

**38 CFR Part 1****[Docket No. VA-2024-VHA-0015]****RIN 2900-AS11****Privacy Act of 1974; Implementation****AGENCY:** Department of Veterans Affairs.**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) adopts as final, with one technical change, a proposed rule to amend its regulations governing the confidentiality and release of VA records subject to the Privacy Act of 1974. This rulemaking exempts portions of the new “Law Enforcement Officer Evaluations (LEO Evals)—VA” (216VA10) system of records from certain provisions of the Privacy Act of 1974 to prevent compromising the objectivity and fairness of the testing and evaluation process.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Stephania Griffin, Veterans Health Administration, (704) 245-2492.

**SUPPLEMENTARY INFORMATION**

On July 25, 2024, VA published a proposed rule in the Federal Register (89 FR 60337) to revise its regulations by adding an exemption to its current list of Privacy Act exemptions in new paragraph (f) of 38 Code of Federal Regulations (CFR) 1.582.

Immediately preceding the proposed rulemaking, VA provided notice in the Federal Register (89 FR 59970) on July 24, 2024, that it was establishing a new system of records titled “Law Enforcement Officer Evaluations (LEO Evals)—VA (216VA10).”

Information in this new system of records would be used to document the records of VA police officer candidates and VA police officers undergoing psychological evaluations

for hire or annually after hire.

The Privacy Act of 1974, codified at section 552a of title 5, United States Code (U.S.C.), governs the means by which the U.S. Government collects, maintains, uses, and disseminates personally identifiable information. Consistent with section 552a(k)(6), which allows an agency to exempt testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process, VA would exempt portions of the “LEO Evals” system of records from the accounting, access, and administrative provisions of the Privacy Act to preserve the integrity of the examination or testing process.

VA provided a 60-day comment period, which ended on September 23, 2024. VA received one supportive comment on the proposed rule, and we thank the commenter for their comment. Based on the rationale set forth in the proposed rule, VA now adopts the proposed rule as final with the technical change as described below.

#### *Technical Change Not Based on Comments*

In the amendatory language for the proposed rule, VA stated the authority citation for 38 CFR part 1 would remain unchanged as 38 U.S.C. 5101, and as noted in specific sections. However, the correct authority citation for 38 CFR part 1 is 38 U.S.C. 501, which is VA’s general rulemaking authority. Previous rulemakings intended to change authority citations for specific regulations, but inadvertently made changes to the authority citation for the entire part. Therefore, VA will make a technical change to revise the authority citation for 38 CFR part 1 along with this final rulemaking.

#### *Executive Orders 12866, 13563, and 14192*

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to

select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. This final rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

*Economic Impact:* There are no costs or savings associated with this final rule. VA determined that rulemaking was required to implement this exemption under the Privacy Act, consistent with 5 U.S.C. 552a(k). While this final rule has no associated costs, the exemption claimed will ensure objectivity and fairness in the psychological evaluation and testing process for VA police officers.

#### *Regulatory Flexibility Act*

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601-612). The factual basis for this certification is based on the fact that the Privacy Act primarily affects individuals and not entities, and the final rule will impose no duties or obligations on small entities. Therefore, under 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

#### *Unfunded Mandates*

This final rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

#### *Paperwork Reduction Act*

This final rule contains no provisions constituting a collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

#### *Congressional Review Act*

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs determined this rule does not meet the criteria for a “major rule” under 5 U.S.C. 804(2).

**List of Subjects in 38 CFR Part 1**

Administrative practice and procedure, Archives and records, Government employees, Privacy, Reporting and recordkeeping requirements, Security measures.

**SIGNING AUTHORITY**

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on September 23, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Taylor N. Mattson,**

*Alternate Federal Register Liaison Officer, Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 1 as set forth below:

## **PART 1—GENERAL PROVISIONS**

1. The authority citation for part 1 is revised to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

2. Amend § 1.582 by adding paragraph (f) to read as follows:

### **§ 1.582 Exemptions.**

\* \* \* \* \*

(f) *Exemption of Law Enforcement Officer Evaluation Records.* VA provides limited access to Law Enforcement Officer Evaluations (LEO Evals)—VA (216VA10).

(1) Records contained in this system of records are exempted pursuant to the provisions of 5 U.S.C. 552a(k)(6) from 5 U.S.C. 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) through (I), and (f).

(2) These exemptions apply to the extent that information in this system of records is subject to exemption pursuant to 5 U.S.C. 552a(k)(6) because they relate to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which could compromise the objectivity or fairness of the testing or examination process.

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