



**VETERANS**  
EDUCATION SUCCESS

# DESPITE A LONG HISTORY OF EMPLOYEE CONFLICTS OF INTEREST WITH FOR-PROFIT SCHOOLS, THE DEPARTMENT OF VETERANS AFFAIRS' OVERSIGHT IS INSUFFICIENT

APRIL 2025  
**REPORT**



- In exchange for steering veterans using the Vocational Rehabilitation and Employment (VR&E) program<sup>1</sup> to three for-profit schools, the VR&E counselor demanded and received a 7 percent cash kickback of all payments made by the U.S. Department of Veterans Affairs (VA) to the schools.
- The school owners admitted that they sent false documentation regarding the education they provided veterans to the VR&E counselor, who approved payments to the schools while knowing the documentation was false.
- The VR&E counselor repeatedly lied to veterans he was counseling, such as indicating that their benefits would lapse unless they enrolled in the schools from which he was accepting bribes.
- The counselor also insisted that veterans enroll in these particular schools despite the veterans' protests that the schools' programs did not meet their career goals or were unsuitable given their physical disabilities.

*U.S. Department of Justice, February 2019, press release<sup>2</sup> highlights*

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<sup>1</sup> VR&E is a program at the U.S. Department of Veterans Affairs (VA) that includes funding for disabled veterans' education and training.

<sup>2</sup> U.S. Department of Justice, Office of Public Affairs, "Department of Veterans Affairs Official Sentenced to 11 Years in Prison for \$2 Million Bribery Scheme Involving Program for Disabled Military Veterans," February 15, 2019, available at: <https://www.justice.gov/opa/pr/departments-veterans-affairs-official-sentenced-11-years-prison-2-million-bribery-scheme>.

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## I. Executive Summary

Two factors led to a 1952 ban<sup>3</sup> on for-profit school connections by employees of the U.S. Department of Veterans Affairs (VA) and its state agents, the State Approving Agencies (SAAs):<sup>4</sup> (1) a troubling history of cozy relationships between these employees and for-profit schools, including some cases of bribery of VA and SAA employees by for-profit schools;<sup>5</sup> and (2) the difficulty of uncovering conflicts of interest. The 1952 ban was absolute, using termination of employment as a deterrent if a violation was uncovered. In 1966, the ban was codified in 38 U.S.C. § 3683.

Prior to 2017, it is unclear how much attention was paid to the requirements of § 3683, which, in addition to prohibiting salaries, profits, dividends, gratuities, and ownership in a for-profit school, also banned the receipt by VA and SAA employees of “services” from a for-profit college (e.g., taking classes). In 2017, VA announced a policy of granting a blanket waiver of the conflict-of-interest provisions of § 3683.<sup>6</sup> Although VA had statutory authority to grant waivers to individuals with prohibited for-profit school connections, the Department had not previously implemented a waiver process. VA’s proposal was, in effect, an attempt to repeal a statutory requirement through administrative action.

**“For many years, VA has not had a standard mechanism in place for dealing with these connections.”**

*Source: VA Employee Relationships with For-Profit Educational Institutions (FPEI) Waiver Request User Guide, July 6, 2018.*

Facing public opposition from veterans organizations, federal ethics experts, and a labor union representing VA employees, VA abandoned its blanket waiver proposal.<sup>7</sup> However, VA sought and achieved some relaxation of the restrictions in September 2018 from Congress, which eliminated the termination of VA employment as a deterrent to employees’ for-profit school connections and dropped the requirement that VA hold public hearings before granting a waiver of its conflict-of-interest rules. In mid-2018, VA launched a waiver application and review process. Since these changes, we found—through our review of VA materials provided in response to our Freedom of Information Act (FOIA) request—that not a single waiver request from a VA employee has been denied. Instead, about 450 waivers were granted for VA employees from mid-2018 through May 2022.

Among the VA FOIA materials we received were 24 waiver applications from VA employees whose jobs involve specific responsibilities in overseeing the GI Bill—obviously the most sensitive area of work for a potential conflict of interest with a for-profit school. Our review of these 24 waiver applications for VA employees with GI Bill duties identified shortcomings in the waiver review process, including supervisory reviews that erroneously found the applicants met

<sup>3</sup> The 1952 ban was § 264 (38 U.S.C. 974) of the Veterans’ Readjustment Assistance Act of 1952, P.L. 550, enacted on July 16, 1952, available at: <https://www.congress.gov/82/statute/STATUTE-66/STATUTE-66-Pg663.pdf>.

<sup>4</sup> SAA staff work under contract with VA to determine if schools meet statutory criteria to enroll veterans and family members eligible to receive GI Bill educational benefits.

<sup>5</sup> See H. Rep. No. 1375, U.S. House of Representatives, Eighty-Second Congress Second Session Created Pursuant to H. Res. 93, February 14, 1952, available at: <https://vetsedsuccess.org/wp-content/uploads/2018/10/1952-house-committee-report-gi-bill-fraud.pdf>.

<sup>6</sup> See Federal Register Vol. 82, No. 177, “Department of Veterans Affairs: Employees Whose Association With For-Profit Educational Institutions Poses No Detriment to Veterans,” September 14, 2017, available at: <https://www.govinfo.gov/content/pkg/FR-2017-09-14/pdf/2017-19480.pdf>.

<sup>7</sup> See Veterans Education Success, “VA Proposal to Waive Ethics Rule for VA Employees,” available at: <https://vetsedsuccess.org/what-we-do/policy-advocacy/our-work-with-the-executive-branch/va/employee-ethics-rules/>.

the waiver criteria. In practice, VA may have achieved its original goal of a blanket waiver, without any act of Congress to repeal § 3683.

Although the 2018 Congressional amendments to § 3683 require “corrective” or “disciplinary” action for VA and SAA employees with a for-profit school connection, VA training materials on the waiver process state that approvals obviate the need for such actions.<sup>8</sup>

Moreover, VA’s current waiver approval offers scant assurance that the VA employees who seek the waiver truly lack conflicts of interest with for-profit schools. Supervisors who receive an employee’s waiver request (which is a simple form)<sup>9</sup> are instructed that they are under no obligation to investigate an applicant’s self-attestations on the paperwork.<sup>10</sup> If history is any guide, this process will be insufficient to meet the Congressional goal of avoiding conflicts of interest. Past bribery of VA employees by for-profit schools has almost always been uncovered through investigations and would not have been uncovered if the employee’s self-attestation was accepted as true. For example, a Vocational Rehabilitation counselor (a job that involves approving veterans’ use of VA disability funds for postsecondary training and education) was sentenced to 11 years in prison in 2019 for forcing veterans to enroll in three for-profit schools in exchange for a 7 percent kickback of the VA tuition funds flowing to the institutions. He also attempted to obstruct the bribery investigation.

State (SAA) employees’ conflicts of interest are similarly important. We reviewed nearly 1,000 pages of records, in response to our public records requests to two SAAs, regarding those SAAs’ approval (for GI Bill funds) of schools that proved to be scams. Based on our review of approval correspondence obtained from the two SAAs, there was little if any verification of schools’ self-attestations and certifications. For example, our review of more than 700 pages of correspondence obtained from the Texas SAA disclosed numerous red flags that should have raised questions about the legitimacy of the education offered by the Retail Ready Career Center, which gave gift baskets to SAA employees, including the employee responsible for oversight of the school after it was approved. (See our accompanying report, [Results of Our Review of the Texas SAA’s Correspondence Regarding Approval of Retail Ready Career Center](#), also attached as an appendix to this report.) Just a few years after it was approved by the Texas SAA, this school was raided by the FBI and its owner sentenced to nearly 20 years in jail for defrauding VA and veterans.<sup>11</sup>

We identified similar red flags (although no evidence of improper gifts) in correspondence we obtained from the Georgia SAA concerning its approval of two bible seminaries operated by the House of Prayer, which—a few short years later—was also raided by federal agents and cut off from the GI Bill.<sup>12</sup> (See our accompanying report, [Results of Our Review of VA Approval](#)

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<sup>8</sup> See pp. 22 and 31 of VA Office of General Counsel training materials on compliance with 38 U.S.C. § 3683, available at: <https://vetsedsuccess.org/va-materials-on-waivers-under-38-usc-3683/>

<sup>9</sup> See U.S. Department of Veterans Affairs, Conflicting Interests Certification for Proprietary Schools (VA Form 22-1919, OCT 2008), available at: <https://vetsedsuccess.org/va-conflicting-interests-certification-for-proprietary-schools/>.

<sup>10</sup> See p. 30 of VA Office of General Counsel training materials on compliance with 38 U.S.C. § 3683, available at: <https://vetsedsuccess.org/va-materials-on-waivers-under-38-usc-3683/>

<sup>11</sup> U.S. Department of Justice, U.S. Attorney’s Office, Northern District of Texas, “For-Profit Trade School [Owner] Sentenced to Nearly 20 Years for Defrauding VA, Student Veterans,” September 22, 2021, available at: <https://www.justice.gov/usao-ndtx/pr/profit-trade-school-sentenced-nearly-20-years-defrauding-va-student-veterans>.

<sup>12</sup> See Jared Brown, “FBI Enters Tacoma Church Amid Raids at Other Campuses. Ex-Members Say ‘Cult’ Targets Soldiers,” *The News Tribune* (Tacoma, WA) via *Stars and Stripes*, June 25, 2022, available at:

[Correspondence for Two House of Prayer Bible Seminaries in Georgia](#), also attached as an appendix to this report.)

We also found that:

- VA found no waivers requested, approved, or denied for SAA employees as of September 2022. Thirteen SAAs we contacted indicated either that (1) no staff had applied for or been granted waivers by VA, or (2) they were not aware of any such applications or approvals.
- State conflict-of-interest statutes in the states accounting for more than half of SAA employees are not a reliable backstop to § 3683 prohibitions on employee conflicts of interest because they are not as absolute.
- VA is not making use of one tool at its disposal to identify conflicts of interest among VA and SAA employees: the 22-1919 forms periodically submitted by some for-profit schools. VA could review these forms to determine if VA or SAA employees who have a prohibited connection with a for-profit school are applying for waivers. In fact, many schools that should have submitted such forms failed to do so, and more than 20 percent of the forms we received were incomplete, suggesting scant attention is paid to the forms.

## II. Introduction

VA has a long history of failing to enforce statutory requirements to effectively oversee for-profit schools and hold them accountable.

- Based on available records, VA’s enforcement of the ban first adopted in 1952, which prohibits employees from accepting or soliciting compensation or services from a for-profit school,<sup>13</sup> has been lacking. For example, VA Inspector General investigations in 2017 and 2018 found that VA employees who had taught at for-profit schools had disclosed their for-profit connections prior to being hired by VA and that their supervisors failed to identify it as an issue.<sup>14</sup> The 2017 VA Inspector General inspection also confirmed VA employees’ statements that § 3683 was not addressed in VA’s annual ethics training.<sup>15</sup> Prior to 2017, it is unclear how much attention VA paid to the requirements of § 3683, according to information we obtained through a Freedom of Information Act request. VA stated in correspondence that

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<https://www.stripes.com/branches/army/2022-06-25/fbi-raids-tacoma-church-other-campuses-targeting-soldiers-6456919.html>.

<sup>13</sup> Compensation includes wages, salary, dividends, profits, and gratuities. Although “services” are often understood by VA staff today to refer to taking classes or enrolling at a school, examples of conflicts of interest involving services cited in the 1952 Congressional report were broader and included goods, home renovation, and personal services (see Appendix I).

<sup>14</sup> See Department of Veterans Affairs, VA Office of Inspector General Report No. 14-03508-275, “Administrative Investigation Conflicting Interests and Misuse of Government Equipment Overton Brooks VA Medical Center Shreveport, Louisiana,” July 18, 2017, available at: <https://www.va.gov/oig/pubs/VAOIG-14-03508-275.pdf> ; Jeffrey Hughes, Assistant Inspector General for Inspections, Department of Veterans Affairs, “Memorandum: Administrative Investigation – Conflict of Interest, Veterans Health Administration (VHA), Washington, DC, Report No. 17-05308-122 (2017-05308-IQ-0001), March 12, 2018, available at: <https://www.va.gov/oig/pubs/admin-reports/VAOIG-17-05308-122.pdf>.

<sup>15</sup> See Department of Veterans Affairs, VA Office of Inspector General Report No. 14-03508-275, “Administrative Investigation Conflicting Interests and Misuse of Government Equipment Overton Brooks VA Medical Center Shreveport, Louisiana,” July 18, 2017, (“text version of the Annual On-line Government Ethics Training [ ] did not specifically reference 38 USC § 3683”, and the “VA Ethics Specialty Team [stated] that currently the Annual Ethics training does not focus on 38 USC § 3683”), available at: <https://www.va.gov/oig/pubs/VAOIG-14-03508-275.pdf>.



there was no record of ethics training on § 3683 prior to May 2018 and that the VA annual ethics training did not specifically include § 3683 prior to May 2019.<sup>16</sup>

- A 1974 statutory provision prohibits schools that engage in misleading advertising and recruiting from enrolling veterans,<sup>17</sup> but VA ignored or flouted the law for decades, according to studies by Yale Law School<sup>18</sup> and Veterans Education Success.<sup>19</sup> In 2018, the VA Inspector General concluded that VA would waste \$2.3 billion over five years in improper GI Bill payments to schools that should have been ineligible for the GI Bill largely because they engaged in deceptive recruiting.<sup>20</sup> Following these reports, as well as letters in 2016 and 2019<sup>21</sup> from dozens of veterans organizations, in March 2020, VA announced its intent<sup>22</sup> to suspend new enrollment at five schools that engaged in misleading advertising and recruiting, but the proposed suspension was reversed.<sup>23</sup>

As examined in this report, examples of conflicts of interest continue, including an SAA employee who accepted a gift basket from a school which the SAA was charged with overseeing; the school also offered “extensive” gift baskets to other SAA employees.<sup>24</sup> This school was later raided by the FBI and its owner sentenced to federal prison for 19 years for stealing \$72 million in GI Bill funds. This example, as well as one from another state, highlight inadequacies in the school approval process.

Failed oversight of predatory schools costs taxpayers. In the past three years, alone, student loan forgiveness from the U.S. Department of Education for students who were defrauded by a for-profit school cost taxpayers \$22.5 billion.<sup>25</sup> If some of these costs to taxpayers are due to

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<sup>16</sup> See email from Christopher Britt, VA Office of General Counsel, to Walter Ochinko, Veterans Education Success, May 26, 2022, available as the second document here: <https://vetsedsuccess.org/correspondence-from-va-office-of-general-counsel-to-walter-ochinko-ves-re-38-u-s-c-%C2%A73683-waivers-and-training/>

<sup>17</sup> See 38 U.S. Code § 3696 – Prohibition on certain advertising, sales, and enrollment practices, available at: <https://www.law.cornell.edu/uscode/text/38/3696>, retrieved November 6, 2022.

<sup>18</sup> See Yale Law School Veterans Legal Services Clinic, “Memorandum RE: VA’s Failure to Protect Veterans from Deceptive Recruiting Practices,” Feb. 26, 2016, available at: [https://law.yale.edu/sites/default/files/area/clinic/document/vlsc\\_ves-memo.pdf](https://law.yale.edu/sites/default/files/area/clinic/document/vlsc_ves-memo.pdf).

<sup>19</sup> See Veterans Education Success, “VA Still Not Enforcing 1974 Ban on Schools that Engage in Deceptive Advertising and Recruiting,” Oct. 4, 2019, available at: <https://vetsedsuccess.org/va-still-not-enforcing-1974-ban-on-schools-that-engage-in-deceptive-advertising-and-recruiting/>.

<sup>20</sup> See VA Office of the Inspector General, “VA’s Oversight of State Approving Agency Program Monitoring for Post-9/11 GI Bill Students,” Dec. 3, 2018, available at: <https://www.va.gov/oig/pubs/VAOIG-16-00862-179.pdf>.

<sup>21</sup> See letter to Robert Wilkie, Secretary of Veterans Affairs, from Keith W. Zuegel, et al., Feb. 14, 2019, available at: <https://vetsedsuccess.org/36-veteran-and-military-organizations-ask-va-for-better-oversight-of-gi-bill-colleges/>; letter to Robert McDonald, Secretary of Veterans Affairs, from Lt. Gen. Dana Atkins, et al., May 16, 2016, available at: <https://vetsedsuccess.org/twenty-three-veterans-and-military-organizations-ask-va-for-better-oversight-of-the-gi-bill/>.

<sup>22</sup> See U.S. Department of Veterans Affairs, Office of Public and Intergovernmental Affairs, “VA intends to suspend enrollment of new GI Bill students at University of Phoenix, Career Education Corporation, Bellevue University, and Temple University,” March 9, 2020, available at: <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5399>.

<sup>23</sup> See Danielle Douglas-Gabriel, “VA Backs Down From Plan to Suspend University of Phoenix and Other Colleges From Accessing GI Bill Benefits,” *The Washington Post*, July 2, 2020, Higher Education, available at: <https://www.washingtonpost.com/education/2020/07/02/va-backs-down-plan-suspend-university-phoenix-other-colleges-accessing-gi-bill-benefits/>.

<sup>24</sup> See pp. 599 and 609 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>25</sup> See U.S. Department of Education, Press Office, “Biden-Harris Administration announces an additional \$9 Billion in student debt relief,” October 4, 2023, (“To date, the Biden-Harris Administration has approved the following in debt cancellation: .... \$22.5 billion for more than 1.3 million borrowers who were cheated by their

government employees' conflicts of interest or "regulatory capture,"<sup>26</sup> it may be a topic of interest to Congress.

This report examines the history of the § 3683 prohibition on for-profit school connections; VA's attempt to sidestep the ban; the Department's enforcement of the ban after the statute was revised in late 2018; the nature and extent of the for-profit connections of VA and SAA staff; the critical role investigations play in uncovering prohibited connections that harm GI Bill beneficiaries and taxpayers; and the extent to which state-level conflict-of-interest statutes offer safeguards equivalent to § 3683.

### **III. Prohibition of For-Profit School Connections Resulted from Widespread Conflicts of Interest in Administering the 1944 GI Bill**

The 1952 report of the *U.S. House of Representatives Select Committee to Investigate Educational, Training, and Loan Guarantee Programs Under the GI Bill* devoted almost 20 percent of its 233 pages to examples of inappropriate for-profit school connections involving VA and SAA employees that led to a significant reduction in the return on taxpayers' investment in the GI Bill.<sup>27</sup> The Teague report, named after the select committee's chairman (Rep. Olin "Tiger" Teague of Texas),<sup>28</sup> concluded that "In view of the tremendous amount of Federal funds involved and the number of veterans whose time and efforts were involved, it is regrettable indeed that an awareness of this condition comes in a declining period of the program, after expenditures of approximately 13 billion dollars."<sup>29</sup>

Included in the Teague report were excerpts from an August 1950 report by the Director of VA's Inspection and Investigative Service (now the Office of Inspector General). The report categorized what it termed "irregularities" (that is, examples of bribery), from 108 investigations conducted over the previous five years and concluded:

"It is also interesting to note that in 17, or 15.7 percent of the 108 reports reviewed, it was shown that VA employees were accepting gifts, gratuities, or favors from schools, or school officials. Again, it is my opinion that further inquiry into this phase would demonstrate that such conduct on the part of VA employees is much more widespread than is indicated by the above figures."<sup>30</sup>

Addressing ongoing irregularities among VA employees, the House report pointed out that there were "additional cases now actively under investigation which demonstrate not only that the above-reported irregularities are continuing, but that they are becoming more numerous and of

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schools, saw their institutions precipitously close, or are covered by related court settlements."), available at: <https://www.ed.gov/news/press-releases/biden-harris-administration-announces-additional-9-billion-student-debt-relief>.

<sup>26</sup> See CFA Institute definition as "a phenomenon that occurs when a regulatory agency that is created to act in the public interest, instead advances the commercial or political concerns of special interest groups that dominate an industry or sector the agency is charged with regulating." CFA Institute, "Regulatory Capture Overview," available at: <https://www.cfainstitute.org/en/advocacy/issues/regulatory-capture#sort=%40pubbrowsedate%20descending>.

<sup>27</sup> See H. Rep. No. 1375, U.S. House of Representatives, Eighty-Second Congress Second Session Created Pursuant to H. Res. 93, February 14, 1952, available at: <https://vetsedsuccess.org/wp-content/uploads/2018/10/1952-house-committee-report-gi-bill-fraud.pdf>.

<sup>28</sup> Mr. Teague later became known as "Mr. Veteran" for his nearly 20-year tenure as Chairman of the House Committee on Veterans Affairs.

<sup>29</sup> Id., at 212.

<sup>30</sup> Id., at 195.



larger proportions than in the past.”<sup>31</sup> For example, “virtually all of the vocational and rehabilitation employees in the [Nashville, Tennessee] office were accepting gifts, gratuities, and services from schools under contract with the Veterans’ Administration. Officials of the Vocational Rehabilitation and Education Division were charged with neglecting their duties, favoring certain schools, and authorizing illegal payments. A number of Veterans’ Administration employees were found to have ownership in schools under contract with the Veterans’ Administration.”<sup>32</sup> The Teague Committee concluded, “It is apparent that supervision by the Vocational Rehabilitation and Education Service was seriously inadequate and failed to detect these widespread irregularities prior to the development of a public scandal.”<sup>33</sup>

The House report concluded that “...there is no indication that positive over-all action was taken to prevent future repetition of the numerous irregularities, by the issuance of statements of policy, regulations, instructions and/or procedures designed to prevent future irregularities.”<sup>34</sup> The House report noted that, within VA, there was strong resistance to the Inspection and Investigation Service’s (the precursor to the VA Office of Inspector General) investigations and resistance to doing anything about its findings that could reflect badly on VA staff or on their regional office or SAA counterparts. As a result, there was “ineffective follow-through on inspection reports”<sup>35</sup> and, “[i]n most cases the disciplinary action taken does not appear consistent with the seriousness of the irregularity.”<sup>36</sup> The House report noted that irregularities were a matter of common knowledge on the field level among Veterans’ Administration personnel, state and local educational circles, and the public.

Because the Inspection and Investigation Service lacked sufficient staff and disciplinary authority, it turned cases over to the FBI, which focused on the “criminal phases” of such cases and did not “enquire into the administrative shortcomings, or the total amounts of erroneous payments to such schools.”<sup>37</sup> Some dismissals of VA staff were challenged administratively and overturned even though the Teague report concluded that the evidence against these individuals was strong.

Appendix 1 categorizes a sample of conflict-of-interest findings described in the Teague report by the type of for-profit school connections that have been prohibited since 1952 and includes examples of managers’ “failure to act” when presented with evidence of conflicts of interest. Several examples are included in the text box below:

- “There are at least 35 schools in which former VA, State Approving Agency or service organization employees, or persons in positions of political prominence, own stock, or are responsible for directing” (at page 199).
- “A Veterans’ Administration official testified that he accepted a Buick automobile and \$1,000 in cash from a school owner who was contracting with the Veterans’ Administration for the training of veterans. No promissory notes were signed. Veterans’ Administration investigators who audited the accounts of the school following the investigation by the committee concluded that the contract for the school had been negotiated on an irregular basis in favor of the school” (at pages 192–193).

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<sup>31</sup> Id.

<sup>32</sup> Id., at 197.

<sup>33</sup> Id., at 200.

<sup>34</sup> Id., at 195.

<sup>35</sup> Id., at 204.

<sup>36</sup> Id., at 205.

<sup>37</sup> Id., at 196.

- “The VA regional office manager accepted services of the school for the improvement of his country home. The manager failed to take prompt and decisive action on irregularities and deficiencies engaged in by the trade school, which were called to his attention” (at page 186).
- This investigation “disclose[d] that the school had either vouchered and received payment in advance for instruction or had vouchered and been paid for instruction not actually given. The investigation disclosed numerous fraudulent items contained in 17 vouchers submitted by the school amounting to the total sum of \$64,201.70” (at page 189). The Division Chief “failed to take aggressive action when irregularities of a serious nature were reported to his office” (at page 189).

Source: House Report No 1375, February 14, 1952 (“Teague report”)

The prevalence of conflicts of interest, coupled with VA’s failure to take effective steps to preclude them in the future, provide important context on why the Korean War GI Bill’s ban on for-profit school connections by VA and SAA staff was absolute, including immediate dismissal if such connections were discovered. Teague was the chairman of the House Committee on Veterans Affairs in 1966 when an identical prohibition was codified as 38 U.S.C § 3683.

#### **IV. VA Proposes Blanket § 3683 Waiver for VA Employees in September 2017**

Prior to 2017, it is unclear how much attention VA paid to the requirements of § 3683, which—in addition to prohibiting salaries, profits, dividends, gratuities, and ownership in a for-profit school—also banned the receipt of services (such as taking classes).

In 1994, however, the VA Office of the General Counsel (OGC) cited the 1952 Teague report in concluding that an SAA supervisor was prohibited from using his VA educational benefits to enroll in a course at a for-profit flight school that was approved to enroll veterans using the GI Bill. The OGC’s opinion, provided to VA’s Under Secretary for Benefits, noted that, although the proscribed activities listed in § 3683 might not be *per se* unlawful or unethical, they “suggest a relationship that presents at least the appearance of a conflict-of-interest or has the potential for creating such a conflict.”<sup>38</sup> The opinion reasoned that to find otherwise would provide a “blanket exemption to the obvious potential conflict-of-interest relationship” inherent in the receipt of training services from a for-profit school that the official’s duties might encompass. The OGC concluded that, if it is determined from the facts that “no detriment will result to the United States or to eligible persons or veterans”<sup>39</sup> from the supervisor’s receiving educational services from the for-profit school, then the waiver provided for in § 3683 may be granted by the Director of Education Service or by the Secretary.<sup>40</sup> It is not known whether a waiver was sought or approved in this instance.

In July 2017, two events rekindled interest in § 3683. First, the Senate Appropriations Committee report on the Military Construction, Veterans Affairs, and Related Agencies Appropriation Bill of 2018 expressed concern about the adequacy of current laws and regulations for identifying conflicts of interest:

“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 minimis

<sup>38</sup> See O.G.C. Precedent 17-94, “Conflicting Interests (38 U.S.C. § 3683, 38 C.F.R. § 21.4005),” July 18, 1994, available at: <https://vetsedsuccess.org/wp-content/uploads/2022/05/PRC17-94.pdf>.

<sup>39</sup> Ibid.

<sup>40</sup> The Education Service manages the GI Bill and is a component of the Veterans Benefits Administration.

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.”<sup>41</sup>

It is unclear what sparked the Committee’s concerns.<sup>42</sup> The Committee’s request for a report from VA about the effectiveness of § 3683 in preventing conflicts of interest was not met by VA until September 2018, the same month revisions to § 3683 were enacted.

Second, the VA Office of the Inspector General (OIG) released findings<sup>43</sup> of a conflict-of-interest investigation that concluded that two VA Medical Center employees had violated § 3683 when they held paid teaching positions at several for-profit schools.<sup>44</sup> One of these employees stated that she had disclosed this outside employment when she was hired but that no one had raised a concern. The OIG verified that annual VA ethics training did not address § 3683 and recommended its inclusion. It also recommended that VA either enforce § 3683 as written or exercise the statute’s waiver authority.

About two months later, VA announced<sup>45</sup> its intent to grant a blanket waiver to the requirements of § 3683 for all VA employees as long as they continued to abide by federal conflict-of-interest provisions which (1) precluded participation in matters that directly impacted an employee’s financial interest (18 U.S.C. § 208<sup>46</sup>) and (2) recused themselves from VA matters when participation would cause a reasonable person to question the employee’s impartiality (5 C.F.R. 2635.502<sup>47</sup>). The proposed waiver would apply to all VA employees who had a past or current for-profit school connection or would have one in the future. The September 14, 2017, Federal Register notice made no reference to SAA employees who are also covered by § 3683.

