
Allie Arcese: I'm Allie Arcese with our communications team.

Megan Coval: And Megan Coval with our policy team.

Jill Desjean: And Jill Desjean with the policy team.

Justin Draeger: Welcome, everybody. Today we're going to talk about the hearing that's happening. Is that still happening?

Allie Arcese: It's still going on right now.

Justin Draeger: It's still going on today with Secretary DeVos up on Capitol Hill talking a lot about borrower defense claims. We're going to be talking about the FUTURE Act, which was just passed by Congress this last week and what that means for ed offices and applicants going forward, and we have an update on some regulations. But before we get to all of that, Allie, you want to catch us up on some listener feedback?

Allie Arcese: Sure. So just as a reminder, last week, we asked you guys, where you think the FSA conference should be held? We got some good responses. Julie Dunn from Purdue says, "FSA should be held in Indianapolis, right in the middle of the country and easy to access to the airport and hotels." James from-

Megan Coval: I like Indianapolis.

Justin Draeger: Indianapolis is a nice town. The thing I'll say about Julie is, that's a lot of heart because she's from Purdue. So she doesn't want to go anywhere. She wants to just go to her backyard. All right. Good for you, Julie. Way to stick up for the home team.

Allie Arcese: Matt from Kirkwood says, "One word, Vegas. I loved every conference in Vegas, cheap flights, great people watching opportunities, gambling if that's your thing, and best of all, Cirque Du Salacious. Vegas, Vegas, Vegas."

Justin Draeger: Are we worried the man has a problem?

Allie Arcese: No.

Justin Draeger: Okay. Matt, good news for you.
Allie Arcese: I have faith that he's responsible.

Justin Draeger: Our next conference, NASFAA conference is in Las Vegas. So check it out. Registration opening in the next month. All right. What else?

Allie Arcese: I apologize if I'm not pronouncing your name right. But Ema from UC Hastings says, "The ideal conference location is Puerto Rico." That would be interesting.

Justin Draeger: Now, people might not know that, but Puerto Rico is the... We do have members in Puerto Rico, and they are part of our EASFAA region. They might think SASFAA because they're the southeast. And there's some history behind that. But when they were dividing up all the different areas, I think, there was some cultural ties back because a lot of people of Puerto Rican descent had moved to the northeast, in New York in particular. But they're part of the EASFAA region. And I'm open, if people will come, Puerto Rico's beautiful. So maybe we'll look at that for a future NASFAA conference. I don't know about FSA going there.

Allie Arcese: Eileen from Austin Community College says, "Salt Lake City isn't a bad place for a conference. I've been there both in the fall, in the spring, and I enjoyed my visit both times. Chicago..." I think she was trying to say, "Chicago wasn't bad either. There's a lot to do. The weather in June can be hit or miss." She also threw out St. Louis.

Justin Draeger: These do not sound like ringing endorsements. She's giving “It wasn't bad.”

Jill Desjean: This is fine. Meh.

Justin Draeger: Yeah. It wasn't the worst. All right. Where's she from?

Allie Arcese: So we have... Austin Community College.

Justin Draeger: All right. So she's-

Allie Arcese: So we have Salt Lake City, Chicago and St. Louis are all meh. They'll be fine.

Justin Draeger: Yeah. They weren't terrible.

Allie Arcese: Yeah.

Justin Draeger: All right. Good enough. Any others?

Allie Arcese: And then Chris Freeman from Noman said that he thought “Reno was a head scratcher. What happened to Las Vegas? We haven't been there in a while.” He said his preferred places would be Las Vegas and Orlando. He didn't mind Atlanta as an alternate. And then he had another question that he sent us wanting to discuss.
Justin Draeger: What is it?

Allie Arcese: He is curious about the informed borrower tool, which was announced in an electronic announcement a few weeks ago and then discussed in a little bit more detail at the FSA conference in one of the general sessions.

Justin Draeger: Right. So we didn't get a chance to talk about this because this the week of Thanksgiving, I think, right?

Allie Arcese: Right. When the electronic announcement came.

Justin Draeger: Yeah. So the idea being that now borrowers, students and parents are going to have to go in and affirm the amount of loan debt they have before future disbursements can be made.

