

## **Questions for NASAA: Past and Current Enforcement of § 3683**

Veterans Education Success received a grant to examine VA enforcement of the conflict-of-interest provisions of Title 38, Section 3683, which was dates from 1952 and became a part of Title 38 in 1966, prohibits VA employees from receiving wages, salary, dividends, profits, gratuities, or services from, or own any interest in, a for-profit educational institution or taking classes at such a school. In July 2017, Senate Appropriations (MilCon/VA subcommittee) reported that it had concerns that “current laws and regulations related to conflicting interests may be inadequate to identify conflicts of interest that can develop through the provision of meals or de minimus gifts to officers of State Approving Agencies.” In September 2017, VA announced it was going to issue blanket waivers to the § 3683 requirements. After pushback, VA backed down, but in September 2018 Congress revised § 3683 to focus more on SAAs; deleted the language that applied § 3683 to employees of state Veterans and Education Departments that house most SAAs; substituted gifts for gratuities; removed the requirement to fire employees who taught at or took classes at a for-profit school; and required VA to publish waiver approvals.

I’ve researched § 3683, including submitting FOIA requests to VA (I’m still waiting for their response). I’m reaching out to NASAA because SAA’s are on the front-line in terms of insuring that it’s employees abide by the requirements of § 3683. The focus of my questions for NASAA is on past and current VA enforcement of § 3683.

- 1). Do you have any insights as to why VA announced in September 2017 that it planned to begin issuing blanket waivers to the requirements of § 3683?  
**No insight currently.**
  
- 2). In February 2018, Ashford University submitted an initial application for approval to enroll GI Bill beneficiaries in California. We submitted a public disclosure asking California for a copy of the Ashford 22-1919. This form identified 9 VA employees who were adjunct professors. According to California none of these VA employees had obtained a waiver? Had VA set up a waiver process under § 3683 or was Ashford an indication that no waiver process was in place?  
**Please refer this question to the California SAA Director.**
  
- 3). Does the contract between VA and each SAA include a requirement for SAAs to confirm adherence to 38 U.S.C. § 3683? According to a VA report to the Senate Appropriations Committee, such language was to be added to the contract beginning with the contract that went into effect on October 1, 2018.  
**Yes, compliance with 38 U.S. C. 3683 is required in the SAA/VA cooperative agreement.**
  
- 4). In its report to the Senate Appropriations Committee, VA indicated that NASAA had informed VA that most state employees are required to take ethics training as a requirement of their position. Nonetheless, VA told the Committee that it would recommend that each SAA employee complete annual ethics training. Was the NASAA training curriculum updated in 2018 to include annual ethics training? Does the training cover the requirements of § 3683?

Annual Ethics Training is a recommended training in the VA's TMS system, to which SAA's have access. NASAA did not update the National Training Curriculum (NTI) to include annual ethics training as the NTI training is used for new SAA's. The NASAA organization is membership driven and does not have the authority to require a state to attend trainings or business meetings.

- 5). VA now publishes waivers for VA employees. Most are for past rather than current employment teaching or taking classes at a for-profit school. Do any SAA employees in Virginia currently have a waiver?

Please refer this question to the Virginia SAA Director.

- 6). Would you be willing to ask SAA Directors to respond to the following questions:

- a. Do you require for-profit schools that you approve and oversee to submit 22-1919 forms that identify any VA employees who are also employees of the school or are taking courses at the school?

VA form 22-1919 is required on original approvals, submissions of new catalog approvals or for facilities with a change of ownership. This is tracked and confirmed when the SAA submits approvals for acceptance by the Department of Veterans Affairs.

- b. Do you have any employees who currently have waivers for teaching at or taking courses at a for-profit school? If so, how many?

This is not something that is tracked by NASAA nor does NASAA have the authority as a membership organization to require a response or house and or track such records and information. All of the SAA's that responded answered no to this question. Please note only a handful of SAA's responded.

- c. If your state has any state conflict of interest laws that are as strict as § 3683 could you please provide the citations for those statutory requirements?

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