes: proposed in double underline; deleted in double strikethrough

2nd 15-day changes: proposed **bold underline**, deleted in **bold strikethrough**

3rd 15-day changes: proposed **yellow highlighted underline**, deleted **red strikethrough**

12 CCR § 461

§ 461. Persons Eligible for Burial.

(a) In determining which persons are eligible for burial in a state veterans cemetery, the Division of Veterans Services (**Division**) shall use the eligibility requirements specified in Title 38 Code of Federal Regulations § 38.620 "Persons Eligible for Burial" (~~Federal Register, Volume 70, Number 19 effective January 31, 2005~~) (**Federal Register, Volume 70, Number 19 effective January 31, 2005**), which is hereby incorporated by reference in its entirety.

(b) The Division of Veterans Services, or its designee, shall review and determine the eligibility of persons seeking burial in a state veterans cemetery. Any person requesting burial of an applicant in a state veterans cemetery, shall submit an "Eligibility for Burial Benefits Determination" application (~~DVS-100, dated August, 2005~~) (**VSD-002, dated February June 2016**), which is hereby incorporated in its entirety, *and supporting documentation as required by the U.S. Department of Veterans Affairs VSD-002* to enable the Division to determine the applicant's *and dependent* eligibility.

Note: Authority cited: Section ~~700-1455~~, Military and Veterans Code. Reference: Sections **1400, 1410, and 1455**, Military and Veterans Code.

12 CCR § 463. Burial Fees

(a) The department shall not charge a fee for **initial** burial of eligible veterans.

~~(b)~~ **(b)** The fee for ~~s~~Subsequent or second burial of an eligible veteran for which a federal reimbursement has already been awarded (for example, moving a veteran interred at a national veterans cemetery to a state veterans cemetery) shall ~~incur a fee~~ **be** equal to the current published U. S. Department of Veterans Affairs burial rate for veterans.

~~(b)~~ **(c)** The fee for the interment of eligible spouses and children of veterans in a state veterans cemetery shall be **equal to** ~~set in accordance~~ with the current published U.S. Department of Veterans Affairs burial rate for veterans.

Note: Authority cited: **Section 1455**, Military and Veterans Code; ~~Section 1455~~. References: **Sections 1400, 1410, and 1455**, Military and Veterans Code; ~~Sections 1400, 1410, 1455~~.

12 CCR § 464. Disinterments

~~(a) Disinterments of eligible decedents in state veteran cemeteries shall be permitted according to Title 38 Code of Federal Regulations § 38.621 "Disinterments".~~ **Interments of eligible decedents in state veterans cemeteries are considered permanent and final. Disinterment will be permitted only for cogent reasons, for example when families move and want their loved one close by and when the next of kin was not aware that the person had purchased a plot in a different cemetery, and with the prior written authorization of the Cemetery Director responsible for the cemetery involved. Disinterment from a state veterans cemetery will be approved only when all living immediate family members of the decedent, and the person who initiated the interment (whether or not he or she is a member of the immediate family), give their written consent, or when a court order ~~or State instrumentality of competent jurisdiction~~ directs the disinterment. For purposes of this section, "immediate family members" are defined as surviving spouse, whether or not he or she is remarried; all adult children of the decedent; the appointed guardian(s) of minor children; and the appointed guardian(s) of the surviving spouse or of the adult child(ren) of the decedent. If the surviving spouse and all of the children of the decedent are deceased, the decedent's parents will be considered "immediate family members."**

(b) Requests for disinterment must be submitted on Form VSD-003, Request for Disinterment (dated ~~February~~ **June 2016), which is hereby incorporated by reference in its entirety, and ~~will~~ include the following information:**

(1) A full statement of reasons for the proposed disinterment.

(2) Notarized statement(s) by all living immediate family members of the decedent, and the person who initiated the interment (whether or not he or she is a member of the immediate family), that they consent to the proposed disinterment.

(3) A notarized statement, by the person requesting the disinterment that those who supplied affidavits comprise all the living immediate family members of the deceased.

(c) In lieu of the documents required in paragraph (b) of this section, an order of a court of competent jurisdiction will be considered.

(d) Any disinterment that may be authorized under this section must be accomplished without expense to the State.

(a) ~~(e) Family members are responsible for all disinterment costs. State veteran cemetery fees for reopening a gravesite are 50% of the current federal burial reimbursement rate for in-ground cremation and 75% of the current federal burial reimbursement for caskets. There is no fee to reopen a niche.~~ **(d) The state veterans cemetery shall charge a disinterment fee for an in-ground cremation that is equivalent to 50% of the current federal burial reimbursement rate, and a disinterment for caskets that is equivalent to 75% of the current federal burial reimbursement rate. The state veterans cemetery may not charge a disinterment fee for the reopening of a niche.**

Note: Authority cited: Section 1455, Military and Veterans Code: ~~Section 1455~~. References: Sections 1400, 1410, and 1455, Military and Veterans Code: ~~Sections 1400, 1410, 1455~~.