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<sup>41</sup> See S. Rep. 115-130 (2018), at 38, available at: <https://www.congress.gov/congressional-report/115th-congress/senate-report/130>. Note that the report inadvertently referred to SAAs as “state accrediting agencies.” The requested report from VA was not submitted until September 2018, the same month revisions to § 3683 were enacted.

<sup>42</sup> It is not known if the Senate Committee was aware of gifts to SAAs. Our research, presented later in this report, uncovered that, in the spring of 2017, the Texas SAA reportedly fired an unidentified staff member responsible for oversight of a for-profit school who accepted a gift basket (a *de minimis* gift) and lied about it. But it is unknown if any Senate office was made aware of the incident.

<sup>43</sup> See U.S. Department of Veterans Affairs, Office of Inspector General, Report No. 14-03508-275, “Administrative Investigation Conflicting Interests and Misuse of Government Equipment Overton Brooks VA Medical Center Shreveport, Louisiana,” July 18, 2017, available at: <https://www.va.gov/oig/pubs/VAOIG-14-03508-275>.

<sup>44</sup> We reviewed all OIG conflict-of-interest investigations posted on its website and identified only two that involved § 3683. The second such investigation in March 2018 noted that the VA OGC was developing a waiver process to allow for the ongoing and future employment of individuals associated with for-profit schools. This VA employee had worked in various positions with VA since 2002 and was an adjunct professor at the University of Phoenix until 2016. He indicated he had also disclosed his for-profit school connection in 2006 when applying for his then current position at VA and his VA supervisors never spoke to him about his position at the school. See Jeffrey Hughes, Assistant Inspector General for Inspections, Department of Veterans Affairs, “Memorandum: Administrative Investigation – Conflict of Interest, Veterans Health Administration (VHA), Washington, DC, Report No. 17-05308-122 (2017-05308-IQ-0001),” March 12, 2018, available at: <https://www.va.gov/oig/pubs/admin-reports/VAOIG-17-05308-122.pdf>.

<sup>45</sup> See Federal Register Vol. 82, No. 177, “Department of Veterans Affairs: Employees Whose Association With For-Profit Educational Institutions Poses No Detriment to Veterans,” September 14, 2017, available at: <https://www.govinfo.gov/content/pkg/FR-2017-09-14/pdf/2017-19480.pdf>.

<sup>46</sup> See definition available at <https://www.law.cornell.edu/uscode/text/18/208>.

<sup>47</sup> See definition available at <https://www.law.cornell.edu/cfr/text/5/2635.502>.

The Federal Register notice characterized § 3683 as illogical with unintended consequence because it would prohibit a for-profit school connection by VA employees who had not engaged in any real conflict of interest, such as Veterans Health Administration employees. There was no discussion in the notice of a process to examine the actual duties of VA employees who work on GI Bill issues where the potential for a conflict of interest is most apparent.

VA justified a blanket waiver of § 3683 partly on the grounds that Congress had enacted a conflict-of-interest law applicable to all executive branch employees. But government ethics leaders serving recent Presidents of both political parties objected to VA's proposed rule and its rationale. In a letter opposing VA's proposal, the Campaign Legal Center pointed out that § 3683 was added to Title 38 in 1966, four years *after* the adoption of government-wide ethics laws.<sup>48</sup> The letter also took issue with VA's mistaken assumption that federal ethics laws provided comparable protections. The Center's letter concluded that the executive branch-wide rules would not fill the gaps created by VA's proposed waiver, in part because 18 U.S.C. § 208 provides for exceptions while the prohibitions in § 3683 were absolute. For example, the letter notes that:

“VA's proposal does not indicate if the Secretary has considered whether veterans might be influenced to take courses from for-profit education companies if they observe an increased number of certificates of completion, certifications, or degrees issued by for-profit companies hanging on the walls of VA employees or if VA employees talk about attending classes. Notably, VA's notice of proposed waiver includes no discussion whatsoever of any circumstances that may have changed sufficiently to warrant the relaxation of a prohibition Congress imposed to protect veterans.”<sup>49</sup>

Other opposition came from 21 national veterans and military service organizations<sup>50</sup>; 21 education, civil rights, and consumer organizations<sup>51</sup>; and the labor union representing VA and other federal employees.<sup>52</sup> In general, opponents objected to blanket waivers because they believed allowing entanglements between VA employees and for-profit colleges, some of which faced law enforcement action for predatory recruiting tactics, would not serve veterans' interests.

In October 2017, *Politico* reported that VA had abandoned its proposal in response to the opposition from veterans groups, consumer advocates, members of Congress, and ethics

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<sup>48</sup> See letter “Re: Notice of Intent and Request for Comments—Employees Whose Association With For-Profit Institutions Poses No Detriment to Veterans,” Campaign Legal Center, October 12, 2017, available at: <https://campaignlegal.org/sites/default/files/Campaign%20Legal%20Center%20comment%20on%2082%20Fed%20Reg%2043288%20dated%2012%20OCT%202017.pdf>. The Campaign Legal Center is a nonpartisan, nonprofit organization whose mission includes monitoring compliance by government officials with ethical obligations and defending government ethics laws, regulations, and standards.

<sup>49</sup> *Id.*, at 12.

<sup>50</sup> See letter “Re: Docket VA-2017-VACO-0001-0227 (82 FR 43288),” Augustine et al., October 17, 2017, available at: <https://vetsedsuccess.org/wp-content/uploads/2019/01/mso-vso-va-ethics-waiver-letter.pdf>.

<sup>51</sup> See letter “RE: Docket VA-2017-VACO-0001-0227 (82 FR 43288),” Ament et al., October 13, 2017, available at: <https://vetsedsuccess.org/wp-content/uploads/2019/01/education-groups-va-ethics-waiver.pdf>.

<sup>52</sup> See letter from J. David Cox, Sr., National President, American Federation of Government Employees, AFL-CIO, October 12, 2017, available at: <https://vetsedsuccess.org/wp-content/uploads/2019/01/afge-va-ethics-waiver-letter.pdf>.

experts.<sup>53</sup> *Politico* quoted a VA spokesperson’s description of how the waiver process would work, [italics added]: “*There will be no blanket waiver, just a consistent approach to considering and granting individual waivers for those employees who are eligible for them.... Facility directors and the director of VA’s Education Service will consider waiver requests from individual employees whose VA duties do not involve investigation, inspection, approval, or supervision of educational institutions desiring to train veterans and whose sole connection to for-profit schools is that they take or teach classes at them.*”<sup>54</sup>

## **V. Unable to Convince Congress to Repeal § 3683, VA Negotiated Revised Requirements Enacted in September 2018**

VA sought increased flexibility from Congress in enforcing § 3683 after Veterans Affairs Committee staff made it clear that repeal of § 3683 was off the table.

### ***Negotiations to Revise § 3683***

VA’s negotiations with Congress to revise § 3683 commenced in late April 2018 and continued throughout the summer as Committee staff traded draft proposals with VA and VA provided both official and unofficial feedback on the proposed revisions. Although VA provided us with copies of its internal and external emails regarding the issues raised during these negotiations, in response to our freedom of information act request, the emails were heavily redacted and only a few details emerged.<sup>55</sup>

- After a briefing of House and Senate Veterans Affairs Committees’ staff on April 27<sup>th</sup> by VA OGC, the Director of VA’s Education Service reported that, although the meeting went well, the committee staff had indicated that repealing § 3683 was off the table. Congressional staff were willing, however, to reduce VA’s implementation burden by narrowing the focus to those VA employees whose for-profit school connections would be more likely to pose a conflict of interest or perceived conflict.
- In mid-May 2018, VA staff discussed the Committee’s draft bill which expanded the schools covered by § 3683 to nonprofit and public institutions, which VA opposed because employees covered by § 3683 taught at or took classes at such institutions and such an expansion of coverage could significantly increase the burden on VA of handling waiver requests.<sup>56</sup>
- In late July, an internal VA email suggested that “...by showing how ridiculous the current statute truly is, it might help us persuade some people that we simply can’t enforce it exactly how written—an[d] maybe there is some wiggle room on interpreting things such as

**Committee staff told VA that repeal of § 3683 was off the table.**

*Source: Information obtained through a VA FOIA request.*

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<sup>53</sup> See Michael Stratford, “VA Eyes ‘Narrower Approach’ to For-Profit College Ethics Waivers,” *Politico*, October 17, 2017, available at: <https://www.politico.com/tipsheets/morning-education/2017/10/17/va-eyes-narrower-approach-to-for-profit-college-ethics-waivers-222839>.

<sup>54</sup> Ibid.

<sup>55</sup> In response to our Freedom of Information Act request, VA provided 77 pages of internal and external emails on the negotiations to revise § 3683, available at <https://vetsedsuccess.org/va-ogc-response-to-foia-regarding-38-usc-3683/>. Most of the emails were fully redacted but a few were only partially redacted.

<sup>56</sup> The former Under Secretary for Economic Opportunity, which oversees the Veterans Benefits Administration and Education Service, taught at the University of Maryland. According to VA, however, its FY 2018 President’s budget submission included a legislative proposal that would have amended 38 U.S.C. § 3683 to include public and nonprofit sector institutions.



‘reasonable notice and public hearing’ and ‘services from.’”<sup>57</sup> To this end, the email suggested that some private employers (e.g., Amazon, Walmart, UPS, FedEx, Verizon, and Microsoft) that offered on-the-job training programs could be considered educational institutions and that VA employees who purchased goods or services from these companies could require waivers, expanding the scope of waiver to almost all VA employees.

- A Veterans Health Administration (VHA) official commented in early August that “I worry about this line: [in the Committee staff draft] ‘works on matters concerning the educational assistance programs of the Department or the employment assistance programs of the Department’ which could be interpreted much more broadly than just the VBA programs. I am afraid that will put VHA right back where we started—so that any education person in all of VHA is swept up in this. Can we cite the statute again for the VBA programs [chapters 30-36] to make this more specific to GI Bill programs as we did in our FAQs?”<sup>58</sup>
- In early August, Committee staff expressed willingness to allow VA to post lists of individuals who receive waivers on a VA website, in lieu of the public hearings requirement. Committee staff also stipulated that any disciplinary action against VA employees with a for-profit school connection could include allowing a VA employee to take corrective action to end his or her problematic relationship with a school while maintaining VA employment.
- In early August, the Committee staff indicated that the effective date of the changes to § 3683 would be date of enactment rather than the normal 180 days needed for changes to appear in the code of federal regulations.

Final bill language became available on September 21, 2018.

### ***Revisions to § 3683 Eliminated Termination as a Deterrent to For-Profit School Connections***

The final revisions to § 3683 eliminated termination of VA and SAA employees as a deterrent against prohibited for-profit connections but required that employees with such connections receive corrective/disciplinary actions, including steps by employees to end their connections with for-profit schools. Key changes to § 3683, which went into effect on September 29, 2018, included:

- *Services.* The prior ban on an employee’s receipt of “services” from a for-profit school (such as enrolling in or taking classes at a for-profit school) was lifted, except for “covered employee[s].” Covered employees are defined as those who work on the administration of education benefits under chapters 31 through 36. However, the Secretary has the authority to expand the coverage to any employee who had a potential conflict-of-interest involving a for-profit educational institution.
- *Gifts.* “Gratuities” was eliminated from the list of monetary connections to for-profit institutions and replaced with “gifts,” following the advice of federal ethics experts.
- *State Approving Agency personnel.* Section 3683 (b) retained its focus on SAA personnel but the requirement to terminate any such employee was replaced with taking corrective or disciplinary action. Prohibited for-profit connections, however, were narrowed to exclude

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<sup>57</sup> See e-mail from Thomas Alphonso, U.S. Department of Veterans Affairs, Veterans Benefits Administration, RE: “38 USC 3683 concern,” July 25, 2018, p. 136 of documents available at: <https://vetsedsuccess.org/va-ogc-response-to-foia-regarding-38-usc-3683/>.

<sup>58</sup> See e-mail from Karen M. Sanders, U.S. Department of Veterans Affairs, Veterans Health Administration, to Thomas Alphonso, U.S. Department of Veterans Affairs, Veterans Benefits Administration, et al., RE: “Follow-up: TA-HVAC(R)-Dismissal of Employees/Conflict of Interest(Edu-Institutions)-8.2.18,” August 3, 2018, p. 147 of documents available at: <https://vetsedsuccess.org/va-ogc-response-to-foia-regarding-38-usc-3683/>.



“services,” indicating that SAA employees could take classes at a for-profit school without seeking a waiver. Finally, the revised § 3683 (b) retained the requirement for VA to discontinue payments to the SAA until such corrective or disciplinary action had been taken.

- *Disapproval of courses.* The requirement to not approve any course or to disapprove an approved course if an officer or employee of VA or the SAA has a prohibited connection to that school was also narrowed to exclude “services.”
- *Public notice of waivers.* The requirement that VA hold public hearings before granting waivers was replaced with public notice of any waiver not later than 30 days after the date on which such waiver is granted. In practice, VA now announces pending waivers 30 days before they are approved, and the public may comment on any proposed waiver.

As will be shown by our analysis of approved waivers, the removal of “services” as a prohibited for-profit school connection for most VA employees significantly reduces VA’s workload on waivers. Almost three quarters of approved waiver applications involved Veterans Health Administration staff who had taken classes at a for-profit school in the past. According to VA OGC, employees who received services from a for-profit school in the past are required to apply for a waiver because they are covered by the prohibitions in effect prior to September 2018 but those who receive services after September 2018 and who are not “covered employee[s]” no longer require a waiver.<sup>59</sup>

#### ***VA Report to Senate Appropriations Committee Outlines Plans to Strengthen Awareness of § 3683 Among SAA Staff***

In September 2018, just before the Veterans Affairs Committee revised § 3683 to reduce VA’s burden in implementing the statutory requirements, VA responded to the Senate Appropriations Committee’s July 2017 request for a report on the effectiveness of § 3683 in preventing conflicts of interest. Although the two-page report<sup>60</sup> concluded that the “current statutory and regulatory provisions are adequate to identify and address possible conflicts of interest with for-profit educational institutions,” it provided no evidence to support this conclusion and made no mention of VA’s negotiations with the Veterans Affairs Committee to revise § 3683. VA identified the following additional steps it planned to take to strengthen SAA compliance and ensure SAAs were aware of the ethics rules:

- Effective Oct. 1, 2018 (FY 2019), the VA/SAA reimbursement agreement would require SAAs to confirm adherence to 38 U.S.C. 3683.
- VA would recommend that ethics training be included in the National Training Curriculum used to train new and continuing SAA employees. VA acknowledged that most state employees are already required to complete annual ethics training.

The National Association of State Approving Agencies (NASAA) confirmed that affirmation of compliance is now a part of their annual contract with VA.<sup>61</sup> However, the Association also told

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<sup>59</sup> See email from Christopher Britt, Program Director, Research Integration and Training, Ethics Specialty Team, VA OGC, to Walter Ochinko, Veterans Education Success, October 4, 2021, available as the first document here: <https://vetsedsuccess.org/correspondence-from-va-office-of-general-counsel-to-walter-ochinko-ves-re-38-u-s-c-%C2%A73683-waivers-and-training/>.

<sup>60</sup> See “Department of Veterans Affairs (VA) Report to Congress on State Accrediting Agency Oversight,” September 2018, available at: <https://vetsedsuccess.org/va-report-to-appropriations-2018-ctr-state-accrediting-agency-oversight/>.

<sup>61</sup> See response to research questions from Michelle Hill, NASAA President, to Walter Ochinko, Research Director, Veterans Education, April 15, 2022, available at: <https://vetsedsuccess.org/response-from-nasaa-president-to->

us that the National Training Curriculum is used only for new SAA employees and that annual ethics training is recommended but not required.

## **VI. During Negotiations to Revise § 3683, VA Developed and Implemented a Paper Waiver Review Process**

Because of the uncertain timing of the legislative fix to reduce the implementation burden of § 3683, an April 27, 2018, email from the Director of Education Service to other Veterans Benefits Administration (VBA) and VA OGC staff members recommended continuing with the concurrent roll out of a waiver process while awaiting the legislative revision:

“We can always make adjustments if we need to. The question would be to what degree do we roll this whole thing out across VA if there is a possibility of legislation passing that makes most of what we are currently planning unnecessary. Perhaps we proceed with the roll out for Education Service personnel because we have the vast majority of the type of work that might create a conflict.”<sup>62</sup>

Despite this suggestion, a waiver application for all VA employees was made available for use in April 2018 and VA began accepting waiver applications in mid-2018.

### ***Federal Register Notice and VA Training Material Outline Waiver Process***

A May 18, 2018, Federal Register Notice provided a brief outline of the planned waiver process<sup>63</sup>:

- All employees with a prohibited for-profit school connection, either past, ongoing, or in the future, would be required to apply for a waiver;
- Applicants would need to indicate whether their duties involved any of six activities directly related to implementation of veterans’ education benefits, drawn from § 3683’s implementing regulation<sup>64</sup>:

(1) policy determinations, (2) application processing, (3) individual application decisions, (4) investigations of irregular actions by schools or eligible students; (5) claim, payment, or test reimbursement processing; and (6) inspection, approval, or supervision of schools.
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- Employees whose duties did not involve any of these six activities related to veterans’ education benefits could automatically have a waiver approved by their facility head or the Director of the Education Service. Employees whose duties involved these six activities would have to obtain a waiver from the Under Secretary for Benefits<sup>65</sup>;

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[research-questions-april-15-2022/](#); see also sample SAA contract available at: <https://vetsedsuccess.org/sample-saa-contract/>

<sup>62</sup> See e-mail from Robert Worley, VBAVACO, p. 121 of documents available at: <https://vetsedsuccess.org/va-ogc-response-to-foia-regarding-38-usc-3683/>.

<sup>63</sup> See 83 FR 23342, Document No. 2018-10638, “Public Notice of Proposed Waivers,” U.S. Department of Veterans Affairs, May 18, 2018, available at: <https://www.federalregister.gov/documents/2018/05/18/2018-10638/public-notice-of-proposed-waivers>.

<sup>64</sup> See 38 CFR § 21.4005 (b)(1)(ii)(A-F), available at: <https://www.ecfr.gov/current/title-38/chapter-I/part-21/subpart-D/subject-group-ECFRdb6df9f61d2e302/section-21.4005>.

<sup>65</sup> The Director of VA’s Education Service reports to the Under Secretary for Benefits.

- Public notice of the intent to approve a waiver and a 30-day window for the public to comment on the proposed waiver would replace the public hearings required by § 3683.

More information on the implementation rules and process were detailed in VA OGC materials developed to explain the new waiver implementation to veterans organizations and Capitol Hill.<sup>66</sup>

- Employees would be required to submit a waiver application for each unique for-profit school connection.
- Waivers would not be required if the connection would begin after a person left VA employment.
- For connections that would begin prior to the September 29, 2018, Congressional revisions to § 3683, an application would not be required if the school were not in the GI Bill Comparison Tool (that is, if the school had closed or were no longer eligible to enroll veterans).
- A VA or SAA employee who worked at a for-profit school but did not receive wages or salary would be deemed not to have a prohibited relationship. However, if an employee received faculty perks—free parking or other benefits with a financial value, this would be considered a gift and constitute a prohibited relationship.
- Employees with investments in diversified mutual funds would not be deemed to have a prohibited ownership interest, even if the fund contained stock in a for-profit school.
- Supervisors who received a waiver application would be instructed, “When you review a request, you have no obligation to investigate. Take the facts provided on the request at face value, unless you have independent knowledge of matters outside of the request.”<sup>67</sup>
- VA would take no corrective or disciplinary action if it approved a waiver.
- If the Under Secretary for Benefits were to deny a waiver, a removal process for the employee would be initiated. However, other training material indicates that employees would have the opportunity to discontinue the prohibited relationship and maintain their VA employment.<sup>68</sup>
- Once a waiver is approved or denied, the granting official would be permitted to destroy all public comments received.

### *Advocacy Groups Propose More Stringent Criteria for Waiver Approvals*

In early May 2018, the VA OGC briefed veterans organizations on the proposed waiver process. About two months later, a diverse mix of 42 veterans organizations, consumer advocacy groups, ethics experts, and others wrote to express strong concerns regarding the process, providing extensive recommendations for criteria to evaluate and limit the waiver requests submitted by employees.<sup>69</sup> The letter recommended that VA Senior Executives and staff of the Office of Inspector General and Office of the General Counsel be prohibited from requesting and receiving waivers for themselves, given the sensitive nature of their positions. “The most stringent criteria”

<sup>66</sup> See “Granting Waivers Under 38 U.S.C. § 3683,” U.S. Department of Veterans Affairs, available at: <https://vetsedsuccess.org/departments-of-veterans-affairs-ethics-waiver-plan/>

<sup>67</sup> See VA Office of General Counsel training materials on compliance with 38 U.S.C. § 3683, p. 30 of documents available at: <https://vetsedsuccess.org/va-materials-on-waivers-under-38-usc-3683/>.

<sup>68</sup> Ibid., 108.

<sup>69</sup> See letter re waivers to 38 U.S.C. § 3683 to Tammy L. Kennedy, Designated Agency Ethics Official, and Christopher Britt, Staff Attorney, June 30, 2018, available at: <https://vetsedsuccess.org/wp-content/uploads/2019/01/va-ethics-waiver-signed-letter.pdf>.

the letter argued, “should apply to employees who perform GI Bill duties, and waivers issued to them should be limited in scope.”<sup>70</sup> All other VA employees, the letter stated, should also meet certain criteria in order to receive a waiver. Table 1 compares the letter’s recommended waiver criteria for these two groups of VA employees, none of which were adopted by VA.

**Table 1: Comparison of Advocacy Groups’ Recommended Waiver Criteria for VA’s GI Bill Employees and All Other Employees**

<b>Prohibited for-profit school connections</b>	<b>GI Bill employee</b>	<b>All other VA employees</b>
Ownership	Only if inherited and divested within 90 days	Only if inherited and divested within 180 days
Dividends and profits	Not allowed	Allowed if received because of a divested inheritance
Gratuities	Not allowed	Only for free attendance at an event offered to all staff members and their spouses
Wages and salary	Not allowed	Must meet all of nine criteria such as: school not subject of any ongoing federal or state enforcement action or investigation; income not permitted for non-teaching duties such as marketing; total income not to exceed 15 percent of annual VA salary; written commitment from school not to mention employee’s VA connection; written certification that employee has confirmed school is not using VA affiliation in promotional materials; agreement in writing not to use position to encourage veterans to attend the school; employee not subject to any disciplinary action or performance below minimally satisfactory; employee completes a one hour supplemental training module specifically focused on prohibited connections
Services (taking a class)	Cannot be seeking a degree; must pay market value, have determined that no readily available alternative exists, and agree in writing not to allow a school to use their VA affiliation in any marketing materials	Only if taking classes (not seeking a degree) and paying market value for classes

Source: Veterans Education Success summary of July 20, 2018, letter to VA on proposed waiver process.

Ultimately, in the summer of 2018, VA implemented the waiver process outlined in its May 2018 Federal Register Notice and the training material it supplied to VA employees, prior to the September 2018 legislative changes to § 3683.

VA began accepting waiver applications in the summer of 2018.

## **VII. Shortcomings Identified in Waivers Granted to VA Staff Who Work on GI Bill Program**

In response to our FOIA request, VA’s OGC provided redacted PDFs of waiver applications from 24 VBA employees who worked on the GI Bill program.<sup>71</sup>

<sup>70</sup> Id.

<sup>71</sup> See VA OGC’s February 24, 2022 response to our FOIA request, pp. 1-79 of documents available at <https://vetsedsuccess.org/va-ogc-response-to-foia-regarding-38-usc-3683/>. Although we received copies of 24

The 24 VBA employee waiver applications were submitted between July 26, 2018, and December 14, 2021. All but eight of the 24 applications were submitted in 2018 and all but one applicant indicated that their duties involved the GI Bill. (The one applicant who did not indicate GI Bill job duties nevertheless had such duties.)

- Seventeen of the 24 VBA waiver applicants worked in a regional office as Vocational Rehabilitation counselors, claims examiners, education liaison representatives, veterans service representatives, or compliance survey specialists. (Vocational Rehabilitation, now known as Veterans Readiness and Employment, is a program for veterans with a service-connected disability and the program includes education benefits.) Six worked in Washington, D.C., in the office of the Under Secretary or Deputy Under Secretary for Benefits, and one worked for the VA OIG.
- The for-profit school connection of 20 of the VBA waiver applicants was their enrollment at 12 different for-profit schools, several of which had settled lawsuits with state or federal law enforcement agencies.<sup>72</sup> Only three applicants were currently attending or planned to attend a for-profit school and six applicants indicated that they had used their GI Bill benefits to pursue a degree. Four of the VBA waiver applicants who attended for-profit schools were also employed as instructors, for which they received a salary. The schools they taught at—Globe University,<sup>73</sup> University of Phoenix,<sup>74</sup> and DeVry<sup>75</sup>—had each settled with state or federal law enforcement agencies for misleading advertising and recruiting.

The 24 waiver applications from VA employees whose job duties specifically involve administering the GI Bill evidenced the following shortcomings in the waiver process.

#### *Information Collected on 38 U.S.C. § 3683 Waiver Approval Form*

The three-page form that VA employees must complete to request a waiver is not called an application but rather a “waiver approval form,” underscoring that submission of the form all but guarantees approval of a waiver. The form, which we obtained through a FOIA, is divided into two parts: employee responses and reviewing officials’ decisions (see Table 2).<sup>76</sup>

**Table 2: Information Found on the VA § 3683 Waiver Approval Form**

<b>Employee information</b>
• the applicants’ job, such as title, employing office, and VA duties
• the dates and nature of their for-profit connections
• whether their work involves any of six GI Bill duties, known as the waiver criteria
• an explanation of why any of their duties do not meet the waiver criteria

applications, the VA OGC told us that one individual had submitted two waiver applications (presumably for two different schools). Because we do not have a copy of this individual’s second application, our analysis focuses on the 24 waiver request forms provided by VA.

<sup>72</sup> The schools with settlements included American Public University System, University of Phoenix, DeVry, American InterContinental University, and Argosy.

<sup>73</sup> See Minnesota Office of Higher Education, “Information for Globe University and Minnesota School of Business Students,” November 22, 2019, available at: <https://www.ohe.state.mn.us/mPg.cfm?pageID=2213>.

<sup>74</sup> See Veterans Education Success, “Many Corporate Schools Repeatedly Settled Lawsuits for Misleading Advertising, High-Pressure Recruiting, and False Certifications,” June 2020, available at: <https://vetsedsuccess.org/wp-content/uploads/2020/06/Schools-with-repeat-federal-state-settlement-v92.pdf>.

<sup>75</sup> Ibid.

<sup>76</sup> Applicants fill out the form online. The form has drop-down menus for some fields.



<ul style="list-style-type: none"> <li>• an attestation that they will abide with all federal laws in their relationship with the for-profit school</li> </ul>
<b>Review and approval sign-offs</b>
<ul style="list-style-type: none"> <li>• employee's supervisor, who attests to the accuracy of employees' responses about their duties and recommends approval or disapproval;</li> </ul>
<ul style="list-style-type: none"> <li>• granting official, who is either the Director of Education Service or the employee's facility head (e.g., a medical center director) may approve waiver if the employee's work does not involve GI Bill duties</li> </ul>
<ul style="list-style-type: none"> <li>• OGC ethics officials review and comments if supervisor denies waiver because of employee's involvement in any of six GI Bill duties</li> </ul>
<ul style="list-style-type: none"> <li>• Under Secretary for Benefits, whose review is only required if the employee's work involved the GI Bill</li> </ul>

Source: Veterans Education Success review of a PDF of the § 3683 waiver approval form.

