

NASFAA's "Off the Cuff" Podcast – Episode 232 Transcript

OTC Inside the Beltway: Updates on Targeted Loan Cancellation, Promotion of the PSLF Waiver, and NASFAA Preps National Conference Questions for ED

Justin Draeger:

Hey, everybody. Welcome to another edition of Off the Cuff. I'm Justin Draeger.

Karen McCarthy:

I'm Karen McCarthy from our policy team.

Jonathan Fansmith:

And I'm Jon Fansmith from ACE's government relations team.

Justin Draeger:

Welcome back, Karen and Jon. Glad to have you here. We've got a lot to talk about. First thing we should say though is summer has ... I know, Jon, I guess, I have a question for you. When does summer begin for you? Are you more of a meteorological summer type person? Are you an astrological summer person? Are you a Memorial Day summer ... When does summer begin?

Jonathan Fansmith:

My wife actually always makes fun of me because I get Memorial Day and Labor Day confused all the time. I forget which one-

Justin Draeger:

Oh boy.

Jonathan Fansmith:

... is supposed to start summer and which one's supposed to end summer.

Justin Draeger:

Oh boy.

Jonathan Fansmith:

I'm a climatological summer person. When it starts getting hot, it's like, all right, it's summer now. When I have to change-

Justin Draeger:

Okay, that's good.

Jonathan Fansmith:

... what to wear to work, that's summer for me.

Justin Draeger:

You don't have to know when Memorial and Labor Day are. You just know that you can wear white in-between those dates, and then after those dates, no more white slacks.

Jonathan Fansmith:

Right. Which is why I switch to entirely white suits, just like Tom Wolf.

Justin Draeger:

Seersucker suits. Right.

Jonathan Fansmith:

Yeah.

Justin Draeger:

I'm with you. It's sort of like, and I heard this, that when the temperature is then perpetually above 80 degrees, that's when summer begins. I can buy into that. I like that definition, even though-

Jonathan Fansmith:

But then it's-

Justin Draeger:

... very much-

Jonathan Fansmith:

Summer for us not summer for Massachusetts then. There's no commonality.

Justin Draeger:

That's true.

Karen McCarthy:

Mm-hmm.

Justin Draeger:

Well, that's true but in D.C., it's like summer. Karen, for you, does it matter?

Karen McCarthy:

I always think of summer as starting Memorial Day weekend. I think it's because our neighborhood pool opens Memorial Day weekend, so that's like ... Actually, my daughter just asked me my thoughts on this on the way to school yesterday.

Justin Draeger:

Really?

Karen McCarthy:

Like, "Do you feel like it's summer?" Well, I think she was making an argument to complain about the fact that they're still in school. Like, "It feels like summer to me. Why are we still in school?" Like, yeah.

Justin Draeger:
Well, that's true.

Karen McCarthy:
Yeah.

Justin Draeger:
I see her point.

Karen McCarthy:
Yeah.

Justin Draeger:
I get that, as a kid, when school lets out.

Jonathan Fansmith:
Sure.

Justin Draeger:
Which gets confusing in college, because my term ended in April, and so summer term for me always began like May, which I did. I did year-round, but I'm with you, Jon. We're in summer. It's above 80 degrees every day now from here till like mid-September, and I'm here for it. I love it. I love summer. I just can't get enough of it. I want to live in perpetual summer.

Karen McCarthy:
Even D.C. summer?

Jonathan Fansmith:
I cannot disagree with you strongly enough.

Justin Draeger:
What's that, Karen?

Karen McCarthy:
I was like, even D.C.-

Justin Draeger:
What did you say?

Karen McCarthy:
D.C. summer?

Justin Draeger:

Even D.C., even D.C. I just love getting up in the morning, as we just talked about before we came on the air. I got up yesterday morning and I did 25 miles into work on my bicycle. It was 70 degrees. That's perfect. Mornings are 70s, afternoons are 80s. You might get a nice thunderstorm, which I also like. I like storms rolling through, occasionally, so I'm all about it. Also in D.C., things start to slow down mid to late summer, which I'm also here for.

Jonathan Fansmith:

Yes. That is the one highlight of summer that I'll agree with entirely. Slowdown. I'm a fan of slowdown.

Justin Draeger:

Yeah. Now, I'm going to stop myself short because people who've listened to me for however many years I've been doing this, I'm not going to talk about the suits in the summer this episode. I'll save that for a future one, but I do have a summer gripe, but we're not going to get into that today. All right. Big announcement over at the Department of Education. Hugh, our reporter, senior reporter, did an article on this in Today's News this morning, You're producing this episode, Hugh. Why don't you come in, catch us up to speed. What was announced and then we'll deconstruct.

