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# United States Senate

COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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<http://help.senate.gov>

October 4, 2017

The Honorable David J. Shulkin  
Secretary of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Secretary Shulkin,

We are extremely concerned by the U.S. Department of Veterans Affairs ("Department") proposal to weaken a law that helps protect veterans from predatory for-profit colleges by issuing a blanket waiver of section 3683 of title 38, United States Code. Section 3683 addresses conflicts of interest among Department employees and state approving agencies between their official duties and interests in for-profit educational institutions. If this proposed change were to go forward, Department employees and state accreditors would be able to be employed by or own stock in the very institutions the Department and State Approving Agencies are charged with regulating. We ask that you immediately suspend this effort and instead work with Congress to address any concerns the Department may have.

Section 3683 does not allow for blanket waivers, but requires the Secretary to grant waivers only on a case by case basis and with specific justification. It is alarming an executive agency would seek to waive entire statutory provisions, and the Department further provided little to no justification in its Federal Register announcement. This decision is especially concerning given this Administration's extensive ties to for-profit colleges and record of putting corporations' bottom lines ahead of students.

Many for-profit colleges have been found by numerous law enforcement entities and investigative reporting to have preyed on veterans and servicemembers for access to their educational benefits, and have invested heavily in obtaining special access to military bases and populations. Loopholes in federal law have created incentives for many entities in this sector to recruit and enroll veterans as a means of gaining access to other sources of state and federal aid. Many for-profit colleges have also put substantial resources into lobbying Congress and numerous federal agencies to weaken regulations that would protect student veterans from fraud.

Weakening conflict of interest regulations related to for-profit institutions is not only inadvisable, but will put our men and women in uniform and those who have served our country at further risk of predatory and abusive business practices. In order to further understand why the Department would take such a dramatic step to waive all applicable conflict of interest provisions for its employees and those working in state approving agencies, we ask that you provide the following information:

1. A legal analysis detailing the Department's authority to provide a blanket waiver instead of waivers on a case-by-case basis;
2. The Department's rationale for attempting to waive the section 3683 in its entirety instead of requesting appropriate reforms through a change in law, and what changes the Department believes are necessary to make section 3683 effective;
3. The Department's analysis of the overlap or divergence of coverage between section 3683 and other federal conflict of interest statutes;
4. How the Department believes this announcement is consistent with the recommendation in Office of Inspector General report number 14-03508-275 to issue waivers on a case-by-case basis;
5. The Department's plan for ensuring oversight and enforcement of conflict of interest regulations and laws;
6. The number of times the Department has taken an action under section 3683 in the last ten years, and how many times has the Department taken an action under other federal conflict of interest laws or regulations in the last ten years;
7. Why the Department is requesting accelerated comment period on the proposed action;
8. Whether there are any senior Department officials who currently do not meet the requirements of section 3683 and if so, how many do not meet the requirements of section 3683; and
9. Whether the Department planning or attempting to recruit any individuals into senior positions who currently do not meet the requirements of section 3683.

Thank you for your work on behalf of our nation's veterans. Again, in light of these concerns we ask that you suspend this effort, and that you provide answers to our questions no later than October 10, 2017. We look forward to working with you on the most effective and appropriate way to ensure veterans receive the best educational opportunities they have earned as a result of service to our nation, and to protecting the integrity of the Department's work.

Sincerely,



PATTY MURRAY  
United States Senator



ELIZABETH WARREN  
United States Senator



SHERROD BROWN  
United States Senator



RICHARD J. DURBIN  
United States Senator