Allie Arcese: Yeah. So Chris says he “loves the idea of the new tool. But isn't ED's directive to reduce institutional burden doesn't tie in disbursements to the school for both the student and any parent borrower add to the institutional burden?”

Justin Draeger: Well, I'm not aware of a directive that has to decrease institutional burden, although I would love to see that directive. I mean, primarily, they're concerned about fulfilling the mission of the organization, which is, helping students get their financial aid or removing barriers... I mean, they have like their visions, and then their missions.

Justin Draeger: But this administration, and they talked about it FSA as well, is interested in reducing burden, but not at the expense of helping students and families. And in this instance, the Department feels like one of the ways we can combat over borrowing is to have them be more aware of the total amount of loan debt that they're taking throughout their education. What's interesting, we didn't do a formal survey on this, right Megan?

Megan Coval: Mm-hmm (affirmative).

Justin Draeger: Okay. So when we were... All last year, because we kind of heard rumblings that the Department's looking at doing something, when I would go to conferences, I would ask outright, "How many people in the room would support some sort of annual required counseling?" And this was not scientifically done, but in every conference that I went to, about half the room would raise their hands. And half the room sort of opposed it, which, again, non-scientifically, unscientifically here, showed me sort of a divided membership on this.

Justin Draeger: And we would probably see this fall along maybe sectors. Because some sectors might have more uncontrolled or what they feel is uncontrolled borrowing where the schools being negatively impacted in their court default rate or in their metrics. Some schools are looking for more borrowing for their students.
Justin Draeger: But bottom line is, we have a lot of NASFAA members that support this sort of thing and a lot of NASFAA members who see this as an unnecessary obstruction to loan funds. Maybe another interesting question is the practicality of implementing it this quickly. So when did the Department say they're going to have this up?

Megan Coval: April.

Justin Draeger: April?

Megan Coval: Right. Yeah.

Justin Draeger: So for your... This starts for 2021 loans. So if you have a 2021 loan originated in the fall, April is probably doable. It might be a little challenging, but most people don't even have their classes set until May 1. And then what about, though, crossover years? So if you have a loan that's originated in May or June-

Megan Coval: It goes through.

Justin Draeger: And it's going to be designated 2021, do they still have to do this?

Jill Desjean: Yeah. I think so.

Megan Coval: I'd imagine. Yeah.

Justin Draeger: So that that's pretty tight.

Megan Coval: That is tight. Yeah.

Justin Draeger: If you don't have your systems in place. So I think there is an implementation question that we're still seeking feedback from the Department on.

Megan Coval: And I think that did come up. Several people brought that up. I think FSA and Ed said they were going to take-

Justin Draeger: Take a look at it?

Megan Coval: Yeah.

Justin Draeger: I mean, even if they could get this tool up and running by February, March, that would be better. But I think there's a logistical challenge. But in terms of the philosophy of it, I don't know. Just like our members, I could see it both ways. At this point, though, they just have to go out, log on just like they are through the Direct Loan tool, same place they would sign their MPN. They have to go out and they have to affirm their loan debt, that they've acknowledged it. Okay. People have more feedback on-
Allie Arcese: Hope that helps Chris.

Justin Draeger: Yeah. Chris, people have more feedback. They can certainly send that along. Any other listener feedback?

Allie Arcese: That was it for this week.

Justin Draeger: All right. Let's get right into our agenda today. Secretary DeVos, even as we speak is up on Capitol Hill talking about borrower defense. Allie, you want to catch us up?

Allie Arcese: Sure. So this hearing is with the House Committee on Education and Labor. It was rescheduled. They tried to get her up there a few weeks ago, and there was a big back and forth that was in the news between Representative Bobby Scott, the chairman of the committee, and the Department of Education trying to sort out a day when she would be able to come. There was talk of possibly trying to subpoena the secretary. That did not happen. But essentially, the hearing is talking about the backlog of more than 200,000 borrower defense claims that have been outstanding, and what the Department is doing about it or not doing about it.

