

Supporting Statement for VA Form 21-8960-1
Certification of School Attendance or Termination
(2900-0458)

A. Justification

1. The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA), administers an integrated program of benefits and services established by law for veterans, service personnel, and their dependents and/or beneficiaries. 38 U.S.C. 101 (4) and 38 CFR 3.667 provide the authority to pay benefits to or for a child who attends an approved course of instruction or training between the ages of 18 and 23.
2. VA Form 21-8960-1 is used to gather the necessary information to determine continued benefit entitlement to or for a child between the ages of 18 and 23 who is attending school.
3. Respondents may provide the information requested by VA Form 21-8960-1 via telephone, e-mail, or fax. VA Form 21-8960-1 is not available on the One-VA website for several reasons. VA Form 21-8960-1 is a computer-generated form which is dispatched only by VA's central computer system. VA Form 21-8960-1 is used by VA regional offices if VA Form 21-8960 is not correctly dispatched. Before VA Form 21-8960-1 is mailed to beneficiaries, they are partially completed by VA with information that is specific to the beneficiary and the schoolchild for whom verification of school attendance is being requested. Additionally, beneficiaries are required to provide the information requested by these forms within 60 days from the date the form is generated, or benefits may be reduced or terminated. The date VA mails the form to the beneficiary is necessary in order to correctly determine due process and appeal periods. No data regarding the percentage of responses received via e-mail is available. Currently, there has been no consideration of using other information technology. The Department will reconsider using other information technology when the resources become available.
4. Program reviews were conducted to identify potential areas of duplication; however, none were found to exist. There is no known Department or Agency which maintains the necessary information, nor is it available from other sources within our Department.
5. The collection of information does not involve small businesses or entities.
6. VA compensation and pension programs require current information to determine eligibility for benefits. VA Form 21-8960-1 solicits information that is needed to determine continued benefit eligibility for schoolchildren between the ages of 18 and 23. If the collection were not conducted or were conducted less frequently, VA would be unable to verify continued entitlement in a timely manner, and increased overpayments would result.
7. There is no special circumstance requiring collection in a manner inconsistent with 5 CFR 1320.6 guidelines.
8. The Department notice was published in the Federal Register on June 7, 2005, pages 33259-33260. Field stations have not reported any difficulty on the part of respondents in using the form. No comments were received.

9. No payments or gifts to respondents have been made under this collection of information.

10. The records are maintained in the appropriate Privacy Act System of Records identified as 58VA21/22, "Compensation, Pension, Education and Rehabilitation Records - VA" as set forth in Privacy Act Issuances, 1993 compilation (42 Fed. Reg. 49726 (9/27//1977) detailed listing to be found on p.49760).

11. There are no questions of a sensitive nature.

12. Estimate of Information Collection Burden.

a. Number of Respondents is estimated at 70,000 per year.

b. Frequency of Response is annually for most beneficiaries.

c. Annual burden is 11,667 hours.

d. The estimated completion time of 10 minutes is based on review by staff personnel and previous usage of these forms.

e. The total estimated cost to respondents is \$175,005 (11,667 hours x \$15 per hour).

13. This submission does not involve any recordkeeping costs.

14. Estimated Costs to the Federal Government:

a. Processing/Analyzing costs	\$1,368,500
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(GS-9/5 @ \$24.36 x 70,000 x 45/60 minutes =	\$1,278,900)
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(GS-3/5 @ \$12.80 x 70,000 x 6/60 minutes =	\$ 89,600)
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b. Printing and production cost	\$980
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c. Total cost to government	\$1,369,480
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15. There is no change in the reporting burden.

16. The information collection is not for publication or tabulation use.

17. The collection instrument, VA Form 21-8960-1, may be reproduced and/or stocked by the respondents and veterans service organizations. These VA forms do not display an expiration date, and if required to do so would result in unnecessary waste of existing stocks of these forms. These forms are submitted to OMB every 3 years. As such, this date requirement would also result in an unnecessary burden on the respondents and would delay Department action on the benefit being sought. VA also seeks to minimize its cost to itself of collecting, processing and using the information by not displaying the expiration

date. For the reasons stated, VA continues to seek an exemption that waives the displaying of the expiration date on VA Forms 21-8960-1.

18. This submission does not contain any exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

1. The Veterans Benefits Administration does not collect information employing statistical methods.

TITLE 38 > PART I > CHAPTER 1 > Sec. 101.