Hugh Ferguson:

Yeah, so The Department of Education, on Wednesday night, announced that it will be canceling the loans for 560,000 borrowers who attended any campus owned or operated by Corinthian colleges, from the time of its founding in 1995 until its closure, which was in April in 2015. The Department's touted how this discharge is the largest single loan discharge in the Department's history, and would amount to a total of \$5.8 billion. There's a lot of extra guidance that went out with this in a conversation on Wednesday night, and the Department is hosting an event with the vice president's office on Thursday to go through more of these details.

Justin Draeger:

A lot of this is being done because of an investigation and closure that happened what? Almost, I guess, seven years ago now. Jon, on the whole, how are you viewing this? Good thing, bad thing, fair thing, equitable thing, what?

Jonathan Fansmith:

Good thing, good thing. Overdue thing. I think this is, you think about it in terms of the borrowers who have been through this experience of, they were defrauded by the institution they went to. They sought relief that's there for them under law, and then they've gone through two different administrations, into a third administration where they have been told outright, "You were defrauded. Your loan should be forgiven," and then a huge argument about how much of those loans should be forgiven. Just the relief they must be experiencing to finally have this settled, and I think it's pretty clear. There's no place in higher ed for defrauding students, and students shouldn't be the ones to bear the burden of that, so long overdue, very good thing. Good on all fronts, equity, you know the rest.

Justin Draeger:

One of the things that I've heard critics say is Hugh, you mentioned that these are going all the way back to the institution's founding, right? So if you have an outstanding loan from like 1996, that would also be forgiven. Karen, do you think that's fair and equitable?

Karen McCarthy:

I'm fine with that. I mean yeah, I agree with everything Jon said about the overdue nature of all of this. And so, I don't know they're- I feel like they just, there has been so much faith and goodwill burned because it has dragged on for so, so long. And so I think if they got to the point where this was super complicated and were only going to forgive these loans in this timeframe, or you have to do anything to get your loans forgiven, I just feel like they wouldn't have been able to regain some of that. Some of those good feelings that people are feeling and that relief that they're feeling today. I just feel like parsing all that out wouldn't have been, they would've lost some other political capital there. I just wouldn't have been worth it, I feel like. I don't know, we haven't talked about it though, before this. What are your thoughts, Justin?

Justin Draeger:

Well, you've convinced me, Jon and Karen you've convinced me. And...

Jonathan Fansmith:

Were you opposed to this before?

Karen McCarthy:

Yeah. What's that?

Justin Draeger:

Well, no, I wasn't. I wasn't opposed, but look, I mean, so I guess what I, here's how I would look at it. When the Trump administration came in, the Republicans looked at borrower defense claims, which are people who were defrauded through misrepresentation by their institution about their program or program outcomes that they were going to try to measure the harm that was done to borrowers and on the face of it, I would say, okay, philosophically, I get that like, were you actually harmed by this school? Or did you benefit from your education and were able to increase your wages? So even if I buy into that idea and I'll, we'll just for the sake of this argument, say that even if I buy into the principal, this is a perfect example of, I think where even the best well-intentioned policy, if it can't be implemented, turns into bad policy.

Justin Draeger:

So this idea that we're going to adjudicate borrower by borrower and measure their harm and have them apply and then submit paperwork, and then there's going to be some sort of adjudication or judgment on the back end. It's just not realistic.

Karen McCarthy:

Yeah.

Justin Draeger:

After seven years of the school closure, at some point we have to bring- people are, I think there's something in the constitution about due process and speedy justice and like people are- it's too long, clear the paper, let's move on. That's sort of where I'm at. Karen, did you have something else?

Karen McCarthy:

Yeah, no. I was just going to say, like that in the backlog had been there for so long because of the process that they needed to go through. Like, would it even have been possible for them to get through the backlog ever under the process that we have right now? Yeah. That's, yeah I don't think it was possible.

Jonathan Fansmith:

I mean, keep in mind, Corinthian is one part of the groupings of students who have gotten successful borrower defense claims that still haven't gotten relief yet. I mean, Cardona has been sued by borrowers. The have been granted borrower defense, but haven't had their relief granted yet. You know, there's a lot of people out there. This is that backlog Karen's talking about. This isn't even clear the decks. There's still a lot more as they're undergoing rewriting the borrower defense regs again so, there's a lot happening here and this is a huge step, but you know, this one seems like an easy one.