Allie Arcese: Now, right before the conference... Right before the hearing on Tuesday, the Department of Education announced a new methodology to award partial relief to certain borrowers for borrower defense claims that right away caught a lot of flak from lawmakers on the left, some student advocates higher education organizations, pointing out that it possibly has some flawed math in there for how they develop this methodology. And in an article that was published in U.S. News & World Report actually, documents from the Department of Education showed that the first round of notifications to borrowers, which would be around 17,000 borrowers, 95% of them are going to be rejected. So there's a lot of criticism going on right now. The hearing, from what I have gathered, has been pretty harsh as one might expect.

Justin Draeger: And partisan

Allie Arcese: For sure.

Justin Draeger: So a couple, I think, critical points in all of this. So where there appears to be... Let me ask you a question on the U.S. News Report. Did they say, were these full relief requests that are being denied or partial requests? Or did they talk about exactly what the denials were?

Allie Arcese: It actually said that they're just going to be ineligible, and that's due to a number of reasons, such as the applicant not having a federal loan related to the claim, the applicant not making an allegation or providing sufficient evidence that the institution violated an applicable state law. So Dianne Jones
Justin Draeger: So, this is sort of like something we see over and over when people are applying for benefits, particularly in education, loan forgiveness being another good example, where people might apply, but they might not be eligible, or they certainly didn't complete all the paperwork in the right way or turn in the right evidence.

Justin Draeger: But one of the things that... There's a couple different, I think, points of conflict with all of the borrower defense and I also think it's helpful to look at where this originated and how it's carried forward. So the first one, I think, is full relief of like... full loan forgiveness versus partial. And this appears in this hearing, and one of the things that keeps coming up over and over again is, why doesn't the Department of Education just provide full forgiveness to people who have been subject to fraud or misrepresentation?

Allie Arcese: Well established misrepresentation like widespread systemic like Corinthian and ITT.

Megan Coval: School closure and things like that.

Justin Draeger: That's right. And then the second point... So the first is full forgiveness or partial? And we should point out that partial existed back... Partial loan forgiveness existed back in the Obama administration and been carried forward and revised in the Trump administration.

Justin Draeger: The other thing the secretary points out, I've heard pointed out several times, is that only a certain number of these students had been processed by the time she took office. And a lot's been made about some certain memos that were written by Obama officials or career folks to Obama officials in January 2017. She didn't actually take her position until February 17th. So we have a gap between what was happening there.

Justin Draeger: But the other piece that they talked about, Secretary DeVos in particular, is this balance between making sure that the frauded students are made whole. And we just talked about, there's a conflict about what that means. Is that full forgiveness or partial? And balancing taxpayers, taxpayer integrity.

Justin Draeger: And the argument that she's making, which doesn't appear to be credible to the progressive members of Congress, is that there are people that are making claims that they've been harmed for, what the secretary, I think, would describe as ludicrous reasons. So I was misrepresented on the type of dorm room that I would have. She cited in the hearing today that there was a professor, one person made a claim because they didn't get along with the professor that they were... at the class that they were in.
Justin Draeger: And then there are these more well-established ones where it appears that everybody at that school was misled. So in those instances where you have a student who attended a closed school that closed because of misrepresentation, the question is, what kind of forgiveness do they get? And some would make the argument that they should get full forgiveness. The secretary and the Department of Education are saying, "We want to assess whether these folks were harmed."

Allie Arcese: Yeah. Well, and on that note, she's not just saying that there should not be forgiveness or like partial forgiveness just for those more frivolous claims, like you said, the dorms and the professor and things like that. She argued in the hearing that some people who attended Corinthian have gained some value from having attended that school and participating in their program.

Justin Draeger: How do you measure whether somebody was harmed or whether they gained value? And like everything else in financial aid, you have to use a proxy if you're going to do this. And the proxy they are using is average income relative to the income they're making after they've left that school. Right?

Allie Arcese: Mm-hmm (affirmative).

Justin Draeger: So if I'm taking... Is it the average of all the students that attended that school, or is it just by a program-by-program basis if they've got enough people in that program to justify.

Megan Coval: Program. And it's compared to other programs.

Allie Arcese: Average earnings of comparable programs. But the issue there... And there have been statisticians, researchers, people out there, pointing out there's an issue with the use of mean and median in the methodology. And actually, Ben Miller from CAP, Joelle interviewed him yesterday for a story that ran on TN Today. He went through and was looking at some of the examples and found that in order for a borrower to qualify for forgiveness at certain programs, they would have to have negative income.

