

# **SUPPORTING STATEMENT FOR VA FORM 22-1919 Conflicting Interests Certification for Proprietary Schools (2900-0657)**

## **A. Justification**

### **1. Explain the circumstances that make the collection of information necessary. Identify legal or administrative requirements that necessitate the collection of information.**

The Department of Veterans Affairs (VA) is authorized to pay education benefits to Veterans and other eligible persons pursuing approved programs of education under chapters 30, 31, 32, 33, and 35 of title 38, U.S.C., and chapter 1606 of title 10, U.S.C., sections 901 and 903 of Public Law 96-342, the National Call to Service provision of Public Law 107-314, and the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

Schools are required to submit information necessary to determine if their programs of training are approved for the payment of VA educational assistance. This specified information is submitted either to VA or to the State Approving Agency (SAA) having jurisdiction over that school. Certain schools are considered “proprietary” schools. A proprietary educational institution, as defined in 38 Code of Federal Regulations (CFR) 21.4200(z), is a private institution legally authorized to offer a program of education in the state where the institution is physically located. Section 3683 of title 38, U.S.C., and sections of 38 CFR establish conflict of interest restrictions related to proprietary schools. The VA Form 22-1919 is the instrument VA has implemented to address these restrictions.

(a) VA Form 22-1919 is only used to collect information on two issues:

(i) Section 3683 of title 38, U.S.C., prohibits employees of VA and the SAA from owning any interest in an educational institution operated for-profit. In addition, the law prohibits VA or SAA employees from receiving any wages, salary, dividends, profits, or gifts from private for-profit schools in which an eligible person is pursuing a program of education under an educational assistance program administered by VA. In addition, the law prohibits VA employees from receiving any services from these schools. These provisions may be waived if VA determines that no detriment will result to the government, or to Veterans or eligible persons enrolled at that private for-profit school. Item 1 of VA Form 22-1919 collects the name and title of affected VA and SAA employees known by the President (or Chief Administrative Official) of the school, as well as a description of these employees’ association with that school.

(ii) Sections 21.4202(c), 21.5200(c), 21.7122(e)(6), and 21.7622(f)(4)(iv) of title 38 of the CFR prohibit the approval of educational assistance from VA for the enrollment of a Veteran or eligible person in any proprietary school where the trainee is an official authorized to sign certifications of enrollment. Item 2 of VA Form 22-1919 collects the following information for each certifying official, owner, or officer who receives VA educational assistance based on an enrollment in that proprietary school: the name and title of these employees; VA file numbers; and dates of enrollment at the proprietary school.

(b) VA only collects this information at the time one (or more) of these events occurs:

(i) The initial approval of a program or course at a proprietary for-profit school;

(ii) Any change of ownership of the school (either reported by the school or found upon review of a school's records during VA's compliance survey);

(iii) A change in proprietary status (from non-proprietary to proprietary, or from non-profit to profit status).

When the SAA, or VA acting as the SAA, visits the school in connection with the school's request for approval of its program(s), the representative has either the school's President or chief administrative official sign VA Form 22-1919. VA's Education Liaison Representative (ELR) will associate the completed VA Form 22-1919 with the other documentation compiled for approval of the school's program(s) and will retain this information in the approval folder. The approval folder is retained until such time as the SAA or VA withdraws approval of all courses at the school. All information in the approval folder is then destroyed according to established record control schedules.

(c) The following administrative and legal requirements affect proprietary schools as defined in 38 CFR 21.4200(z) and necessitate the VA Form 22-1919 collection:

i. 38 U.S.C. 3683, Conflicting Interests. Impacts proprietary for-profit schools only.

ii. Regulations that reflect the restrictions applicable to all proprietary schools:

A. 38 CFR 21.4202(c). Overcharges; restrictions on enrollments. Restrictions; proprietary schools.

B. 38 CFR 21.5200(c). Schools. Overcharges; restrictions on enrollments. Restrictions; proprietary schools.

C. 38 CFR 21.7122(e)(6). Courses precluded. Other courses.

D. 38 CFR 21.7622(f)(4)(iv). Courses precluded. Other courses.

**2. Indicate how, by whom, and for what purposes the information is to be used; indicate actual use the agency has made of the information received from current collection.**

VA uses data from this information collection to ensure the compliance of proprietary schools. Without this information, VA might pay benefits in error.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Information technology is being used to reduce the burden. This form is available in an electronic fillable format, however, the form cannot be submitted electronically at this time as a "wet" signature is required.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

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. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The collection of information does not involve small businesses or entities.