Justin Draeger:

Yeah. I think we're all in agreement here. Let me compare and contrast this to the conversation that's happening. That's taking up like 90% of the public's attention, which is just widespread across the board debt relief, whether it's 10,000 or 50,000 or whether there's an income cap set that aside for just a minute. What makes this different to me is maybe one or two, maybe three things. One is if we're going to provide widespread debt relief, this one with the borrower with Corinthian is very clear. There are students that have clearly been harmed.

Justin Draeger:

It's targeted towards those students, we're clearing the deck so that they can have closure and everything can be adjudicated and cleared out, and it's coming with policy reform. Jon, you just mentioned borrower defense claim regulations are being rewritten so that schools, presumably on the other side of the final rules, which we don't have yet, but on the other side, schools will be held more accountable. And for for-profit schools, their owners will be more financially liable and held accountable for student outcomes and misrepresentation. And so to me, this is a no brainer. It's relief with reform that would hold institutions, those institutions more accountable for defrauding students.

Jonathan Fansmith:

So that's one- yeah.

Karen McCarthy:

Oh, so Justin, you are optimistic about the final rules that they will be better and-

Justin Draeger:

No-

Karen McCarthy:

We'll be happy.

Justin Draeger:

That's not a commentary.

Karen McCarthy:

Okay.

Justin Draeger:

Well that's not a-

Jonathan Fansmith:

It's a comment on the process, not the outcome.

Karen McCarthy:

Yes. Okay. Okay.

Justin Draeger:

Yeah. It's the process. That's right. It's a comment that the administration is providing relief on one hand with reform on other, like those two things are happening together. Taking with the broader conversation about debt forgiveness, all the focus is on the relief. Very little focus is on the reform. And I wonder Jon, why you think that is? Do you have any like, why so much attention here? And so little attention on the policy reform?

Jonathan Fansmith:

Oh, I mean, I think certainly when you're talking about forgiveness, it's easy because there's 44 million borrowers, 45 million borrowers, approximately that's a lot of people who have an interest in seeing debt forgiveness, the policy, particularly if you're already out of school is less relevant to you than your own personal finances. I mean, there's a lot of noise about loan forgiveness, and lots of it is not from the same people we talk to all the time, right? Like there's, this is a big national issue that people care about because if you'll attach it, they have a connection to it. Like that's why the forgiveness, I think you're going to start to see, you're certainly seeing in DC, you're going to start to see nationally a little bit more consideration of, well, if we have such a massive debt problem, how did we get here? Right? Like this didn't happen overnight.

Jonathan Fansmith:

It wasn't an accident. We have a system that's creating the situation. You know, one time debt forgiveness doesn't solve that. I mean, we've talked about this, right? You have to look at this systematically, you have to reform the system. But you know, it's a whole lot easier to say the president with can swipe up a pen, can do that forgiveness. It's a whole lot harder to say, here's the comprehensive process that involves new regulations, new legislation, implementation action, institutions changing the way they act, all of that taking place over multiple years. Those are the sort of things that's just harder for people to grab hold of, and when you get it to the people who care, the people like us who are policy wonks, who then disagree about what the appropriate ways to do those things are.

Justin Draeger:

Yeah. Well, it feels to me like the Biden administration in some ways is punting a little bit on the policy reform because they're saying, well that requires Congress and the higher education act, but I keep going to two things there. One is the president certainly can make policy proposals. I mean, the

president doesn't have to wait for Congress to propose reform. Sometimes that happens to regulation. Sometimes it's just the bully pulpit, which is, here's what I need Congress to do, but there's even a second one here. And maybe I'm an island unto myself. And none of us here in this podcast are attorneys who I'm sure would take issue with this, but it's not clear to me anymore what the president can and cannot do by fiat. And so if the president can wipe away student loan debt on direct loans using presidential authority, why can't the president change the terms and conditions of any direct loan to say, for example, that there won't be any more negative amortization of interest. Like what is the diff- somebody explain to me the legal line between forgiving debt outright and stopping interest from accumulating so that students don't have larger balances in five years than when they started repayment. You know?

Jonathan Fansmith:

Yeah.

Justin Draeger:

I guess I'm saying like-

Karen McCarthy:

Yeah.

Justin Draeger:

... This forgiveness doesn't have to come without any reformed loan programs. It could.

Jonathan Fansmith:

It could. I mean, so I think, also not a lawyer, right? Important note, but I don't see where there's a line there.