Justin Draeger: And that has to do with the mean and the median or just the way that Department is calculated out how you get partial loan forgiveness?

Allie Arcese: All of the above.

Justin Draeger: Okay. So we're going to dig a little bit deeper into the methodology next week. But let me stick with the high point of partial loan forgiveness and this balancing of taxpayers with borrower claims. So if you have to use a proxy, and you have to use income relative to other income, I guess the question is, if you went to a school and because of... you went to that school, you come out of that school, you're making X amount of dollars. And those dollars place you on par or better
than other students that went to other schools in similar programs. Then were you harmed?

Justin Draeger: And I don't know, how else... How else would you suss that out? What other ideas have been put forward? And so I think what the administration is saying is, why would we give total loan forgiveness for someone who came out of a program, is doing better than most people, even at other schools in that program? And then you could say, "Well, what if that person couldn't get a job in their program and went got a job somewhere else entirely, because they couldn't make it work in that program? And now they're earning more. Shouldn't they have their... Why would... They should have... They were harmed. They had to go find a whole 'nother profession." But the administration would say, "No, they seem to have done just fine. Why would the taxpayer cover their loan debt?" So what's the answer there?

Jill Desjean: I mean, is the harm that they didn't get what they paid for, though? I mean, I guess, consumer protection thing. You got lucky, and you were able to find a job that paid well. I think Bonamici used the argument of someone who went to school to get training as a nurse and ends up finding a job in retail. Well, fine. They're making $40,000 a year and maybe that's what they would have made as a nurse. But did they get what they paid for? They were defrauded, right?

Justin Draeger: Jill, let me ask question about that. Because if I go down that line of argument, I get that. So we can't use just earnings, she's saying. She's saying, "They didn't get to work in the program in which they studied, or they couldn't make it work, or the education they received didn't allow them to work." But then I would say, "But on the flip side of that, we are going to use, on the gainful employment side, earnings to determine whether programs meet certain thresholds."

Justin Draeger: So the proxy works in one scenario, which Bonamici and other Democrats would support, gainful employment, but then doesn't work when it's borrower defense. Do you see what I'm saying?

Jill Desjean: Yeah.

Justin Draeger: How can we use... How can we say that proxy sucks for this measurement but is great for this other one?

Jill Desjean: Well, for GE, you're talking broadly about averages, right? And you wouldn't use one individual in GE to say this is a good program or bad program, you take averages.

Justin Draeger: Right.

Jill Desjean: Whereas a borrower defense, you are determining whether the individual was harmed or not.
Justin Draeger: I see. So you would argue that, because we're trying to determine an individual benefit, versus a program eligibility that you could apply that proxy differently.

Megan Coval: Yeah. Decisions were made to borrow loans based on what the student expected they were going to get out of it and receive in getting that type of education.

Allie Arcese: I'll just also read a couple of the lines from these memos that were released in the NPR story while we're talking about value of the education. So one from October 2016 says, "Given this well documented, pervasive and highly publicized misconduct at Corinthian, the value of an Everest Education has been severely limited." In another one, that was January 10, 2017, they said, "Similarly, given this extensively, well documented pervasive and highly publicized misconduct, the Department has determined that the value of an education, like Corinthian, is likely either negligible or non-existent."

Justin Draeger: Yeah. But those memos were all delivered before the secretary took her position.

Allie Arcese: But does that mean they're not relevant?

Justin Draeger: I don't know. I think what the secretary would say is that those were written under the Obama administration, leaders who were just exiting. Because that was addressed-

Megan Coval: By career staff, though.

Justin Draeger: By career staff, that's right. And then the DeVos administration didn't come until the end of February. And I guess what I'm saying is, there was a lot made to do during this hearing today about, "Didn't you read these memos?" And her point was like, "No, the memo I got was, there are 100,000 borrowers who are waiting to be processed. The Obama administration did 16,000. And we had 65,000 that we're waiting for my administration."

Allie Arcese: I kind of have a hard time believing though that if somebody whose career staff are still there, that going through this process over the last couple years, no one would have raised their hand and been like, "Hey, look at this."

