

October 11, 2017

Secretary David Shulkin  
Department of Veterans Affairs  
810 Vermont Avenue NW  
Washington, DC 20420

RE: Proposed Waiver of Ethics Regulations for VA Employees  
Comments in Response to 82 FR 43288

Dear Secretary Shulkin:

For decades, our organizations have worked to advance the public interest through research, advocacy, and direct assistance to protect consumers from harmful and unethical business practices. In sectors across the economy, veterans and their families are often targeted by consumer scams and other fraudulent activity.

We write in response to the proposal set forth by the Department of Veterans Affairs to issue a blanket waiver of a federal ethics statute (38 USC 3683) that forbids VA employees from receiving “any wages, salary, dividends, profits, gratuities, or services from, or own any interest in, a for-profit educational institution.” We respectfully object to this proposal.

Our country’s investment in veterans to transition to civilian life through investments in higher education has paid significant dividends for our entire society. But there is significant and long-standing evidence that veterans’ education benefits are often targeted by unscrupulous actors.

In 1950, just a few years after the first GI Bill, the Veterans’ Administration (the predecessor to the Department of Veterans Affairs) was already concerned about exploitation of consumers and students by colleges. The Chief of the Veterans’ Administration, Carl R. Gray, Jr., submitted an extensive report to Congress that described how thousands of colleges had been created since the passage of the GI Bill that were designed to take advantage of federal funding.<sup>1</sup>

The 1950 Report to Congress from Gray noted that many of the schools were not focused on high-quality educational outcomes, but instead sought a “quick and large return on invested capital.” Congress would put into place safeguards to ensure that the beneficiaries of the program were veterans and our society.

More than sixty years later, many of those concerns continue to exist, as documented by investigations of the United States Senate and the Government Accountability Office in the for-profit sector.<sup>2</sup> This has led to servicemembers and veterans losing their hard-earned education benefits, forcing these students to restart their education by racking up tens of thousands of dollars in student debt.

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<sup>1</sup> Gray, Jr.: Report to Congress on Education and Training Under the Servicemen’s Readjustment Act, As Amended, from the Administrator of Veterans’ Affairs (February 8, 1950).

<sup>2</sup> See for example, U.S. Senate Committee on Health, Education, Labor & Pensions: For-Profit Higher Education: The Failure to Safeguard the Federal Investment & Ensure Student Success (2012).

Given these ongoing concerns, it is critical that we continue to safeguard against a college using any affiliation with the Department of Veterans Affairs in an effort to burnish its own credentials in serving veterans. At the same time, no employee of the Department should be profiting from an affiliation with institutions accepting federal funds, pursuant to this federal statute.

VA employees do not face unique circumstances. Federal employees are routinely prohibited from financial interests in companies regulated by the agency. For example, employees of the Food and Drug Administration are barred from owning stocks in significantly-regulated organizations.<sup>3</sup> After a 1975 audit showing that employee financial disclosures included a number of financial conflicts,<sup>4</sup> Federal Aviation Administration are generally barred from owning stocks in the airline industry.<sup>5</sup>

We acknowledge that there may be some legitimate waivers for a narrow set of employees. However, these should be done on a case-by-case basis and appropriately documented to ensure that any employee receiving the waiver is completely segregated from communicating about any potential matter related to veterans' education benefits. The notice published in the *Federal Register* fails to acknowledge this valid alternative. Moreover, case-by-case waivers would provide information to Department ethics officials that provide for appropriate counseling to minimize ethical conflicts and would afford the public the opportunity to assess the potential harm. Blanket waivers would completely eliminate this critical flow of information.

The proposal to provide a blanket ethics waiver does not serve the interests of consumers, students, veterans, or taxpayers. It should be withdrawn.

Respectfully submitted,

Consumer Federation of America  
National Consumer Law Center (on behalf of its low-income clients)  
U.S. PIRG

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<sup>3</sup> See additional information on these restrictions at [www.fda.gov/aboutfda/workingatfda/ethics/ucm079482.htm](http://www.fda.gov/aboutfda/workingatfda/ethics/ucm079482.htm)

<sup>4</sup> See, for example, [https://www.faa.gov/about/office\\_org/headquarters\\_offices/agc/pol\\_adjudication/agc400/ethics/media/ethics%20not%20ice.pdf](https://www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/agc400/ethics/media/ethics%20not%20ice.pdf)

<sup>5</sup> See additional information on these restrictions at [www.faa.gov/about/office\\_org/headquarters\\_offices/agc/Pol\\_adjudication/AGC400/Ethics/media/List%20of%20Prohibited%20Investments.pdf](http://www.faa.gov/about/office_org/headquarters_offices/agc/Pol_adjudication/AGC400/Ethics/media/List%20of%20Prohibited%20Investments.pdf)