

## **AUTHORITY TO VIEW RECORDS**

[38 USC 3690](#) states:

“(c) Examination of Records. Notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible Veterans or eligible persons who received educational assistance under this chapter or chapter 31, 32, 34, or 35 of this title, as well as the records of other students which the Secretary determines necessary to ascertain institutional compliance with the requirements of such chapters, shall be available for examination by duly authorized representatives of the Government.”

[38 CFR 21.4209](#) states:

“(a) Availability of records. Notwithstanding any other provision of law, an educational institution, including for purposes of this section an organization or entity offering a licensing or certification test, must make the following records and accounts available to authorized Government representatives:

(1) Records and accounts pertaining to Veterans or eligible persons who received educational assistance under 10 U.S.C. chapter 1606 or 38 U.S.C. chapter 30, 32, 33, 35, or 36:

(2) Other students' records necessary for the Department of Veterans Affairs to ascertain institutional compliance with the requirements of these chapters; and

(3) The records of other individuals who took a licensing or certification test that VA believes are necessary to ascertain whether the Veterans and eligible persons taking such test were reimbursed the correct amount.

(b) Type of records. Each educational institution must upon request of duly authorized representatives of the Government make available for examination all appropriate records and accounts, including but not limited to:

(1) Records and accounts which are evidence of tuition and fees charged to and received from or on behalf of all Veterans, reservists, and eligible persons and from other students similarly circumstanced;

(2) Records of previous education or training of Veterans, reservists, and eligible persons at the time of admission as students and records of advance credit, if any, granted by the educational institution at the time of admission;

(3) Records of the Veteran's, reservist's, or eligible person's grades and progress;

(4) Records of all advertising, sales or enrollment materials as required by §21.4252(h) and section 3696(b), title 38 U.S.C.;

(5) Records and computations showing compliance with the requirements of §21.4201 regarding the 85-15 percent ratio of students for each course; and

(6) Records necessary to demonstrate compliance with the requirements of §21.4252(e) pertaining to the time necessary to complete a correspondence course.

(7) Records necessary to demonstrate compliance with the requirements of §21.4268.

(c) Noncollege degree, apprentice, and other on-the-job. The educational institution having Veterans, servicemembers, reservists, and/or eligible persons enrolled in a course that does not lead to a standard college degree must make available, in addition to the records and accounts required in paragraph (b) of this section, the records of leave, absences, class cuts, makeup work, and tardiness. Each training establishment that has enrolled Veterans under 38 U.S.C. chapter 30, 32, or 33, reservists under 10 U.S.C. chapter 1606, or eligible persons under 38 U.S.C. chapter 35 must also make available payroll records.

(d) Nonaccredited courses. The educational institution having Veterans or eligible persons enrolled in nonaccredited courses must make available, in addition to the records and accounts required in paragraphs (b) and (c) of this section the following:

(1) Records of interruptions for unsatisfactory conduct or attendance.

(2) Records of refunds of tuition, fees and other charges made to a Veteran or eligible person who fails to enter the course or withdraws or is discontinued prior to completion of the course.

(e) Nonavailability. Failure to make such records available as provided in this section will be grounds for discontinuing the payment of educational assistance allowance or special training allowance."

Please note that schools and training establishments must make records of progress and training, tuition and fees charges, and other records available upon request by a duly authorized representative of the Government. The records of both VA students and non-VA students will be reviewed when comparing tuition and fees charges. It has been determined that school records relating to VA benefits fall into the "financial aid" category and are therefore exempt from the provisions of the Buckley amendment. Therefore, the VA shall have access to the records of VA beneficiaries as well as non-VA students without the written consent of the student in order to monitor the school's compliance with the law. [38 United State Code 3690\(c\)](#).