The six GI Bill waiver criteria omits an important GI Bill duty—tracking, managing, and mediating complaints submitted by GI Bill beneficiaries about the schools they attend, which was precisely the GI Bill duty of several waiver applicants. Appendix II contains a more detailed description of the waiver approval form.

*Almost 40 percent of VBA employees' waivers were still pending.* Nine of the 24 waiver applications we received in February 2022 were listed as pending or under review. All nine applicants failed to satisfy the waiver criteria because their duties involved one or more of the six GI Bill activities that resulted in another layer of review (see Table 2). Applicants with identical GI Bill duties, however, received approval of their waivers. For example, three of the five Vocational Rehabilitation Counselor waivers were approved.

In August 2022, the VA OGC told us that none of these nine requests still pending had been denied and that they had not been finalized because “employees responsible for reviewing the requests and acting upon the requests did not complete their reviews.”<sup>77</sup> VA OGC explained that, since the date of its FOIA response, four of the nine pending requests were still pending, four had been approved, and one applicant was no longer employed at VA.<sup>78</sup> Three of the four applications still pending were submitted in 2018.<sup>79</sup> Despite VA's explanation, it is unclear why 2018 applications would still be pending after four years.

*Three of the 24 VBA applicants with GI Bill duties were approved without VBA review.* Any “yes” response to GI Bill duty criteria should have resulted in a “does not satisfy” determination, which requires review by VA OGC and the Under Secretary for Benefits. However, three of the 24 applicants with GI Bill duties were approved without this higher-level review:

- A supervisory Vocational Rehabilitation counselor erroneously indicated that none of her duties involved GI Bill activities, but her supervisor confirmed the accuracy of her attestations and waiver was approved without the required review. A note on the application indicated that VA OGC identified the error after it had been approved but there was no indication of the required VBA review.
- A special agent in charge at the VA OIG indicated that his duties involved compliance inspections of schools eligible to enroll GI Bill beneficiaries; however, his supervisor

<sup>77</sup> See Letter from Gregory A. Draves, FOIA Privacy Officer, Office of General Counsel, U.S. Department of Veterans Affairs, to Walter Ochinko, Research Director, Veterans Education Success, August 8, 2022, available at: <https://vetsedsuccess.org/letter-from-va-ogc-draves-responding-to-foia-request-regarding-ethics-waivers-8-8-2022/>.

The letter references ten rather than nine pending requests because one employee left while his or her waiver request was still pending. Our analysis focuses on the nine pending requests out of the 24 applications that we received.

<sup>78</sup> Ibid. VA OGC included the updated forms for the four waivers approved at pp. 60-82 of the documents available at <https://vetsedsuccess.org/va-materials-on-waivers-under-38-usc-3683/>.

<sup>79</sup> Ibid.



erroneously indicated that the applicant satisfied the waiver criteria. No VBA review was conducted because of the supervisor's error.

- The supervisor of an Education Quality and Training Specialist who answered yes to three of six GI Bill duties erroneously confirmed this individual met the waiver criteria. Again, there was no VBA review.

*Few, if any, of the approved waivers for VBA employees with GI Bill duties have been publicly announced.* Although waivers must be publicly announced, few of those approved for VBA employees who work directly with the GI Bill were announced as required. The names of the employees were redacted but we compared their position titles and job descriptions to those on the publicly announced waivers. We were able to determine that only one of the approved waivers (and none of the pending waivers) was potentially included among 446 waivers approved and announced on the OGC website through May 2022 (discussed below).<sup>80</sup> Moreover, this batch of 446 waiver applications that were publicly announced include five waiver applications from VBA employees submitted prior to December 2021 that were not among the 24 waivers obtained through our FOIA, indicating that VA OGC's FOIA response was incomplete. For example, a waiver application posted as part of the batch of 446 approvals publicly announced in September 2021 was for a VBA employee who "tracks, manages, and mediates complaints" from student veterans submitted through the VA GI Bill Feedback Tool. This waiver was not among the 24 waiver applications provided by OGC. This employee had taken classes from a for-profit school in the past. Because we did not receive a copy of this application, it is unclear why this waiver was approved given that the school he attended has received veterans' complaints.<sup>81</sup>

## **VIII. An Additional Nearly 450 Waivers Approved Through May 2022**

The Department did not adhere to the public notice process— a 30-day public comment period— when it announced 276 approved waivers on its website in September 2021. From September 2021 through May 2022, OGC announced an additional 170 waivers, which did provide a 30-day public comment period, for a total of 446 approved waivers since 2018 through May 2022.<sup>82</sup> The 446 approved waivers do not include most waivers for VBA employees whose duties involved the GI Bill, discussed above.

### ***September 2021 Public Waiver Notice Announced 276 Approved Waivers***

In September 2021, more than three years after the first waiver was granted in July 2018, the OGC website posted a list of 276 waivers approved through early September 2021.<sup>83</sup> As shown

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<sup>80</sup> We identified only one waiver approved in September 2018 that was subsequently made available for public comments in April 2022—almost 3 years after it was approved—that was a potential match to one approved waiver for VA employees with GI Bill duties. We cannot be certain, however, because the job description duties were different.

<sup>81</sup> Although the waiver application contains a self-attestation that employees granted waivers will recuse themselves from matters involving their for-profit connection, it is unclear if there is any mechanism in place to monitor compliance.

<sup>82</sup> VA's OGC confirmed that we had compiled a complete list of waiver notices which began in September 2021. Such notices are removed from the OGC website after the expiration of the 30-day public comment period. The 446 waivers do not include most waivers for VBA employees whose duties involved the GI Bill; these waivers were obtained separately through a FOIA.

<sup>83</sup> This analysis is based on a review of VA's public notices, which provide more limited information than the actual waiver applications—employee position title; work location and functional affiliation; for-profit school name; nature of relationship with that school; and, whether relationship is over or continuing (see Table 2).

in Table 3, the waiver approval process was slow—only six waivers were approved in 2018 and approvals didn’t peak until 2020, with about 100 waivers. This slow start may be attributable to the availability of training. According to the VA OGC, training for VA employees on § 3683, including how to request waivers, was made available to VA employees through VA’s training system in May 2018 but it was not incorporated into VA’s annual ethics training for its employees until May 2019.<sup>84</sup> Presumably, not all of VA’s approximately 400,000 employees completed the training during the month it was added to the annual training curriculum.

**Table 3: § 3683 Waivers Approved from 2018 through September 8, 2021**

Waiver Approval Year	No. of Waivers Approved
2018	12
2019	60
2020	100
2021	104
<b>Total</b>	<b>276</b>

Source: Veterans Education Success analysis of VA OGC’s notice of waivers approved since 2018.

The first batch of 276 approved waivers listed connections with 72 for-profit schools and 9 public/nonprofit institutions.<sup>85</sup> However, the for-profit school connection of 48 percent of these 276 VA employees was with just five schools—Capella, Chamberlain University, Grand Canyon, Walden, and the University of Phoenix.<sup>86</sup>

At least 15 of the 73 for-profit schools were owned by companies that had settled with federal and/or state law enforcement authorities (often multiple times<sup>87</sup>), had a court judgement for defrauding students, or were involved in ongoing lawsuits.<sup>88</sup> Most of the settlements involved

<sup>84</sup> See correspondence between Walter Ochinko, Veterans Education Success, and Christopher Britt, VA OGC, May 26, 2022, available as the second document here: <https://vetsedsuccess.org/correspondence-from-va-office-of-general-counsel-to-walter-ochinko-ves-re-38-u-s-c-%C2%A73683-waivers-and-training/>.

<sup>85</sup> The waiver application form uses a drop-down menu to identify the school; employees can select “other” if their school is not listed. VA employees were also told they could determine the institutional sector of a school eligible to enroll veterans by using the GI Bill Comparison Tool. The identity of 19 schools was “other” and 1 was blank. It is not clear why employees sought and received waivers for schools that were public or nonprofit institutions, including Clarkson College, Des Moines Area Community College, George Washington University, Marshall B. Ketchum University, University of Michigan, Southern Methodist University, University of Southern Indiana, University of Wisconsin, and Volunteer State Community College. If employees applying for a waiver used the GI Bill Comparison Tool, they might have been confused by the terminology VA uses on the Comparison Tool —“for-profit,” “private,” and “public.” Some applicants may have assumed that a school designated as “private” on the Comparison Tool was for-profit because VA’s Comparison Tool does not use the more common “nonprofit” categorization.

<sup>86</sup> The academic catalog for Chamberlain University for 2021–2022, which DeVry sold to Cogswell Education LLC in 2017, contained the following reminder: “Employees of the Department of Veterans Affairs (VA) must obtain an approved waiver from their employer in accordance with 38 U.S.C. § 3683. The conflicts of interest provisions identified in 38 U.S.C. § 3683 and 38 C. F. R. § 21.4005 prohibit VA employees and officers from receiving instruction from a for-profit educational institution under a VA administered education benefits program. Accordingly, all VA employees and officers will be required to obtain and provide proof of a waiver in accordance with 38 U.S.C. § 3683(d) and 38 C. F. R. § 21.4005(b) prior to enrollment.” See <https://www.bppe.ca.gov/webapplications/annualReports/2020/document/B86F5F2C-06A8-4418-9EB2-1BF5EB362527> (a copy of the quoted text is available here: <https://vetsedsuccess.org/chamberlain-university-2021-2022-academic-catalog-excerpt-re-38-u-s-c-%C2%A73683-waiver/>). This reminder was dropped from the 2022–2023 academic catalog even though the requirement remains in effect for VA employees with GI Bill duties.

<sup>87</sup> See Veterans Education Success, “Many Corporate Schools Repeatedly Settled Lawsuits for Misleading Advertising, High-Pressure Recruiting, and False Certifications,” June 2020, available at: <https://vetsedsuccess.org/wp-content/uploads/2020/06/Schools-with-repeat-federal-state-settlement-v92.pdf>.

<sup>88</sup> The 15 schools were American Public University System; Ashford University (once owned by Zovio); Carrington College (once owned by Adtalem), Chamberlain University College of Nursing (owned by Adtalem), and Keller

allegations of the use of misleading and deceptive advertising to recruit students, including veterans. For example, Ashford University settled with the Iowa Attorney General<sup>89</sup> for using misleading recruiting tactics in 2015 and was also sued in 2017 by the California Attorney General in a case that went to trial in November 2021, with a judgment against the school in March 2022. The judge found that “the evidence shows that [the defendant Ashford] deceived students on topics critical to student decision-making,” including how much financial aid they would receive; whether their degrees would allow them to become teachers, nurses, and social workers; the cost of attendance; their ability to transfer credits; and other topics.<sup>90</sup>

Congress may wish to ask why VA would provide waivers for employee connections with schools that have a history of defrauding veterans and taxpayers, particularly given 38 U.S.C. § 3696, which prohibits GI Bill payments to schools that engage in misleading advertising and recruiting. VA ignored a recommendation made in a June 2018 letter by advocacy groups to prohibit connections with such schools (see Table 1).<sup>91</sup>

### ***Analysis of All 446 Waivers Approved through May 2022***

About 70 percent of the waivers granted since July 2018 were for services (such as taking classes) and 28 percent were for salaries paid to VA employees who taught at for-profit schools

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Graduate School of Management (once owned by Adtalem); Colorado Technical University (owned by Perdoceo Education Corporation, formerly known as Career Education Corporation); South University (once owned by Education Management Corporation); Herzing University; Kaplan University; New Horizons Computer Learning Center; University of Phoenix; Penn Foster College; Walden; Grand Canyon; and Capella. For documentation, see Office of Massachusetts Attorney General Maura Healey, “American Military University Pays \$270,000 for Alleged Failure to Disclose Job Prospects, High-Pressure Enrollment Tactics,” available at: <https://www.mass.gov/news/american-military-university-pays-270000-for-alleged-failure-to-disclose-job-prospects-high-pressure-enrollment-tactics>; Veterans Education Success, “Schools With Repeat Law Enforcement Settlements,” (2019) available at: <https://vetsedsuccess.org/factsheet-schools-with-repeat-law-enforcement-settlements/> (DeVry, Career Education Corporation, Kaplan University, University of Phoenix); “Minnesota AG Settles with Herzing University,” December 2, 2013, available at: <https://legalnewslines.com/stories/510516627-minnesota-ag-settles-with-herzing-university>; U.S. Department of Justice, United States Attorney’s Office Eastern District of Washington, “Spokane for-Profit College and General Manager to Pay Over \$120,000 to Resolve False Claims Act Liability in Connection With G.I. Bill,” December 4, 2019, available at: <https://www.justice.gov/usao-edwa/pr/spokane-profit-college-and-general-manager-pay-over-120000-resolve-false-claims-act>; Richard Read, “Penn Foster College must pay more than \$73,000 after PCC refused Portland man’s credits,” May 4, 2015, *The Oregonian*, available at: [https://www.oregonlive.com/education/2015/05/penn\\_foster\\_college\\_must\\_pay\\_m.html](https://www.oregonlive.com/education/2015/05/penn_foster_college_must_pay_m.html); Erica L. Green, “Lawsuit Charges For-Profit University Preyed on Black and Female Students,” April 8, 2022, *The New York Times*, available at: <https://www.nytimes.com/2022/04/08/us/politics/walden-university-lawsuit.html>; Veterans Education Success, “Grand Canyon University – Recent Actions and Concerns,” available at: <https://vetsedsuccess.org/grand-canyon-university-recent-actions-and-concerns/>; Josh Verges, “Capella University settles lawsuit over time, cost to earn degree,” *Pioneer Press*, April 28, 2022, available at: <https://sports.yahoo.com/capella-university-settles-lawsuit-over-215600409.html>.

<sup>89</sup> See Iowa Department of Justice Office of the Attorney General, Attorney General Tom Miller, “Ashford University and Parent Company Bridgepoint Education Agree to \$7.25 Million Payment and Major Changes after Miller Alleges Consumer Fraud,” May 16, 2014, retrieved November 7, 2022 from <https://www.iowaattorneygeneral.gov/newsroom/ashford-university-and-parent-company-bridgepoint-education-agree-to-7-25-million-payment-and-major> and July 9, 2023 from <https://web.archive.org/web/20160811161817/https://www.iowaattorneygeneral.gov/newsroom/ashford-university-and-parent-company-bridgepoint-education-agree-to-7-25-million-payment-and-major/>

<sup>90</sup> See *California v. Ashford University, LLC, Zovio, Inc.*, (at page 16) and Docs 1 through 50 from [https://oag.ca.gov/system/files/attachments/press-docs/37-2018-00046134-CU-MC-CTL\\_ROA-696\\_03-03-22\\_Statement\\_of\\_Decision\\_1646669688827.pdf](https://oag.ca.gov/system/files/attachments/press-docs/37-2018-00046134-CU-MC-CTL_ROA-696_03-03-22_Statement_of_Decision_1646669688827.pdf).

<sup>91</sup> Letter from 42 veterans organizations to VA’s designated ethics official and a VA OGC staff attorney, June 20, 2018, available at: <https://vetsedsuccess.org/wp-content/uploads/2019/01/va-ethics-waiver-signed-letter.pdf>.

(see Table 4). The total number of for-profit school connections (458) is greater than the number of individual waivers (446) because some individuals had multiple connections, e.g., salary and services or salary and ownership.

**Table 4: Type and Number of For-Profit School Connections for Individuals with Approved Waivers, July 2018 Through May 2022**

Type of for-profit school connections	Number of such connections (percent of total)
Services (classes)	321 (70%)
Salary/wages (teaching)	127 (28%)
Ownership (profits, dividends)	6 (1%)
Gifts	4 (1%)
Total	458 (100%)

Source: Our analysis of OGC waiver notices from September 2021 through May 2022.

Note: Totals do not equal the number of waivers because some individuals had multiple for-profit school connections, that is, they may have received salaries and services or had salaries and ownership.

The vast majority of waivers were for Veterans Health Administration employees. According to the VA OGC, employees who had a for-profit school connection prior to the September 29, 2018, revision of the statute are covered by the prior statute and must apply for a waiver even if they no longer have a for-profit school connection.<sup>92</sup> Many such employees, we were told by the VA OGC, were unaware that § 3683 prohibited their for-profit connection: “VA employees, typically find out about the prohibited for-profit school connections in annual ethics training.”<sup>93</sup> An employee submits a waiver request after taking their annual ethics training, as that training contains a reminder to submit a waiver request if the employee has a for-profit connection for which they have not yet sought a waiver.

## IX. No Evidence of Waiver Requests from SAA Employees

In our FOIA request to VA, we had requested documents related to any waivers requested, approved, or denied for SAA staff. None were included in the FOIA materials provided to us. We were subsequently informed by the VA OGC that if an SAA employee required a waiver, the SAA was expected to contact the VBA’s Education Service component because the waiver form was for use by VA employees, only, and there is no specific form for an SAA employee waiver.<sup>94</sup> If an SAA employee requires a waiver, the SAA is expected to contact VA’s Education Service in VBA. Congress may wish to require a form for SAA employees like that for VA employees.

Thirteen of the 17 SAA Directors (employing 58 percent of SAA staff) we contacted told us that no employees had received a waiver of § 3683 from VA or that they weren’t aware of any who

<sup>92</sup> Communication from Program Director Research Integration and Training, Ethics Specialty Team, VA OGC, October 4, 2021, available as first document here: <https://vetsedsuccess.org/correspondence-from-va-office-of-general-counsel-to-walter-ochinko-ves-re-38-u-s-c-%C2%A73683-waivers-and-training/>.

<sup>93</sup> See emails between Walter Ochinko, Veterans Education Success, and Christopher Britt, VA OGC, May 24, 2022 and May 26, 2022, available as the second document here: <https://vetsedsuccess.org/correspondence-from-va-office-of-general-counsel-to-walter-ochinko-ves-re-38-u-s-c-%C2%A73683-waivers-and-training/>.

<sup>94</sup> See letter from Gregory A. Draves, FOIA Privacy Officer, Office of General Counsel, U.S. Department of Veterans Affairs to Walter Ochinko, Research Director, Veterans Education Success, August 8, 2022, responding to our questions about the 24 waiver applications provided in February 2022, available at: <https://vetsedsuccess.org/letter-from-va-ogc-draves-responding-to-foia-request-regarding-ethics-waivers-8-8-2022/>.

had.<sup>95</sup> VA subsequently informed us that “no responsive records were located”<sup>96</sup> when VA’s Education Service and OGC had conducted a search of their databases for information on whether any individuals listed as SAA employees as of September 2021 had requested a waiver under § 3683.<sup>97</sup>

## **X. VA’s Process Offers No Assurance that Conflicts of Interest Do Not Exist**

Requesting and granting waivers is a paper process that offers scant assurance that conflicts of interest do not exist because it relies on self-attestation without any effort to determine if the attestation is accurate or that employees abide by their written commitments. Moreover, in the case of actual corruption, VA or SAA employees are not likely to voluntarily confess. Prior cases of employee conflicts of interest and public corruption—both recent and historic—were identified not through self-attestation on a form but instead through investigations, which can be labor-intensive and time-consuming, or by whistleblowers and complaints. Moreover, now that the threat of termination for an undisclosed for-profit connection is off the table, relying on VA employees to voluntarily disclose such connections without using other available tools, such as veterans’ complaints and for-profit school disclosure forms,<sup>98</sup> is unlikely to shed light on actual conflicts of interest and corruption.

### ***Waivers Rely on Unverified Self-Attestation and Inconsistent Supervisory Review***

As noted above, our review of 24 waiver applications submitted by VBA employees with GI Bill duties found that their responses were not always accurate or consistent. For example, supervisors incorrectly indicated that applicants satisfied waiver criteria, raising questions about the rigor of supervisory review. Moreover, individuals with the same job title responded differently when they identified their GI Bill duties. For example, the applications of two education compliance survey specialists identified completely different GI Bill duties. Similarly, the applications of four veterans service representatives had conflicting responses on three of the six enumerated GI Bill duties. Congress may wish to ask why VA relies on employees to accurately identify their duties, which would be known to VA based on their VA job classifications.

In reviewing waivers for applicants whose duties involved the GI Bill, the OGC reviewer’s approval recommendation frequently relied on unverified employee self-attestation, including that (1) their duties never involved the school with which they had the connection, (2) they had never encouraged any veterans to attend the for-profit school, and (3) they had not approved federal funding flowing to the school.

### ***Teague Report Found that Investigations were Necessary to Identify Corruption and Conflicts of Interest***

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<sup>95</sup> California, Georgia, Illinois, Indiana, Louisiana, Michigan, Missouri, Ohio, Pennsylvania, Texas, Virginia, Washington, West Virginia.

<sup>96</sup> See VA Veterans Benefits Administration, Initial Agency Decision letter to Della Justice, Vice President for Legal Affairs, Veterans Education Success, in reply to FOIA Request 22-09228-F, September 21, 2022, available here: <https://vetsedsuccess.org/va-foia-request-response-re-saa-requests-for-waivers-of-38-usc-3683/>.

<sup>97</sup> We provided VA with a list of SAA employees as of September 2021 from the website of NASAA, the association that represents SAAs.

<sup>98</sup> Under certain circumstances, for-profit schools must disclose if any of their staff are VA or SAA employees. VA’s use of those forms is discussed later in this report.



The 1952 Teague report noted that VA supervisors were not the ones who identified widespread bribery of VA employees working on the GI Bill. Thus, it concluded that the top veterans education official was either unaware of the problem or not inclined to report it to the Veterans' Affairs Administrator even though bribery and other corruption were "wide-spread" and "a matter of common knowledge on the field level among Veterans' Administration personnel, State and local educational circles and the public as a whole."<sup>99</sup> Rather, the existence of rampant bribery and corruption were identified during investigations.

"The disclosures as to the operation of the Vocational Rehabilitation and Education Service and the wide-spread involvement of its personnel in the ownership of private schools, acceptance of gifts, loans and bribes and other serious irregularities have come to light as a result of the efforts of the Inspection and Investigation Service...."

"It is the opinion of this committee that aggressive action was not taken by the Veterans' Administration central office to reduce the possibility of collusion, bribery, fraud, and inefficiency on the part of certain employees and as a result millions of dollars of overpayments have resulted and the best interests of the Federal Government and the veteran have suffered."<sup>100</sup>

### ***Investigations and Whistleblowers Identified Recent Corruption and Conflicts of Interest***

More recent cases of corruption and conflicts of interest came to light as a result of investigations that were triggered by whistleblowers and/or veterans' complaints.

- *VA OIG investigations.* The 2017 and 2018 VA OIG investigations of VA healthcare employees who were teaching or had taught at for-profit schools without obtaining a waiver were initiated because of allegations received by the OIG.<sup>101</sup>
- *FBI and VA OIG investigation leads to bribery convictions.* In April 2018,<sup>102</sup> the U.S. Department of Justice announced that the owner of a for-profit school specializing in information technology courses pleaded guilty to bribing a VA Vocational Rehabilitation counselor. The investigation was initiated because of veterans' complaints about the quality

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<sup>99</sup> See H. Rep. No. 1375, U.S. House of Representatives, Eighty-Second Congress Second Session Created Pursuant to H. Res. 93, February 14, 1952, at page 211, available at: <https://vetsedsuccess.org/wp-content/uploads/2018/10/1952-house-committee-report-gi-bill-fraud.pdf>.

<sup>100</sup> Ibid., at 211, 201.

<sup>101</sup> See U.S. Department of Veterans Affairs, Office of Inspector General, Report No. 14-03508-275, "Administrative Investigation Conflicting Interests and Misuse of Government Equipment Overton Brooks VA Medical Center Shreveport, Louisiana," July 18, 2017, available at: <https://www.va.gov/oig/pubs/VAOIG-14-03508-275.pdf> and Jeffrey Hughes, Assistant Inspector General for Inspections, Department of Veterans Affairs, "Memorandum: Administrative Investigation – Conflict of Interest, Veterans Health Administration (VHA), Washington, DC, Report No. 17-05308-122 (2017-05308-IQ-0001), March 12, 2018, available at: <https://www.va.gov/oig/pubs/admin-reports/VAOIG-17-05308-122.pdf>.

<sup>102</sup> See U.S. Department of Justice, Office of Public Affairs, "School Owner Pleads Guilty to \$2 Million Bribery Scheme Involving VA Program for Disabled Military Veterans," April 16, 2018, available at: <https://www.justice.gov/opa/pr/school-owner-pleads-guilty-2-million-bribery-scheme-involving-veterans-program-disabled-military>.



of education,<sup>103</sup> but the indictments required an extensive investigation by the FBI and the VA OIG.

The Department of Justice announced that the VA employee had “demand[ed] and “receiv[ed] bribes from three for-profit schools in exchange for enrolling disabled military veterans in those schools and facilitating over \$2 million in payments from the VA using the veterans’ federal benefits.”<sup>104</sup> This amounted to a 7 percent cash kickback of all payments made by VA to the school. He also attempted to obstruct the inquiry by filing a falsified site visit report and by trying to convince the school owner to lie to a grand jury about the purpose of the bribery payments. The school owner admitted that the Vocational Rehabilitation counselor, assisted by another counselor, approved payments to the school without regard for the accuracy of necessary documentation. The Vocational Rehabilitation counselor repeatedly lied to veterans he was counseling, such as indicating that their benefits would lapse unless they enrolled in the school from which he was accepting bribes. And he insisted that the veterans enroll despite their protests that the school’s program did not meet their career goals or was unsuitable given their physical disabilities. The Vocational Rehabilitation counselor was sentenced to 11 years in prison plus three years of supervised release and was also ordered to pay restitution.

**In exchange for steering veterans using the GI Bill under the Vocational Rehabilitation program, the counselor demanded and received a 7 percent cash kickback of all payments made by VA to the school.**

*Source: Justice Department press release April 16, 2018.*

The school owner admitted that the Vocational Rehabilitation counselor, assisted by another counselor, approved payments to the school without regard for the accuracy of necessary documentation. The Vocational Rehabilitation counselor repeatedly lied to veterans he was counseling, such as indicating that their benefits would lapse unless they enrolled in the school from which he was accepting bribes. And he insisted that the veterans enroll despite their protests that the school’s program did not meet their career goals or was unsuitable given their physical disabilities. The Vocational Rehabilitation counselor was sentenced to 11 years in prison plus three years of supervised release and was also ordered to pay restitution.

The Justice Department’s February 2019 press release on the sentencing indicated that two other school owners had also bribed this same Vocational Rehabilitation counselor.<sup>105</sup> The school owners and several employees were also given prison terms and ordered to pay restitution.

- *Vocational Rehabilitation counselors influence where veterans enroll.* In general, counselors have considerable influence about where veterans use their GI Bill benefits, regardless of the quality of the school.
  - In June 2019 testimony<sup>106</sup> on the effectiveness of the Vocational Rehabilitation program, Veterans Education Success highlighted a case where a counselor would not approve a veteran’s enrollment at Columbia University (an Ivy League university) but instead would approve the veteran to enroll only at the University of Phoenix because it had accepted one credit of physical education, arguably making it more cost-effective than Columbia University.<sup>107</sup> As noted earlier, the University of Phoenix

<sup>103</sup> See U.S. Department of Justice, Office of Public Affairs, “Department of Veterans Affairs Official Sentenced to 11 Years in Prison for \$2 Million Bribery Scheme Involving Program for Disabled Military Veterans,” February 15, 2019, available at: <https://www.justice.gov/opa/pr/departments-veterans-affairs-official-sentenced-11-years-prison-2-million-bribery-scheme>.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> See Veterans Education Success, “Written Statement on Evaluating the Effectiveness of VA Vocational Rehabilitation and Employment Programs Before the House Committee on Veterans’ Affairs Subcommittee on Economic Opportunity,” June 4, 2019, available at: <https://vetsedsuccess.org/our-testimony-house-veterans-subcommittee-on-evaluating-the-effectiveness-of-va-vocational-rehabilitation-employment-programs/>.

