

# United States Senate

WASHINGTON, DC 20510

November 1, 2017

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

Dear Secretary Shulkin:

We write to thank you for listening to veterans and rescinding the U.S. Department of Veterans Affairs' (VA) previous proposal to gut a decades-old law designed to prevent conflicts of interest with VA employees who have a financial relationship with for-profit colleges. We urge that VA's implementation of ethics laws take into account the ongoing risk that profit motives pose to the integrity of the GI Bill program, veterans, and taxpayers. Further, we hope that VA undertakes a careful review of each employee's ability to act in full compliance with existing ethics laws on a case-by-case basis and that employees avoid any appearance of impropriety.

In 1966, Congress passed the Veterans Readjustment Benefits Act (Public Law 89-358), which included a provision (38 U.S.C. § 3683) designed to prevent conflicts of interest by prohibiting VA employees from owning or having other financial interests in for-profit colleges that received funding from the GI Bill. This provision was the result of a 1952 investigation by the House Select Committee to Investigate the Educational, Training, and Loan Guaranty Programs Under G.I. Bill, which found that exploitation of the GI Bill program and veterans by for-profit colleges was widespread and that many of these schools did not offer high-quality education and training options, often pushing students into fields "where little or no employment opportunity existed." The investigation's report cited for-profit colleges' influence within VA as one way the colleges exploited veterans and noted instances of "collusion between school operators and VA personnel to defraud the United States."

We are pleased that VA withdrew the prior proposal to provide blanket waivers to any employee with any financial relationship to a for-profit college. However, VA has also indicated that it intends to develop a more narrowly tailored policy to address its perceived concerns with employees in complying with the law. In doing so, we urge VA to consider that for-profit colleges continue to pose risks to veterans and taxpayers and seek to use their financial resources to influence federal policies and procedures. We strongly urge you not to take any action that would allow predatory for-profit colleges to take advantage of our nation's veterans.

The evidence clearly justifies the continued necessity of conflict of interest protections. In 2016, for-profit colleges received 34 percent of all GI Bill funds, or \$1.7 billion, in part by using high-pressure and often deceptive and misleading marketing tactics to aggressively recruit veterans. A loophole in the federal law known as the "90/10 rule" allows for-profit institutions of higher education to receive as much as 100 percent of their revenues from federal taxpayers if they enroll enough veterans eligible for GI Bill benefits. According to data released by the U.S. Department of Education in 2016, 186 for-profit institutions received more than 90 percent of

Department of Education in 2016, 186 for-profit institutions received more than 90 percent of their revenue from federal taxpayers when other federal funding sources—including GI Bill benefits—were included. Collectively, those institutions receive approximately \$7.5 billion in federal funds from the U.S. Departments of Education, Veterans Affairs, and Defense each year. Numerous for-profit colleges have also been subject to investigations, lawsuits, and findings of fraud for their treatment of student veterans. In fact, Corinthian Colleges, Inc. and ITT Educational Services, Inc. both closed abruptly after years of abuse and financial mismanagement and severely disrupted the lives of thousands of student veterans nationwide.

Just as it did in 1952, this sector continues to seek ways to use their financial resources to curry favor and gain influence with students, enforcement agencies, and policymakers. In 2015, it was revealed that the University of Phoenix—the largest recipient of GI Bill funds—had paid to sponsor concerts and other events on military bases to gain special access to servicemembers without the proper approval. For-profit colleges have also spent millions seeking to influence Congress and federal agencies to weaken federal oversight of their institutions. With this long and scandalous record in mind, VA's ethics process for employees must continue to be handled on a case-by-case basis to guard against potential corruption, as is required by federal law.

At most, VA should consider individual waivers for employees whose sole connection to a for-profit college is as a student or part-time instructor—but only if those employees have no responsibility for GI Bill approval, monitoring, compliance, or other oversight activities, and they have no other conflicts of interest. An individual waiver should be limited to a particular activity (i.e., taking a class) and should not grant the employee the ability to engage in other statutorily-prohibited financial arrangements with a for-profit college. For example, a VA employee who also teaches at a for-profit college should not, with a waiver to teach, also become eligible for compensation or bonuses from their employer for steering veterans to enroll in the institution. VA must also retain a process to verify employees' continued compliance with their individual ethics waivers. Additionally, no ethics waivers should be granted for individuals to receive special treatment, gifts, services, or discounts that are not widely available to the public.

Finally, we also urge that, prior to announcing any new proposed policy related to the 1966 conflict of interest provision, VA consult with Congress, veterans service organizations, consumer and student advocates, and federal ethics and administrative procedure experts. We expect that, if VA issues a revised proposal, it will be subject to the statutorily required public input and a fully transparent process that includes the legal justifications we previously requested. We look forward to working with you to prevent veterans and taxpayers from being exploited by for-profit colleges. Thank you again for your decision to rescind the previous rule and for your continued attention to our concerns.

Sincerely,

  
PATTY MURRAY  
United States Senator

  
RICHARD J. DURBIN  
United States Senator





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JACK REED  
United States Senator



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BRIAN SCHATZ  
United States Senator



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SHERROD BROWN  
United States Senator



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ELIZABETH WARREN  
United States Senator



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PATRICK J. LEAHY  
United States Senator



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RICHARD BLUMENTHAL  
United States Senator



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THOMAS R. CARPER  
United States Senator



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MARGARET WOOD HASSAN  
United States Senator