Justin Draeger:

Not a doctor or a lawyer.

Jonathan Fansmith:

If you accept the argument that people do about the section of HEA that says the secretary has the authority to amend, modify, waive loans as being the authority and then add it with the Heroes, the emergency powers they have, then that would seem to cover exactly what you're trying, changing the terms and conditions of those loans. Why are they not talking about doing that? You know, I think to their credit, they've been following at the department of education, what we consider normally the appropriate process. They've launched negotiated rulemaking on multiple areas, they're trying to implement reform to the regulatory process, which is their jurisdiction. The forgiveness thing is just overtaken them. I mean, I think they're responding to two things. The president being massively underwater with young voters and the fact that there is a huge amount of that kind of broad public attention to forgiveness, which just isn't there for loan reform. And so they're responding this, this is a political, forgiveness is a political gesture. It's not a process gesture, it's not a policy gesture, we're worried about our votes. So let's go and address that.

Justin Draeger:

Yeah. And we've talked about that before on the podcast. So, that's the first comparison that I would make. Borrower defense claims with Corinthian clearing the deck, coming with policy reforms, this other one's not, for all the reasons that we just talked about. Okay. Here's the second, maybe second thing I would say is, if we agree that even the best policy ideas like public service loan forgiveness, borrower defense claims and forgiveness, if they can't be implemented, right, it's not good policy. It falls apart. If the president decides that people are only going to be able to get forgiveness with a limit, an income limit, and who knows what other caveats might fall on the application process here? Doesn't that anytime you introduce bureaucratic complexity into a federal benefit program, it's sort of, there's this inverse relationship with reaching the very people that you're hoping to reach. Are there any, I guess my question is, are there any lessons in the Corinthian, seven year Corinthian saga for how the president might approach widespread debt forgiveness and how complicated we make the process?

Jonathan Fansmith:

I mean, I don't know about Corinthian. I think PSLF is the clearest parallel here, right? Because we have a process that just was not working and they've taken extraordinary measures to broaden the reach of the pro- make the benefit more available to people they believe should have qualified for it under the intent of the law. And that's not working smoothly either. Right? Like the application process, they're feeling overwhelmed because they now have to personally review individual accounts. It's probably, frankly, they're somewhat lucky that I don't think it's saturated into the public as much as it probably should have the benefit that's available to people there that they haven't gotten as many people applying for it as otherwise could have. But the bigger point is anytime you set any sort of limits on a benefit, anytime you have to have a screen for that, it's going to take the government a longer time to do it, becomes more complicated and then you multiply that, we're talking about PSLF.

Jonathan Fansmith:

The volume of borrowers who might be eligible for PSLF 600,000, maybe have applied. I'm not sure the exact number at all times, if we're talking about roughly, what do you want to say, 20 million borrowers who might be eligible under the income limits. They're talking about probably more. That's orders of magnitude bigger and all of a sudden doing that review means this isn't a quick forgiveness plan that you get in place before November. This is a year's long process of enrolling people, verifying their income levels, making the determination before they see any forgiveness. It'll be a mess. The...

Justin Draeger:

From the servicer standpoint. Well, and then the question is this being handled by the servicers? If so, to my knowledge, they don't have any details about how this would actually be implemented. And so an announcement goes out, servicers are not brought up to speed, they're left flat footed, borrowers are contacting their servicers. There's just no information to be given. I mean, I guess what I'm saying is that financial aid administrators sort of live at this nexus of policy ideation and implementation. So when a policy falls flat on its face because of implementation, aid administrators are the ones who often catch the flak from upset students and borrowers and parents. And so I do think there's a little bit to- This isn't an advo- I'm not advocating for, or against income threshold, as much as I'm saying implementation matters when we get there. Karen?

Karen McCarthy:

No, I was just going to, I was thinking this all kind of reminds me of some of the lessons that our schools reported that they learned through the different rounds of the HEERF process. In that, when the first

round of HEERF funding came around, there were lots of schools that were developing applications and please tell us about your COVID needs and fill out this form and submit it and we'll review all of them. And then, they didn't see as big of an uptake on their HEERF application as they would've liked. And a lot of those schools shifted in the next rounds that they saw that there were lower numbers with the application and the very needy students were not the ones who ended up applying. And so the next go around, I feel like schools kind of learned from that and went more to block grants and we'll just, we'll screen from what we know and send the money out the door. And yeah, they found more success is what they reported back to us.

Justin Draeger:

That's right. And maybe they did a hybrid, like they held just a little bit of money back for students, but most of it was going out in block grant just for expediency-

Karen McCarthy:

Right.

