

Mr. Ochinko, please see below. (response sent by C. Britt on October 4, 2021)

Christopher A. Britt

Program Director, Research Integration and Training
Ethics Specialty Team, Office of General Counsel (02-EST)
Department of Veterans Affairs
Phone: [REDACTED]

From: Walter Ochinko <walter@vetsedsuccess.org>
Sent: Friday, October 1, 2021 2:58 PM
To: Britt, Christopher (OGC) <[REDACTED]>
Subject: [EXTERNAL] Re: 38 USC 3683 Waiver Comment-442

I had a few other "process" questions about the waiver notices that VA OGC publishes that I hoped you could answer,

(1) In the col. labeled FPEI, some waivers indicate "other." Why isn't the name of the school provided (in other words, what does other mean)? **When an employee completes the waiver request, there is a drop-down field that the employee uses to indicate the for-profit school at issue. The employee can choose from a list of the for-profit schools where VA currently has GI Bill students. The employee chooses "other" if their school is not on the list, which happens when, for example, they are seeking a waiver regarding a for-profit school that no longer exists or is no longer for-profit.**

(2) In the col. labeled FPEI connection, a frequent response is "Services from the FPEI (includes classes). Can you provide examples of "services from the FPEI" that are other than classes? Are most of the waiver requests with this explanation for employees who are taking classes at an FPEI? **I'm not aware of any waiver requests for "services" that has involved anything other than taking classes.**

(3) Why is VA OGC providing waiver notices **about** VA employees who work at VA medical centers. When 38 U.S.C. Sec. 3683 was amended in September 2018 by P.L. 115-251, the following explanation of the changes were provided: **Congress wrote the statute in the past tense ("received" and "owned"), which we interpret to mean that employees with for-profit connections must seek a waiver for for-profit connections that occurred in the past during their VA employment. If an employee's connection began before the statute was amended in 2018, the employee is subject to the prior version of the statute, which required waivers for all employees, even VHA employees, for all of the different for-profit connections.**

Sec. 302) The bill revises conflict of interest restrictions for VA employees related to educational institutions. Specifically, the bill removes advance notice and hearing requirements regarding conflict waivers, limits the restrictions to those VA employees working on education benefit programs, and reduces the punishment for such activity.

(4) P.L. 115-251 makes it clear that waivers are for activities that occur on-or-after the effective date of the changes to § 3683 (September 29, 2018). Can you confirm that waivers labeled "past" are not for activities that occurred before September 29, 2018? **A "past" request simply means that the for-profit connection no longer exists (see answer to #3 above).**

Walter Ochinko
Research Director
Veterans Education Success
[REDACTED]