

DEPARTMENT OF VETERANS AFFAIRS (VA)

REPORT TO CONGRESS ON STATE ACCREDITING AGENCY OVERSIGHT

Issue: *State Accrediting Agency Oversight – The Committee is concerned 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 Accrediting Agencies. The Department is directed to conduct an assessment of the effectiveness of 38 U.S.C. 3683 and 38 CFR 21.4005 in preventing conflicts of interests and submit a report to the Committees on Appropriations of both Houses of Congress no later than 180 days after enactment of this act regarding the findings.*

Background Discussion: The Department of Veterans Affairs (VA) and the State Approving Agencies (SAAs) work together to ensure the successful readjustment of Veterans to civilian life through educational opportunities. VA administers educational assistance to eligible Veterans and dependents, while the SAAs ensure the quality of the educational and vocational programs and monitor the institutions providing education and training to Veterans.

Title 38 United States Code establishes the parameters for the relationship between VA and the SAAs. Section 3671 requests that each state create or designate a state department or agency as the “State Approving Agency.” SAAs are charged with approving courses in accordance with the provisions of chapters 34, 35 and 36 of title 38, including apprenticeship programs. They also conduct outreach services to eligible persons and Veterans about education and training benefits available. Under contracts with VA, SAAs ensure that education and training programs meet federal VA standards through a variety of approval activities, such as evaluating course quality, assessing school financial stability, and monitoring student progress. VA currently has contracts with 51 SAAs.

The statutory authority in 38 U.S.C. § 3683 and the regulatory provisions in 38 C.F.R. § 21.4005, require VA to discontinue making payments to an SAA if an officer or employee of the SAA, who, while employed, owned an interest in, or received any wages, salary, dividends, profits, gratuities, or services from a for-profit educational institution that is approved for GI Bill benefits. VA can resume payments if the SAA, without delay, takes steps to terminate the employment of the officer or employee. Additionally, SAAs are prohibited from approving courses at a for-profit educational institution at which such a conflict exists or, if already approved, must disapprove those courses. If VA determines that no detriment will result to the government, or to Veterans or eligible persons enrolled, VA may waive the requirement for removal of an SAA officer or employee.

Analysis: VA, in consultation with the Office of General Counsel, assessed the effectiveness of 38 U.S.C. § 3683 and 38 C.F.R. § 21.4005 and determined that the current statutory and regulatory provisions are adequate to identify and address possible conflicts of interest with for-profit educational institutions. Specifically, the statute and regulation does address ethics concerns such as provision of meals or de minimus gifts to an officer or employee of the SAA.

Conclusion: Despite adequate statutory and regulatory provisions, VA has identified additional steps that can be taken to further strengthen SAA compliance with the conflict of interest laws and regulations and ensure SAAs are aware of ethics rules. VA plans to implement the following changes:

- VA will negotiate language change with the National Association of State Approving Agencies (NASAA) Contract Committee for the fiscal year (FY) 2019 VA/SAA reimbursement agreement that will require SAAs confirm adherence to 38 U.S.C. § 3683. The new agreement is effective October 1, 2018.
- VA, in coordination with NASAA, develops the National Training Curriculum (NTC) to train new and continuing SAA employees on the performance of their duties. VA will recommend that ethics training be included in this curriculum. Additionally, VA was informed by members of NASAA that most state employees are required to take ethics training as a requirement of their position. VA will recommend that each SAA employee complete annual ethics training.

VA previously proposed legislation to improve accountability and eliminate conflicts of interests associated with the approval of programs of education. Specifically, VA's FY 2018 President's Budget submission included a legislative proposal that would amend 38 U.S.C. § 3683 to ensure that conflicts of interest do not exist for members of SAAs who approve programs at any institution type, regardless of the profit status.