Justin Draeger:

... And giving the money in students' hands.

Karen McCarthy:

Right.

Justin Draeger:

Great point. All right. Well, we'll continue to watch. And I guess my third question is the compare and contrast on the borrower on the Corinthian borrower defense claims being all cleared. The administration has done several rounds now, of targeted forgiveness, which is in any other administration or year, this would be seen as nothing other than-

Karen McCarthy:

Huge.

Justin Draeger:

... Totally extraordinary.

Karen McCarthy:

Yeah. Huge.

Justin Draeger:

I mean, we're talking-

Jonathan Fansmith:

It's the largest forgiveness ever, right? I mean, that's...

Justin Draeger:

Right. Tens of billions of dollars of loan debt cleared. And yet it seems to me like, there'll be a new cycle for 48 hours, but it seems to me that the administration will not because of this other conversation about widespread debt forgiveness, that this just is not going to get them the political capital that maybe they would hope, and maybe they should, because they've done more than any other administration on-

Jonathan Fansmith:

Yeah.

Justin Draeger:

... On loan debt.

Jonathan Fansmith:

No, I think it's funny when earlier in the week, when there was these sort of the hints about, there's going to be this event on Thursday where the vice president's going to speak, and it's going to concern student loan borrowers, everybody. I mean, the initial assumption was this is the announcement of widespread loan forgiveness. This is and to a certain extent, people were talking yesterday and it's like, oh, it's about Corinthian. Okay. Like, it was almost like, this is the single largest loan forgiveness the federal government has ever done.

Jonathan Fansmith:

It's massively important to hundreds of thousands of people. And everyone's reaction was like, eh, it's a bit of a letdown. I thought we were going to get to the big deal and to your point. Right. Everybody is just focused, and the rumors about the admit, president was going to announce it on last Sunday at the commencement address, the University of Delaware. Now it's even more so, because everyone's just kind of waiting for that shoe to drop. They're just not, they have definitely shot themselves in the foot in terms of getting the credit they actually deserve for what they've done.

Justin Draeger:

Yeah. Democrats in general, sometimes aren't the best at messaging. And it's very clear they've sort of lost a little bit of the umph. I think they probably actually deserve on what they've done in terms of targeted relief over the last year, year in some months but all right.

Karen McCarthy:

I mean, they did, they did play that up. I was kind of laughing at that in their press announcement, all of the forgiveness that they've already done. And it's \$25 billion.

Justin Draeger:

Right.

Karen McCarthy:

Yeah.

Justin Draeger:

Significant.

Jonathan Fansmith:

Yes.

Karen McCarthy:

Yes.

Justin Draeger:

Yeah. Anyway, okay. Moving on. You had brought up public service loan forgiveness, Jon. The department's out making visits to various states. The secretary of education is talking up the PSLF waiver. I'm wondering, do you think that the impact of the waiver's being maybe like undersold by the department? Are they talking about it enough? Is it out there or do people know about it? What's going on?

Jonathan Fansmith:

Yeah, I mean, and I think I mentioned this, I don't think they've done nearly good enough job at getting this news out there. You saw there was a little bit early on when they first announced the waiver. You saw this social media trend of, somebody said, I'm a teacher and I just had my loans forgiven, like this is great, and I think they had some nice news cycles around the waiver, but I am constantly surprised by the number of people that are completely unaware that this is happening even here in DC, where people kind of track these things relatively closely. It's good that they're getting out and letting more people know, because what's the point of doing these extraordinary measures if you're not going to actually get the benefit out to the borrowers, but they, yeah. I mean, and again, I think I hate to keep coming back to this.

Jonathan Fansmith:

I think they get lost in the wash of large scale loan forgiveness. People are just thinking about that and that's where the public attention is so, in some ways maybe it's good for the department. I don't know they're struggling to handle the capacity of applicants for PSLF they have now. If they had more, maybe the reports you're getting, which is what you tend to hear about now, delays, confusion, forms rejected for seemingly arbitrary reasons, miscommunication with the servicer, stuff like that. Like, there'd be more of that, but on the other hand, if this really does expire on October 31st, and here we are, the beginning of June, the time is really running out.

Karen McCarthy:

Hey, Jon, something you just said made me wonder. Do you think that there are people out there who are aware of the waiver and that they might qualify, but are just hanging out, like why bother going through that application process and that whole thing when I might get loan forgiveness next month, do you think that is a thing? Or is it more of a lack of awareness?

