

SUPPORTING STATEMENT FOR AVAILABILITY OF EDUCATIONAL,
LICENSING, AND CERTIFICATION RECORDS; 38 CFR 21.4209
(2900-0696)

A. Justification.

1. This collection of information is necessary so that VA can apply 38 U.S.C. 3690(c) and also verify that the payments of educational assistance under the various programs VA administers were correct. Statute requires that educational institutions offering approved courses and licensing and certification organizations offering approved tests, must make available to authorized government representatives records and accounts pertaining to eligible veterans and other eligible persons and the records of other students and individuals taking tests that are necessary to ascertain institutional compliance with the chapters in the U.S. Code containing the education programs the Department of Veterans Affairs (VA) administers. (10 U.S.C. 16136, 38 U.S.C. 3034, 3241, 3689, 3690.)
2. VA will use the information to decide whether beneficiaries of educational assistance have been properly paid, and whether educational institutions and organizations or entities offering approved licensing and certification tests are in compliance with the applicable sections of the U.S. Code.
3. Many educational institutions and licensing and certification organizations store much of this information electronically. However, VA has no authority to require all of these organizations to store all of the information electronically. Moreover, visits from a VA employee are useful to educational institutions and licensing and certification organizations because the employee is able to help the educational institution or licensing or certification organization overcome reporting or recordkeeping problems. Our ultimate goal is to continue to have some personal visits to these organizations.
4. VA is not aware of any duplication of this information collection.
5. The collection of information will not have a significant impact on a substantial number of small entities. Some educational institutions and organizations or entities offering licensing or certification tests qualify as small entities as that term is defined in the Regulatory Flexibility Act. However, these institutions and entities would maintain student and candidate records in the normal course of business. The impact on them of this regulation is not significant.
6. If VA does not collect this information, it would be impossible to know if payments of educational assistance have been made correctly.

7. The collection of this information does not require any special circumstances.
8. The Department notice was published in the Federal Register on April 18, 2007, pages 19587-19588, and on July 10, 2007, pages 37577-37578. There were no comments received on this information collection.
9. VA does not provide any gifts to respondents.
10. Unless the documents reviewed show that veterans and other eligible persons were paid incorrect amounts of educational assistance, VA would not retain any documents reviewed. However, if the evidence shows that incorrect payments were made, VA would use that information to process awards correcting the payments. After this processing is complete, VA will retain any written documents in an education folder. Education folders are destroyed periodically. If the education folder is destroyed, the documents on which the information is collected will be destroyed also. Our assurance of confidentiality is covered by our System of Records, Compensation, Pension, Education and Rehabilitation Records - VA(58VA21/22) which is contained in the Privacy Act Issuances, 1999 Compilation.
11. None of the information collected is of a sensitive nature.
12. The estimated annual burden is 6,000 hours. This estimate is determined as follows:
 - a. VA estimates approximately 8,000 educational institutions (includes licensing and certification organizations) will maintain records in accordance with proposed 38 CFR 21.4209. However, these records are records the institutions use and maintain in the normal course of their operations. They would do so even if VA did not have this regulation. Thus, VA is not estimating any additional recordkeeping burden for maintaining the records. However, in item (b) we do estimate a burden for those institutions that a Government official will visit during a compliance visit.
 - b. VA (includes the State Approving Agency representatives acting on behalf of VA) averages 3,000 compliance visits per year to educational institutions. We estimate that it would take financial aid personnel at the typical educational institution 2 hours to prepare the records the VA employee would review. $3,000 \times 2 = 6,000$ hours.
 - c. The annual cost to the public is \$120,000. VA estimates that it will take an individual at the typical educational institution or organization or entity offering licensing or certification tests an average of 2 hours to prepare the records needed for review. Assuming that the individual's time is valued at \$20.00 per hour, total costs to prepare for record review is $6,000 \times \$20 = \$120,000$.

13. The records required by this information collection would be kept for the educational institutions' and licensing and certification organizations' own purposes in the normal course of business as explained in 12(a). However, in 12(b) we did estimate some costs for information gathering (burden) for compliance visits.

14. VA estimates that the total annualized cost to the government to collect the information required by § 21.4209 is \$364,050 based on 3,000 reviews of educational institutions' records. This cost is computed as follows.

a. The processing cost of \$364,050 is based on an estimate that a GS 10/5 employee will have to review the educational institutions' records. The salary for such an employee is \$24.27 per hour. We estimate that it will take 5 hours to complete this review at the typical educational institution. $3,000 \times 5 = 15,000$ hours. $15,000 \times \$24.27 = \$364,050.00$.

b. There are no administrative costs associated with forms for this information collection because the proposed rule does not require the use of a VA form.

Summary of Federal Costs:

\$364,050	Processing costs
<u>\$ 0</u>	Administration Costs
\$364,050	

15. This is a new burden in connection with a new benefit (reimbursement for cost of licensing or certification tests).

16. VA does not publish this information or make it available for publication.

17. If the information collection in § 21.4209 is approved, VA would not be willing to indicate the expiration date of approval in the Code of Federal Regulations (CFR). VA will show the approval number in the CFR. Generally, OMB approvals are for three years or less. If VA displayed the expiration date, we would be routinely revising regulations just for dates.

18. This information collection complies with the requirements of 5 CFR 1320.8(b)(3) except as follows. The proposed rule does not contain in its text the estimated burden of the information collection. The proposed rule does not state the confidentiality of the collected information. If an OMB number is assigned to the proposed rule, it will be displayed, but the proposed rule does not explain the need to do so.

VA requests an exemption from providing the above information as part of the regulation. To publish as part of the regulation all the information required by 5 CFR 1320.8(b)(3) would mean that each time the information required by that rule changed, for example, the estimate of the burden hours, the proposed rule would have to go through the regulatory process again even though the purpose of the proposed rule would be unchanged. This is contrary to the purpose of the Code of Federal Regulations.

Secondly, to put all this information in a regulation would make the proposed rule unnecessarily long.

Finally, VA is publishing in the preamble to the proposed rule the burden hours and an explanation of the need to display the approval number. If a respondent wishes to know this information, he or she can be referred to the appropriate Federal Register.

B. Collection of Information Employing Statistical Methods.

This collection of information does not employ statistical methods.