<sup>107</sup> According to a December 2019 report by the Government Accountability Office, VA’s Vocational Rehabilitation operations manual states that if more than one local training or educational facility will meet a veteran’s needs, counselors must justify their decision to select a school that is more expensive than the least costly one.

had repeatedly settled lawsuits for misleading advertising and recruiting; according to the U.S. Education Department's College Scorecard, the University of Phoenix-Arizona also has a graduation rate of 27 percent (eight years after enrolling) compared to 94 percent at Columbia University,<sup>108</sup> where the veteran eventually was permitted to enroll after our intervention. It is unknown whether this counselor's actions might be due to a conflict of interest.

- A complaint we received from a GI Bill beneficiary highlights the consequences of poor advice from a Vocational Rehabilitation counselor. This VA counselor reportedly told the GI Bill beneficiary about Ashford University, and the student subsequently enrolled in a bachelor's degree program there in 2010. Ashford has a 21 percent graduation rate<sup>109</sup> and, as noted earlier, a judge found that the school had deceived students – including about their ability to transfer credits in March 2022.<sup>110</sup> <sup>111</sup> Ashford allegedly misinformed this veteran by incorrectly promising that credits she earned at Ashford would transfer to another school, which was not correct. Additionally, the student's Ashford advisor refused to let her withdraw from the MBA program before the cut-off date for withdrawing, causing the student to incur charges. Thereafter, a \$35,000 job offer fell through because Ashford refused to release her transcripts due to the unpaid charges. Ashford had told her that she would be able to find a job for about \$60,000, which also proved untrue. Lacking a transcript, it took this disabled veteran five years to find a job. "Now I'm in default on student loans," she said in her complaint. "I won't be able to pay it back. [I'm] Screwed for life."

### ***Texas SAA Employee Fired for Accepting and Lying about a Gift from a For-Profit School She Oversaw***

Three years after it received approval from the Texas SAA to enroll GI Bill students, the Retail Ready Career Center (RRCC) was raided by federal agents and its owner eventually sentenced to 20 years in jail for defrauding veterans and the U.S. Department of Veterans Affairs. The U.S.

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<sup>108</sup> See U.S. Department of Education, College Scorecard, retrieved May 5, 2023, available at: <https://collegescorecard.ed.gov/school/?484613-University-of-Phoenix-Arizona> and <https://collegescorecard.ed.gov/school/?190150-Columbia-University-in-the-City-of-New-York>.

<sup>109</sup> See U.S. Department of Education, College Scorecard, retrieved May 2023, available at: <https://collegescorecard.ed.gov/school/?154022-Ashford-University>.

<sup>110</sup> See *California v. Ashford University, LLC, Zovio, Inc., and Docs 1 through 50*, retrieved November 8, 2022 from [https://oag.ca.gov/system/files/attachments/press-docs/37-2018-00046134-CU-MC-CTL\\_ROA-696\\_03-03-22\\_Statement\\_of\\_Decision\\_1646669688827.pdf](https://oag.ca.gov/system/files/attachments/press-docs/37-2018-00046134-CU-MC-CTL_ROA-696_03-03-22_Statement_of_Decision_1646669688827.pdf).

<sup>111</sup> The University of Arizona purchased Ashford from Zovio in 2020, which the University rebranded as the online University of Arizona Global Campus (UAGC). However, Zovio had a long-term contract with UAGC to manage marketing, student recruitment and retention, student success, coaching, financial services, instructional design, and technology. Responding to criticism about this arrangement, UAGC purchased the assets of Zovio in August 2022, taking control of the online program's operations. See Doug Lederman and Susan D'Agostino, "Arizona Global Campus Absorbs Its Outsourced Online Program Manager," *Inside Higher Ed*, August 2, 2022, available at: <https://www.insidehighered.com/news/2022/08/02/arizona-global-campus-buys-assets-online-management-contractor>. The University of Arizona, however, hired much of the Zovio staff responsible for these functions. In September 2022, Zovio announced the planned liquidation and dissolution of the company. See U.S. Securities and Exchange Commission Schedule 14a, Zovio Inc., October 3, 2022, available at: <https://www.sec.gov/Archives/edgar/data/1305323/000130532322000059/sept2022prelimproxystate.htm>.

Department of Justice’s press release<sup>112</sup> announced that the RRCC owner was guilty of “bilking” VA out of \$72 million and misleading veterans. The press release provided additional details, much of which, it indicated, was supported by an electronic journal kept by the owner, including:

- The RRCC owner was essentially broke when he applied for approval, and he not only lied to the Texas SAA and the Texas Workforce Commission (TWC) but also concealed information from them. In his electronic journal, the owner wrote “...more lying in order.”<sup>113</sup>
- Although he said RRCC was fully prepared to train veterans, he lacked a facility and basic supplies. He lied to an independent accountant and submitted false financial statements to the Texas SAA and TWC.<sup>114</sup>
- He promised lucrative careers to the veterans he enrolled, but many veterans said RRCC failed to teach them many of the basic skills they needed for entry-level technician jobs.
- During the trial, several veterans said that they had relied on RRCC’s fraudulently obtained VA endorsement [approval of the school] and were “sorely disappointed about their post-Retail Ready career prospects and pay.” They also were “shocked” that RRCC’s six-week course had drained a full year of their GI Bill benefits. They felt “used,” “taken advantage of,” “deceived,” and “bamboozled.”<sup>115</sup>
- RRCC’s owner used the \$72 million in tuition and fees he fraudulently collected to buy numerous expensive cars, including a Lamborghini.

Through a public records request, we reviewed the Texas SAA’s correspondence regarding RRCC’s application. We reviewed more than 700 pages of correspondence<sup>116</sup> obtained from the Texas SAA.<sup>117</sup> We asked for copies of this correspondence because an attorney for the Texas

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<sup>112</sup> See U.S. Department of Justice, U.S. Attorney’s Office, Northern District of Texas, “For-Profit Trade School Owner Found Guilty of Defrauding VA, Student Veterans,” April 15, 2021, available at: <https://www.justice.gov/usao-ndtx/pr/profit-trade-school-owner-found-guilty-defrauding-va-student-veterans>, and U.S. Department of Justice, U.S. Attorney’s Office, Northern District of Texas, “For-Profit Trade School [Owner] Sentenced to Nearly 20 Years for Defrauding VA, Student Veterans,” September 22, 2021, available at:

<https://www.justice.gov/usao-ndtx/pr/profit-trade-school-sentenced-nearly-20-years-defrauding-va-student-veterans>.  
<sup>113</sup> TWC licenses non-degree granting training programs in Texas. Licensure by TWC is a prerequisite to approval by the Texas SAA to enroll veterans. For journal entry quotation, see U.S. Department of Justice, U.S. Attorney’s Office, Northern District of Texas, “For-Profit Trade School Owner Found Guilty of Defrauding VA, Student Veterans,” April 15, 2021, available at: <https://www.justice.gov/usao-ndtx/pr/profit-trade-school-owner-found-guilty-defrauding-va-student-veterans>.

<sup>114</sup> See U.S. Department of Justice, U.S. Attorney’s Office, Northern District of Texas, “For-Profit Trade School Owner Found Guilty of Defrauding VA, Student Veterans,” April 15, 2021, available at: <https://www.justice.gov/usao-ndtx/pr/profit-trade-school-owner-found-guilty-defrauding-va-student-veterans>.

<sup>115</sup> Ibid. and see Jacob Vaughn, “North Texas Trade School Owner Convicted After ‘Bamboozling’ Millions in Veterans Affairs Scheme,” *Dallas Observer*, September 8, 2021, available at: <https://www.dallasobserver.com/news/bamboozled-feds-accuse-trade-school-owner-of-va-tuition-fraud-scheme-12364382>.

<sup>116</sup> The 714 pages of internal communications we obtained from the Texas SAA included correspondence among officials at the school; the Texas SAA; the TWC, which licenses career education schools; the VA regional office; and VA’s Education Service in Washington, D.C., which manages the GI Bill. The documents are available at: [https://vetsedsuccess.org/wp-content/uploads/2022/10/TVC-Responsive-Docs\\_Combined\\_PIA2022-14-compressed.pdf](https://vetsedsuccess.org/wp-content/uploads/2022/10/TVC-Responsive-Docs_Combined_PIA2022-14-compressed.pdf). Despite the volume of correspondence provided, the documentation is incomplete. In fact, a timeline of the SAA’s interactions with RRCC included in the correspondence acknowledged that a significant amount of material was missing from their files. As a result, our understanding of the history of RRCC’s interactions with the TWC and the Texas SAA are incomplete. For example, the correspondence contains no documents related to the firing of an SAA employee for accepting and then denying acceptance of a gift from RRCC, even though there are references to the provision of gifts to SAA and TWC employees by the school. See Ibid.

<sup>117</sup> The Texas Veterans Commission provides services to veterans in eight areas ranging from health care to education benefits. Its Education Program serves as the State Approving Agency, which is tasked with reviewing

SAA had told us that an employee was fired in 2017 after accepting a gift basket from RRCC and lying about it.<sup>118</sup> The SAA later confirmed that the fired employee had approval and oversight responsibilities for RRCC after the school's initial approval in 2014.<sup>119</sup> In addition, a whistleblower stated that RRCC had also provided "extensive gift baskets"<sup>120</sup> to other employees at the SAA and Texas Workforce Commission during the 2015 holidays.<sup>121</sup> The agency's response to this more widespread provision of gifts remains unverified, but a handwritten note on an SAA interview with another employee who worked on RRCC said "Gift return,"<sup>122</sup> suggesting that other staff may simply have been asked to return any gifts they had accepted.

We identified numerous red flags, which are summarized in Table 5, that raised questions about the legitimacy of the programs RRCC proposed to offer and about the process that SAAs nationwide use to approve schools to enroll veterans.

**Table 5: Red Flags Identified in Our Review of Texas SAA Correspondence about RRCC from 2011 through 2018**

<ul style="list-style-type: none"> <li>• While it appears the SAA conducted a site visit just before approving RRCC for GI Bill, no site visit to the school occurred until almost three years after RRCC obtained an exemption under Texas law that set the clock ticking for it to meet a federal statutory requirement that non-degree-granting schools operate for two consecutive years before being approved to enroll GI Bill beneficiaries.</li> <li>• RRCC frantically sought GI Bill approval for about three years, submitting two applications before it was even eligible to apply and seeking intervention from the governor's office. Both applications were denied because the school had not been continuously operating for two years, as required by statute.</li> <li>• After RRCC's application was accepted in early 2014, the SAA informed the owner that it could not proceed with his application until he submitted a balance sheet,<sup>123</sup> noting that an owner-prepared statement was acceptable—a low bar for evidence that a business is legitimate.</li> <li>• For a six-week HVAC program, RRCC charged tuition and fees equal to the maximum amount that VA authorizes for a full academic year at private sector institutions.</li> <li>• The SAA identified deficiencies in the RRCC's application paperwork but did not require submission of corrections before granting approval. Instead, the SAA relied on the owner's word that the changes had been made.</li> <li>• In seeking approval for its HVAC program during 2014, RRCC slipped in a proposed new Computer Repair program that had not yet been licensed in Texas, a prerequisite for SAA approval. Just prior to its approval, RRCC was told it had to submit a separate application once it had been licensed.<sup>124</sup> It took about 14 months</li> </ul>
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applications to ensure that education programs meet the statutory requirements to enroll veterans. Once approved, the Education Program oversees and monitors schools' compliance with federal statute. See Texas Veterans Commission, About the Texas Veterans Commission, "Our Mission," available at: <https://www.tvc.texas.gov/about/>.

<sup>118</sup> The Texas Veterans Commission's attorney, John Goodell, disclosed the employee's firing during a telephone interview on April 22, 2022, to Walter Ochinko, Veterans Education Success Research Director, in discussing the impact of state ethics laws on SAA staff.

<sup>119</sup> See e-mail from Siobhan Kennon, Legal Assistant, Texas Veterans Commission to Walter Ochinko, Research Director, Veterans Education Success, re: TVC Response to Your Public Information Request, July 18, 2022, available at: <https://vetsedsuccess.org/texas-saa-response-to-our-public-information-request-re-retail-ready-career-center/>.

<sup>120</sup> See p. 599 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>121</sup> Texas Workforce Commission (TWC) licenses non-degree granting training programs in Texas. Licensure by TWC is a prerequisite to approval by TVC to enroll veterans.

<sup>122</sup> See p. 605 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>123</sup> Ibid., p. 514 of documents available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>124</sup> Ibid., pp. 518-520 of documents available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

for the Computer Repair program to be approved, largely because of discrepancies in the paperwork submitted and lack of timely response by the RRCC to address those discrepancies.

- It is unclear if the SAA verified RRCC's claim that HVAC companies had paid for employees to be trained at the RRCC, a claim important to RRCC's eligibility to meet the requirement of two years of continuous operations.
- Because the owner was an instructor, he would have had to both attest to the SAA that "The school administrators, directors, owners, and instructors are of good reputation and character" and disclose in his role as an instructor if he had been found guilty or pled guilty to a charge of "immoral conduct" or been convicted of a felony or misdemeanor.<sup>125</sup> A former student told the SAA he had seen a 2015 newspaper article reporting that the owner had been arrested for money laundering.<sup>126</sup> Subsequent press coverage<sup>127</sup> indicated that the school owner had allegedly lied on his application when he attested that (1) the school had been in operation for two years as required by federal statute, and (2) he had not been facing any criminal or civil actions.
- RRCC was reminded several times that it could not recruit GI Bill beneficiaries before it was approved by the SAA and the U.S. Department of Veterans Affairs (VA), but it did so repeatedly, requiring VA to inform the beneficiaries that the school was not yet approved.
- A year after approval of the HVAC program, RRCC radically changed its teaching modalities from 80 percent classroom instruction to 80 percent lab work,<sup>128</sup> and the SAA accepted the school's explanation for the change.
- By statute, no more than 85 percent of students enrolled in a program can be GI Bill beneficiaries, but internal documents at the Texas SAA referenced a financial statement submitted by the school on July 2016 showing that 93 percent of the school's revenue came from VA payments,<sup>129</sup> raising questions about RRCC's compliance.
- The school supplied "extensive gift baskets" to SAA employees at Christmas 2015 and it is unclear what action was taken.<sup>130</sup> Accepting gifts is prohibited by federal statute.
- In 2017, an employee responsible for oversight of RRCC was fired for accepting a gift and then lying about it when confronted by supervisors.<sup>131</sup>
- As is true nationwide among SAA reviews of schools, compliance surveys to ensure the accuracy of VA payments to RRCC were announced in advance. The announcement prior to the June 2017 visit even identified the specific student veteran records that would be reviewed during the visit.<sup>132</sup> This practice can

<sup>125</sup> See pp. 8 and 13 of documents available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>126</sup> See p. 700 of documents available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>127</sup> See Jacob Vaughn, "North Texas Trade School Owner Convicted After 'Bamboozling' Millions in Veterans Affairs Scheme," *Dallas Observer*, September 8, 2021, available at: <https://www.dallasobserver.com/news/bamboozled-feds-accuse-trade-school-owner-of-va-tuition-fraud-scheme-12364382>.

<sup>128</sup> See pp. 477-481 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>129</sup> See p. 679 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>130</sup> Ibid., p. 599 of documents available at <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>131</sup> The Texas Veterans Commission's attorney, John Goodell, disclosed the employee's firing during a telephone interview on April 22, 2022, with Veterans Education Success Research Director Walter Ochinko about the impact of state ethics laws on SAA staff. The SAA confirmed that the staffer, who was fired, was responsible for oversight of RRCC after it was approved in 2014. See e-mail from Siobhan Kennon, Legal Assistant, Texas Veterans Commission to Walter Ochinko, Research Director, Veterans Education Success, re: TVC Response to Your Public Information Request, July 18, 2022, available at: <https://vetsedsuccess.org/texas-saa-response-to-our-public-information-request-re-retail-ready-career-center/>.

<sup>132</sup> See p. 591 of documents from the Texas Veterans Commission about the Retail Ready Career Center, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>. The SAA program specialist determined that an "expanded sample" of records did not need to be reviewed during the site visit because the records reviewed—presumably the records that RRCC had been given advance notice would be reviewed—contained no discrepancies. See p. 562.



lead to potential record alteration for students included in the SAA's sample review. At RRCC, it is also unclear if classes were observed, students were interviewed, or beneficiary complaints were reviewed during the 2016 survey. These activities were not included in a 2017 survey, although the compliance survey correspondence indicated an opportunity for face-to-face interviews with students would be provided.<sup>133</sup> The SAA appears to have received complaints from student veterans as well as whistleblowers in March, April, and May 2017.<sup>134</sup> The school was raided on September 20, 2017.

- RRCC enrolled only those beneficiaries who were eligible for the Post-9/11 GI Bill and required veterans with other VA educational benefits to relinquish them in favor of the Post-9/11 benefit.<sup>135</sup> Schools are prohibited from doing so.

We uncovered similar red flags in the approval by the Georgia SAA of House of Prayer, another institution that was raided by federal agents several years after its approval for GI Bill. Appendix IV contains a more detailed description of shortcomings in the Georgia SAA's approval process, which are similar to the processes used by all other SAAs.

## **XI. VA Does Not Use Existing Data Sources to Enforce § 3683**

VA has alternate sources of information to identify employees with a potential conflict of interest, but does not appear to use these resources: GI Bill beneficiary complaints and a form periodically filed by for-profit schools identifying VA or SAA staff they employ or to whom they provide services.

### ***GI Bill Beneficiary Complaints***

As evidenced by the conviction of a Vocational Rehabilitation counselor for negotiating a 7 percent cut of three for-profit schools' GI Bill payments, beneficiary complaints<sup>136</sup> can be an important [early warning sign](#)<sup>137</sup> of a potential conflicts of interest by VA or SAA employees. The investigation into that employee's kickback scheme was initiated based on veteran complaints about a for-profit school that eventually led to a VA OIG and FBI investigation.

However, VA has a history of failing to take student complaints seriously, as we have pointed out repeatedly and most recently in February 2022,<sup>138</sup> including:

- VA screens complaints and sends to the school only those complaints VA deems to be valid. VA has never published any process or criteria to deem a complaint invalid and VA staff lack sufficient expertise in consumer protection laws to make those determinations, as leadership

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<sup>133</sup> Ibid., pp. 559-587, 591-592.

<sup>134</sup> Ibid., pp., 642, 689-706, and 680.

<sup>135</sup> Ibid., pp. 631-635.

<sup>136</sup> The GI Bill School Feedback Tool was first authorized by Executive Order 13607 and codified in 38 U.S.C. § 3698(b)(2), which requires the Secretary to provide "a centralized mechanism for tracking and publishing feedback from students regarding the quality of instruction, recruiting practices, and post-graduation employment placement." See The White House Office of the Press Secretary, "Executive Order – Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members," April 27, 2012, available at: <https://obamawhitehouse.archives.gov/the-press-office/2012/04/27/executive-order-establishing-principles-excellence-educational-instituti>; 38 U.S.C. § 3698, "Comprehensive policy on providing education information to veterans," available at: <https://www.law.cornell.edu/uscode/text/38/3698>.

<sup>137</sup> See Veterans Education Success, "Our Letter to VA on the Principles of Excellence Complaint Feedback Tool," February 18, 2022, available at: <https://vetsedsuccess.org/our-letter-to-va-on-the-principles-of-excellence-complaint-feedback-tool/>.

<sup>138</sup> Ibid. and a subsequent letter from Veterans Education Success, "Our Letter to VA Regarding January 12, 2023 Meeting and Feedback Tool," February 15, 2023, available at: <https://vetsedsuccess.org/our-letter-to-va-regarding-january-12-2023-meeting-and-feedback-tool/>.



staff from the U.S. Federal Trade Commission and U.S. Consumer Financial Protection Bureau explained forcefully to VA in an August 2016 meeting with veterans organizations including Veterans Education Success. The student complaints that veterans organizations receive and submit to VA should be considered valid as they typically involve allegations of schools' providing inaccurate information on financial costs and quality, relying on abusive and deceptive recruiting practices, and failing to provide high quality academic and support services.

- VA's failure to take prompt action on the serious complaint allegations we received and provided to the Department in 2020 about the House of Prayer Bible Seminary in Georgia<sup>139</sup> and U.S. K9 Unlimited in [Louisiana](#)<sup>140</sup> is emblematic of the serious shortcomings we have noted.<sup>141</sup>
  - Twenty-three months after our letter to VA and the Georgia SAA, the House of Prayer was finally raided by federal agents and lost its eligibility to enroll veterans.
  - In the case of the Retail Ready Career Center, discussed above, the Texas SAA was unaware of 2016 veteran complaints that alleged many of the abuses that whistleblowers alleged in the spring of 2017. VA did not share copies of those complaints with the SAA until after the September 20, 2017, raid on the school.<sup>142</sup>
- VA forwards the complaint to the school for their response. Regardless of the nature or content of the school's response, VA sends the veteran a form letter saying that the complaint is closed once the school has responded. Veterans report that the process leaves them feeling unsupported and as if VA is taking the school's side. One for-profit school responded to a complaint that it had no record of the veteran's attendance; we assisted the veteran to rebut this claim by showing VA a copy of the veteran's diploma.
- While VA publishes the number of complaints it deems valid on the GI Bill Comparison Tool website, it hides complaints older than two years (a Trump Administration policy created reportedly at the behest of for-profit school lobbyists) and never reports whether a complaint was substantiated or whether veterans found the outcomes responsive to their allegations. Complaints deemed invalid are not included in the Comparison Tool and, despite objection from the Federal Trade Commission since August 2016, complaints prior to 2022 had not been shared with federal agencies through the Federal Trade Commission's Consumer Sentinel Network,<sup>143</sup> which provides any federal, state, or local law enforcement agency with access to the complaints.

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<sup>139</sup> See Veterans Education Success, "Memorandum RE: House of Prayer Christian Church," November 2020, available at: [https://vetsedsuccess.org/wp-content/uploads/2020/11/HOPCC-memo\\_Redacted.pdf](https://vetsedsuccess.org/wp-content/uploads/2020/11/HOPCC-memo_Redacted.pdf).

<sup>140</sup> See Veterans Education Success, "Memorandum RE: United States K9 Unlimited," December 9, 2020, available at: [https://vetsedsuccess.org/wp-content/uploads/2020/12/US-K9-Unlimited-final-2\\_Redacted-1.pdf](https://vetsedsuccess.org/wp-content/uploads/2020/12/US-K9-Unlimited-final-2_Redacted-1.pdf).

<sup>141</sup> We sent a letter (see Ibid.) to VA, the Louisiana SAA, and the VA OIG in December 2020 about violations of statute by U.S. K9 Unlimited (aka "U.S. K9"), a for-profit trade school. Among other allegations, the school had been using enrolled students as instructors and threatening retaliation against veteran complainants. It took nine months for the school to lose eligibility to enroll GI Bill students, reportedly because a VA regional office official intervened. There was no press release from the Louisiana SAA about the school's loss of eligibility—the school simply disappeared from the GI Bill Comparison Tool. Although we submitted a public records request to the Louisiana SAA in June 2022 for correspondence related to the school's approval and loss of GI Bill eligibility, we did not receive a response in time to include an analysis in this report.

<sup>142</sup> See VES record, RRCC Approval and Disapproval Chronology Based on Review of VES Public Records Request, pp. 4-5. See final document in documents related to the Texas Veterans Commission about the Retail Ready Career Center, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>143</sup> See Federal Trade Commission, "Consumer Sentinel Network," <https://www.ftc.gov/enforcement/consumer-sentinel-network>. We met with VA in January 2023 to discuss its handling Feedback Tool Complaints, and

The Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 requires SAAs to conduct risk-based surveys of schools that pose a risk, [codified at 38 U.S.C. § 3673](#).<sup>144</sup> Although 38 U.S.C. § 3673A(b)(2)(C)<sup>145</sup> states that the severity and volume of complaints should be included in the scope of such reviews, complaints are not an automatic trigger for risk-based reviews. However, because complaints are an important early warning sign of fraud, VA should exercise its discretion to direct SAAs to conduct a risk-based review of a school if complaints show a pattern of abuse or a serious violation of law or VA regulations – a step VA is apparently taking.<sup>146</sup> The Department should also establish a process for identifying complaints that may involve potential conflicts of interest for referral to the VA OIG for more in-depth investigations.

### ***VA Does Not Review Conflicting Interest Certifications Submitted by For-Profit Schools to Ensure that Employees Are Seeking Waivers***

A conflicting interest certification must be submitted whenever a for-profit school applies for eligibility to enroll GI Bill beneficiaries, is sold, or changes institutional sectors.<sup>147</sup> VA requires each campus of a for-profit school chain to submit a separate form. The form (referred to hereafter as a 22-1919 form, which is the VA form number) asks the campus to list “those VA and SAA employees known to you who may have a potential conflict of interest” under § 3683. Through FOIAs and public records requests, we asked VA and several SAAs to provide the forms for the eight school chains listed in Table 6 (two chains are listed twice because of separate triggering events). We learned that:

- VA does not have a central repository for 22-1919 certifications and relies on SAAs and VA regional offices to collect the forms. As a result, it does not use the forms to identify employees who have a for-profit school connection but have not applied for a waiver.
- VA provided 61 forms for the 254 campus locations we requested (see Table 6). Twenty-eight campuses listed as withdrawn likely did not have to submit a form 22-1919.
- VA provided no explanation for the lack of forms for about 165 campuses, suggesting that many campuses operated by the for-profit chains in Table 6 failed to submit certifications that were required by one of the three triggering events.
- More than 20 percent of the forms received were incomplete, raising a question about the scrutiny that forms receive.
- Only three of the 61 forms we received identified VA employees who also worked at a for-profit school, but this number may be an undercount because so many campuses apparently failed to submit forms 22-1919; additionally, because of the scant attention paid to the forms that are submitted, it is unclear if the information is accurate. After VA began requiring employees with a for-profit school connection to submit waivers, it could have used the forms to compare for-profit connections disclosed on the waivers to 22-1919 certifications.

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according to representations from VA staff during the meeting it appears that VA is changing its practice and will provide complaints it deems as “invalid” to the FTC Consumer Sentinel. See Veterans Education Success, “Our Letter to VA Regarding January 12, 2023 Meeting and Feedback Tool,” February 15, 2023, available at: <https://vetsedsuccess.org/our-letter-to-va-regarding-january-12-2023-meeting-and-feedback-tool/>.

<sup>144</sup> See 38 U.S. Code § 3673, “Approval activities: cooperation and coordination of activities,”

<https://www.law.cornell.edu/uscode/text/38/3673>.

<sup>145</sup> See 38 U.S. Code § 3673A, “Risk-based surveys,” <https://www.law.cornell.edu/uscode/text/38/3673A>.

<sup>146</sup> See VBA’s Standard Operating Procedure for Risk-Based Surveys (July 2022), available at <https://vetsedsuccess.org/vbas-standard-operating-procedures-for-risk-based-surveys-july-22-2022/>.

<sup>147</sup> These forms have been required since at least 1995. Although most of the 22-1919 forms we obtained were dated October 2008, one form was dated July 1995.

