

# NASFAA's "Off the Cuff" Podcast - Episode 165 Transcript

Allie Arcese:

Hey everyone. Welcome to another episode of Off the Cuff. I'm Allie Arcese with our communications team.

Megan Coval:

I'm Megan Coval with our policy team.

Jill Desjean:

And I'm Jill Desjean, also with our policy team.

Allie Arcese:

We are back for another week. Justin will not be with us this week, but we're going to dive right into some news. Obviously, the biggest breaking news of the last week was that last Friday, Supreme Court Justice Ruth Bader Ginsburg passed away due to some complications with cancer, and her death has some major implications for many areas. That's definitely dominating the news cycle. We wanted to talk a little bit about just the implications that that might have for higher ed policy, and we pulled up some old, some more recent Supreme Court cases related to higher education and how the next justice could shape how the Supreme Court addresses these kinds of cases.

Allie Arcese:

So probably one of the more recent cases that is familiar to a lot of people is Fisher versus the University of Texas, and this was Abigail Fisher. This was an admissions case. It was challenging affirmative action, the admissions policies at the University of Texas, and it came down to a four to three vote, where the Supreme Court upheld the university's admissions process, because the way that race was used was pretty narrowly tailored, but that's one big thing that we've seen a few times is affirmative action cases on the Supreme Court, with Fischer, with back in 1978, the Regents of the University of California versus Bakke, in 2003, Grutter versus Bollinger in Michigan. More recently, there's a case with Harvard, the Students for Fair Admissions versus Harvard, which is sort of ongoing. Megan, did you want to jump in on this one?

Megan Coval:

Yeah, I mean I think this is just ... as we consider what will happen with the Supreme Court now, this is one of the things that we're paying attention to. So this case was decided in Harvard's favor last fall, and not all that dissimilar from the University of Texas case, where race is use as a factor in Harvard's admissions, but the court found that it was narrowly tailored, which is the judicial standard that it must meet based on prior Supreme Court precedent, but it's going through the appeals process now, and I think the community widely believes that no matter what outcome is in the court of appeals, that it will probably be appealed again by whoever loses and make its way to the Supreme Court, which could be, depending on when the decision comes down, sometime next year, and so I think there's real implications for how the court shakes out here.

Megan Coval:

You mentioned Allie that the last vote on an affirmative action case was four to three in favor of the University of Texas, but that was a different time and a different court, and right now the court is five to four with a conservative majority, and that vote last time fell pretty much along party lines. So if there is a liberal justice to replace Ruth Bader Ginsburg, the court will stay as is, five, four with conservative majority. If there's a conservative justice, it will move to a six, three conservative majority. And they're different cases and things could change. I don't want to just say that it would definitely happen along party lines again, but I think precedent on this issue shows us that that's where each justice generally falls.

Allie Arcese:

Yeah, I mean that's definitely where all of the attention is directed lately is ... I think we can pretty confidently say President Trump is going to nominate a replacement. He said that he could do so as early as Friday or this weekend. So everyone is kind of staying tuned for that. The question is kind of can the Senate get the nomination confirmation process completed before the election or before inauguration. Those are kind of the things that are hanging in the balance, and I feel like ... we should also note that another big higher ed issue, or a tangentially higher ed issue, that could come back to the Supreme Court is probably anything related to DACA and the rescission of DACA. We saw earlier this summer that the Supreme Court ruled five to four that the administration's decision to wind down the program was arbitrary and capricious under the Administrative Procedure Act, and the interesting thing about that ruling was that they basically kind of said, "Go back and try again." They didn't say you can't end DACA, just that you can't end DACA this way.

Megan Coval:

The way you did.

Allie Arcese:

Yeah. So I think that's another one that we will definitely see come back at some point. The next thing that I was going to say as this relates to Congress, is now that Congress is so focused on the Supreme Court nomination, is this derailing any negotiations for additional coronavirus aid and/or the federal budgeting process?