Megan Coval: Oh oh, let's be clear. She's seen those memos.

Justin Draeger: I didn't know. She was-

Megan Coval: Well, I'm not... Well, I don't want...

Justin Draeger: If she hasn't, her advisors certainly have. How about that?
Megan Coval: Yeah, there's the whole “oh” thing. And I'm not trying to get into... Let me put it this way. You've testified before Congress before.

Justin Draeger: Yeah.

Megan Coval: I would consider like a very big job of our team to help you prepare for things like that. You're very good at it, you could probably do it on your own. But we would never let you go to something like that four days before something big had broken in the news and just be like, "Oh, well, it wasn't under his tenure. It was the last president. So he can just say that."

Justin Draeger: Okay. So well, let me ask you a question about this. No, I think that's fair, Megan, because you'd say, I think one of the freshmen Congresswomen actually pressed-


Justin Draeger: Yeah. Pressed the Secretary, and it's like, "This broke in the news four days ago, you knew this hearing was coming up. Wouldn't you have reviewed these documents?"

Allie Arcese: Yeah. And she actually said, "Did you not know you were coming here today?"

Justin Draeger: I always love the politics. They're looking for the sound bite. But let me ask this, then. Here's how I wonder if these things are looked at this way. So when you have like... In some of the hearings that we've done, that NASFAA's been involved in, they've been nonpartisan.

Megan Coval: Yeah. That's true.

Justin Draeger: I'm thinking about the FSA oversight one, where the Democrats and Republicans didn't have the same exact concerns about FSA, but they both had lots of concerns about FSA. In this one, it tends to be everyone almost the secretary's been in for higher ed's pretty partisan.

Justin Draeger: And I wonder if... I'm genuinely curious, do you as a secretary, if you know you're going to show up and you know you're going to just be lampooned by one side, no matter what you say, I'm just wondering how much effort do you really put into that? What is the point if you know that it does not matter what you say.

Megan Coval: Yes. I think I see that. And I guess, aside from whether or not taking into account what career staff from the prior administration has said is the right or wrong thing, or however you would argue it, I'm just surprised that the answer wasn't more like, "Yes, I did see that. And here are my five talking points on that."

Megan Coval: It shocked me that the exchange was about her just...
Allie Arcese: I mean, she could have just said, "Yes, I've seen them and I disagree."

Megan Coval: That's it.

Justin Draeger: Okay. So let me... Okay, I see that point. And I think that's a good point. Maybe she just didn't really even know what memos they were talking about.

Allie Arcese: She knew.

Justin Draeger: Because she said there were hundreds of memos. All right. Let me go to something the secretary tweeted, or her official account. So I'm not going to say that the secretary actually tweeted this, but somebody who has-

Allie Arcese: The secretary and or her people.

Justin Draeger: Right. Tweeted at us yesterday.

Allie Arcese: Yeah. So they said, "NASFAA found that while federal student aid is ranked for total assets alongside the country's biggest banks, the similarities end there. Banks rely on boards of directors for strategic direction and oversight. FSA has no such thing."

Justin Draeger: Okay. So you've got the tweet pulled up, do me a favor and just read through the comments. The replies to that tweet, the most liked, not the ones that have no likes.

Megan Coval: Was this comment to our retweet?

Justin Draeger: No, no. Just to her tweet.

Allie Arcese: Just for her tweet.

Justin Draeger: Just to her.

Allie Arcese: Yeah. "So, please resign."

Justin Draeger: Okay. That had some likes, I assume.

Allie Arcese: Yeah.

Justin Draeger: Okay.

Allie Arcese: "No, they just have Congress and you." "Student loans are a disaster. So sad for these kids strapped for life."

Justin Draeger: Okay, that wasn't critical of the secretary. That was a general commentary on the state of our student loan issues.
Allie Arcese: "I can't wait until a house falls on you."

Megan Coval: Oh, geez.

Allie Arcese: With that GIF.

Megan Coval: Oh, I get it. That's Wizard of Oz.

Justin Draeger: Like Wizard of Oz.

Allie Arcese: Yeah.

Justin Draeger: Okay. So let me stop right there. All right. If I were to take a guess, I would say most of the replies to the secretary's tweet, we're probably negative.