**Table 6: Analysis of Conflicting Interest Certifications Submitted to SAAs by Nine For-Profit School Chains**

For-profit Corporation	School brands	Triggering event for 22-1919 form	Year of risk-factor triggering event	No. of campuses identified by VA	No. of forms obtained from VA or SAA
Corinthian	Everest College and WyoTech	Sale to Zenith Education Group, a subsidiary of Education Credit Management Corporation	2015	82	9
Kaplan	Kaplan College, TESST College of Technology, and Kaplan Career Institute	Sale to Education Corporation of America	2015	22	1
Apollo Education Group, Inc.	University of Phoenix	Sale to consortium of private investors, including Apollo Global Management, Vistria Group, and Najafi Companies	2016-2017	1	1
Kaplan, Inc.	Kaplan University and Kaplan University's Concord Law School	Sale to Purdue University	2017	31	6
Bridgepoint Education <sup>a</sup>	Ashford University	Application for GI Bill eligibility in California <sup>b</sup>	2018	1	1
Grand Canyon Education, Inc.	Grand Canyon University	Conversion to nonprofit status <sup>c</sup>	2018	1	1
DeVry Education Group <sup>d</sup>	DeVry University, Keller Graduate School of Management	Sale to Cogswell Education LLC	2018	92	30
Laureate Education	Walden University	Sale to Adtalem (DeVry)	2019-2020	1	1
Zovio <sup>a</sup>	Ashford University	Sale to University of Arizona	2020	1	1
Renovus Capital Partners	Rasmussen University	Sale to American Military University	2021	22	10
<b>Total</b>				<b>254</b>	<b>61</b>

Source: Veterans Education Success analysis of 22-1919 forms requested and received from VA and SAAs.

<sup>a</sup>Bridgepoint Education was rebranded as Zovio in 2019.

<sup>b</sup>The Arizona SAA approved Bridgepoint's application to enroll GI Bill beneficiaries in 2017. However, VA required Bridgepoint to reapply in California where the company was headquartered.

<sup>c</sup>Grand Canyon's request to convert to nonprofit status was approved by its accreditor and the Internal Revenue Service, but not by the U.S. Department of Education.

<sup>d</sup>DeVry was rebranded as Adtalem in 2017.

- *Three 22-1919 forms identified VA employees with a connection to the school.* Two forms we obtained directly from SAAs identified VA employees who were adjunct professors at Ashford University. Although the forms included the names of the VA employees, there was no information about their job titles or positions.
  - The 2018 form submitted by Ashford when it applied for GI Bill eligibility in California listed nine employees. We were told by a state official that no waivers had been submitted by the nine VA employees on Ashford's 2018 form because VA had not implemented a § 3683 waiver process.

- A 2021 form submitted by the University of Arizona after it purchased Ashford in January 2021 listed seven employees. Six of the 10 adjunct professors were listed on both the 2018 and 2021 forms.

We found no matches when we compared the names on both Ashford forms to those of SAA employees listed in the September 2021 NASAA staff directory. Our LinkedIn search positively identified two of the 10 employees, one who worked at the VA North Texas Healthcare System and a second employee who was a VA learning resources officer. A third individual's profile indicated he was a VA assistant chief of health information management who held teaching positions at three different for-profit schools, but not Ashford.

The third 22-1919 form we obtained directly from an SAA identified a VA employee who was a registrar at DeVry. The name was blacked out over privacy concerns and so we were unable to conduct a LinkedIn search.

- *Shortcomings on the 22-1919 forms we obtained.* Twenty-three percent of the 22-1919 forms we obtained were incomplete. The form asks schools to identify (1) any VA or SAA employees who have a connection with the for-profit school submitting the form, and (2) any school officials who certify GI Bill beneficiary enrollment who had their tuition paid by VA. The form's instructions indicate that the school should state "none" if there were indeed none.
  - Two campuses failed to respond to the first question and eight others did not respond to the second question;
  - Six forms that were correctly completed had the response to question number one typed but the response to the second question handwritten, raising the possibility that an SAA employee may have completed the form after it was received;
  - One form was filled out, but not signed;
  - One form was signed and dated, but not filled out; and
  - One form identified a VA employee (name blacked out) with a potential conflict of interest, but the name of the school was blank. After we asked, VA told us that they believed the form had been submitted by a DeVry campus, but that the campus location was unknown.

It appears that neither the VA nor the SAA followed up with schools about their incomplete 22-1919 forms, suggesting that little attention is paid to these submissions.

In June 2020, VA filed a routine Federal Register [notice](#)<sup>148</sup> on the utility of continuing to require for-profit institutions to submit form 22-1919.<sup>149</sup> Veterans organizations provided written comments,<sup>150</sup> noting that the limited situations that trigger use of the form results in many

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<sup>148</sup> See U.S. Department of Veterans Affairs, Veterans Benefits Administration, "Agency Information Collection Activity: Conflicting Interests Certification for Proprietary Schools," Federal Register notice 85 FR 37498, June 22, 2020, available at: <https://www.federalregister.gov/documents/2020/06/22/2020-13371/agency-information-collection-activity-conflicting-interests-certification-for-proprietary-schools>.

<sup>149</sup> The Paperwork Reduction Act of 1995 requires agencies to periodically seek public input on the information they require entities to submit.

<sup>150</sup> See Veterans Education Success, "Comment to VA on Its Employees' Conflicts of Interest in For-Profit Schools," August 21, 2020, available at: <https://vetsedsuccess.org/comment-to-va-on-the-collection-of-conflicting-interests-certification-for-proprietary-schools/>.

schools’ never having to file a form.<sup>151</sup> They recommended that all for-profit schools be required to submit the form twice a year.

## **XII. State Conflict-of-Interest Laws Are Generally Weaker than § 3683**

In light of the examples of conflicts of interest we discovered and in order to determine if SAAs have limitations on outside employment and gifts under state law that are as strict as those in Title 38 U.S.C. § 3683, we analyzed state ethics/conflict-of-interest statutes in 17 states, representing 58 percent of SAA staff.<sup>152</sup>

Our sample included 12 states with six or more SAA employees as well as five states with five or fewer SAA staff. Because state ethics statutes are complex, differentiate between categories of employees, and may allow an agency to adopt more restrictive limitations, we shared the results of our analysis with the 17 SAA Directors. The full results are laid out in Table 7 in Appendix V.

Our analysis found that:

- Eight of the 13 states for which an SAA provided comments on our analysis had less restrictive requirements with respect to employment and gifts than § 3683; four states had gift but not employment requirements equivalent to those in federal statute; and only one state—Washington state—had both employment and gift prohibitions as strong as § 3683.
- Although they did not comment on our analyses, the California, New York, and Wisconsin SAAs appear to face weaker state ethics rules on outside employment and acceptance of gifts than those in federal statute. Florida rules were equivalent to § 3683 on employment but appear to be weaker with respect to gifts.

In short, state conflict-of-interest laws are generally weaker than the federal prohibition in § 3683 and should not be relied upon to supplant § 3683’s application to SAAs.

## **XIII. Conclusions and Recommendations**

Despite a long history of conflicts of interest and more recent examples of actual financial impropriety by VA and SAA officials to steer GI Bill funds to for-profit schools, VA’s failed oversight of such conflicts and lack of adherence to 38 U.S.C. § 3683 is worthy of attention from VA’s leadership and from Congress.

In 2017, VA proposed blanket waivers for all conflicts of interest by VA employees under § 3683, but was forced to withdraw its proposal in the face of widespread opposition from bipartisan federal ethics experts, the VA employees’ labor union, veterans organizations, and consumer advocacy organizations. VA then asked Congress to repeal § 3683’s ban on conflicts of interest or to allow blanket waivers, but was denied. Yet, today, VA appears to have achieved its goal of blanket waivers because the presumption is that waiver requests will be approved, even for those employees who work on GI Bill issues.

A fundamental flaw at the heart of both VA’s process for reviewing employee conflict-of-interest waiver requests and the SAAs’ process for reviewing schools’ applications for approval

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<sup>151</sup> In addition, the submission criteria allow potentially long lapses between filings.

<sup>152</sup> As of September 2021, the NASAA staff directory showed that state SAAs employed 220 staff members.

to enroll GI Bill beneficiaries is the reliance on self-attestation. Such self-attestation is unlikely to uncover actual conflicts of interest or corruption; according to VA, no employee waiver requests have been denied<sup>153</sup> and supervisors are instructed that they “have no obligation to investigate. Take the facts provided on the request at face value, unless you have independent knowledge of matters outside of the request.”<sup>154</sup> The insufficiency of VA’s process is highlighted by the documented examples of corruption and conflicts of interest that continue today.

We recommend that Congress revisit the statute in light of VA’s apparent end-run around the statutory requirements.

We also have recommendations for VA’s leadership. We believe that VA should:

- Strengthen the SAAs’ approval and oversight process for schools by (1) requiring verification of important self-reported information from schools, such as financial connections or information about students purported to have graduated during the program’s required two years of operations before receiving GI Bill approval; and (2) conducting random or periodic audits to ensure that classes are observed, beneficiaries are interviewed, and complaints are reviewed.
- Ensure more careful review of all conflict-of-interest waiver application forms from VA employees whose job duties involve VA education benefits or the ability to steer students towards a school—and require all SAA employees to file the same form (which should be reviewed under the same scrutiny as VA employees who administer GI Bill benefits). This should include: (1) routinely submitting to the VA OIG for investigation the names of VBA and SAA waiver applicants who receive wages from a for-profit school, rather than simply relying on self-attestation to conclude that there are no conflicts of interest; and (2) articulating consequences—including dismissal—for the submissions of false or misleading information by employees.
- Require all for-profit schools to report annually the names of any VA or SAA employees with connections to a school (Form 22-1919, conflicting interest certifications), including the employee’s job title and the VA or SAA office with whom they are affiliated, and use the reports to ensure that all employees have applied for a § 3683 waiver. VA OIG should review all forms and initiate an investigation to determine if corrective or disciplinary action is warranted for any employees who fail to submit a waiver application but who are named on a school’s conflicting interest certification. In addition, VA should articulate consequences for submissions of false or misleading information by a school on its conflicting interest certification (Form 22-1919) and during a VA OIG or other VA or SAA investigations.
- Rescind the instruction that Vocational Rehabilitation counselors must seek approval for enrolling a veteran in a more expensive school if the less expensive alternative has demonstrably poor student outcomes on the Education Department’s College Scorecard.

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<sup>153</sup> See Letter from Gregory A. Draves, FOIA Privacy Officer, Office of General Counsel, U.S. Department of Veterans Affairs, to Walter Ochinko, Research Director, Veterans Education Success, August 8, 2022, available at: <https://vetsedsuccess.org/letter-from-va-ogc-draves-responding-to-foia-request-regarding-ethics-waivers-8-8-2022/>.

<sup>154</sup> See p. 30 of VA Office of General Counsel training materials on compliance with 38 U.S.C. § 3683, available at: <https://vetsedsuccess.org/va-materials-on-waivers-under-38-usc-3683/>; see also *ibid.*, p. 22 (“Satisfying the waiver criteria results in a presumption in favor of granting the waiver”); *ibid.*, p. 31 (“As a granting official..., it is possible that you will approve every waiver request submitted to you. This is because you should only receive requests from employees who satisfy the waiver criteria.”)



- Take student complaints more seriously, including establishing a process for determining if student complaints suggest a potential conflict of interest and referring such complaints to the VA OIG for in-depth investigations.

#### **XIV. Scope and Methodology**

To understand Congress' rationale for banning all for-profit school connections by VA and SAA employees, VA's enforcement of the ban, and the nature and extent of the for-profit connections of VA and SAA employees, we examined:

- Congressional reports that provided context for the enactment of the prohibition on for-profit school connections;
- The legislative history of the provision first enacted in 1952 and codified as 38 U.S.C. 3683 in 1966 and the subsequent amendments to the statute;
- VA OIG investigations of potential conflicts of interest related to § 3683 prohibitions over a 20 to 30-year period;
- The announcement and reaction to VA's 2017 announcement of plans to extend a blanket waiver of the conflict-of-interest requirement of § 3683;
- September 2018 legislative changes to § 3683;
- § 3683 waivers publicly announced on the VA website 30 days before approval; and
- Documents obtained through FOIAs from the Department of Veterans Affairs related to:
  - waivers denied since 2018;
  - waiver applications submitted by individuals whose duties involved GI Bill activities;
  - waivers requested, approved, or denied to SAA staff;
  - forms that for-profit schools must submit in certain circumstances listing VA and SAA employees with ties to the schools;
  - training material provided to VA staff on the waiver process; and
  - communications related to VA's attempt to secure the September 2018 changes to § 3683.
- Documents obtained through public records requests of two SAAs regarding their approval of schools later raided by federal agents for defrauding VA and veterans.

We also contacted NASAA, the association that represents SAAs, which responded to questions about implementation of § 3683 at the state level and analyzed state conflict-of-interest statutes that govern outside employment and acceptance of gifts by SAA staff to determine if any state requirements were as strict as the § 3683 prohibitions.

## Appendix I

### Conflicts of Interest Involving VA and SAA Employees Cited in the 1952 Teague Report

**Table 8: Examples of Conflicts of Interest Involving VA and SAA Employees Cited in the 1952 Teague Report**

Conflict-of-interest prohibitions	Examples of conflict-of-interest
Gifts and gratuities	<ul style="list-style-type: none"> <li>• A Veterans Administration official “testified that he accepted a Buick automobile and \$1,000 in cash from a school owner who was contracting with the Veterans’ Administration for the training of veterans. No promissory notes were signed. Veterans’ Administration investigators who audited the accounts of the school following the investigation by the committee concluded that the contract for the school had been negotiated on an irregular basis in favor of the school” (p. 192).</li> <li>• An acting chief, facilities training section, “demanded and accepted two watches from a watch-repair school. This school also gave one watch to the VA supervisor of tuition vouchers” (p. 188).</li> <li>• “This Veterans’ Administration employee [in Waco, Texas] borrowed \$2,000 from the partners of a chain of private trade schools under contract with the Veterans’ Administration for the training of veterans. Several of the schools were under the direct supervision of the Veterans’ Administration employee. About \$120 was repaid on the loans. This same Veterans’ Administration employee passed bogus checks to school operators which were usually redeemed by the school operator. This employee induced a school operator to sell a new car to his relative at a time when new cars were very scarce” (p. 193).</li> <li>• A school “had been overpaid \$3,573.05 in tuition payment for days on which veteran students were absent.” A VA inspector-investigator “established that a training officer had accepted the loan of an automobile and luggage from principals of the interior decorating school” (p. 190).</li> <li>• “A former voucher auditor, Finance Division, assisted in the preparation of vouchers to be submitted by schools to the regional office covering flight training. The former voucher auditor, during the employment, requested and received \$75 from the owner of the airport which he did not repay. He also received gratuities from the school in the form of free use of airplanes, gasoline, oil and airport facilities, and other personal services as reimbursement for his assistance in preparing vouchers” (p. 190).</li> <li>• “A contract officer borrowed \$300 from the owner of a school. The contract officer was soon to pass on the renewal of the school’s contract. He also cashed personal checks at the school. When questioned about these matters by his supervisors he gave evasive and untruthful answers” (p. 191).</li> <li>• “A training officer... accepted a check dated March 10, 1947, in the amount of \$100 from the proprietor of a photography school. He also accepted two fifths of whisky as a Christmas gift from the vice president of a flight school in Chicago, Ill. The photography school mentioned above did not have adequate space and equipment or competent instructors and did not offer all courses set forth in their contract” (p. 191).</li> <li>• “The former manager and employees under his supervision, partly with his knowledge and sanction, accepted extensive entertainment as well as valuable gifts, services, and other favors, including undue financial advantages in the purchases of homes, from officials of schools and other persons doing business with the Veterans’ Administration. In this connection, this former manager arbitrarily directed and caused, and in other instances attempted to cause, institutions or individuals to be unduly</li> </ul>

	<p>and irregularly favored in their contractual relations with the Veterans' Administration..." (p. 191).</p> <ul style="list-style-type: none"> <li>• "This former Veterans' Administration official testified that while he was Chief, Education and Training Division, Dallas Branch Office, he borrowed \$8,000 from the owners of a chain of private trade schools under contract with the Veterans' Administration....The Veterans' Administration official attempted to sell equipment to the same school operator at prices which the school operator considered excessive" (p. 192).</li> <li>• "A former VA contract unit employee solicited personal favors from school owners and engaged in a business on the outside while so employed. The investigator recommended action toward termination of the school's VA contract, and disapproval by Texas State approving agency, and institution of criminal action against school and owner" (p. 187)</li> </ul>
Wages/salary	<ul style="list-style-type: none"> <li>• A training officer in a VA regional office violated prohibitions against "accepting employment with a tailoring school" (p.189).</li> <li>• A Veterans Administration official's partner in a retail jewelry business "was employed as a director of a trade school training veterans under contract with the Veterans' Administration. The trade school owner testified that he hired the Veterans' Administration official's partner because of his connection with the Veterans' Administration" (p. 192).</li> </ul>
Dividends/profits	<ul style="list-style-type: none"> <li>• "There are at least 35 schools in which former VA, State Approving Agency or service organization employees, or persons in positions of political prominence own stock or are responsible for directing" (p. 199)</li> <li>• "It also appeared that some favoritism and priority had been extended to certain schools. In some instances, the voucher examiners had apparently been motivated by gifts, after-hours employment, and financial interest in the schools submitting the vouchers" (p. 191)</li> </ul>
Ownership	<ul style="list-style-type: none"> <li>• "While employed as a Veterans Administration training facilities officer, this employee owned interest in a private trade school that was under contract with the Veterans Administration" (194).</li> <li>• "These training officers stationed in Fort Worth, Texas, entered into a partnership with a private school operator to establish a private school. At the time of the agreement the school operator had several other schools which were supervised by these training officers. The ownership of the school was placed in the name of the training officers' parents; however, all negotiation was conducted personally by the two Veterans' Administration employees" (p. 193).</li> <li>• "One of these Veterans' Administration training facilities officers [in Waco, Texas] resigned on one day and began operation of his school on the next day. The second Veterans' Administration training facilities officer surveyed the school and recommended approval but later resigned from Veterans' Administration to enter into partnership in another school with the same Veterans' Administration training facilities officer. A third Veterans' Administration training facilities officer owned interest in one of the schools while he was employed by Veterans' Administration. This school was also surveyed and approved by the second Veterans' Administration employee mentioned. Later a third school was formed in which all three were partners" (p. 193).</li> </ul>
Services	<ul style="list-style-type: none"> <li>• The VA regional office manager "accepted services of the school for the improvement of his country home. The manager failed to take prompt and decisive action on irregularities and deficiencies engaged in by the trade school, which were called to his attention" (p. 186).</li> <li>• "That the chief of the voucher audit section knowingly authorized the assignment of a voucher audit clerk to work on the vouchers of a school in which the clerk was a part-time student" (p. 187).</li> </ul>

	<ul style="list-style-type: none"> <li>• “While employed as a registration clerk by the Veterans’ Administration, this person was enrolled as a student in a trade school and employed as a night clerk by the same school. This registration clerk, who has subsequently been removed from his job, testified that he accepted money from veteran students and marked these students present when they were not actually in attendance. He stated also that he accepted money from school operators to expedite transfers in the Registration and Research Section. At the same time, he was also receiving subsistence payments as a student and a salary from the school as a night clerk” (p. 194).</li> <li>• “The chief, [Vocational Rehabilitation and Employment] V. R. &amp; E. up to August 1948 had obtained goods and services at cut-rate prices from schools having contracts with the regional office. The chief of the V. R. &amp; E. division was reprimanded in August 1948 for such practices” (p. 188).</li> <li>• “Several contract employees of the V. R. &amp; E. division obtained personal services from training agencies under contract with the VA” in violation of established prohibitions (p. 186).</li> </ul>
Failure to act	<ul style="list-style-type: none"> <li>• This investigation disclosed “that the school had either vouchered and received payment in advance for instruction or had vouchered and been paid for instruction not actually given. The investigation disclosed numerous fraudulent items contained in 17 vouchers submitted by the school amounting to the total sum of \$64,201.70.... The Division Chief failed to take aggressive action when irregularities of a serious nature were reported to his office” (p. 189).</li> <li>• “The investigation reported April 21, 1948, disclosed overpayment to the school of some \$116,824.87, which the school obtained through willful and fraudulent invoicing for tuition and fees. The school claimed over \$92,000 for alleged training not actually provided. The school misrepresented its program to prospective veteran trainees. Instruction was, in part, inadequate, deficient, duplicated, and detrimental to the trainees’ eligibility for training. The regional office, Chicago, did not carry out and enforce regulations of the Veterans’ Administration in its dealings with this school” (p. 190).</li> <li>• “A flight school operator made several attempts to bribe VA employees. This flight school was failing to meet contract requirements; was forging veterans’ names to vouchers and flight tickets; charging for services not rendered; and using unsafe and substandard equipment. When the irregularities existing in the flight school were brought to the attention of the Chief of the V. R. &amp; E. Division, he prohibited further investigation and suppressed the evidence already obtained” (p. 190).</li> <li>• GAO reported that it was “obvious that in a number of instances information which should have disclosed the claim for an unwarranted tuition rate, or the existence of dummy corporations handling tools, was available or known to the contracting officers [of the Veterans’ Administration] at the time of contract negotiations, but was either ignored, the significance thereof not realized, or considered legally permissible because it was not specifically prohibited by VA regulations (p. 174).</li> <li>• A school “failed to meet minimum standards for a veteran training facility, and the owner was not qualified to conduct it properly, from a standpoint of ability, education, personality, and experience. The Houston VA regional office was negligent in not correcting the known deficiencies and unsatisfactory conditions at the school” (p. 187).</li> <li>• “The chief, V. R. &amp; E. up to August 1948 had obtained goods and services at cut-rate prices from schools having contracts with the regional office. The chief of the V. R. &amp; E. division was reprimanded in August 1948 for such practices” (p. 188).</li> </ul>

Source: 1952 report of the *House Select Committee to Investigate Educational, Training, and Loan Guarantee Programs Under the GI Bill*, referred to as the Teague Report after the name of its chairman. See <https://vetsedsuccess.org/wp-content/uploads/2018/10/1952-house-committee-report-gi-bill-fraud.pdf>. Page numbers in parentheses refer to the Teague Report.

## Appendix II

### Information Collected on the § 3683 Waiver Approval Form for VA Employees with a For-Profit School Connection

**Table 9: Waiver Approval Application Information Collected from VA Employees with a For-Profit School Connection**

Waiver application	Required information
Waiver status	Approved or pending
Employee information	<ul style="list-style-type: none"> <li>Name, position title, phone number, email address, supervisor, employing office, brief description of VA duties</li> <li>Name of for-profit educational institution; type of connection (ownership, salary, gifts, services); connection status (past/current/future) and dates; brief description of connection</li> </ul>
Waiver criteria related to GI Bill duties  (Yes response for one or more activity will not satisfy the waiver criteria unless the connection is for a past ownership interest)	Performs duties concerning: <sup>a</sup> <ul style="list-style-type: none"> <li>policy determinations pertaining to payment of GI Bill benefits</li> <li>processing of applications for GI Bill beneficiaries</li> <li>making decisions on individual GI Bill applications</li> <li>compliance inspections of educational institutions serving beneficiaries</li> <li>processing of claims by or payments to schools or students</li> <li>inspection, approval, or supervision of GI Bill participating institutions</li> </ul>
Explanation for not satisfying waiver criteria	Please explain why you do not meet the waiver criteria. You should explain your duties that do not meet the waiver criteria. Please also describe whether your duties have ever impacted the for-profit school with which you have the connection. If you have a for-profit ownership interest, please describe the ownership interest.
Employee declaration regarding outside activities	I will abide by all applicable Federal laws in my relationship with the for-profit school, even if my relationship has ended. I will request a new waiver if (1) my VA duties change and affect my for-profit connection or (2) I intend to enter into a new for-profit connection that is of a different category than the connection for which I seek this waiver. <b>I will not</b> <ul style="list-style-type: none"> <li>seek or accept anything of value in exchange for official acts</li> <li>participate in a VA matter that will directly and predictably affect the financial interest of the for-profit school or that includes the for-profit school as a party</li> <li>use my public office for the private gain of the for-profit school</li> <li>represent the for-profit school before any federal agency or court</li> </ul>



	<ul style="list-style-type: none"> <li>• make unauthorized use of official time or government property for my for-profit related activities</li> <li>• give the appearance that VA sanctions or endorses the for-profit school or my related activities</li> <li>• use or disclose trade secrets and confidential business information or disclose/misuse information acquired as part of my official duties</li> <li>• accept gifts unless the same gift was offered to non-VA employees with the same type of connection and gift acceptance is permissible under federal ethics standards<sup>155</sup> (e.g., unsolicited gifts with an aggregate value of \$20 or less per occasion)</li> </ul>
Supervisor acknowledgement	I confirm that the employee's duties are summarized accurately and confirm that the employee does/does not satisfy the waiver criteria.
Granting official <sup>b</sup>  (Only used for applications that meet all waiver criteria, i.e., respond no to each criteria)	Preliminary approval means that you agree that the waiver should be granted (i.e., the employee correctly selected "no" for each criterion). After you approve, the proposed waiver will be subject to public comment for 30 days. If no comments are received, the waiver will be automatically finalized with no need for your final signature. If comments are received, OGC will forward those comments to you and you will be notified when it is time to grant final approval/disapproval.
OGC ethics official review	Recommendation and recommendation notes for employees whose applications are denied because their duties involve the GI Bill.
Under Secretary for Benefits official preliminary review  (Only used for applications that fail to meet waiver criteria, i.e., respond yes to one or more criteria)	I have reviewed the waiver request and recommendations by the OGC ethics group.

Source: Waiver applications obtained through a FOIA.

<sup>a</sup>Absent from the six criteria are employees who track, manage, and mediate complaints submitted by GI Bill beneficiaries.

<sup>b</sup>The granting official is the facility head or Director, Education Service. Education Service manages the GI Bill and is a component of Veterans Benefits Administration.

<sup>155</sup> See 5 CFR § 2635.204, "Exceptions to the prohibition for acceptance of certain gifts," <https://www.law.cornell.edu/cfr/text/5/2635.204>.

## Appendix III

### Results of our Review of the Texas SAA's Correspondence Regarding Approval of Retail Ready Career Center

The owner of the Retail Ready Career Center (RRCC) is currently in federal prison serving 19 years for stealing \$72 million in GI Bill funds by defrauding veterans and VA.<sup>156</sup> Prior to our public records request, there was little public information about why RRCC lost its eligibility to enroll GI Bill beneficiaries. In a September 28, 2017, press release, the Texas Veterans Commission, which includes the Texas SAA,<sup>157</sup> said it learned a search warrant had been executed at the RRCC about a week earlier based on an investigation undertaken by the VA Inspector General (IG).<sup>158</sup> RRCC chose to close the school and send the enrolled veterans home on September 27<sup>th</sup>. No reasons were given for the VA IG's investigation. Subsequent press coverage indicated that the school owner had allegedly lied on his application to enroll veterans by attesting that (1) the school had been in operation for two years as required by federal statute, and (2) he had not been facing any criminal or civil actions.<sup>159</sup>

The 714 pages of internal communications we obtained from the Texas SAA included correspondence among officials at the school; the Texas SAA; the Texas Workforce Commission (TWC), which licenses career education schools; and the VA regional office; and VA's Education Service in Washington, D.C., which manages the GI Bill.

Despite the volume of correspondence provided, the documentation is incomplete. In fact, a timeline of the SAA's interactions with RRCC included in the correspondence acknowledged that a significant amount of material was missing from their files. As a result, our understanding of the history of RRCC's interactions with the TWC and the Texas SAA is incomplete. For example, the correspondence contains no documents related to the firing of an SAA employee for accepting and then denying having accepted a gift from RRCC, even though there are references to the provision of gifts to SAA and TWC employees by the school.<sup>160</sup>

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<sup>156</sup> See Jacob Vaughn, "North Texas Trade School Owner Convicted After 'Bamboozling' Millions in Veterans Affairs Scheme," *Dallas Observer*, September 8, 2021, available at: <https://www.dallasobserver.com/news/bamboozled-feds-accuse-trade-school-owner-of-va-tuition-fraud-scheme-12364382>.

<sup>157</sup> The education component of the Texas Veterans Commission (TVC) [serves as the Texas SAA](https://www.tvc.texas.gov/about/). The TVC provides services to veterans in eight areas ranging from health care to education benefits. See Texas Veterans Commission, About the Texas Veterans Commission, "Our Mission," available at: <https://www.tvc.texas.gov/about/>, retrieved November 13, 2022.