Megan Coval:

I would say definitely on the COVID relief package. I think chances were slim prior to the news of Justice Ginsburg's passing, but I think it was pretty well known that once that happened that any oxygen that was left before the election, or even after in the lame duck [session] to get this done, is going to be sucked up by a potential judicial confirmation process. So I think that's kind of ... it's just disappointing news. I mean we talked a lot about this last week, but there is a lot of need for more relief in all different areas, and certainly in higher education, and I think at this point it's looking like we won't see anything substantial until the next Congress. And during normal times, a Supreme Court judicial confirmation process can take up to three to four months. So there's just so many questions. I mean, there's definitely ways to expedite it, but I think we have to believe one of the easiest ways to expedite this is that you shorten the vetting process and going through a person's background and things.

Allie Arcese:

Yeah, and it sounds like the front runner from what I have read is Judge Amy Coney Barrett, which I think Inside Higher Ed might've had a story about her recently, but as of right now, I don't know that

there's a ton that we can look into as far as how she has ruled on anything related to education or higher ed specifically, but Judge Barrett does seem to be at the top of the list right now.

Megan Coval:

Yeah, and we could know by the time people are listening to this. We might know.

Allie Arcese:

Yeah, that's true. Pivoting back over to Congress, one development in the last week was that the House did introduce a continuing resolution to fund the government through December 11th. Just as a reminder, there is that deadline at the end of the month, September 30th. Every year, Congress needs to pass a federal spending package to fund the government for the coming year. Otherwise, there will be a shutdown. So Megan, do you want to catch us up on the House package?

Megan Coval:

So yeah, this week, as you said, Allie, the House passed a continuing resolution by a pretty overwhelming majority, and it was relatively clean in nature, meaning it was just focused on the budget, and as I mentioned last week, a lot of times both sides of the aisle in both the House and Senate tried to throw in extra policy issues in there, but yeah, will get us through the election and a little bit after, and continuing resolutions really basically do just like what the name sounds. They just essentially say, okay, we're just going to keep going at the funding level that we're at right now. We're kind of just buying ourselves some time to make a decision about the next year. So no changes to the funding of our programs or the numbers.

Megan Coval:

In fact, on the flip side, I think that's what kind of makes it a little bit frustrating, is that we know now, at least, we won't have final Pell numbers or SEOG or work study at least before December and probably will be after. So there are a number of downsides to not getting the budget done on time, and that's certainly one of them. I wouldn't be surprised if in December there was another continuing resolution that bought some more time. Maybe it'll be a short one, a couple of weeks, but I think it all depends on how the election goes. I think it's a little hard to predict.

Allie Arcese:

Yeah, and this is something we've seen before, many, many times in the last couple of years.

Megan Coval:

Yep. It's just done, as early as I can remember, a week out from its deadline. I think that's the very notable thing.

Allie Arcese:

Yeah. Yep.

Megan Coval:

And it'll go to the Senate now and there won't be any issues getting that through.

Allie Arcese:

Yeah. So stay tuned to today's news for updates on that. In other news, it looks like we have a new survey of college admissions officers, as well as some new enrollment numbers that sort of reflect how things are going amid the continuing pandemic. Megan, do you want to catch us up?

Megan Coval:

Sure. Yeah, there's been a lot of speculation about the impact on higher education from COVID and we finally have some numbers. So I'm going to share just two sources of data that we have on this. So Inside Higher Ed actually surveyed university admissions officials, and they were surveyed between August 6th and 30th. So I think that knowing the timeframe is helpful, and it was 433 senior admissions officials who were surveyed, and I pulled some of what I thought were the most interesting findings.

Megan Coval:

A majority did not fill their classes by May 1, which of course is the traditional admissions deadline, but also did not fill their classes by July 1, so even two months later, and that sort of sets a record in the history of this survey for number of schools who do not fill their classes by not only May 1, but July 1. Most colleges expect their enrollment to decrease this year, and then this point, I think is interesting, related to a different policy issue that has bubbled up. It's been on the table for a long time, but bubbled up certainly in the pandemic, is that a majority of those schools that went test optional or test blind during the pandemic do not expect to ever restore standardized testing requirements in their admission. So that's a pretty big statement and folds into much broader policy conversations that we're having anyways on this.

Allie Arcese:

It's hard to imagine a world without the SAT and the ACT.