Allie Arcese: We're not great.

Justin Draeger: Okay. So she tweeted something that I then retweeted because what she said was factually correct. We did say that FSA their assets would put them on par with any of the biggest banks, and that they lack the oversight that not only private sector banks have, but they lack the oversight of the other two PBOs that exist in the federal government half, which actually have oversight boards.

Justin Draeger: So it's a point we made years ago, and the secretary apparently is just picked this up amongst the hundreds of memos that we said this. And so she's touting it as a platform to shoot into FSA reform, which is something we, NASFAA, has advocated for. She's advocated for some things we haven't, like spinning it off into a separate agency. We didn't go there. But my point is that even when she says something that, in my mind, is completely legitimate, like the responses-

Allie Arcese: She gets attacked.

Justin Draeger: The responses are like, "You're a terrible person and we hate you." She's probably the most politically partisan-ly, I guess, lightning rod of any of the cabinet members.

Allie Arcese: Yeah. And there was one actually. Back to the hearing, Representative Wilson actually had a quote that made Virginia Fox say like, "Whoa, that's over the line. That went too far."

And she said, "I've worked in education my entire life. I've dedicated my entire life to this work. I've worked with Democrats and Republicans to advance the goal of advancing quality education for young people. I've had some honest disagreements with my friends in the Republican party with how to move education forward. But I've never, not one time believed that they were out to destroy public education until I met you. Why has every decision you've made harmed students instead of empowering them?" I was like, "Wow."
Megan Coval: That's not okay.

Justin Draeger: Because then you're impugning motives.

Megan Coval: Yeah. And it undermines... I don't think that's a professional way to behave in a hearing and say that, whether Republican or Democratic said it. And I think it opens you up to attacks than from the other side. “You just don't like her, and you don't...” I mean-

Justin Draeger: But is it a politically expedient thing to say? I guess, is my question. Because I wonder when that's picked up in a snippet, how that might rally us.

Allie Arcese: Yeah. And there was just another one too that came in from Representative Josh Harder, and I think this is referring to the court order to pay $100,000 fine regarding the collection on some Corinthian debts. And he said, "I just have one question for you Secretary DeVos. Are you deliberately violating this federal court order because you're too corrupt to uphold the law or because you're too incompetent to do your job?"

Justin Draeger: So this is my point. You see, I don't take it-

Megan Coval: It happens all the time.

Justin Draeger: I don't take it personally. I guess what I'm just saying though, is that I feel like the script is already written on these hearings when they're like this.

Megan Coval: Yeah. She read it from...

Justin Draeger: Right. Prepared rumors. I guess what I'm saying is that I think there is room for debate on partial and full. I think that's a legitimate argument to be had. I think the calculations that Department, the methodology they came up with, is a legitimate argument to be had. I think there's room for reasonable discussion in there about whether these calculations are correct. And like I said, we're going to delve into that next week.

Justin Draeger: But I also feel like we get none of that, because of whatever reason, right, left, polarization, political expedient. The secretary could say Pell Grants are good. And I guarantee you'd have 500 replies.

Allie Arcese: Have someone be like, "Well, why don't you make more?"

Justin Draeger: Being like, "Die." "Resign." "Why are you so corrupt?" That's what I'm saying. It's not even... There's no discussion. There is no conversation. There's no reasonableness in this. So I don't know. I find that depressing. But I wish we could actually have a substantive policy debate on partial versus full forgiveness. And I wish that we could have a reasonable policy conversation about whether the methodology the Department came up with is reasonable.
Allie Arcese: There was a substantial discussion about it, and it happened in NegReg.

Justin Draeger: That's right. Not in a congressional hearing with the secretary. So we're going to try to delve into some of that, like I said, next week. But I guess, I'm not here defending or attacking either side. I'm just saying it's... At some point, I just get tired of the political zingers. I don't know.

Megan Coval: Yeah. Me too.

Justin Draeger: It doesn't feel like a step forward. On a much more... I feel like this is 180 now. So, I've just talked about the dysfunction in D.C. but on a much lighter, happier note, the FUTURE Act. Megan, you want to catch us up?