Jonathan Fansmith:

I think it's more of a lack of awareness.

Karen McCarthy:

I know the- I know the lack of awareness. Yeah.

Jonathan Fansmith:

The one thing I'll say actually, which has been really inter- cause I'm like a sideline as a financial aid advisor. I've counseled a bunch of people to apply for PSLF and the number of them have received it actually. So, I work with association people who are 503, 503C at ACE. So there's people who know this. The biggest thing that I think is keeping people from applying is they looked at the criteria that, or the statutory criteria, or they tried under temporary extended PSLF, or they applied for previous and were rejected and essentially said, okay, I've already tried that. That doesn't apply to me, and they really have to be sort of told by hand, look, those things you were rejected for before, they don't apply anymore.

Jonathan Fansmith:

This is a special waiver you have to get in. Unless you're really following this, I don't think for the majority of people they know to even check in with what the changes would be. So if they had that experience, it's probably been negative. So they think it's not an option or they're not even thinking of it because they just said it was never an option for me. That seems to be the case more than, I mean, would you really wait on getting 10,000 of your dollars forgiven if you could get all of it wiped off the table on one fell swoop.

Karen McCarthy:

Yeah.

Justin Draeger:

I don't know. I think you're right Jon, because it's not something people are thinking about every- I mean they might be thinking about their loan debt every day, but they're not in there. Like the amount of mental energy it probably takes to sit down, log into the system, navigate whatever you- and then there's this unknown, what do I need to navigate? What do I have to download? Who do I have to talk to?

Karen McCarthy:

Yeah.

Justin Draeger:

I've already talked to these people. I think there are just real mental and emotional barriers to people trying to figure this out. But you also said, I think, in there that if they don't extend, do you suspect that there's a chance or a high chance probability that we will extend this waiver beyond October? The end of October?

Jonathan Fansmith:

Yeah. That's a good question actually. You wonder why they set the deadline in the first place of exactly a year and we can get back into, none of us are lawyers, right? Is the legal justification they're anticipating tied to emergency authority. I mean, we had this conversation, I think when they put the waiver in place. It's not clear to me that they actually have any good or compelling legal authority for why, the emergency authorization's for people who are impacted by the national emergency, that you've continued to be employed in public service doesn't seem to indicate that you've been adversely impacted by the national emergency. So I don't get the grounds for it, but then again there...

Justin Draeger:

Well, if I say everybody's been impacted, I mean, this is a- everybody's been impacted by the pandemic. This also gets back to another question we just sort of wrestled with on the debt forgiveness, which is, well, it's temporary, there's this arbitrary deadline. Could the administration without Congress just say, all right, we're going to make this whole thing easier. These are now permanent parts of public service loan forgiveness, because everybody's been impacted by the pandemic.

Jonathan Fansmith:

I mean, we're kind of at the point where, does the distinction even matter? They're doing it. They don't even-there's no- like, here is the legal authority for our actions. There's like, here's what we're doing. Right. And they're doing it in a number of different areas and nobody has been able to successfully stop them. I don't think a lot of people are, you're beginning to hear more partisan opposition to the different forgiveness things, but there's been no concerted effort to stop any of this. At a certain point, maybe they do take your next step and say, now we're going to modify loan terms and conditions of loans. Why not? We can do that.

Justin Draeger:

Right.

Jonathan Fansmith:

Who's going to stop us? Does it matter if they actually do something formal about it? Probably not, not to the borrowers and unpacking all of that down the road. If there's another administration, if there's court decisions, things like that, how do you reach back and start telling millions of borrowers, billions of dollars. You need to pay that back, or that was improperly awarded. I mean, which administration frankly wants to be the one to take that on and say, we're going to enforce the law rigidly here. So let's go alienate 40 million voters, it's just, it acquires it's own momentum.

Justin Draeger:

Yeah. All right. Well, I assume the answer to this, just one final question here, and I assume the answer is no, but do we suspect Congress will do anything here? I think everybody is admitted on the left and the right that PSLF, it does not work as constructed. I mean too many rejections. It's a bait and switch. Do we see any enough momentum though? Bipartisanship is not enough to actually get something through Congress even anymore. So do we have enough momentum that Congress would come in and make PSLF better?

Jonathan Fansmith:

I mean, because Congress has a great track record, of coming in and making things better. Karen, I'm sure, will have better thoughts than I am, but, I just don't see the possibility for, first of all, for congressional action period in any near term, any short term. And I do think actually in a lot of ways, the fact that the Biden administration is using sort of questionable executive authority to push a lot of these things through has made forgiveness. PSLF was a very bipartisan program, or was signed into law by a Republican president. I think the fact that they're pushing so much forgiveness, that they've extended the stay on repayment.