Sec. 101. - Definitions

For the purposes of this title -

(1) The terms "Secretary" and "Department" mean the Secretary of Veterans Affairs and the Department of Veterans Affairs, respectively.

(2) The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(3) The term "surviving spouse" means (except for purposes of chapter 19 of this title) a person of the opposite sex who was the spouse of a veteran at the time of the veteran's death, and who lived with the veteran continuously from the date of marriage to the date of the veteran's death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the spouse) and who has not remarried or (in cases not involving remarriage) has not since the death of the veteran, and after September 19, 1962, lived with another person and held himself or herself out openly to the public to be the spouse of such other person.

(4)

(A) The term "child" means (except for purposes of chapter 19 of this title and section 8502(b) of this title) a person who is unmarried and -

(i) who is under the age of eighteen years;

(ii) who, before attaining the age of eighteen years, became permanently incapable of self-support; or

(iii) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-three years), is pursuing a course of instruction at an approved educational institution; and who is a legitimate child, a legally adopted child, a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death, or an illegitimate child but, as to the alleged father, only if acknowledged in writing signed by him, or if he has been judicially ordered to contribute to the child's support or has been, before his death, judicially decreed to be the father of such child, or if he is otherwise shown by evidence satisfactory to the Secretary to be the father of such child. A person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of such veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the veteran's surviving spouse before August 26, 1961, or within two years after the veteran's death; however, this sentence shall not apply if at the time of the veteran's death, such person was receiving regular contributions toward the person's support from some individual other than the veteran or the veteran's spouse, or from any public or private welfare organization which furnishes services or assistance for children. A person with respect to whom an interlocutory decree of adoption has been issued by an appropriate adoption authority shall be recognized thereafter as a legally adopted child, unless and until that decree is rescinded, if the child remains in the custody of the adopting parent or

parents during the interlocutory period. A person who has been placed for adoption under an agreement entered into by the adopting parent or parents with any agency authorized under law to so act shall be recognized thereafter as a legally adopted child, unless and until such agreement is terminated, if the child remains in the custody of the adopting parent or parents during the period of placement for adoption under such agreement. A person described in clause (ii) of the first sentence of this subparagraph who was a member of a veteran's household at the time the person became 18 years of age and who is adopted by the veteran shall be recognized as a legally adopted child of the veteran regardless of the age of such person at the time of adoption.

(B) For the purposes of subparagraph (A) of this paragraph, in the case of an adoption under the laws of any jurisdiction other than a State (as defined in section [101](#)(20) of this title and including the Commonwealth of the Northern Mariana Islands) -

(i) a person residing outside any of the States shall not be considered to be a legally adopted child of a veteran during the lifetime of such veteran (including for purposes of this subparagraph a Commonwealth Army veteran or new Philippine Scout, as defined in section [3566](#) of this title) unless such person -

(I) was less than eighteen years of age at the time of adoption;

(II) is receiving one-half or more of such person's annual support from such veteran;

(III) is not in the custody of such person's natural parent, unless such natural parent is such veteran's spouse; and

(IV) is residing with such veteran (or in the case of divorce following adoption, with the divorced spouse who is also an adoptive or natural parent) except for periods during which such person is residing apart from such veteran (or such divorced spouse) for purposes of full-time attendance at an educational institution or during which such person or such veteran (or such divorced spouse) is confined in a hospital, nursing home, other health-care facility, or other institution; and

(ii) a person shall not be considered to have been a legally adopted child of a veteran as of the date of such veteran's death and thereafter unless -

(I) at any time within the one-year period immediately preceding such veteran's death, such veteran was entitled to and was receiving a dependent's allowance or similar monetary benefit under this title for such person; or

(II) for a period of at least one year prior to such veteran's death, such person met the requirements of clause (i) of this subparagraph.

(5) The term "parent" means (except for purposes of chapter [19](#) of this title) a father, a mother, a father through adoption, a mother through adoption, or an individual who for a period of not less than one year stood in the relationship of a parent to a veteran at any time before the veteran's entry into active military, naval, or air service or if two persons stood in the relationship of a father or a mother for one year or more, the person who last stood in the

relationship of father or mother before the veteran's last entry into active military, naval, or air service.