<sup>158</sup> See Texas Veterans Commission, Media, "Statement on Retail Ready Career Center Closure," September 28, 2017, available at: <https://www.tvc.texas.gov/statement-on-retail-ready-career-center-closure/>.

<sup>159</sup> See Jacob Vaughn, "North Texas Trade School Owner Convicted After 'Bamboozling' Millions in Veterans Affairs Scheme," *Dallas Observer*, September 8, 2021, available at: <https://www.dallasobserver.com/news/bamboozled-feds-accuse-trade-school-owner-of-va-tuition-fraud-scheme-12364382>.

<sup>160</sup> The Texas Veterans Commission's attorney, John Goodell, disclosed the employee's firing during a telephone interview on April 22, 2022, with Veterans Education Success Research Director Walter Ochinko about the impact of state ethics laws on SAA staff. The SAA confirmed that the staffer, who was fired, was responsible for oversight of RRCC after it was approved in 2014. See e-mail from Siobhan Kennon, Legal Assistant, Texas Veterans Commission to Walter Ochinko, Research Director, Veterans Education Success, re: TVC Response to Your Public Information Request, July 18, 2022, available at: <https://vetsedsuccess.org/texas-saa-response-to-our-public-information-request-re-retail-ready-career-center/>.

## Background

RRCC's 2011 and 2012 applications to enroll veterans were denied because the school had not been in operation for two continuous years as required by the federal GI Bill statute, 38 U.S.C. § 3680A(e).<sup>161</sup> Thereafter, in August 2014, RRCC's HVAC Tech program was approved by the Texas SAA, subject to VA approval and the provision of a VA facility code.<sup>162</sup> With receipt of its facility code a month later, RRCC began to enroll veterans, receiving almost \$19,000 in tuition and fee payments per beneficiary for its six-week course. On December 29, 2015, RRCC received approval for a new program—Computer Repair (see Table 1).

**Table 1: Brief Chronology of RRCC Interactions with the Texas SAA**<sup>163</sup>

Date	Action
11/22/11	RRCC obtained an exemption allowed under Texas statute, which set the clock ticking for the school to be eligible to apply to enroll GI Bill beneficiaries in November 2013 (at page 537)
12/14/11	1 <sup>st</sup> application, denied by SAA because school had not met federal statutory requirement of having continuously enrolled students for two years (at page 540)
10/18/12	2 <sup>nd</sup> application, denied for same reason (at page 534) (letter dated 11/26/12 referencing 10/18/12 receipt of application)
2/19/14	SAA informs RRCC it is reviewing application <sup>a</sup> (at page 533)
8/7/14	RRCC notified by SAA that its HVAC program was approved effective 8/4/14 but school must wait for VA approval to enroll beneficiaries (at page 157)
10/19/14	RRCC submitted an application to update its 8/14 approval by adding a new program in Computer Repair (referenced on page 134)
12/29/15	Computer Repair program approved by SAA (at page 135)
6/22/16	RRCC approval amended to increase enrollment in both programs, from 84 to 848 (HVAC) and from 25 to 48 (Computer Repair) (at page 451)
2/10/17	SAA identifies concerns about fraud being committed by RRCC and receives multiple whistleblower complaints (at pages 694–696, 697, 700, 701, 702, 708–709)
4/20/17	SAA contacts VA IG and is told to send as much material (evidence of fraud committed by RRCC) as possible (at page 601)
6/7/17	RRCC enrollment suspended (at page 444)
8/21/17	SAA informed by VA IG that investigation is almost complete (at page 680)
9/20/17	VA IG informs SAA that search warrant on RRCC was executed (at page 681)
9/26/17	SAA withdraws SAA's approval to enroll GI Bill beneficiaries (at page 713)

Source: Veterans Education Success review of correspondence received through a public records request made to the Texas SAA. Page numbers refer to the RRCC PDF we obtained from the Texas SAA.

<sup>a</sup>The application was missing from the correspondence we obtained.

RRCC's 2015 catalog touted that its crash course, which included earning required certifications needed for employment, was a better option than other programs that took 12–24 months.<sup>164</sup> In addition to the lure of earning a certificate in six weeks, RRCC offered to pay airfare to its Texas

<sup>161</sup> See 38 U.S. Code § 3680A – “Disapproval of enrollment in certain courses,” available at: <https://www.law.cornell.edu/uscode/text/38/3680A#e>.

<sup>162</sup> For-profit or nonprofit non-college degree granting institutions are subject to the two-year requirement.

<sup>163</sup> Page numbers in table refer to page numbers of documents from the Texas Veterans Commission (TVC) about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>164</sup> These advertisements were misleading by omitting the fact that the length of the program varies based on the credential being sought.

training facility, free room and board, transportation to and from classes, an iPad mini loaded with all classroom materials, a technician's tool set, and job placement assistance. Besides these numerous free enrollment inducements, RRCC's ads indicated veterans were entitled to a VA housing benefit of around \$2,000.

Starting in February 2017, a series of internal SAA emails documented a growing concern that RRCC was committing fraud and violating multiple requirements for schools that are approved to enroll veterans.

- A handwritten note by a “mystery shopper”<sup>165</sup> (presumably an SAA employee) documented that RRCC accepted only the Post-9/11 benefit and not the other existing VA education benefit programs available to veterans, such as the Montgomery GI Bill.<sup>166</sup> The SAA reviewed all veterans certified to enroll in RRCC during 2016 and found only three of 1,975 individuals had used a benefit other than the Post-9/11 GI Bill.
- In March, a former RRCC employee sent an email to the SAA alleging serious improprieties: (1) RRCC was paid twice for training veterans; (2) veterans who used their Post-9/11 benefits to enroll were also “purchased” by HVAC companies that paid \$18,000 per veteran, money that was labeled a scholarship but which went directly to RRCC, not the veterans. In effect, RRCC was paid twice—once by VA and then again by these companies; and (3) veterans were paid \$500 to encourage them to enroll. This former employee, who said he had resigned because of the egregious fraud, provided a list of past students and employees who knew about or were the victims of these fraudulent practices.<sup>167</sup>
- Another SAA staff member sent the SAA Director the following email: “Last week, we discussed fraudulent practices by some of the schools which we approve. I had taken a screen shot from the Retail Ready website...[which] seemed to imply that if you were using Ch [Chapter] 30, 31, or 35 [rather than the Post-9/11 benefit] that you would have to pay with cash or financial aid.”<sup>168</sup>
- The SAA interviewed or received emails from several students and former employees who made the following allegations about RRCC:
  - Veterans were not told the school would take a full year of benefits for six weeks of training.
  - The school accepted only the Post-9/11 benefit and veterans would have to relinquish other benefits in favor of the Post-9/11 to enroll.

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<sup>165</sup> See pp. 631, 634 of documents from the Texas Veterans Commission in response to our request for public records, available at <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>166</sup> RRCC may have preferred the Post-9/11 benefit because it is more generous than other existing VA education benefit programs. The Post-9/11 GI Bill pays tuition and fees directly to the school, in addition to living and book allowances paid to the beneficiary. In contrast, the Montgomery GI Bill program makes a monthly lump-sum payment to the beneficiary who must decide how much to allocate to tuition, living, and other expenses. The price of RRCC's six-week program was \$18,810, just shy of the annual cap on Post-9/11 tuition and fee payments to a private school in 2014—\$19,198. See U.S. Department of Veterans Affairs Fact Sheet, June 17, 2014, available at: <https://nvf.org/gi-bill-fact-sheet-june-2014/>. By 2016, the RRCC tuition had increased to \$20,059, when the Post-9/11 tuition and fee cap, which is adjusted annually for inflation, had risen to \$21,970. See VA Post-9/11 GI Bill [Chapter 33] Payment Rates for 2016 Academic Year, available at: [https://www.benefits.va.gov/GIBILL/resources/benefits\\_resources/rates/ch33/ch33rates080116.asp](https://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch33/ch33rates080116.asp).)

<sup>167</sup> See pp. 689-690 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>168</sup> Ibid. p. 632.

- The school’s HVAC tool kits provided to students were substandard and insufficient; veterans had to purchase other tools to perform tasks effectively. VA was therefore overcharged for tools, which were included in tuition and fee payments.
- The six weeks of training were chaotic because there were too many students crowded into a classroom. Former employees alleged that classroom attendance far surpassed the number of students approved for each classroom under local safety rules, and one employee alleged that he was told by the owner to forgo the certificate of occupancy.<sup>169</sup>
- Veterans experienced the school as “a waste of time”—not a good quality of education, not a legitimate crash course, and students felt pushed through.
- Veterans claimed they never found a job in the HVAC industry even though a job was guaranteed.<sup>170</sup>
- Students complained that it was difficult to retain all the information provided during classes and labs in such a short timeframe.
- The school said it was accredited but students received a phony credential showing graduation with the certifications to become a technician.
- While enrolled in 2015, students learned that the school owner was arrested for money laundering, which made students question this school and whether they were being taken advantage of.<sup>171</sup>
- The school used scholarships in violation of the rule that no more than 85 percent of students in a course could be veterans, a rule established to ensure that programs are not created to exclusively enroll veterans.<sup>172</sup> Moreover, federal statute requires that students receiving institutional assistance must be included with individuals using the GI Bill.<sup>173</sup>
- The owner’s sister was paid to recruit students for RRCC through a company the owner “bankrolled” and where a former RRCC employee worked.<sup>174</sup>
- We learned from the SAA that an employee was fired sometime in 2017 for lying about a gift the employee had accepted from RRCC, a school for which the employee had oversight responsibility.<sup>175</sup> Accepting gifts is a violation of 38

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<sup>169</sup> See p. 598 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>170</sup> See p. 602 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>171</sup> See pp. 601-602 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>172</sup> See pp. 595-596 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>173</sup> The federal 85/15 rule at VA was enacted in 1952 to protect GI Bill beneficiaries from predatory schools that offered shoddy training at inflated costs and that were created exclusively to enroll veterans. Such schools proliferated after enactment of the original GI Bill in 1944. See Veterans Education Success, “The 85/15 Rule and Related GI Bill Safeguards,” (2019), available at: [https://vetsedsuccess.org/wp-content/uploads/2019/10/IB-13-on-85\\_15-rule-6.0.cw-1.pdf](https://vetsedsuccess.org/wp-content/uploads/2019/10/IB-13-on-85_15-rule-6.0.cw-1.pdf).

<sup>174</sup> See pp. 594, 597, 689 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>175</sup> The Texas Veterans Commission’s attorney, John Goodell, disclosed the employee’s firing during a telephone interview on April 22, 2022, with Veterans Education Success Research Director Walter Ochinko about the impact



U.S.C. § 3683,<sup>176</sup> which was enacted in 1952 to curb rampant bribery of SAA staff. The employee's firing was consistent with the remedy spelled out in statute at the time. Moreover, the same school also sent "extensive gift baskets" to other employees at the SAA and TWC at Christmas 2015.<sup>177</sup> Handwritten notes from an interview with another SAA employee conducted in March 2017 included a sticky note stating, "GIFT Return."<sup>178</sup>

- On April 20, 2017, the SAA referred RRCC to the VA IG which asked to be sent as much material on the allegations as possible.<sup>179</sup>
- In June 2017, the SAA halted enrollment in RRCC's HVAC program. Although the correspondence contained no notice to the school of this action, a veteran who asked VA to have his enrollment certified for an August start date was told that the program's approval had been suspended.
- On September 20, 2017, the VA IG executed a search warrant and RRCC closed about 1 week later.

### ***Red Flags***

Our review of the correspondence to, from, and about RRCC from 2011 through 2017 identified behavior on the part of the school that should have raised red flags long before the SAA began collecting evidence in early 2017 that the school was engaging in fraud and violating GI Bill approval requirements.

- *RRCC granted an exemption without an onsite visit.* On November 22, 2011, Jon Davis Companies was notified by TWC that its request for an exemption from the regulation of career schools under the Texas Education Code<sup>180</sup> was approved for five employer-sponsored training courses. The notification letter set the clock ticking on meeting the federal requirement for two years of continuous operation for program approval for GI Bill.<sup>181</sup> The letter stated that any change in operation, name, location, or courses could jeopardize the exemption and that the TWC had not approved the curriculum, teachers, classrooms, or conducted an onsite visit. It appears unlikely that the TWC or SAA conducted any site visits until after the school was eligible to apply for GI Bill approval in November 2013. When the school did apply in December 2013, it informed the SAA that the Jon Davis Companies had

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of state ethics laws on SAA staff. The SAA later confirmed that the staffer, who was fired, was responsible for oversight of RRCC after it was approved in 2014. See e-mail from Siobhan Kennon, Legal Assistant, Texas Veterans Commission to Walter Ochinko, Research Director, Veterans Education Success, re: TVC Response to Your Public Information Request, July 18, 2022, available at: <https://vetsedsuccess.org/texas-saa-response-to-our-public-information-request-re-retail-ready-career-center/>.

<sup>176</sup> See 38 U.S.C. § 3683, "Conflicting interests," available at: <https://www.law.cornell.edu/uscode/text/38/3683>.

<sup>177</sup> See p. 599 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>178</sup> Ibid., 605.

<sup>179</sup> Ibid., 601.

<sup>180</sup> See Texas Education Code, available at: <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.132.htm>. See also p. 537 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/> for the November 22, 2011 approval letter.

<sup>181</sup> See 38 U.S.C. § 3680A(e), available at: <https://www.law.cornell.edu/uscode/text/38/3680A#e>.



changed its name to Retail Ready Career Center and moved to a different location, which the TWC acknowledged in a December 20, 2013, letter.<sup>182</sup>

- *Repeatedly sought approval prior to eligible date.* Despite being informed that his company could not apply for approval to enroll GI Bill beneficiaries until November 2013, Jon Davis Companies submitted applications to the Texas SAA on December 14, 2011, and October 18, 2012. Both applications were denied because the school had not been in operation for two years as required by federal statute.<sup>183</sup>
- *Owner engages governor's office.* A planned November 2012 letter from the SAA to Jon Davis Companies denying his application to enroll veterans because the school had not been in continuous operation for two years was delayed because unnamed "issues" raised by the Governor's office had not been resolved. Jon Davis had called the SAA for an update on the application and was told "it was under review at a higher level,"<sup>184</sup> raising the possibility that Davis, himself, had contacted the Governor's office. The SAA director wrote a mid-November memorandum for the record to document the reason for the delay.<sup>185</sup> Ultimately, a denial letter was sent on November 26, 2012.
- *Exorbitant tuition and fees.* RRCC's tuition and fees were pegged to the Post-9/11 GI Bill cap for a full two semesters of classes at private institutions, even though the RRCC program was far shorter. In effect, GI Bill beneficiaries used the equivalent of a full year of their benefits for RRCC's six-week course.
- *Beneficiaries' monthly education benefit checks sent to RRCC.* The approval package for RRCC indicated that the school did plan on receiving VA students' monthly education benefit checks at the school address. For veterans using their Post-9/11 benefit, the checks were for their monthly living and book stipends. For those using other education benefits, such as the Montgomery GI Bill, the checks sent to the school represented a lump sum monthly payment intended to cover all expenses associated with enrollment, including housing and book in addition to tuition and fees.<sup>186</sup> At least one student whistleblower complained to the SAA that he was unsure if he received any living stipend for the period he was enrolled and another complained that he did not receive his entire book stipend.
- *Approval granted without requiring proof that requested changes had been made.* When it identified deficiencies in RRCC's paperwork, the SAA sometimes did and sometimes did not require the resubmission of requested changes. Thus, RRCC's approval to enroll veterans in August 2014 contained handwritten notes made by the SAA on catalogue pages, such as crossing out unallowable costs included with tuition and fees, including an application and book fees.<sup>187</sup> SAA communications to RRCC made it clear that all issues identified during the review must be resolved prior to approval and that the paperwork should clearly reflect that the school had made the requested changes.

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<sup>182</sup> See p. 640 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>183</sup> Ibid., 534.

<sup>184</sup> See p. 538 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>185</sup> Ibid., 539.

<sup>186</sup> RRCC actively discouraged veterans using benefits other than the Post-9/11 GI Bill from enrolling.

<sup>187</sup> Within a year, the cost of the tools included in tuition and fees tripled from \$495 to over \$1,500. See 90, 149, 478, 499–504 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

- *Did the SAA verify that any of the individuals identified as RRCC students attended classes and graduated?* In confirming that the school met the statutory requirement to be in continuous existence for two years before being allowed to enroll veterans, RRCC provided the names of 24 individuals who allegedly took two or three days of classes sponsored by their employers. On August 7, 2014, the day the school was notified it had been approved, the SAA asked for an additional student who had been attending on August 4, 2014. The request explained that the SAA staffer performing the verification had not gone back far enough and concluded “waiting with my fingers crossed.”<sup>188</sup> RRCC responded with information on a student who completed training on August 3, not August 4. It is unclear if the SAA verified that any of the students identified by RRCC did in fact attend classes at the school.
- *Self-reported financial information.* A legitimate business would have financial records, a bank account, tax returns, and perhaps an audited financial statement. However, the SAA told the owner that submission of an owner-prepared balance sheet was acceptable.<sup>189</sup>
- *Owner was the only instructor when school was approved.* In response to July 2014 SAA questions about deficiencies in RRCC’s application, the owner (Jon Davis) informed the SAA that he was the only instructor. This admission should have raised questions about whether RRCC was a legitimate enterprise. The SAA accepted the owner’s explanation that TWC was in the process of approving additional instructors.<sup>190</sup>
- *RRCC attempts to slip new program into its approval package pending with the SAA.* On June 26, 2014, TWC sent RRCC an email indicating that the SAA had asked TWC about the school’s inclusion in its HVAC application of “an additional program outline in a separate catalogue-type publication” (an 80-hour Computer Repair program) with a notation that this program was regulated by TWC. However, as of June 26, no application for this program had been submitted to the TWC. Because non-college degree programs must be approved by the TWC before they can be considered for approval by the SAA, the SAA notified RRCC that only the HVAC program was being considered for approval and not the Computer Repair program.<sup>191</sup>
- *Recruiting veterans prior to approval.* Veterans were asking VA to certify enrollment in the HVAC program before it was approved, suggesting that RRCC was recruiting students prior to approval. RRCC would have known this was not allowed because it was warned by TWC in June 2014 about soliciting enrollment for its new Computer Repair program before that program was approved. The TWC warning pointed out that under Texas Administrative Code such recruiting was considered misrepresentation and would entitle each student to a full refund. In addition, an administrative penalty would be assessed on RRCC.<sup>192</sup> Rather than act on the red flag of veterans’ seeking to enroll in the HVAC program before it was approved, the SAA undercut the statutory requirements by informing RRCC that any

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<sup>188</sup> See p. 504 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>189</sup> Ibid., 514.

<sup>190</sup> Ibid., 508.

<sup>191</sup> Ibid., 519.

<sup>192</sup> See Rule §807.122(g) at Texas Administrative Code, available at: [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=40&pt=20&ch=807&rl=122](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=20&ch=807&rl=122). See also p. 519 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>, for warning by TWC.

veterans who enrolled up to one year prior to the SAA's approval could use their benefits even though they had already graduated.<sup>193</sup>

- *Abrupt reversal of teaching modalities.* RRCC's paperwork detailed a plan to devote 80 percent of the program to classroom training and 20 percent to lab work,<sup>194</sup> but this was reversed to 20 percent classroom and 80 percent lab about one year after approval, an abrupt shift that should have raised questions about the quality of the school's pedagogy.
- *Enrollment caps were ignored and the training facility's certificate of occupancy was never obtained.* The HVAC course was approved for maximum enrollment of 25 students per class in August 2014. It was subsequently increased to 84 and then in July 2016 to 848.<sup>195</sup> This huge increase appears to rest on a calculation submitted by RRCC, based on a city-approved certificate of occupancy. It is unclear if the SAA ever saw the city-approved certificate of occupancy, which was used to justify this large increase. A March 20, 2017, handwritten note by the SAA suggests that the school exaggerated its square footage, and its occupancy should have been limited to 477.<sup>196</sup> According to contemporaneous notes taken during a May 4, 2017, meeting with a whistleblower, the SAA was told that RRCC "went way over [the approved] 84 students—last class started 180 students 4/1/16." He added that after "a 20,000 sq ft remodel Jon Davis [school owner] directed him to forgo certificate of occupancy [expletive] need 180 students."<sup>197</sup>
- *Certification of criminal or civil actions.* As an instructor, the owner was required to submit a form answering the question of whether he had ever been convicted of a felony or a misdemeanor. It is unclear if the SAA attempted to verify that the school owner had not been facing any criminal or civil actions, which he clearly was by 2015. In 2017, a former student told the SAA that there was a 2015 article about the president of the school being arrested for money laundering, "which made us all question this school and if we were being taken advantaged [sic] of."<sup>198</sup>
- *Could graduates find jobs?* The correspondence contained no indication that the SAA had ever attempted to independently check on the employment status of veterans who graduated. Whistleblowers interviewed by the SAA in the spring of 2017 stated that RRCC hired former students, suggesting that graduating from RRCC did not guarantee the jobs students were promised.
- *Site visit finding at odds with whistleblower's allegations.* A site visit conducted on June 22, 2016, found that the facility was "satisfactory for the training of veteran students." It was "neat, clean, and more than adequate for administrative and teaching activities."<sup>199</sup> The SAA site visit form included an affirmative checkmark to answer the question of whether "the school has retained the same faculty, student body, and courses." None of the other approximately 40 questions on the form were answered, including: "The school complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building, and sanitation codes. The State Approving Agency may require such evidence of compliance as is deemed necessary." The findings are at odds with a whistleblower's allegations that the school: (1) exceeded its enrollment cap in April 2016; and (2) had

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<sup>193</sup> See p. 517 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>194</sup> Ibid., 477. No. 6.

<sup>195</sup> Ibid., 77, for 2016 increase.

<sup>196</sup> Ibid., 630.

<sup>197</sup> Ibid., 598.

<sup>198</sup> Ibid., 700.

<sup>199</sup> Ibid., 453.

decided to forgo obtaining an occupancy permit, which should have been prominently posted or, at a minimum, made available upon request.

- *85/15 reports.* Although the SAA repeatedly asked for 85/15 reports, only two were included in the correspondence provided in response to our public records request. Rather than showing the ratio of veteran to non-veteran enrollment for each of the three classes as required, one report showed the overall ratios for the quarter. A second report combined several classes instead of reporting the enrollment ratios for each class separately.<sup>200</sup> There was no indication in the correspondence that RRCC was asked to resubmit the reports, though February 2017 correspondence states that the last submitted report was in October 2016.<sup>201</sup> Moreover, internal documents at the Texas SAA referenced a 2016 financial statement showing that 93 percent of the school's revenue came from GI Bill students,<sup>202</sup> suggesting that RRCC might have exceeded the 85 percent cap on beneficiary enrollment.
- *Complaints.* Veterans submitted six complaints to VA through the GI Bill Feedback Tool<sup>203</sup> during 2016.<sup>204</sup> The complaints accused RRCC of (1) lying about accreditation, which is important because it can affect the ability of graduates to obtain licenses to work;<sup>205</sup> (2) providing disorganized classes that hardly taught anything; (3) violating the 85/15 requirement because classes consisted only of veterans; (4) making it difficult to obtain job placement services because the RRCC counselor was hard to connect with; and (5) hiring instructors who had worked for HVAC companies but were not qualified teachers. The SAA did not receive copies of the six 2016 veteran complaints until September 22, 2017, four days before the RRCC closed.
- *Questionable RRCC commitment to its second program.* The long, drawn-out approval process for a second program and the numerous deficiencies in the application throughout the process were notable. In November 2014, RRCC applied for a new program in computer repair.<sup>206</sup> This program was not approved by the SAA until December 29, 2015, after months of back-and-forth between RRCC and the SAA via emails about missing material in the application and inconsistent paperwork on the instructors.<sup>207</sup> It took as long as five months for RRCC to respond to SAA questions, raising questions about how serious the school was in offering the program. In fact, RRCC discontinued the program in July 2017, telling the SAA that "the technology changes so quickly that our curriculum would never be up to date."<sup>208</sup>

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<sup>200</sup> Ibid., 564.

<sup>201</sup> Ibid., 634.

<sup>202</sup> Ibid., 679.

<sup>203</sup> See U.S. Department of Veterans Affairs, Education and Training, Feedback, "GI Bill Feedback Tool," available at: <https://www.benefits.va.gov/GIBILL/Feedback.asp>.

<sup>204</sup> See p. 708 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>205</sup> Our 2015 report found that 20 percent of 300 campuses examined that were approved to enroll veterans lacked the appropriate accreditation for graduates for state licensure or certification and, as a result, veterans were unable to obtain a job in their field of study. See Veterans Education Success, "The GI Bill Pays for Degrees That Do Not Lead to a Job," September 2015, available at: <https://vetsedsuccess.org/wp-content/uploads/2015/09/gi-bill-pays-for-degrees-that-do-not-lead-to-a-job.pdf>.

<sup>206</sup> See p. 495 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>207</sup> Ibid., 135, for approval notice.

<sup>208</sup> Ibid., 437.

- *Inadequate compliance surveys.*<sup>209</sup> SAA compliance surveys of approved programs are announced several weeks in advance and the school is told what records should be available for review. Advance notice may allow schools to doctor those records to avoid deficiencies. The SAA conducted a compliance survey of RRCC on June 8, 2017—the day after the school was suspended—and the SAA identified no deficiencies in its site visit.<sup>210</sup> Moreover, no student interviews were conducted and no classes were observed. Their absence is surprising because a whistleblower complaint prior to the June 8 visit had noted that the school was “chaos”<sup>211</sup> and that classes were too large for effective learning. Veteran complaints filed in 2016 also contained allegations about the poor quality of the training provided, but these were not offered to the SAA by VA until early September 2017, just prior to RRCC’s closure. Even when deficiencies were identified, the default response was to assume the school made an honest mistake or just misunderstood the rules. For example, the deficiencies identified in a previous compliance review conducted by the VA in August 2016 resulted in an SAA site visit to provide training to RRCC staff.<sup>212</sup>
- *SAA should have known that RRCC was requiring veterans to relinquish other benefit programs for the Post-9/11 GI Bill.* Although by February and March 2017, the SAA suspected that RRCC accepted only those veterans who were using the Post-9/11 GI Bill, the SAA should have known much earlier. The correspondence provided by the SAA included a July 3, 2017, letter to a veteran from the VA regional office acknowledging his decision to relinquish the Montgomery GI Bill in favor of the Post-9/11 benefit.<sup>213</sup> This letter suggests that every time RRCC enforced its Post-9/11 only policy, the VA regional office should have sent a similar letter to the SAA. However, there was no other similar correspondence in the material provided by the SAA in response to our public records request.

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<sup>209</sup> Compliance surveys are essentially time-consuming audits to ensure the accuracy of payments made to schools on behalf of GI Bill beneficiaries. Our 2019 report discusses how SAAs’ compliance survey workload has crowded out annual site visits to monitor schools’ adherence to statutory requirements. See Veterans Education Success, “Overemphasis on Payment Accuracy Impedes More Effective SAA Oversight of Schools Participating in the GI Bill,” September 2019, available at: <https://vetsedsuccess.org/wp-content/uploads/2019/09/overemphasis-on-payment-accuracy-impedes-more-effective-saa-oversight-of-schools-participating-in-the-gi-bill.pdf>.

<sup>210</sup> See p. 559 of documents from the Texas Veterans Commission about the Retail Ready Career Center in response to our public records request, available at: <https://vetsedsuccess.org/texas-veterans-commission-tvc-documents-about-the-retail-ready-career-center-in-response-to-our-public-records-request/>.