Megan Coval:

Yeah.

Allie Arcese:

Because they were just such big things. When you're getting ready for college, everyone knows you have to take the SAT, and it's sort of like a milestone that's maybe going away.

Megan Coval:

Yeah, it's a really big change, and I think something like this, I think, has just forced a lot of schools maybe too to realize yeah, we can do it without and still build a strong class and there are other measures and other proxies. So we'll see where that unfolds. And then the other data points that have come out recently are from a preliminary report on fall enrollment from the National Student Clearing House Research Center, and their big finding overall is that undergraduate enrollments are down 2.5% compared to last fall, with the biggest losses being at community colleges, where enrollments were declined by 7.5%, which this -

Allie Arcese:

That's really surprising to me.

Megan Coval:

Same. Same. I was totally expecting community colleges to ... maybe thrive is too strong for word, but that students were going to stay home, who were going away somewhere, but didn't feel comfortable traveling, didn't feel comfortable being far away from home, and it's really opposite of what we've seen in other recessions and economic downturns.

Allie Arcese:

Yeah, because usually people turn to short-term programs, things that are more geared towards workforce training, that have a clear credential or degree to job pipeline -

Megan Coval:

Yeah.

Allie Arcese:

- that a lot of the times they're housed in community colleges, and so that's kind of surprising.

Megan Coval:

Yeah, and I think it just ... I was thinking about it this morning, and I guess it just goes to show you that it is more than a recession. It's a recession and a pandemic. So when you think about ... in 2009, I saw this morning somewhere that enrollment was up by a million students after the great recession, and this is just not what's happening here, but I guess it kind of makes sense, because you can't just go back to school if you have kids at home or you're taking care of family members who are ill. There's just so much else at play, but I was really surprised by that.

Allie Arcese:

Yeah. Yeah. Definitely not what you would expect. Although just a little bit of a tangent, I did see, I think it was UMBC ended up reaching out to former students who had not finished their programs, and that's nothing new. I know a lot of institutions have programs in place where they go back to people who were close to earning their degree, off by a couple of credits or whatever and get them to come back, and I guess for UMBC, they saw it as an opportunity in the pandemic. People who normally wouldn't have the flexibility to go back and finish their programs are now able to because it's online and they were offering scholarships and different types of aid for that. So they did end up being able to reach out to some of those students who were close to finishing who can now finish online when maybe they weren't able to before. So that's the flip side to it, I guess, is for some students, the going online is going to make it harder to go back to school and for others, maybe less so.

Megan Coval:

Yeah, that's a really good point. And so tell me what you think of this then, because I had the same thought here, is that graduate enrollment is up three and a half percent.

Allie Arcese:

That's interesting, but I have no hypothesis as to why that is.

Megan Coval:

Well, I was kind of thinking along the same lines of where you were just going, Allie, was maybe folks who had thought, "I want to go back to grad school at some point. Gee, I'd love to go to ..." we'll use a

local example ... "George Washington. I can't afford to live in DC, or I can't move my family out there," but now like all these programs all across the country have become available online.

Allie Arcese:

Actually, yeah.

Megan Coval:

And people can chip away at them, maybe not even taking a full course load was what they mean. So yeah.

Allie Arcese:

You know what, yeah, now that you mention it, the personal example, a friend of mine who lives out here who also went to Berkeley just decided during this ... I guess there was some sort of expedited admissions or application process for Berkeley alumni who wanted to go to the business school, and she was like, "You know what, I want to do it. Why not now?" And so she's in her first term there.

Megan Coval:

Yeah.

Allie Arcese:

Doing it remotely, still, from DC, although she is going to be moving back to California.

Megan Coval:

Yeah, right.

Allie Arcese:

Crazy times.

Megan Coval:

So I mean there are these nuggets of opportunity, I think, during this time that is really hard in a lot of other ways. Anyhow, we'll see ... one thing they noted, that this is a preliminary report and the spokesperson for the clearing house said, "We'll be thrilled if it stays at a decline of 2.5% undergrad enrollment overall." Jill, you probably know more about when schools report, but I don't know if they'll take another snapshot later in the semester of like where the numbers are.