**6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently as well as any technical or legal obstacles to reducing burden.**

If this information is not collected, or is collected less frequently, VA might pay benefits in error. To collect the information less frequently would impair VA's ability to prevent these erroneous payments. There are no legal or technical obstacles to prohibit reduction of the collection burden.

**7. Explain any special circumstances that would cause an information collection to be conducted more often than quarterly or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; retain**

records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years; in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study and require the use of a statistical data classification that has not been reviewed and approved by OMB.

There is no special circumstance requiring collection in a manner inconsistent with 5 CFR 1320.6 guidelines:

**8. If applicable, provide a copy and identify the date and page number of publications in the Federal Register of the sponsor's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the sponsor in responses to these comments. Specifically address comments received on cost and hour burden.**

The Department notice was published in the Federal Register on June 22, 2020, Volume 85 Number 120 page(s) 37498-37499.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

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

**10. Describe any assurance of privacy, to the extent permitted by law, provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

VA Form 22-1919 is retained permanently in the claimant's education 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, 2012 Compilation.

**11. Provide additional justification for any questions of a sensitive nature (Information that, with a reasonable degree of medical certainty, is likely to have a serious adverse effect on an individual's mental or physical health if revealed to him or her), such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private; include specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions of a sensitive nature.

**12. Estimate of the hour burden of the collection of information. Please show mathematical calculations:**

Estimate of Information Collection Burden.

- a. Number of Respondents: 336
- b. Frequency of Responses: Occasionally
- c. Annual Burden Hours: 56
- d. Estimated Completion Time: 10 minutes
- e. The respondent population consists of Veterans who are pursuing approved programs of education. VA cannot make further assumptions about the population of respondents because of the variability of factors such as educational background and wage potential of respondents. Therefore, VBA used general wage data to estimate the respondents' costs associated with completing the information collection.

The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest available BLS data, the mean hourly wage is \$25.72 based on the BLS wage code – “00-0000 All Occupations.” This information was taken from the following website: [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm). The wage rate is effective as of May 2019.

Legally, respondents may not pay a person or business for assistance in completing the information collection. Therefore, there are no expected overhead costs for completing the information collection. VBA estimates the total cost to all respondents to be \$ 1,440.32 (56 burden hours x \$25.72 per hour).

**13. Provide an estimate of the total annual cost burden to respondents or recordkeeping resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**

This submission does not involve any record keeping costs.

**14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

Estimated Costs to the Federal Government:

Grade	Step	Burden Time	Hourly Rate	Cost Per Response	Total Responses	Total
11	05	56	\$34.76	\$5.79	336	\$1,946.56
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Overhead at 100% Salary						\$1,946.56
<b>Overhead costs are 100% of salary and are the same as the wage listed above; and the amount is included in the total.</b>						
Processing / Analyzing Costs (56 hours X \$34.76)						\$1,946.56
Printing and Production Cost						\$0
Total Cost to Government						\$1,946.56

**Note:** The hourly wage information above is based on the hourly 2020 General Schedule (Base) Pay [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/20Tables/html/RUS\\_h.aspx](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/20Tables/html/RUS_h.aspx)

This rate does not include any locality adjustment as applicable.

The processing time estimates above are based on the actual amount of time employees of the grade level spend to process to completion a claim received on this form.

REPORTING FEE INFORMATION: There is no cost to schools because VA pays each school that furnishes training under the various VA education programs a fee for processing all required VA reports or certifications for each veteran or other claimant. VA refers to these fees as "school reporting fees" which help schools to defray the costs of processing paperwork required to be submitted to VA. The reporting fee is in lieu of any other compensation or reimbursement. Reporting fees were established by Public Law 90-77 effective August 31, 1967 and are in 38 U. S. C. 3684

**15. Explain the reason for any burden hour changes since the last submission.**

The slight increase in the annual reporting burden from 34 hours to 56 hours is as a result of an increase in approvals received by the SAA and/or VA from '2017 through '2019.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The information collection is not for publication or tabulation use.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

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

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB 83-I.**

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

**B. Collection of Information Employing Statistical Methods.**

This collection of information does not employ statistical methods. If statistical methods are employed, Part B must be completed.