

SUPPORTING STATEMENT
National Credit Union Administration

Member Inspection of Credit Union Books, Records, and Minutes
OMB Control No. 3133-0176
12 CFR §701.3

A. JUSTIFICATION

1. Necessity of Information Collection

Section 701.3 is NCUA's regulation on the circumstances and conditions under which Federal credit union (FCU) members may inspect and copy the FCU's books, records, and minutes of meetings. The collection of information requirements apply to FCU members seeking inspection and copying of the FCU's records and FCUs that receive such member requests. To obtain access to records, members are required to submit a petition to the FCU, stating a proper purpose for inspection and signed by at least one percent of the members, with a minimum of 20 and a maximum of 500 members. The FCU must permit inspection of relevant records if it receives such a petition. The members of an FCU own it, and the disclosure requirements placed on an FCU are necessary to ensure transparency and protect the rights of members.

2. Purpose and Use of the Information Collection

The FCU records disclosed to members as a result of a petition will be used by the members to protect their ownership and financial interests. A properly executed petition, signed by the requisite number of members and establishing a proper purpose, helps ensure the inspection is not frivolous. The FCU uses the information in determining whether and upon what terms to provide records to members for inspection. The petition signatures collected by each FCU will be used by the FCU to verify the membership status of each petitioner.

3. Consideration given to information technology

Member-petitioners may collect electronic signatures if they desire. Under NCUA regulations, FCUs may use any format, electronic or other, to maintain, search for, and produce responsive records. 12 C.F.R. §749.5.

4. Duplication

There is no duplication. The collection does not require the FCU to create new records in response to a member petition. It only requires the FCU to identify and allow member inspection of existing records.

5. Effect on Small Entities

NCUA has reduced the burden for this collection of information to the minimum possible and in keeping with NCUA's supervisory responsibilities. Only the records requested, and relevant to a proper purpose, need be disclosed by FCUs. No records need be disclosed unless one percent of the members, with a minimum of 20 and maximum of 500 members, sign the requesting petition.

6. Consequence to the Federal Program if the Collection were Conducted Less Frequently.

The collection only arises upon a member request. Less frequent collection is inconsistent with the underlying regulation and would not protect the ownership and financial interests of the members.

7. Special Circumstances Necessitating Collection Inconsistent with 5 CFR §1320.5(d)(2)

The FCU must respond to a petition within 14 days of receipt. This quick turnaround is necessary to ensure the membership receives relevant records in a timely fashion, particularly when there is a pending membership vote at the credit union. If the credit union needs more than 14 days, it can simply inform the members of that fact within the 14-day time window.

The FCU may be required to disclose some information to its members that the credit union believes is confidential. The members, however, are entitled to this information because they own the credit union. Section 701.3 contains both procedural and substantive protections for records the release of which could harm the credit union or its members or employees. Specifically, members do not have the right to inspect any portion of the books, records, or minutes if: (1) Federal law or regulation prohibits disclosure of that portion; (2) publication of that portion could cause the credit union predictable and substantial financial harm; (3) that portion contains nonpublic personal information as defined in 12 CFR §1016.3; or (4) that portion contains information about credit union employees or officials the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Furthermore, the rule provides that the NCUA Regional Director can place conditions on the member inspection of records in appropriate cases.

8. Consultations Outside the Agency

A 60-day notice was published in the *Federal Register* on October 17, 2016, at 81 FR 71542, soliciting comments from the public. No comments regarding this proposed collection of information were received.

9. Payment or Gift

The information collection does not include any payment or gift to respondents.

10. Confidentiality

The regulation contains confidentiality provisions as described in Item 7 above.

11. Sensitive Questions

This information collection specifically provides that FCUs will not disclose personal information in response to a member request for records.

12. Burden of Information Collection

IC 1. Preparation and submission of petition

NCUA estimates that, on an annual basis and across all FCUs, there will be only approximately five member petitions requesting inspection of FCU records. Each submission will require the collection of no less than 20 and no more than 500 signatures. We estimate the burden associated with collecting these signatures based on the average cost of obtaining signatures in support of ballot initiatives in 2016 in the State of California¹. The cost to obtain 260 signatures is estimated at roughly \$1,600 -- \$8,000 for five petitions. Using the average civilian hourly compensation rate of \$34² this equates to roughly 48 hours per petition, or 240 hours per year for all petitions. (5 petitions x 48 hours per petition x \$34 per hour = \$8,160)

IC 2. Evaluation of petition by FCU

NCUA estimates that it will take an FCU that receives a petition approximately 20 hours to evaluate the petition, locate the relevant documents, and make them available for inspection and copying. Five FCUs times 20 hours per respondent equals 100 annual burden hours.

The estimated average labor cost for an FCU is \$35/hour. The annualized labor cost is calculated at 20 hours x \$35/hour equals \$700 per FCU response, for an annual labor cost total of \$3,500 (5 respondents x \$700 labor cost per response = \$3,500) for the FCU respondents.

IC 3. Resolution of Disputes

In the event of a dispute over the release of information, the parties may ask NCUA regional directors to become involved to resolve the dispute. This has the effect of increasing the burden associated with disclosing or obtaining the information. We believe such disputes to occur rarely, in fact we are not aware of any recent calls for dispute resolution. However, if such a request were to come to any of the regions, we estimate that each such dispute would result in an additional burden of 20 hours for each party involved (including NCUA). For the purposes of this Information Collection Request, we assume that such appeals occur no more than once per year. The annual burden to the public of resolving disputes is no more than 20 hours (\$700)

¹ https://ballotpedia.org/California_ballot_initiative_petition_signature_costs

² <http://www.bls.gov/ncs/ect/sp/ececrse.pdf>

| Information Collection | # Respondents | # Responses per Respondent | # Annual Responses | Hours Per Response | Total Annual Burden |
|-----------------------------|---------------|----------------------------|--------------------|--------------------|---------------------|
| Members | | | | | |
| Prep & Submission | 5 | 1 | 5 | 48 | 240 |
| Federal Credit Union | | | | | |
| Evaluation of Petition | 5 | 1 | 5 | 20 | 100 |
| Disputes | 1 | 1 | 1 | 20 | 20 |
| TOTALS | | | 11 | | 360 |

13. Capital, Startup, and Operations and Maintenance Cost

FCUs keep the records members may inspect as a usual and customary business practice.

14. Cost to Federal Government

The NCUA would only become involved if either the FCU or the members requests NCUA to resolve a dispute concerning a request for records. This would likely happen No more than one time per year, at a cost of \$1,600.

15. Explanation of Change in Burden

This is an extension of a previously approved collections. The changes in burden are attributable to the inclusion of FCU members as respondents and inclusion potential dispute resolution.

16. Information Collection Planned for Statistical Use

This information collection does not involve results to be published.

17. Display of OMB Expiration Date

There are no traditional collection instruments associated with this collection of information (e.g. forms). The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal government’s electronic PRA docket at www.reginfo.gov.

17. Exception to the certification statement

NCUA does not request an exception to the certification of this information collection.

B. Collections of Information Employing Statistical Methods

This collection does not employ statistical methods.