Allie Arcese:

We'll see.

Megan Coval:

Yeah, we'll keep you posted.

Allie Arcese:

Next up over to the Department of Education. We have a new electronic announcement that was posted this week, announcing phase two of COD implementation of the coronavirus indicator for R2T4 waivers. That was a mouthful.

Jill Desjean:

You are not making me say that.

Allie Arcese:

Well, you get to explain what it all means, so you have the harder job.

Jill Desjean:

Arguably. Yeah, so this was posted maybe last night, maybe today. It was dated the 23rd, but I certainly didn't see it until this morning. This was a follow-up to a July 30th electronic announcement. That was phase one. This is phase two, and this announcement adds some operational details, some dates and some information about reports that are going to be available to schools related to the R2T4 waiver that was part of the Cares Act. So some items of note from here; first, starting on September 27th, a couple of days from now, ED is going to expand that payment period start date window for the coronavirus indicator to be accepted by COD. That window will be for payment period start dates inclusive of, or between July 1, 2019 and December 31, 2020. In the July 30th phase one notice, the department stated that the payment period start dates had to be inclusive of, or between January 1 and December 31st, so ED is moving now to making that acceptable payment periods start date to move back six months.

Jill Desjean:

And this is good news, because institutions had students who qualified for the R2T4 waiver in every other way, because they withdrew due to COVID-19 based on all of the other criteria that was set out in the various pieces of guidance that came out over the spring, but their payment periods may have started before January 1. You may have had a payment period that started say December 15th to April 15th. Student withdrew due to COVID, but the school would not have been able to use the coronavirus indicator for them, just because of these dates that were set out in the phase one notice. So essentially the process would be dictating the policy, which doesn't make a lot of sense. So this change should address that issue, and this'll help those students who withdrew who had payment periods that started before January 1 to still get all the benefits of the loan cancellation, the removal of Pell Grants from the LEU Pell and ISG grants from LEU, the subsidized usage limits, and the teach benefits that are all part and parcel of this R2T4 waiver.

Jill Desjean:

There's another good piece of news for schools in this EA. Again, going back to that July 30th electronic announcement, the department had said that schools would be required to use the department's R2T4 calculator tool for all COVID-19 related withdrawals, and this got some attention because not schools use that tool and had already done their R2T4s using whatever system they use. So they would have to go back and redo all of their R2T4 calculations going back to the spring using the department's calculator, which would have been really tedious and really time consuming. We heard some estimates from some of our member institutions that are bigger schools that had a lot of withdrawals due to COVID, and they were talking about weeks of staff time to redo all these calculations. So in this phase two announcement, the department said that in response to feedback they received ... so they were listening. They're looking at alternatives -

Megan Coval:

Go NASFAA and our members.

Jill Desjean:

Yes. Yes, indeed. Advocacy win right there. They're looking at alternatives to using this R2T4 calculator to report the aid that wasn't returned due to use of the waiver. For now, schools may use, but are not required to use the R2T4 calculator, but if they want to, they can choose to wait for whatever alternative this is. So we don't know what the alternative is yet, but hopefully it will be something that is less burdensome than what was proposed. So more to come on that. The EA also includes some deadlines. There were no deadlines mentioned in the first one. So December 31st, 2020, will be the deadline for schools to set that coronavirus indicator in COG, and then September 30th of 2021, of next year, will be the deadline for reporting Title IV aid that wasn't returned due to use of the Cares Act relief.

Jill Desjean:

There's also going to be a new weekly coronavirus report for schools that will provide them with cumulative data for students who have had the COVID-19 indicator set to yes. That'll show data by aid program and by year, and it won't be automatically generated and sent out to schools via Ed Connects. The schools that want to use that will have to actually go into the COD website and get it from there. We do have some outstanding concerns that weren't addressed. This came up after the phase one announcement. This coronavirus indicator is a manual process. Schools have to go in COD and check a box. There is no batch processing for this, And so obviously for bigger schools with lots of students who withdrew due to COVID, that is going to be a lot of work to go in, but at least it is just checking a box and not recalculating R2T4 in the R2T4 tool. So it is still better than what we had, but unfortunately it doesn't look like that is going to be made into a batch process.