Megan Coval: Yes. The FUTURE Act, which we talked about last week that would provide permanent funding for minority-serving-institutions and allow for direct data sharing between the IRS and ED passed this week out of both the House and Senate and went to the White House for signature. So that is a happy holidays present to the higher ed community, for sure.

Allie Arcese: It was whirlwind on Tuesday.

Megan Coval: It surprised us all, I think, how rapidly it unfold.

Justin Draeger: Yes. We were online late. What night was that even?

Allie Arcese: Tuesday.

Megan Coval: Tuesday night.

Justin Draeger: Tuesday night, 10, 11 o'clock reviewing last minute iterations at the bill.

Megan Coval: Changes. The House tweaked a little bit.

Justin Draeger: And contact with the House and the Senate. And in the end, we ended up with a bill that we're very happy with. No bill is perfect. There will definitely be wrinkles that pop up that we don't know, or can't foresee. But in a day and age when not much gets past, we have a HBCU funding, MSI funding for Minority-Serving-Institutions. And we have a partial FAFSA Simplification Bill.

Megan Coval: Yeah. I mean, it's sort of amazing that it happened. And it kind of unfolded in the perfect way too. I mean, there were lots of back and forth. But when I was thinking about this the other day, the Senate passed a version, went to the House. I think some massaging had to be done there. They added some language that made them more comfortable. And then you have the White House weighing in before the bill even passed the House saying, I think, it was Ivanka.

Megan Coval: First daughter.

Justin Draeger: Yes.

Megan Coval: But she tweeted and basically said, "This is great. We're here waiting for the bill to come." So then the pressure comes from the White House. And that's sort of what I think when things unfold.

Justin Draeger: The big benefit here is the IRS, the Department of ED direct data share. So presumably at some point in the future, I don't know this will be for 2021, because they have to actually set up the infrastructure. We will have students and parents out of the process of doing a data retrieval with mass data. And presumably more people will be able to take advantage of this. This should decrease application error, hopefully, verifications for schools and students.

Megan Coval: Filing status will be...

Justin Draeger: Verification on file is included in all of this. So more to come. But if people want to read the full analysis of this bill, we'll put it in the show notes so that they can read through.

Megan Coval: Yeah. And many of our members engaged on this, I will just say. So we put out a call to action on Sunday, and this moved a lot quicker, I think. I think we thought maybe it'll get done before the holiday. I think when we sent that out on Sunday, we weren't thinking, "This thing will be buttoned up by Tuesday." But I don't want people to forget that we originally started talking about this a year ago. And asked members to get engaged then, anytime we had advocacy pipelines or members in. So we've been... We and our members have been banging the drum about this.

Justin Draeger: Yeah. And let me add some behind the scenes here, because now that it's done, I don't mind sharing this to members that are interested. We've been working on this bill for literally over a year, and done some advocacy pushes for months. The real hang up tended to be over in the House, particularly in Ways and Means, which is the committee that oversees our tax code.

Justin Draeger: And they are and I think, understandably and justified bipartisanly concerned about protecting taxpayer data. They see those as taxpayer assets, not federal assets. So when we file a tax return, they see that as ours, not the government's. And so they just wanted to make sure there was enough protections in place that... And the other piece that I think we take for granted is, think about how many other agencies want tax data. So it's not just us, it would be Health and Human Services that would want it for all the programs over there that have been set to benefits.
Justin Draeger: The Justice Department wants it. So they can look for irregularities in income or tax filings that might lead them to convictions or indictments. I mean, there might be agencies that are interested in it, just to see about like terrorism. My point is that protecting the privacy of citizens is one of the primary functions of government. Mass data surveillance, notwithstanding. And they took that very seriously.

Justin Draeger: And so as they started to move, the momentum built. I think folks over in Ways and Means wanted to be able to do something here. And so that was sort of the changes they put into place, where to make sure that there were some guardrails on this, even as it moved back over to the Senate for passage.

Allie Arcese: I have one question before we move away from this is, in terms of implementation, once this is signed into law, do we have an idea of how quickly it would happen? Or if there's like, infrastructure changes that need to happen?

Justin Draeger: Definitely infrastructure changes that need to happen. And I would say, I would not expect this for 2021 because those requirements for the Department of Education have sailed. That FAFSA season is open. '21, '22 is the big question.