[Code of Federal Regulations]
[Title 38, Volume 1]
[Revised as of July 1, 2004]
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TITLE 38--PENSIONS, BONUSES, AND VETERANS' RELIEF

CHAPTER I--DEPARTMENT OF VETERANS AFFAIRS

PART 3_ADJUDICATION--Table of Contents

Subpart A_Pension, Compensation, and Dependency and Indemnity Compensation

Sec. 3.667 School attendance.

(a) General. (1) Pension or compensation may be paid from a child's 18th birthday based upon school attendance if the child was at that time pursuing a course of instruction at an approved educational institution and a claim for such benefits is filed within 1 year from the child's 18th birthday.

(2) Pension or compensation based upon a course of instruction at an approved educational institution which was begun after a child's 18th birthday may be paid from the commencement of the course if a claim is filed within 1 year from that date.

(3) An initial award of DIC (dependency and indemnity compensation) to a child in the child's own right is payable from the first day of the month in which the child attains age 18 if the child was pursuing a course of instruction at an approved educational institution on the child's 18th birthday, and if a claim for benefits is filed within 1 year from the child's 18th birthday. In the case of a child who attains age 18 after September 30, 1981, if the child was, immediately before attaining age 18, counted under 38 U.S.C. 1311(b) for the purpose of determining the amount of DIC payable to the surviving spouse, the effective date of an award of DIC to the child shall be the date the child attains age 18 if a claim for DIC is filed within 1 year from that date. (Authority: 38 U.S.C. 5110(e))

(4) An initial award of dependency and indemnity compensation to a child in its own right based upon a course of instruction at an approved educational institution which was begun after the child's 18th birthday may be paid from the first day of the month in which the course commenced if a claim is filed within 1 year from that date. (Authority: 38 U.S.C. 5110(e))

(5) Where a child was receiving dependency and indemnity compensation in its own right prior to age 18, payments may be continued from the 18th birthday if the child was then attending an approved educational institution and evidence of such school attendance is received within 1 year from the 18th birthday. Where the child was receiving dependency and indemnity compensation in its own right prior to age 18 and was not attending an approved educational institution on the 18th birthday but commences attendance at an approved educational institution after the 18th birthday, payments may be resumed from the commencing date of the course if evidence of such school attendance is filed within 1 year from that date.

(b) Vacation periods. A child is considered to be in school during a vacation or other holiday period if he or she was attending an approved educational institution at the end of the preceding school term and resumes attendance, either in the same or a different approved educational institution, at the beginning of the next term. If an award has been made covering a vacation period, and the child fails to commence or resume school attendance, benefits will be terminated the date of last payment or the last day of the month preceding the date of failure to pursue the course, whichever is the earlier.

(c) Ending dates. Except as provided in paragraph (b) of this section, benefits may be authorized through the last day of the month in which a course was or will be completed. (Authority: 38 U.S.C. 5112(b)(7))

(d) Transfers to other schools. When benefits have been authorized based upon school attendance and it is shown that during a part or all of that period the child was pursuing a different course in the same approved educational institution or a course in a different approved educational institution, payments previously made will not be disturbed.

(e) Accrued benefits only. When a claim for accrued benefits is filed by or on behalf of a veteran's child over 18 but under 23 years of age, who was pursuing a course of instruction at the time of the payee's death and payment of accrued benefits only is involved, evidence of school attendance need not be confirmed by the school. When the payee's death occurred during a school vacation period, the requirements will be considered to have been met if the child was carried on the school rolls on the last day of the regular school term immediately preceding the date of the payee's death. (Authority: 38 U.S.C. 5112(b)(7))

(f) Nonduplication. Pension, compensation or dependency and indemnity compensation may not be authorized:

(1) After a child has elected to receive educational assistance under 38 U.S.C. chapter 35 (see Sec. 3.707 and Sec. 21.3023 of this chapter); or

(2) Based on an educational program in a school where the child is wholly supported at the expense of the Federal Government, such as a service academy.

Cross Reference: Dependents' educational assistance. See Sec. 3.707.

[26 FR 1601, Feb. 24, 1961, as amended at 30 FR 14983, Dec. 3, 1965; 32 FR 12114, Aug. 23, 1967; 34 FR 839, Jan. 18, 1969; 40 FR 22254, May 22, 1975; 47 FR 24552, June 7, 1982; 65 FR 12116, Mar. 8, 2000]