Jill Desjean:

And we do have one outstanding question out to the department, and that is whether schools need to set the coronavirus indicator for all students who withdrew due to COVID-19, or only for those for whom schools exercised the waiver, because schools are not required to exercise the R2T4 waiver for everyone or at all. So ED has told us ... we asked them about this after the phase one notice came out, and they just told us that it's under discussion. So we were hoping maybe it been part of this phase two announcement, but it wasn't there. Obviously it's better for students if schools have to set the indicator regardless of whether they used the waiver, because then the students can get those other benefits, like the loan cancellation, the [inaudible] benefits, et cetera. And we'll be covering this more in next Wednesday's webinars, so please join us for that if you're interested in hearing more.

Allie Arcese:

Awesome.

Megan Coval:

Yeah, another COVID webinar. It's been a few months, right?

Jill Desjean:

It has. It's been awhile.

Allie Arcese:

It has been a few months.

Jill Desjean:

I know. I've missed them terribly and I'm sure our members have too.

Allie Arcese:

And this is just ... you tell me if I'm right on this Jill, but just kind of a round up, catch up.

Jill Desjean:

Yeah, yeah.

Allie Arcese:

Not a ton of new ... a couple of new little things, but more new school year, just making sure everyone's on the right page?

Jill Desjean:

Yeah, and we haven't done a webinars since ED issued that EA that basically extended ... they said all that guidance we already offered, now that's been extended, and so that was great news, but it also kind of created some ... there was some questions of, "Well, what does that mean for this? And what does that mean for this? And how exactly do you do it?" So we're going to try to sort of clean up any outstanding questions to the best of our ability, because we still have outstanding questions as well, but where we have answers, we will share them.

Allie Arcese:

Okay. Well that is all the news that we have for you guys today. On another note, I don't know if you guys know this, Megan and Jill, but this weekend is "Off the Cuff's" fourth birthday.

Jill Desjean:

Oh, happy -

Megan Coval:

Is it really?

Allie Arcese:

Yeah. Off the Cuff turns four. We're toddlers going into adolescence, I guess.

Megan Coval:

Wow, that went fast.

Allie Arcese:

I know, it did. Yeah, our first episode was in September, 2016. So we will be entering our fifth year.

Megan Coval:

I'd love to listen to that. I've got to re-listen to that.

Allie Arcese:

Yeah, it's not great.

Megan Coval:

Yeah, I remember the old setup and the conference room.

Allie Arcese:

When we all huddled around one microphone, which would not be kosher these days.

Megan Coval:

No. Oh no. Yeah, I hear what you're saying. Yes, not only for quality, but also -

Jill Desjean:

For germs.

Megan Coval:

Wow. Yeah, that really went fast. I feel like it took us a while to ... I think the hardest part about moving to a podcast format was getting out of presentation mode.

Allie Arcese:

Definitely.

Megan Coval:

And just getting into the banter and the back and forth and the -

Allie Arcese:

Yeah. Well, I say that as if I had been on a webinar before, which I have not, but for me, it was just one week Justin was like, "Hey, I think we should start a podcast," and we're like, "All right, when?" And he was like, "How about next week?"

Megan Coval:

Yeah, and look where we are now.

Allie Arcese:

"Sure, no problem. Let me just go learn how to ..." I was Googling how to do a podcast.

Megan Coval:

Yeah, we figured it out.

Allie Arcese:

No, I think Justin edited the first couple of episodes, but if you go back and listen to them, you will see it took us quite a while to get to a good point of audio quality, but we got there.

Megan Coval:

Yeah. That's really cool.

Allie Arcese:

But thanks everyone for sticking with us for the last four years. Can't believe it's been four years. Hopefully we get another good many years out of this experiment.

Megan Coval:

Yeah, I hope so too. I look forward to it each week.

Allie Arcese:

Yeah, me too, and we haven't said this in well, but I think this was probably our best episode yet. Let us know if you guys think that this was our best episode yet. Thank you everyone for tuning into another episode of Off the Cuff. Send us your comments, questions, feedback, and we will see you again next week.