<sup>211</sup> Ibid., 701.

<sup>212</sup> Ibid., 608.

<sup>213</sup> Ibid., 444.



## Appendix IV

### Results of our Review of VA Approval Correspondence for Two House of Prayer Bible Seminaries in Georgia

Before it was raided by the FBI in June 2022, the House of Prayer Bible Seminary (HOP) reportedly received approximately \$7 million in GI Bill funds from VA to educate veterans. Our review of the Georgia SAA's approval and oversight correspondence regarding HOP revealed several concerns in the GI Bill approval process. We reviewed more than 100 pages of correspondence and documents to, from, or about HOP spanning 11 years; the Georgia SAA provided these documents in response to our public records request of June 2022, when the news of the FBI raid became public.<sup>214</sup>

#### I. Background

##### *Allegations*

In March 2020, a married couple contacted Veterans Education Success with allegations of widespread fraud by the Georgia-based church and seminary. Over the ensuing weeks, our legal staff interviewed 14 current and former students, employees, and church members—almost all of whom were veterans—who alleged the following:

- HOP lied to VA inspectors about the time students spent in class, where classes were taught, the proportion of students who were using the GI Bill, and the number of students it had enrolled at certain campuses.
- HOP coached veterans to increase their VA disability compensation payments fraudulently and to obtain VA home loans and then pressured the veterans to donate the money and homes to the church.
- GI Bill beneficiaries were charged higher tuition than other students.
- HOP lied about teacher qualifications.
- Students spent class time recruiting new church members.
- HOP repeatedly changed its curriculum to keep students enrolled longer.
- Despite depleting their GI Bill benefits, students never received a diploma or other credential.
- The curriculum spelled out in the school's catalog was not actually taught, and the education was extremely low-quality.
- HOP did not provide students with financial or academic records.
- Church members were told by military officials to stop recruiting on military bases.

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<sup>214</sup> The public records we received from the Georgia SAA are available at: <https://vetsedsuccess.org/georgia-saa-documents-about-house-of-prayer-in-response-to-our-public-records-request/>. The material provided did not include documents between the U.S. Department of Veterans Affairs (VA) and the Georgia SAA related to our August 2020 letter to both of them raising allegations of fraud by HOP. As a result, we submitted a Freedom of Information Act (FOIA) request to VA in August 2022 for correspondence and records from the date of our August 2020 letter and the June 2022 Federal Bureau of Investigation's (FBI) raids of HOP campuses. Our request was denied because its disclosure might interfere with ongoing enforcement proceedings. The VA Office of Inspector General (OIG) suggested that we resubmit our FOIA request when the case has been closed. See <https://vetsedsuccess.org/departments-of-veteran-affairs-response-to-our-freedom-of-information-act-foia-request-for-communications-regarding-the-house-of-prayer-bible-seminary/>

In August 2020, we summarized all of the allegations we received from the 14 individuals in a letter<sup>215</sup> to VA and the Georgia SAA. The Georgia SAA Director later said<sup>216</sup> that, because the allegations were criminal in nature, his office had referred the allegations to VA.<sup>217</sup>

Almost two years later, the FBI raided all five bible seminaries, seizing computers and records. Citing the FBI raid, approval to enroll beneficiaries at all HOP Bible Seminaries was subsequently withdrawn and the campuses were removed from the GI Bill Comparison Tool. Neither the FBI, VA, nor the SAAs have released any additional details about the evidence collected during the raid.

### ***GI Bill Approval***

As of June 2022, the HOP Christian Church had 10 locations across the United States. Five of its ministries operated bible seminaries, all of which were near U.S. military installations where they actively recruited church members and potential seminary students.

In 2012 and 2014, the Hinesville and Hephzibah, Georgia, seminaries applied to the SAA for approval to enroll GI Bill beneficiaries and were subsequently approved. Table 1 provides a brief chronology of the Georgia SAA's interactions with the HOP campuses in Georgia from 2012 through June 2020.

**Table 1: Brief Chronology of HOP Interactions with Georgia SAA**

<b>Date</b>	<b>Action</b>
1/10/12	Georgia Nonpublic Postsecondary Education Commission approves a religious exemption from provisions of the Georgia Nonpublic Postsecondary Educational Institutions Act of 1990 for nonprofit HOP Bible Seminary in Hinesville, Georgia, which status carried "no state recognition whatsoever as to approval, accreditation, or authorization to operate."
2/29/12	HOP Bible Seminary in Hinesville, GA, applies to the SAA for VA benefits
9/28/12	SAA documents that it conducted an "approval visit" of the Hinesville facility on 9/26/12 and that "All areas are adequate and meet the requirements for site approval. The facility appears to be in compliance with approval criteria."
10/2/12	SAA transmits approval package of HOP Bible Seminary as a proprietary nonaccredited degree-granting institution to the VA regional office
3/20/14	HOP Bible Seminary applies for approval of a new school in Hephzibah, Georgia
3/31/14	SAA documents that it conducted an "approval visit" of the HOP Bible Seminary Hephzibah facility on 3/27/14 and that "All areas are adequate and meet the requirements for site approval. The facility appears to be in compliance with approval criteria."
4/1/14	SAA transmits approval package for HOP Bible Seminary-Hephzibah as a proprietary non-profit, non-accredited, non-college degree granting institution to the VA regional office
10/30/14	SAA transmits approval for Addendum (fee schedule) to 2014-2015 Catalog for HOP Bible Seminary-Hephzibah to the VA regional office
3/7/16	SAA transmits approval package for three new certificate programs at HOP Bible Seminary-Hephzibah to the VA regional office
2/18/20	HOP Bible Seminary-Hephzibah submits application for update of approval, no changes to the programs

<sup>215</sup> Veterans Education Success, "Our Letter to VA and Georgia SAA Regarding House of Prayer Christian Church," August 1, 2020, available at: <https://vetsedsuccess.org/letter-to-va-and-georgia-saa-regarding-house-of-prayer-christian-church/>.

<sup>216</sup> See Hayley Boland, "Report Compiled by Veterans Education Success Claims House of Prayer Church Committed Fraud," *WTOC 11*, June 24, 2022, available at: <https://www.wtoc.com/2022/06/24/report-compiled-by-veterans-education-success-claims-house-prayer-church-committed-fraud/>.

<sup>217</sup> Prior to the allegations we received in 2020, no veteran education complaints against HOP were submitted to VA. We speculate the prior lack of complaints could be attributed to the described "cult-like" control that students and teachers alleged the church exercised over its members, who were allegedly ostracized and subjected to public humiliation if they questioned the church's leader.

3/19/20	In reference to “Catalog Update” the SAA asks for a PDF version of the HOP catalog for both locations because SAAs “now can only submit catalogs electronically to VA”
4/7/20	Because of COVID, the SAA approves the HOP’s request to offer its classes via correspondence using a teleconference system with the proviso that the school takes attendance at the beginning of each call
7/22-23/20	SAA emails HOP Bible Seminary following review of the catalog, stating “I have a few concerns” and requesting more specificity be provided in the catalog with respect to credit for previous training and to include a pro rata refund policy for at least VA GI Bill beneficiaries; HOP provides addendum to the catalog
7/24/20	SAA transmits approval for HOP Bible Seminary-Hephzibah previously approved programs and enclosures, including 2020-2022 Catalog with addendum
8/1/20	Veterans Education Success sent a letter to VA and the Georgia SAA summarizing allegations made by 14 HOP students, employees, and church members
8/21/20	HOP Bible Seminary notifies SAA it is discontinuing fees for all students for upcoming semester
12/29/20	HOP Bible Seminary submits addendum to catalog
1/14/21	SAA transmits approval of 2020-2022 Catalog addendum to the VA regional office
6/23/22	FBI raids HOP bible seminaries in five states
6/27/22	SAA notifies HOP that effective June 24, 2022, its Hinesville and Hephzibah campuses were withdrawn from State approval and no longer authorized to certify new students to the Department of Veterans Affairs “based on the current FBI investigation”

Source: Veterans Education Success review of correspondence received through a public records request made to the Georgia SAA. Fact of FBI raid reported by media.<sup>218</sup>

From 2014 through 2015, seminaries in Texas, Washington State, and North Carolina were also approved by those states’ SAAs to enroll veterans and qualifying dependents, according to archived copies of VA’s GI Bill Comparison Tool, which shows all approved education programs. According to press reports, VA paid the HOP approximately \$7 million in tuition and fees for the GI Bill beneficiaries it enrolled.<sup>219</sup>

## **II. HOP’s Application Contained Inconsistencies and Problems That—Had They Been Investigated—Could Have Stopped the Fraud Years Prior to the FBI Raid**

38 USC § 3676 (b) requires an institution offering non-accredited courses to submit an application to the appropriate SAA, along with two copies of the institution’s catalog that must contain certain information. Under 38 USC § 3676 (c), an SAA may approve an institution offering non-accredited courses if, after an investigation, it finds the institution meets certain listed criteria. Based on the Georgia SAA’s correspondence to, from, and about HOP, we identified inconsistencies and problems in HOP’s application, which should have triggered additional scrutiny. The fact that these inconsistencies and problems were not investigated highlights shortcomings in the approval and oversight process used nationwide.

### *a. Self-reported, handwritten financial information.*

<sup>218</sup> See Alexandra Koch, “FBI Raids Georgia Church Near Military Bases, Sources Say Church Was Targeting Soldiers,” June 24, 2022, *Savannah Morning News* via *USA Today*, available at: <https://www.usatoday.com/story/news/nation/2022/06/24/fbi-raids-house-prayer-churches/7724801001/>.

<sup>219</sup> See Steve Beynon and Thomas Novelty, “How a Church Allegedly Scammed Millions in VA Money from Vets,” July 19, 2022, *Military.com*, available at: <https://www.military.com/daily-news/2022/07/19/how-church-allegedly-scammed-millions-va-money-vets.html>. (Separately, we attempted to calculate Post-9/11 GI Bill payments to HOP from its initial approval in FY 2013 through the June 2022 FBI raid using the GI Bill Comparison Tool. However, the data were incomplete after FY 2018. Total payments reflected on the Comparison Tool from FY 2013 through August 2020 totaled \$4,962,515.)

From a review of GA SAA online archived records and forms, it appears that in 2012 and 2014 the financial soundness inquiry was satisfied by HOP’s filling out a form. The approval paperwork for Hinesville in 2012 contains VSO Form 67 prepared by HOP’s “Controller/Secretary”; information provided on the form in 2012 purportedly is “the Financial Statement of December 2011.” The approval paperwork for Hephzibah in 2014 also contains VSO Form 67 prepared by the same person under the title “Secretary.” The 2014 form contains only handwritten information. There is no indication from either 2012 or 2014 that the information had been prepared by a certified public accountant. No other financial records of HOP, such as financial statements for multiple years, annual reports, or bank statements, were provided. The statute requires the SAA to investigate whether “[t]he institution is financially sound and capable of fulfilling its commitments for training,” with no additional clarification beyond the basic requirement.<sup>220</sup>

*b. No evidence of verification of teacher qualifications.*

As students, staff, and church members alleged in 2020, instructors were not qualified to teach. Nearly a decade earlier, none of the correspondence obtained from the SAA through our public records request included information about HOP instructors’ qualifications, nor any request for documentation about the teachers. Instead, instructors are mentioned only in terms of what is required for catalog approval. The 2020–2022 Catalog, the only version provided in response to our public records request, lists 13 faculty members, all with the title “Rev.”, and no other information such as education, training, or experience. 38 USC § 3676 (c)(5) allows an SAA to approve a non-accredited institution “when the institution and its non-accredited courses are found upon investigation to have met the following criteria,” including “[e]ducational and experience qualifications of directors, administrators, and instructors are adequate.”

*c. School records were inadequate or nonexistent.*

Students, staff, and church members alleged HOP had inadequate records:

- Attended HOP for years without receiving a certificate or degree.
- HOP does not provide students with financial or academic records. Student was told we “don’t do records.”

Source: Allegations contained in our August 2020 letter to VA and the Georgia SAA.<sup>221</sup>

In 2012 and 2014, HOP provided the SAA with lists totaling individuals who the school said had graduated from associate and bachelor’s degree programs, including a surprising number of people who share the same surname and appear to be married couples. In 2012, HOP provided a total of 41 names of persons who purportedly graduated from 2009–2011, and in 2014 HOP provided nine names of purported graduates from 2011–2013. Requesting academic records to support the claimed graduation of these 50 individuals would have enabled the SAA to confirm their graduation. Under 38 USC § 3676 (c)(7), an SAA may approve an institution if after investigation it finds “[a]dequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.”

<sup>220</sup> 38 USC § 3676 (c)(9).

<sup>221</sup> Veterans Education Success, Letter to the U.S. Department of Veterans Affairs and Georgia State Approving Agency, RE: House of Prayer Christian Church, August 1, 2020, available at: <https://vetsedsuccess.org/letter-to-va-and-georgia-saa-regarding-house-of-prayer-christian-church/>.

*d. Information submitted on the institution and its programs was suspicious and should have required an explanation.*

HOP submitted dubious information for its course approvals. For example, HOP submitted inconsistent program duration data about its courses: The SAA approved the HOP's application to offer three programs at its Hinesville location in 2012, and then, in 2014, HOP submitted a new application for the same three programs at a different Georgia location. The school's 2012 application requested approval for a certificate program (18 hours), associate (72 hours), and bachelor's (144 hours), but by 2014 the length of the three programs was expressed in clock hours—certificate (3,024 clock hours), associate (1,728 clock hours), and bachelor's (3,465 clock hours)—rather than the prior description, which likely referenced credit hours (see Table 2). The application form in 2012 and 2014 included a notation to provide "Complete CLOCK (contact) HOURS if your institution is a Non-College Degree (NCD) institution." There was no explanation for the use of credit hours or change to clock hours in the approval correspondence we reviewed and no request by the SAA for an explanation in the documents we reviewed. Although that correspondence included only limited excerpts from the catalog, the materials we received included a full copy of the 2020–2022 HOP catalog, which provided additional details on the programs provided at both the Hinesville and Hephzibah locations: certificate (126 credit hours, 3,024 clock hours); associate (72 credit hours; 1,728 clock hours); and bachelor's (144 credit hours, 3,456 clock hours).<sup>222</sup>

Former students and church members later alleged that HOP renamed and reordered classes to deceive students and the VA into paying for potentially repetitive courses, as we documented in our August 2020 letter to VA and the Georgia SAA.

- |   |
|---|
| <ul style="list-style-type: none"><li>• The school used several tricks to keep the money flowing: classes were renamed because VA won't pay for a veteran to repeat a course.</li><li>• The school changed course titles and broke them into multiple classes to keep students enrolled longer.</li></ul> |
|---|

Source: Allegations contained in our August 2020 letter to VA and the Georgia SAA.<sup>223</sup>

The inconsistent program duration data provided to the SAA by HOP raises the following issues:

- The HOP bachelor's degree program approved in 2012 required 144 credit hours of coursework, 24 credit hours more than a typical bachelor's degree. But, in a 2014 approval of the same degree program at a different location, 3,456 clock hours and no credit hours were reported. The Education Department's guidance on clock hours is complex and has changed over time. At a minimum, the SAA should have asked why HOP changed how it reported program duration and calculated the equivalent credit hours.<sup>224</sup>

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<sup>222</sup> It is possible the change was rooted in the apparent confusion around whether HOP was considered a non-college degree granting institution (as evident in documents discussed below).

<sup>223</sup> Veterans Education Success, Letter to the U.S. Department of Veterans Affairs and Georgia State Approving Agency, RE: House of Prayer Christian Church, August 1, 2020, available at: <https://vetsedsuccess.org/letter-to-va-and-georgia-saa-regarding-house-of-prayer-christian-church/>.

<sup>224</sup> The conversion factor was increased from 30 to 37.5 in 2010 (divide 37.5 into clock hours to obtain credit hours); see U.S. Department of Education, Program Integrity Questions and Answers – Credit Hour, available at: <https://www2.ed.gov/policy/highered/reg/hearulemaking/2009/credit.html>. The U.S. Department of Education changed the conversion factor back to 30 in 2021. See U.S. Department of Education, Federal Student Aid, Implementation of updated clock-to-credit conversion regulations (EA ID: GENERAL-21-34), available at: <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-05-25/implementation-updated-clock-credit-conversion-regulations-ea-id-general-21-34>. Also see p. 33 of documents from the Georgia SAA about



- Why would the 2014 certificate program (3,024 clock hours) have almost as many clock hours as the bachelor's degree program (3,465 clock hours)?
- Why is the certificate program in the 2020 catalog longer than an associate degree program—126 credit hours versus 72 credit hours, respectively?
- In 2016, HOP applied to offer three new certificate programs—Biblical Development, Advanced Biblical Development, and Christian Principles. Aside from slight differences in the programs' names, it is unclear what distinguished these three programs from one another or from the previously approved Certificate in Advanced Discipleship. Introducing purportedly new programs may have allowed HOP to re-enroll the same veterans without violating the rule that VA benefits cannot be used to take the same course or program over again.

**Table 2: Information on Program Duration Submitted by HOP to the Georgia SAA from 2011 through 2020 Should Have Raised Questions about the Legitimacy of Seminary Programs**

Credential	GA Campus location	Approval date	First offered	Program duration	
				Credit hours	Hours/clock hours
Certificate in Advanced Discipleship	Hinesville	10/2/12	3/2/09	18 credit hours <sup>a</sup>	18 hours
	Hephzibah	4/1/14	3/1/11	Not available	3,024 clock hours
	Hinesville & Hephzibah	4/1/14	2009 & 2011	126 credit hours	3,024 clock hours
Associate in Biblical Studies	Hinesville	10/2/12	3/2/09	72 credit hours <sup>a</sup>	72 hours
	Hephzibah	4/1/14	3/1/11	Not available	1,728 clock hours
	Hinesville & Hephzibah	4/1/14	2009 & 2011	72 credit hours	1,728 clock hours
Bachelor's in Advanced Biblical Studies	Hinesville	10/2/12	3/2/09	144 credit hours <sup>a</sup>	144 hours
	Hephzibah	4/1/14	3/1/11	Not available	3,456 clock hours
	Hinesville & Hephzibah	4/1/14	2009 & 2011	144 credit hours	3,456 clock hours

Source: Veterans Education Success review of correspondence received through a public records request made to the Georgia SAA.

Note: Although the HOP academic catalog presumably contained more complete information, only the 2020–2022 catalog was included in the correspondence provided in response to our public records request.

<sup>a</sup>We reached out to experts to better understand the program duration information. We were told that the hours reported in 2012 were likely “credit hours,” which generally equate to three credits per course. To estimate the number of credit hours for 2012, we divided the total number of hours by three.

There were also discrepancies about the school's institutional sector: The October 2012 SAA approval of HOP Hinesville, Georgia, stated that the school was a “proprietary” institution, while the April 2014 approval for Hephzibah, Georgia, stated it was a “proprietary nonprofit” institution. We also reviewed institution type in an archived copy of the GI Bill Comparison Tool full data set downloaded in February 2016. The Georgia, Washington, and North Carolina HOP Bible Seminaries were identified as nonprofit, but the Texas campus was listed as for-profit.

### **III. Aside from Possible Deficiencies in HOP's Paperwork, the Overall GI Bill Approval Process Lacks Safeguards**

Listed in the section above are possible deficiencies in HOP's paperwork. But, beyond the paperwork HOP submitted, HOP's alleged fraud might have been revealed earlier if the GI Bill approval process included additional safeguards.

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House of Prayer in response to our public records request, available at: <https://vetsedsuccess.org/georgia-saa-documents-about-house-of-prayer-in-response-to-our-public-records-request/>, for program clock hours.



*a. Open fraud investigations were not uncovered.*

Our findings indicate that the SAA contacted the U.S. Federal Trade Commission to determine if it had any adverse information on HOP and reported in its approval letter to the VA Regional Office that no adverse information was received. However, as our letter to VA and the SAA pointed out, several of the 14 complainants interviewed by our legal team indicated that HOP was also under investigation by the FBI for mortgage fraud. According to *Military.com*, the U.S. Attorney in Savannah, Georgia, started an investigation in 2007, five years before HOP was approved to enroll veterans.<sup>225</sup> Such an investigation should have been a warning sign that should have jeopardized HOP's application to enroll veterans. However, there is no indication in the correspondence that the SAA contacted any organization other than the FTC. The current federal statutes governing program approval for the GI Bill do not require SAAs to contact the U.S. Attorney in their state to learn if a school faces law enforcement concerns, although they are now required to ascertain if any federal department or agency has taken punitive action against the school for misleading or deceptive practices.<sup>226</sup>

*b. Enrollment numbers may have suggested noncompliance with the 85/15 rule.*

By federal statute, the maximum number of GI Bill beneficiaries and “institutionally supported” students at eligible schools is capped at 85 percent of total enrollments, meaning that the remaining students must cover tuition from sources other than VA or the institution.<sup>227</sup> Allegations from several church members about HOP in our 2020 letter to VA and the Georgia SAA included that HOP was failing to comply with VA's 85/15 rule:

HOP misrepresented the ratio of veterans to non-veterans by including 17-year-old and 18-year-old students in its day school as being enrolled in its bible seminary. When Hinesville was the only approved location it would hold classes with other bible seminaries by teleconference and count those who listened in as being enrolled in the Hinesville seminary.

Source: Allegations contained in our August 2020 letter to VA and the Georgia SAA.<sup>228</sup>

Many schools are exempt from quarterly reporting if the percentage of veterans in their student body is 35 percent or fewer. As part of the application process in 2012 and 2014, HOP executed VSO Form 70-5, Statement of School Official, which certified among other statements: “The school will not certify VA students in a course when the ratio of VA to non-VA exceeds 85:15. This does not apply to courses when the total number of individuals receiving VA assistance equals 35% or less.” It is not evident in the documents produced to us that an 85/15 analysis was conducted to assess the proportion of enrolled VA students as of the school's effective dates of

<sup>225</sup> Steve Beynon and Thomas Novelty, “How a Church Allegedly Scammed Millions in VA Money from Vets,” *Military.com* (July 19, 2022), available at: <https://www.military.com/daily-news/2022/07/19/how-church-allegedly-scammed-millions-va-money-vets.html>.

<sup>226</sup> Currently, under 38 USC § 3676 (c)(10)(a), the SAA is supposed to ascertain that no “Federal department or agency has taken a punitive action, not including a settlement agreement, against the school for misleading or deceptive practices.” The version of 38 USC § 3676 (c)(10) applicable during 2012 (and until the provision was amended in 2021) required the SAA to ascertain only “from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice ...”

<sup>227</sup> Veterans Education Success, “The 85-15 Rule and Related GI Bill Safeguards,” Oct. 26, 2019, available at: <https://vetsedsuccess.org/the-85-15-rule-and-related-gi-bill-safeguards/>.

<sup>228</sup> Veterans Education Success, Letter to the U.S. Department of Veterans Affairs and Georgia State Approving Agency, RE: House of Prayer Christian Church, August 1, 2020, available at: <https://vetsedsuccess.org/letter-to-va-and-georgia-saa-regarding-house-of-prayer-christian-church/>.

approval. The allegation from a current member (at the time of our interview) is that HOP counted minors from the school's daytime program as being enrolled in its bible seminary, an obvious ruse to circumvent 85/15 data calculations. This practice could have been uncovered if the review process required scrutiny of the physical location of enrolled students in various classes. The current federal statute does not require SAAs to conduct a sample audit of schools' 85/15 status.

*c. Aggressive recruiting on nearby military bases was not discovered.*

HOP students alleged they were pressured by HOP to recruit new students at Post Exchanges, barracks, and on-base housing.

According to multiple former students, HOP sent students on base to aggressively recruit new members. Recruitment was made at a reception barracks, a base welcome center, and other on-base locations.

Source: Allegations contained in our August 2020 letter to VA and the Georgia SAA, 4–5.<sup>229</sup>

Military base authorities reportedly caught on and cracked down on HOP recruiters.<sup>230</sup> To get around this, HOP allegedly dispatched students who were still on active duty to go on base in uniform to recruit. Several students reported being told to cease recruiting on base by non-commissioned officers and military police officers. Although all the HOP Bible Seminaries were near military installations, there was no indication in the correspondence that the SAA had contacted any of the bases to learn if they had any concerns about HOP, and the federal statutes governing GI Bill approval do not require an SAA to contact nearby military installations.<sup>231</sup>

*d. Announcing inspections in advance provides a distorted view of how a school is run.*

As the students, staff, and church members alleged, the SAA's onsite inspections were insufficient:

- When HOP got word of an upcoming VA inspection, students reported that HOP officials told students to say they were in class even if they were recruiting or doing other work for the church and lied to inspectors about where classes were taught.
- Desks were moved in and books added to convince inspectors that the school had functioning classrooms.
- Students were reported as attending four days a week, which would have been full-time, but they actually attended only three days a week, and church attendance was counted as attending classes.

Source: Allegations contained in our August 2020 letter to VA and the Georgia SAA.<sup>232</sup>

Inspections, such as approval visits and other oversight surveys, are seemingly announced in advance, which has the effect of allowing schools to put their best face forward. If a school seeks to deceive an SAA in order to gain GI Bill approval, the advance notice they receive before a site visit enables them time to create fabrications, as HOP students, staff, and church members allege

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<sup>229</sup> Ibid.

<sup>230</sup> Ibid.

<sup>231</sup> Currently, under 38 USC § 3676 (c)(10)(a), the SAA is supposed to ascertain that no "Federal department or agency has taken a punitive action, not including a settlement agreement, against the school for misleading or deceptive practices." The version of 38 USC § 3676 (c)(10) applicable during 2012 (and until the provision was amended in 2021) required the SAA to ascertain only "from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice ..."

<sup>232</sup> Veterans Education Success, Letter to the U.S. Department of Veterans Affairs and Georgia State Approving Agency, RE: House of Prayer Christian Church, August 1, 2020, available at: <https://vetsedsuccess.org/letter-to-va-and-georgia-saa-regarding-house-of-prayer-christian-church/>.

that HOP did. The federal statutes governing GI Bill approval do not require unannounced site visits; if they did, they would allow an SAA to compare the written information submitted in the school's application to what the SAA finds onsite. Site visits should also include interviews with students and the observation of classes. While it appears site visits of the facilities were conducted prior to program approval, there is little information about the site visits in the records we received, with no indication students were interviewed.

*e. HOP was able to evade complying with the statutory two-year rule.*

38 USC § 3680A(e) requires a private non-college degree-granting institution to have operated continuously for two years prior to receiving SAA approval to receive GI Bill funds. The Georgia SAA accepted HOP's application for GI Bill approval in February 2012 and approved it several months later. The approval packages sent by the SAA to VA's Atlanta regional office in October 2012 stated that the "facility meets the two-year rule requirement because they had been teaching the Certificate of Advanced Discipleship program since March 2, 2009."<sup>233</sup> However, a list of graduates of this certificate program were not included in the correspondence about HOP's approval. Instead, HOP's application included a list of 41 individuals in its Bachelor's in Advanced Biblical Studies program who graduated "in the past 2 years"—ranging from 2009 to 2011. No certificate or associate degree graduates were included. The list of 41 bachelor's degree students suggested that a disproportionate number of the graduates were married couples, an unusual enrollment statistic. For example, 16 of 19 individuals who HOP reported had graduated with a bachelor's degree in Advanced Biblical Studies in 2009 and 2010 were couples with the same last name. The documents we reviewed showed no indication the SAA had probed this peculiarity.<sup>234</sup>

Even more problematic is whether HOP had met Georgia requirements enabling it to operate the certificate program prior to 2012. In Georgia, nonpublic institutions must receive authorization from the Georgia Nonpublic Postsecondary Education Commission (GNPEC) before they can enroll students or offer instruction in Georgia. Religious institutions are not subject to the full approval process by GNPEC if they receive a religious exemption under Georgia statute.<sup>235</sup> In January 2012, HOP applied for, and received, a religious exemption from the GNPEC,<sup>236</sup> suggesting that HOP had not been eligible to enroll students or offer instruction prior to January

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<sup>233</sup> While HOP completed an online form indicating the dates programs were first offered, the date it first offered its three programs was whited out and filled in by hand.