Jonathan Fansmith:

All of those things are made forgiveness generally and how loans are handled, a much more partisan issue than it was before the pandemic. And you can certainly see the idea that we should make the system more effective, we should be more lenient to borrowers, more generous to borrowers, is going to be the kind of thing that maybe five years ago you could have found pretty good bipartisan support for. Now, certainly at the edges you've lost people. And on the flip side, I think progressives, if it's a limited forgiveness measure, might also feel a little bit burned by the administration too, and say, well, maybe we should try and take some authority out of their hands.

Justin Draeger:

All right, let's go to our final thing. I want to talk about today. The NASFA national conference is back in person in Austin, Texas at the end of this month, at the end of June. We'll have several people from the Department of Education there. Chief operating officer, Rich Cordray is coming in. So is the undersecretary James Kvaal, and Karen and John, I'd love to hear your answers to this question. If you could ask James Kvaal one question, what would it be? That's the very question we asked the NASFAA membership. We've been asking them Hugh, I don't know for like the last several weeks, right. In Today's News, people have been submitting what they would like to ask the undersecretary. We're going to have a one-on-one sit down sort of Oprah Winfrey style at our conference where we'll talk about a lot of these topics. So, Jon, how about you, if you, if you could ask James one question, what would it be?

Jonathan Fansmith:

Do you regret taking this job?

Justin Draeger:

You know, when, when I talk to him, he seems like he's still in pretty good spirits, but I know that's not a fun position to have.

Jonathan Fansmith:

It doesn't seem like a fun position in the best of times, and these aren't the best of times to be in that position, but I would actually tie it back to what we've been talking about. I think one of the things is we tend to see a lot of these announcements from the Department of Education almost as piecemeal, and I would love to find out, is there a big plan? Are things moving according to plan, is this part and parcel of what your goals were coming into the office or are you responding to the crises that are occurring around you? I don't know whether he'd be able to candidly answer that or not, but that's certainly what I'd like most to know.

Justin Draeger:

Yeah. Fair question. Maybe I'll write that one down. Do you want me to identify you if I ask that question?

Jonathan Fansmith:

You'll probably get a better response if you don't so...

Justin Draeger:

Okay. All right. How about you, Karen? What do you got?

Karen McCarthy:

Yeah, mine was similar to Jon's. What was your agenda coming in and has it changed at all? Where do you think the department will be going? Yeah, just what's the plan and how has it changed over time? Something like that. Yeah.

Justin Draeger:

Every administration comes in with their own policy ideas, and then you're shaped by the times in which you live and govern. So things are, I'm sure are a lot different than maybe what they had originally intended. Here are some of the questions that have come in from some of our members. One person said that they feel like they're in the middle of an Indiana Jones movie where they try so hard to comply with all the rules and regulations, but they never know what's coming out of the next corner. Maybe they're doing a temple of doom sort of analogy here. So they want to know what's coming around the corner and what strategies do they expect schools and aid offices to use to try to constantly be in compliance with an ever-changing and shifting regulatory schema. So that's one question.

Justin Draeger:

Lots of questions actually on regulatory burden and one person raised up what I thought was a good question, with so much data now coming out of The Department of Education through the college scorecard and then of course college navigator, which should be overhauled, but still has a lot of data and information with the new GE regulatory package coming. That will basically be GE disclosure for all.

Jonathan Fansmith:

Right.

Justin Draeger:

I mean, like they're going to be publishing it all. The question is like, why do the schools have to disclose so much then. If it's all available, can't The Department of Education just give all the information to students and alleviate some of the burden on the school side for putting together a package of disclosures that no student actually looks at, and probably the most important time for students to be looking at it is before they're enrolled. Like at the time they're filling out a FAFSA and investigating.

Karen McCarthy:

Yeah. I was going to say that it would probably be helpful for students in that way. I think, feel like that's the great part about using the Department of Ed's tools, because you could look at multiple schools all at the same time versus going out to individual school sites and trying to track information down.

Justin Draeger:

There was op ed and Inside Higher Ed this last week from someone who was saying like "I'm in higher ed and here are the five mistakes I made in helping my own child choose college" which I-

Karen McCarthy:

Oh, really?

