

SUPPORTING STATEMENT FOR VA FORM 22-5495
Dependents' Request for Change of Program or Place of Training
(OMB Control Number 2900-0099)

A. Justification.

1. Spouses, surviving spouses, and children who are eligible for Survivor's and Dependent's Educational Assistance (DEA) benefits under chapter 35, and children eligible for the Marine Gunnery Sergeant John David Fry Scholarship (Fry Scholarship) under chapter 33, title 38, U.S. Code, may not make any changes in their education program unless the new program is suitable to their abilities, aptitudes, and interests. Beneficiaries may change their education program the first time solely at their option; however, these beneficiaries may not change their education program a second (or subsequent) time unless the new program is suitable to their abilities, aptitudes, and interests. In addition to changing their education program, these claimants may also change their school upon application to the Department of Veterans Affairs (VA). VA Form 22-5495 serves as the procedural requirement for claimants to request a different education program or place of training.

The following administrative and legal requirements necessitate the collection:

- a. 38 United States Code 3034(a), 3034(b), 3323(a), 3323(b), 3471, 3513, 3521, and 3691
- b. 38 Code of Federal Regulations 21.4234

The expiration date placeholder has been added to the form.

2. VA has used the current information collection to determine (1) if the claimant continues to qualify for education benefits when taking a different program of training and (2) to verify that a new place of training is approved for benefits. The information on the form can be obtained only from the individual claimant. VA cannot make a determination without this information.

3. Information is collected when an eligible dependent of a veteran applies for a new program of education or place of training. Information technology is being used to reduce this burden.

We have converted this form into an electronic fillable format available on the Internet. Additionally, this form is available on the VONAPP (Veterans On-Line application) system. The VONAPP version is identical to the printed form, except claimants are guided past questions that do not pertain to them. VONAPP applies information technology and reduces the burden on the public. VA estimates that 30% of claimants submit the form via VONAPP.

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 information collection only affects eligible dependents of veterans. There is no impact on education institutions or small businesses.
6. This information is collected only when a dependent of a veteran requests a change of educational program or place of training. If this information is not collected, VA would not have any basis to make eligibility determinations regarding requests for benefits involving a change of program or place of training. There are no technical or legal obstacles to reducing the burden of this information collection.
7. The collection of this information does not require any special circumstances.
8. The public was informed of the right to submit comments on this information collection. The notice was contained on page 57003 of the Federal Register dated September 16, 2013. No comments were received in response to this notice.
9. VA does not provide any payment or gifts to respondents.
10. VA Form 22-5495 is retained permanently in the claimant's electronic folder. Our assurance of confidentiality is covered by 38 U.S.C. 5701 and our System of Records, Compensation, Pension, Education and Vocational Rehabilitation and Employment Records – VA (58VA21/22/28), which are contained in the Privacy Act Issuances, 2011 Compilation.
11. None of the information collected is considered to be of a sensitive nature.
12. The estimated annual burden for the collection of this information is 36,083 hours.

Based on information from previous fiscal years, we have determined that approximately 20% of 721,663 dependent trainees will complete VA Form 22-5495.

(Using an average of the projected benefit usage for Fiscal Years 2012, 2013, and 2014 from the 2013 Presidential budget submission, we estimate that we will have 721,663 (2,164,989/3) dependent trainees under the Fry Scholarship and Chapter 35. Of these trainees, we estimate that we will receive 144,333 (721,663 X 20%) responses. 70% of the respondents will use a paper application. Therefore, the annual cost to the public is \$49,506 (101,033 X 49 cents/100) for postage costs, which includes 46 cents for postage and 3 cents for the envelope.

13. This submission does not involve any record keeping costs.

14. The estimated annual cost to the Federal government is \$929,859. VA calculated this amount as follows:

A processor who is a GS-9, step 5, with an hourly wage of \$25.77 will review these forms. The review for each form takes approximately 15 minutes. Reviewing 144,333 responses will cost approximately \$929,859 (144,333 X 15min/60min=36,083 X \$25.77).

15. The change in burden is due to the increase in the number of respondents, since this form is now used by beneficiaries eligible for the Fry Scholarship offered under the provisions of the Post-9/11 GI Bill.

Supplemental Statement regarding non-substantive changes made to VA Form 22-5495.

On June 26, 2013, the Supreme Court held, in *United States v. Windsor*, that section 3 of the Defense of Marriage Act (DOMA) violates the Fifth Amendment by discriminating against same-sex couples who are lawfully married under state law. VBA administers benefits and programs that depend on the definition of the terms "spouse" and "surviving spouse." For purposes of VA benefits, 38 U.S.C. § 101(3) and §101 (31) define "surviving spouse" and "spouse" as persons "of the opposite sex." These definitions (codified separately from DOMA) were not specifically addressed in the Supreme Court's decision. On September 4, 2013, the United States Attorney General announced that the President had directed the Executive Branch to cease enforcement of 38 U.S.C. §§ 101(3) and 101(31), to the extent they preclude provision of Veterans' benefits to same-sex married couples. Accordingly, VA will no longer enforce the above-mentioned statutory provisions or VBA's implementing regulation (38 C.F.R. § 3.50), to the extent that they preclude provision of Veterans' benefits to same-sex married couples. This announcement allows VA to administer spousal and survivors' benefits to same-sex married couples, provided their marriages meet the requirements of 38 U.S.C. § 103(c).

Therefore, V A is revising VA Form 22-5495, to add the following statute language approved by the White House and Department of Justice, in the instructions section of the form:

IMPORTANT: If you are certifying that you are married for the purpose of VA benefits, your marriage must be recognized by the place where you and/or your spouse resided at the time of marriage, or where you and/or your spouse resided when you filed your claim (or a later date when you became eligible for benefits) (38 U.S.C. § 103(c)). Additional guidance on when VA recognizes marriages is available at <http://www.va.gov/opalmarriage/>.

We are not seeking approval to omit the expiration date for OMB approval.

The expiration date placeholder has been added to the form.

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

17. The collection instrument, VA Form 22-5495, may be reproduced and/or stocked by the respondents and veterans' services organizations. Requiring VA to display an expiration date on the form would result in unnecessary waste of existing stocks. Inclusion of the expiration date could also result in a delay of the Department's action on the benefit being sought (respondent trying to obtain a newer version, while VA would have accepted the older version). For the reasons stated, VA continues to seek an exemption that waives the displaying of the expiration date.

18. This information collection fully complies with all the requirements of 5 Code of Federal Regulations 1320.8(b)(3).

B. Collection of Information Employing Statistical Methods.

This collection of information by the Veterans Benefits Administration does not employ any statistical methods.