<sup>234</sup> One of the students we interviewed in March 2020 was married to another veteran. She told us that the church encouraged members to wed, explaining why so many students were married couples.

<sup>235</sup> An exempt status carries no official state recognition and no published statement indicating state or GNPEC certification. See Georgia Nonpublic Postsecondary Education Commission, § 20-3-250.3, "Educational institutions exempted from application of part," available at: <https://gnpec.georgia.gov/ss-20-3-2503-educational-institutions-exempted-application-part>.

<sup>236</sup> The GNPEC authorizes and regulates in-state nonpublic postsecondary institutions. An institution may not advertise, enroll, seek to enroll, or offer any instruction until authorization has been granted. See Georgia Nonpublic Postsecondary Education Commission, Authorization FAQ, available at: <https://gnpec.georgia.gov/authorization/faq/authorization-faq>. All program offerings are subject to an evaluation process. However, institutions eligible for a religious exemption do not require the full authorization process. Submission of the following is required: proof of nonprofit status, a catalog or brochure describing the programs offered, a sample of credentials awarded, a completed online application, and a non-refundable application fee. An institution applying for the exemption must certify that it accepts no federal or state funds and no student who has a federal or state loan. It appears that both the authorization and exemption applications are conducted entirely online. See Georgia Nonpublic Postsecondary Education Commission, "How Do I Apply for New Religious Exemption?" available at: <https://gnpec.georgia.gov/authorization/exemption/religious-exemption/how-do-i-apply-new-religious-exemption>.

2012. In its approval paperwork, HOP had informed the SAA it had offered classes since 2009, several years before it received its GNPEC exemption in January 2012. The documentation provided by the SAA in response to our public records request showed no communication with GNPEC to verify HOP's status, and the federal statute governing GI Bill approval does not require SAAs to check on a school's state approval.

## Appendix V

### Analysis of State Ethics Restrictions on Outside Employment and Gifts for 17 SAAs Employing 58 Percent of SAA Staff

In light of the examples of conflicts of interest we discovered and in order to determine if SAAs have limitations on outside employment and gifts under state law that are as strict as those in Title 38 U.S.C. § 3683, we analyzed state ethics/conflict-of-interest statutes in 17 states, representing 58 percent of SAA staff.<sup>237</sup>

Our sample included 12 states with six or more SAA employees as well as five states with five or fewer SAA staff. Because state ethics statutes are complex, differentiate between categories of employees, and may allow an agency to adopt more restrictive limitations, we shared the results of our analysis with the 17 SAA Directors. The full results are laid out in Table 7.

Our analysis found that:

- Eight of the 13 states for which an SAA provided comments on our analysis had less restrictive requirements with respect to employment and gifts than § 3683; four states had gift but not employment requirements equivalent to those in federal statute; and only one state—Washington state—had both employment and gift prohibitions as strong as § 3683.
- Although they did not comment on our analyses, the California, New York, and Wisconsin SAAs appear to face weaker state ethics rules on outside employment and acceptance of gifts than those in federal statute. Florida rules were equivalent to § 3683 on employment but appear to be weaker with respect to gifts.

Table 7 below sets out the state ethics law requirements and incorporates the input and any contextual information provided by the 13 SAA Directors who responded to our request for interviews. Four SAA Directors did not respond to our requests—California, Florida, New York, and Wisconsin. Our analyses of their state ethics laws are grouped together in the table and should not be considered definitive.

A “yes” in table 7 indicates that the state’s restrictions mirror the absolute prohibitions in § 3683, while a “no” indicates that there are exceptions. For example, some states allow outside employment if it is not accepted “in exchange for something.” We believe it would be difficult to establish a test for “in exchange for something” because it gives the employee considerable latitude to indicate that there was no quid pro quo. In the case of gifts, which were often broadly defined to include not only items of value but also food, lodging, or honoraria, a “no” designation often reflects the fact that the state has exceptions such as monetary limits.

**Table 7: Analysis of State Ethics Restrictions on Outside Employment and Gifts for 17 SAAs Employing 58 Percent of SAA Staff**

Percent of SAA Staff					
State	No. of SAA employees	Salary from outside employment		Gifts	
		Prohibited	Explanation	Prohibited	Explanation
Our analysis incorporating feedback from the SAA					
Texas	17	No	Considered bribery if employment is accepted in exchange for official action or inaction. Other laws	No	May accept non-cash items (food, lodging,

<sup>237</sup>As of September 2021, the NASAA staff directory showed that state SAAs employed 220 staff members.

			outside of Texas Ethics Commission's jurisdiction may restrict outside employment.  See <a href="#">Texas Ethics Commission</a> , § 36.02. <sup>238</sup>		transportation) if less than \$50 in value.  See <a href="#">Texas Ethics Commission</a> , <sup>239</sup> § 36.08 and 36.10  Counsel for the Texas Veterans Commission, of which the SAA is a component, indicated that about 5 years ago an SAA employee was fired for having accepted a gift from a school and then lying about it when management learned and asked about it.
Pennsylvania	12	No	Employees must annually file statement of financial interest disclosing any direct or indirect source of income totaling in the aggregate \$1,300 or more.  See <a href="#">Pennsylvania State Ethics Act, § 1105</a> . <sup>240</sup>	Yes	Prohibited for all executive branch employees by Executive Order 2015-01, effective January 2015.  See <a href="#">Executive Order 2015-01</a> <sup>241</sup> and <a href="#">FAQ</a> . <sup>242</sup>
Virginia	11	No	A review of the Virginia state conflict-of-interest statute did not identify any prohibition on outside employment with a regulated entity, although it is prohibited to accept any business or professional opportunity that reasonably tends to influence the employee in the performance of official duties.  See <a href="#">Code of Virginia, State and Local Government Conflicts of Interest Act, §2.2-3100-3103</a> . <sup>243</sup>  Emails with the SAA indicated that employees are required to submit outside employee request forms.	No	Prohibited if the timing of the gift would cause a reasonable person to question the employee's impartiality.  See <a href="#">Code of Virginia, § 2.2-3103, Prohibited conduct</a> . <sup>244</sup>
Illinois	7	No	The statute does not prohibit outside employment. A conflict of interest occurs when the interests of a state employee are in conflict with the interests of the state. <sup>245</sup> Outside employment offers for employees engaged in regulatory or licensing decisions appear by statute to be required to be reported to the Inspector General for approval prior to acceptance. <sup>246</sup>	Yes	Although there is a ban on gifts, there are exceptions, which exceptions, per EO 15-09, do not apply to state employees. Under the statute,

<sup>238</sup> See Texas Ethics Commission, "A Guide to Ethics Laws for State Officers and Employees," revised September 15, 2015, available at: <https://www.ethics.state.tx.us/resources/guides/Gofficers-employEthics.php#PartIV>.

<sup>239</sup> See Texas Ethics Commission, "A Guide to Ethics Laws for State Officers and Employees," revised September 15, 2015, available at: <https://www.ethics.state.tx.us/resources/guides/Gofficers-employEthics.php#APPENDIX>.

<sup>240</sup> See Pennsylvania State Ethics Commission, Ethics Act, § 1105, "Statement of financial interests," available at: <https://www.ethics.pa.gov/Ethics-Act/Ethics-Act/Pages/Section-1105.aspx>.

<sup>241</sup> See Executive Order No. 2015-01, Commonwealth of Pennsylvania Governor's Office, "Executive Branch Employee Office Gift Ban," January 20, 2015, available at: [https://www.dli.pa.gov/Documents/2015\\_01%20Executive%20Branch%20Employee%20Gift%20Ban%20\(2\).pdf](https://www.dli.pa.gov/Documents/2015_01%20Executive%20Branch%20Employee%20Gift%20Ban%20(2).pdf).

<sup>242</sup> See "Interpreting the Gift Ban – Frequently Asked Questions," revised August 10, 2015, available at: <https://www.hrm.oa.pa.gov/Documents/gift-ban-guidance-faq.pdf>.

<sup>243</sup> See Code of Virginia, State and Local Government Conflicts of Interest Act, § 2.2-3100, "Policy; application; construction," available at: <https://law.lis.virginia.gov/vacodepopularnames/state-and-local-government-conflict-of-interests-act/>.

<sup>244</sup> See Code of Virginia, State and Local Government Conflicts of Interest Act, § 2.2-3103, "Prohibited conduct," available at: <https://law.lis.virginia.gov/vacode/title2.2/chapter31/section2.2-3103/>.

<sup>245</sup> See Illinois Employees Ethics Act summary, available at: <https://www.ilsos.gov/departments/library/about/committees/pdfs/ethics-act-summary.pdf>.

<sup>246</sup> State Officials and Employees Ethics Act, 5 ILCS 430/5-45(f) ("Any State employee in a position subject to the policies required by subsection (c) [having regulatory or licensing authority]...who is offered non-State employment



			The SAA Director pointed out that Executive Order 15-09 <sup>247</sup> IV 1(b) (1/13/2015) requires employees to report any nongovernmental position held, as well as any related compensation.		employees can accept food/ refreshments not exceeding \$75 per day, lodging, transportation, and other benefits (item from a prohibited source during a calendar year valued at less than \$100) if they are not offered or enhanced because of the employee's job. The EO says these exceptions do not apply to state employees, allowing only de minimis meals/refreshments at meetings and only allowing travel expenses to be paid directly to the state agency Prohibited source is defined in 5 ILCS 430/1-5 as "conducts activities regulated...by the employee."  See Executive Order 15-09 <sup>248</sup> III 2 (1/13/2015) and 5 ILCS 430/10-10 and 10-15. <sup>249</sup>
Indiana	7	No	Outside employment is allowed unless such employment is incompatible with the individual's official duties.  See Indiana Office of Inspector General Ethics Code. <sup>250</sup>	No	Gifts are allowed unless they are from someone who has a business relationship with the employee's agency or wants something in return. <sup>251</sup> Gifts of nominal value or refreshments offered while conducting official state business are permitted.  See Indiana Office of Inspector General

during State employment or within a period of one year immediately after termination of State employment, shall prior to accepting such non-State employment, notify the appropriate Inspector General...[who]shall make a determination." Available at: [https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=2529&ChapterID=2#:~:text=\(a\)%20An%20officer%20or%20employee,other%20employment%20benefits%2C%20board%20or](https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=2529&ChapterID=2#:~:text=(a)%20An%20officer%20or%20employee,other%20employment%20benefits%2C%20board%20or)

<sup>247</sup> See State of Illinois Executive Department, Executive Order 15-09, "Executive Order to Ensure Ethical and Responsive Government," available at: <https://www.illinois.gov/content/dam/soi/en/web/eec/executive-order/documents/executive-order-15-09.pdf>.

<sup>248</sup> Ibid.

<sup>249</sup> See Illinois Compiled Statutes, General Provisions (5 ILCS 430/) State Officials and Employees Ethics Act, available at: <https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=2529&ChapterID=2>.

<sup>250</sup> See Indiana Office of Inspector General Ethics Code, <https://www.in.gov/ig/ethics-code/>, for table of contents and Indiana Office of Inspector General Ethics Code – Moonlighting Rule, <https://www.in.gov/ig/ethics-code/moonlighting-rule/>, for moonlighting rule.

<sup>251</sup> 42 Indiana Admin. Code 1-5-1, available at: <https://www.law.cornell.edu/regulations/indiana/42-IAC-1-5-1>

					Ethics Code Gift Rule. <sup>252</sup>
Missouri	7	No	<p>Outside employment is allowed unless the compensation is intended to influence an employees' decisions.</p> <p>See Revisor of Missouri, Title VIII (105.454)<sup>253</sup></p> <p>The SAA Director provided a copy of his Department's code of ethics (Policy No. 300-320),<sup>254</sup> which permits outside employment but requires its disclosure and review for potential conflicts of interest.</p>	No	<p>Gifts are allowed unless made or received in relationship to or as a condition of the performance of an official act.</p> <p>See <a href="#">Revisor of Missouri, Title VIII (105.452)</a>.<sup>255</sup></p> <p>The SAA Director provided a copy of his Department's code of ethics (Policy No. 300-320),<sup>256</sup> which allows acceptance of unsolicited gifts of nominal value (\$25 or less).</p>
Washington (state) <sup>a</sup>	7	Yes	<p>No state employee may receive anything of economic value (compensation for outside activities) under any contract or grant outside of his or her official duties.</p> <p>See RCW 42.52.120 and 42.52.110, 42.52.030.<sup>257</sup></p>	Yes	<p>Employees may not accept gifts (42.52.140)<sup>258</sup> but employees who regulate the person giving the gift may not accept unsolicited items (awards, publications, food and beverages, admissions), except if the gift consists of food and beverage on infrequent occasions while performing official duties. Food and beverage that exceed \$50 on a single occasion must be reported.</p> <p>See RCW 42.52.150.<sup>259</sup></p> <p>However, according to the Washington State Executive Ethics</p>

<sup>252</sup> See Indiana Office of Inspector General Ethics Code – Gift Rule, available at: <https://www.in.gov/ig/ethics-code/gift-rule/>.

<sup>253</sup> See Revisor of Missouri, Title VIII (105.454), available at: <https://revisor.mo.gov/main/OneSection.aspx?section=105.454&bid=5581&hl=>.

<sup>254</sup> See Missouri Department of Elementary and Secondary Education, March 2020 Personnel Policies, available at: <https://dese.mo.gov/media/pdf/march-2020-personnel-policies>.

<sup>255</sup> See Revisor of Missouri, Title VIII (105.452), available at: <https://revisor.mo.gov/main/OneSection.aspx?section=105.452&bid=5580&hl=>.

<sup>256</sup> See Missouri Department of Elementary and Secondary Education, March 2020 Personnel Policies, available at: <https://dese.mo.gov/media/pdf/march-2020-personnel-policies>.

<sup>257</sup> See Washington State Legislature, RCW 42.52.120, RCW 42.52.110, and 42.52.150, available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=42.52.120>, <https://app.leg.wa.gov/RCW/default.aspx?cite=42.52.110>, <https://app.leg.wa.gov/RCW/default.aspx?cite=42.52.130>.

<sup>258</sup> See Washington State Legislature, RCW 42.52.140, available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=42.52.140>.

<sup>259</sup> See Washington State Legislature, RCW 42.152.150, available at: <https://app.leg.wa.gov/RCW/default.aspx?cite=42.52.150>.

					Board, <sup>260</sup> the \$50 gift rule does not apply to § 4 employees who may be so designated by their agency and even stricter rules apply. According to the Washington SAA, their staff are designated § 4 employees.
Georgia	6	No	<p>Employees may seek employment outside of their work for the state as long as it does not conflict with their state employment. They must first notify their supervisors and inform them of any actual or potential conflicts of interest related to their outside employment. In all cases, the determination as to whether a potential conflict of interest exists shall be made by the agency.</p> <p>See GA Comp. R. &amp; Regs. 478-1-07<sup>261</sup></p>	Yes	<p>Prior to April 2021, SAA employees could accept gifts not exceeding \$75, including but not limited to, food, lodging, transportation, personal services, gratuities, subscriptions, memberships, trips, loans, extensions of credit, forgiveness of debts or advances or deposits of money.</p> <p>See <a href="#">Georgia Department of Veterans Services Department Directive 21.103</a>.<sup>262</sup></p> <p>In April 2021, an executive order by the governor established a new Code of Ethics which prohibits employees from accepting gifts from any person they interact with during the course of their state employment. However, the order stipulates that nothing shall be considered a gift for which valuable monetary consideration has been paid by the recipient.</p> <p>See State of Georgia Executive Order April 2021.<sup>263</sup></p>

<sup>260</sup> See Washington State Executive Ethics Board, “Ethics in Public Service Act, RCW 42.52.140, Gifts,” available at: <https://ethics.wa.gov/sites/default/files/public/documents/training/2016/Ethics%2010%2014.pdf>.

<sup>261</sup> See GA. Comp. R. & Regs., 478-1-07, available at: <https://casetext.com/regulation/georgia-administrative-code/departments-478-rules-of-the-state-personnel-board/chapter-478-1-rules-of-the-state-personnel-board/rule-478-1-07-outside-employment#:~:text=Download-.Rule%20478%2D1%2D.,with%20an%20employee's%20State%20employment.>

<sup>262</sup> See Georgia Department of Veterans Services Directive 21.103, available at: <https://vetsedsuccess.org/wp-content/uploads/2022/06/GDVS-Directive-21.103.pdf>.

<sup>263</sup> See State of Georgia Executive Order, April 1, 2021, available at: [https://doas.ga.gov/assets/Human%20Resources%20Administration/Governors%20Code%20of%20Ethics%20for%20State%20Employees/PDF%20of%20Code%20of%20Ethics%20\(EO%2004.01.21.57\).pdf](https://doas.ga.gov/assets/Human%20Resources%20Administration/Governors%20Code%20of%20Ethics%20for%20State%20Employees/PDF%20of%20Code%20of%20Ethics%20(EO%2004.01.21.57).pdf).

Ohio	6	No	<p>Outside employment is generally prohibited with a regulated entity but there is an exception—if the employee completely and formally withdraws from any matter involving the regulated entity</p> <p>Prohibition is in R.C. 102.03 (D and E). See Ohio Revised Code 102.03.<sup>264</sup></p> <p>Exception is listed in information sheet #4 by the Ohio Ethics Commission. See Ethics Commission Information Sheet #4.<sup>265</sup></p>	No	<p>Statute prohibits employees from accepting gifts of “substantial value,” such as meals at expensive restaurants, season sports event tickets, jewelry, etc. However, gifts of nominal, such as a book, meal at a family restaurant, or inexpensive entertainment are permitted. Accepting multiple gifts of nominal value may result in their being considered of substantial value. An agency can adopt a more restrictive rule that prohibits accepting gifts of nominal value.</p> <p>See Ohio Ethics Commission Information Sheet #7.<sup>266</sup></p>
Arizona	5	No	<p>Statute does not prohibit outside employment but prohibits receipt of compensation for any action involving his or her agency.</p> <p>See ARS 38-505.<sup>267</sup></p>	No	<p>Employees are prohibited from using or attempting to use their official position to secure valuable things or benefits for performing their duties.</p> <p>See ARS 38-504(C).<sup>268</sup></p>
Louisiana	4	No	<p>Statute does not prohibit outside employment but requires its disclosure.</p> <p>According to the state lawyer representing the SAA, Title 42 § 1112<sup>269</sup> prohibits employees from participating in transactions with entities that they regulate. However, transaction is not defined in the statute and it is unclear how this prohibition interacts with the fact that outside employment is allowed but must be disclosed.</p> <p>See LA revised statutes Tit. 42 § 1114<sup>270</sup> Financial Disclosure.</p>	No	<p>Employees are prohibited from accepting anything of economic value from regulated entities (42 § 1115(B)<sup>271</sup>) but can accept up to \$50 per single event. This restriction does not apply to a gathering held in conjunction with a meeting.</p>

<sup>264</sup> See Ohio Revised Code Section 102.03, “Representation by present or former public official or employee prohibited,” available at: <https://codes.ohio.gov/ohio-revised-code/section-102.03>.

<sup>265</sup> See Ohio Ethics Commission, “Seeking New or Outside Employment: Ethics Commission Information Sheet #4,” available at: <https://ethics.ohio.gov/education/factsheets/InfoSheet4-JobSeeking.pdf>.

<sup>266</sup> See Ohio Ethics Commission, “Accepting Gifts, Meals, Entertainment, or Other Things of Value,” Information Sheet #7, available at: <https://ethics.ohio.gov/education/factsheets/infosheet7-gifts.pdf>.

<sup>267</sup> See Arizona Revised Statutes 38-505, “Additional income prohibited for services,” available at: <https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/38/00505.htm>.

<sup>268</sup> See Arizona Revised Statutes 38-504(C), available at: <https://www.azleg.gov/viewdocument/?docName=https%3A%2F%2Fwww.azleg.gov%2Fars%2F38%2F00504.htm>.

<sup>269</sup> See LA Rev Stat §42:1112, “Participation in certain transactions involving the government entity,” available at: <https://law.justia.com/codes/louisiana/2011/rs/title42/rs42-1112>.

<sup>270</sup> See LA Rev Stat §42:1114, “Financial disclosure,” available at: <https://codes.findlaw.com/la/revised-statutes/la-rev-stat-tit-42-sect-1114.html>.

<sup>271</sup> See LA Rev Stat §42 1115(B), “Gifts,” available at: <https://codes.findlaw.com/la/revised-statutes/la-rev-stat-tit-42-sect-1115.html>.

					(42 § 1115.1). <sup>272</sup> According to a state lawyer representing the SAA, the limit is now \$65.
Michigan	3	No	Employees may not engage in supplemental employment that conflicts with the impartial performance of their state duties and must report and obtain approval for supplemental employment.  See Civil Service Rule 2-8.2 Prohibitions (a) see CS-1783 form. <sup>273</sup>  Employee standards provided by the SAA are consistent with 2-8.2 above.	Yes	Employees may not accept anything of value from a regulated entity and must report potential conflicts of interest annually.  See <a href="#">CS-1783 form</a> <sup>274</sup> and definition of a designated employee at Michigan Civil Service Rules. <sup>275</sup>
West Virginia	2 <sup>b</sup>	No	Full time public employees may not take a personal regulatory action on matters affecting a person with whom they are secondarily employed.  See West Virginia Code §6B-2-5. <sup>276</sup>	No	Employees cannot solicit or accept gifts, <b>except</b> for meals and beverages, ceremonial gifts of insignificant value, unsolicited gifts of nominal value, or reasonable expenses for food, travel, and lodging at a conference.  See West Virginia Code §6B-2-5. <sup>277</sup>
<b>Our analysis for states where the SAA failed to respond to requests for feedback (categorizations are based on a strict reading of the state's ethics laws or information identified)</b>					
California	12	No	Nothing in the California statute or its conflict-of-interest rules appears to prevent a public official from seeking or holding a particular employment position, whether public or private. However, state agencies are authorized to adopt "statements of incompatible activities," including engaging in outside employment.  The California SAA failed to respond to our requests for information on its incompatible activities rules.  See California Fair Political Practices Commission. <sup>278</sup>	No	A \$520 gift limit is based on employees "disclosure category."  See California Fair Political Practices Commission. <sup>279</sup>  <u>It's unclear if the SAA has included gifts in its statement of incompatible activities.</u>
Florida	10	Yes	Outside employment is prohibited and there appear to be no exceptions.	No	Employees can accept gifts up to \$100. Only agency leadership are

<sup>272</sup> See LA Rev Stat §42 1115.1, "Limitation on food, drink, and refreshment," available at: <https://codes.findlaw.com/la/revised-statutes/la-rev-stat-tit-42-sect-1115-1.html>.

<sup>273</sup> See CS-1783 Disclosure of Interest form, available at: <https://www.michigan.gov/-/media/Project/Websites/mdcs/FORMS/CS1783DisclosureofInterest.pdf?rev=3bbc8694e71749a1897802afd93213ef>

<sup>274</sup> Ibid.

<sup>275</sup> See Michigan Civil Service Commission, Civil Service Rules as of January 1, 2016, available at: <https://www.michigan.gov/-/media/Project/Websites/mdcs/COMP/Rules2016.pdf?rev=da7df9ab3123414b84b29515dc286e6d>.

<sup>276</sup> See West Virginia Code, § 6B-2-5(H)(c)4, available at: <https://code.wvlegislature.gov/6B-2-5/>.

<sup>277</sup> Ibid., § 6b-2-5(2)(C)(2)(A) through (D).

<sup>278</sup> See California Fair Political Practices Commission, "Holding Two Positions," available at: <https://www.fppc.ca.gov/content/fppc-v2/fppc-www/learn/public-officials-and-employees-rules-/conflict-of-interest/holding-two-positions.html>.

<sup>279</sup> Ibid., "Gifts, Honoraria, Travel Payments, and Loans," available at: <https://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/gifts-and-honoraria.html>.

			See p.5 of Florida Code of Ethics Guide <sup>280</sup> (Sec. 112.313(7)(a) and (b), Fla. Stat.).		prohibited, e.g., Executive Director.  See p. 3 of Florida Code of Ethics Guide. <sup>281</sup>
New York	7	No	<ul style="list-style-type: none"> <li>Employees are prohibited from employment that would impair their independence or exercise of judgment in official duties and from engaging in conduct that would give a reasonable basis to conclude that a person can improperly influence the employee or unduly enjoy the employee's favor in the performance of the employee's official duties.</li> </ul> <p>See NY Public Officers Law § 74<sup>282</sup></p>	No	<ul style="list-style-type: none"> <li>Employees are prohibited from accepting gifts or more than nominal value.</li> <li>Food or beverages valued at \$15 or less per occasion is permitted.</li> </ul> <p>See NYS Commission on Ethics -- Gifts<sup>283</sup></p>
Wisconsin	4	No	<p>Employees are not prohibited from accepting outside employment if it in no way interferes or conflicts with their discharge of duties. However, agencies shall establish guidelines regarding outside employment of employees which shall include identifying those activities which are likely to cause a conflict-of-interest and requiring employees to obtain prior approval before accepting outside employment. Agencies shall submit their proposed guidelines to the director for review and approval before implementation. Wisconsin failed to respond to our request for information about agency specific guidelines.</p> <p>See Wisconsin State Legislature.<sup>284</sup> ER-MRS 24.04 Standards of conduct and ER-MRS 24.045 Guidelines for outside employment.</p>	No	<p>No employee may solicit or accept from any person or organization, directly or indirectly, money or anything of value if it could reasonably be expected to influence such employee's official actions or judgment or could reasonably be considered as a reward for any official action, or inaction on the part of such employee.</p> <p>See Wisconsin State Legislature.<sup>285</sup> ER-MRS 24.04 Standards of conduct.</p>
Total	127				

Source: Veterans Education Success analysis of state conflict-of-interest statutes. The number of SAA employees is current as of September 2021, when the total number of SAA employees was 220.

<sup>a</sup>Washington has two SAAs, one that oversees non-college degree programs and another that provides oversight of degree granting institutions.

<sup>b</sup>As of April 2022, the West Virginia SAA had only one employee.

<sup>280</sup> See Florida Code of Ethics Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees, available at: <https://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf>.

<sup>281</sup> Ibid., <https://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf>.

<sup>282</sup> See New York "Public Officers Law and other State Ethics Laws related to State Employees and Officials" (2022 Edition) available at: [https://ethics.ny.gov/system/files/documents/2022/08/2022-celg\\_public-officers-law-and-other-ethics-and-related-laws\\_state-officer-employee-edition-8\\_31\\_22\\_final.pdf](https://ethics.ny.gov/system/files/documents/2022/08/2022-celg_public-officers-law-and-other-ethics-and-related-laws_state-officer-employee-edition-8_31_22_final.pdf) and NY State Commission on Ethics and Lobbying in Government, Outside Activities, available at: <https://ethics.ny.gov/outside-activities> and <https://ethics.ny.gov/sites/g/files/oeel281/files/documents/2017/10/work-or-volunteer-outside-officeethics-reminderjuly-2015.pdf>

<sup>283</sup> See New York State Commission on Ethics and Lobbying in Government, "Gifts," available at: <https://ethics.ny.gov/gifts>.

<sup>284</sup> See Wisconsin State Legislature, ER-MRS 24.04 and 24.045, "Standards of conduct," available at: [https://docs.legis.wisconsin.gov/code/admin\\_code/er\\_mrs/24/04](https://docs.legis.wisconsin.gov/code/admin_code/er_mrs/24/04).

<sup>285</sup> Ibid.