Justin Draeger:

... I scanned through yesterday, which was interesting to me because I have a senior who's graduating right now and about to go to college, and I have to tell you, having been in higher ed for 20 some years, like when we started this process, I was a little bit like, okay, where do we even, where do we start now? Like what? So like, it's a monumental task for everyone, including, and maybe most especially for those not in higher ed, but my point is all the data points that I was most interested in did not come from the schools. Like every school is in the top five, whatever, for their meals, I get it. Like they have the best meal plans ever. It's best food. I understand that. But all the stuff I was interested in all came from the department. I was looking at campus crime, I was looking at net price...

Karen McCarthy:

Graduation rate.

Justin Draeger:

... Graduation rate, I looked at default rates. All of that came from the department. I didn't look to the school. I didn't actually look at the school. I also didn't look at US News and World Report so maybe I'm a real outlier.

Jonathan Fansmith:

I'm curious. So what was your daughter looking at? Was she looking at the same?

Justin Draeger:

I know. She was looking at meal plans, meal plans.

Jonathan Fansmith:

Right. But that's like, it's a little bit of a joke, but I helped my niece a couple years ago when she was applying to college and it was the same sort of experience I'm like, oh, like here's the scorecard, here's what I'll tell you about graduate. And she was like, a normal- so she's like, oh yeah, but this is a beautiful campus, right? I'm like, yeah but like your outcomes are not nearly as good as they are at campus x and she's like, yeah but that place is kind of a dump.

Justin Draeger:

Yes Jon. I agree. My daughter was most interested from what I could tell, what she articulated and some of the nonverbal was it was like a pride thing. Like if I go to this school, will I be proud to say I went to that school?

Jonathan Fansmith:

Okay.

Justin Draeger:

So there's a reputational piece that's in there. Yep. There was a what's the campus like, like she came to the conclusion she did not want a campus that was interspersed in a city. She wanted a closed basically campus. And like the amen- not the amenities like the climbing wall or any of that stuff, but like amenities like what's the campus? What are the dorms like? What's the community like? And she knew she wasn't super big on Greek life. So like, that was actually a turnoff for her at some schools. But none of that is Department of Ed data, I guess I shouldn't have said...

Jonathan Fansmith:

They try to capture all that too. That would be...

Justin Draeger:

Yeah. Anyway. Yeah. So those are some of the comments that are coming in. People can, and Hugh, maybe we can put in the show notes where people can submit additional questions that we will take as we have our conversation with the highest ranking policy person within the Department of Education who oversees specifically higher ed. So looking forward to it. All right. Let's bring Hugh back into the program. Hugh, welcome back. Glad to have you.

Hugh Ferguson:

Thanks for having me.

Justin Draeger:

Yep. Let's see what else is going on in the news this week? What do we got?

Hugh Ferguson:

Yeah. So FSA recently provided a number of stakeholders with an updated roadmap for their next generation of federal student loan servicing, where they detailed the efforts they're making to replace the legacy servicing contracts for direct loans and federally managed federal family education loan, FFEL program loans, and how they planned to go about transitioning borrowers to a unified servicing landscape. The objective here is for FSA's new servicing system to overhaul the student borrower experience by transitioning the entire student aid experience, which encompasses completing the FAFSA form to successfully repaying loans to student aid.gov. And FSA said, they're seeking to implement all these transitions by the end of 2023.

Justin Draeger:

Yeah. So forward progress, not a lot surprising, but some new information in here and things that we support. So people can check out our full comprehensive set of servicing recommendations in our recently published report on repayment and equity and we can post a link to that along with this story in the show notes. What else is going on this week?

Hugh Ferguson:

Yeah, so we also have a dozen congressional Republicans who are demanding that the Department of Justice intervene in Ed's ongoing negotiated rulemaking process. They're citing concerns over how ed will draft its borrower defense regulation. And the request is spearheaded by House Education and Labor Committee's ranking member, Virginia Fox, who is arguing that the public needs to be protective, protected from what she worries could be an improper rule making over borrower defense to repayment regulations. As a reminder, during Ed's affordability and student loans committee work, the committee did not reach consensus on language concerning borrower defense. So the department can go about drafting the regulation as it sees fit, and we're waiting to see how that process plays out. So stay tuned to Today's News and check out our negotiated rule making coverage in the show notes to catch up.

Justin Draeger:

All right. Thanks very much, Hugh. Thank you everybody for joining us for another edition of Off the Cuff. Remember to subscribe, tell a friend, if you have a chance, leave us a review that helps other people who are interested in higher education and federal student aid policy. Stay connected. We look forward to your comments and we will see you again very, very soon.