Megan Coval: Yeah. And they start releasing the draft of that FAFSA not long after the new year. So, that's probably already well into... They're working on that right now. So, that's good point.

Allie Arcese: But it's not just a matter of clicking a button and now the IRS can share data with ED.

Justin Draeger: No. Unfortunately, as we've learned in our work, particularly with Veterans Affairs, these agencies are kingdoms under themselves. They work on different databases, they work on different code, their infrastructures are different. You would think that the federal government would all be connected through similar architecture, data architecture. Not the case.

Allie Arcese: You know what issue I have the most with this, is in the process of changing my name. Once I change my social security card, why can't it just trickle down and do everything else? Why do I have to keep proving who I am?


Allie Arcese: I don't want to be protected.

Justin Draeger: You just don't have to fill out more forms.

Megan Coval: I give up a little bit of that for ease.

Justin Draeger: Yeah, I agree. I sort of feel that way too. Go ahead, see all of my secrets. I don't care.
Jill Desjean: If I'd have to fill another form.

Allie Arcese: Within the government, though.

Justin Draeger: I would like... We talked about burden on schools. I would like to know, just individually how much time I've spent filling out forms or standing in government lines. I would want that number at the end of my life.

Justin Draeger: All right. Moving on. We have some new regulations that are out. Jill, you want to catch us up?

Jill Desjean: Sure. So on Wednesday, ED released their NPRM on two of the three remaining topics from the 2018/19 NegReg sessions. So these were on teach grants and faith based entities. Just for a quick update on the status of the 2018/19 NegReg, since there was a lot covered there, we're still waiting on one proposed rule, that's on distance ed. That hasn't come out yet.

Jill Desjean: But final rules have come out on the other topics that were negotiated. That was state authorization, accreditation, and some of the student assistance general provisions. Those came out on November 1. So this NPRM that came out on Wednesday are the proposed rules out for public comment. But it's language that was agreed to by the negotiating committee because they reach consensus. And so those are the rules with NegReg that the department's proposal has to match the consensus agreement when committee's reach consensus.

Jill Desjean: And so on faith based entities, the kind of high level bullets are that it removes the eligibility restriction for Title IV grants and loans from members of religious orders. Also lifts the restriction on Public Service Loan Forgiveness eligibility for individuals employed by a religious organization. Those used to not be eligible for PSLF.

Jill Desjean: There's a caveat in there that it has to do with a full time employment provision that you have to work 30 hours per week to be full time. And that in those 30 hours per week, your time spent participating in either religious education, proselytizing, or worship services can't be included in there. So if you do any of that kind of stuff, it would have to be above and beyond the 30 hours per week that you're engaged in sort of non-secular, related employment.

Jill Desjean: And so the department is particularly seeking comment on this thing. They mentioned that specifically, because I guess they get already that it's probably pretty hard when you work for a religious organization to be able to separate out your religious related activity from your non-religious related activity to literally be able to say 30 hours on that and seven on that. So they're looking to see basically, if anyone has any ideas about how possible it is to really break that out.
Justin Draeger: Do you have any ideas?

Jill Desjean: I can't imagine how you would do it. I think I'd probably make it up and say, "yeah, I'm 30-ish on." But yeah, I don't know. It'd be interesting.

Justin Draeger: We’re not going to use this as a way to determine somebody's fervor for their religion, right? Because you said, ish. You might sort of follow certain commandments-ish. But you're not-

Jill Desjean: Yeah. It's not going to be about your beliefs at all. It's literally going to be about what your work does.

Justin Draeger: All right.

Jill Desjean: So yeah, I guess if some of your job is sweeping the floor, it happens to be at religious organization, you wouldn't count that as religious activities. Serving cupcakes…

Justin Draeger: We can't see what's in people's heart. Who knows what's motivating them?

Allie Arcese: Working in a nursery?

Jill Desjean: No. It's true. If you gave up cupcakes, and they didn't say anything about God on them. Yeah, I'm sure there are creative ways to get around that.

Justin Draeger: All right.

Jill Desjean: It's an interesting change to the PSLF eligibility requirements because it's always based on where you work and not what you do. And this would be linking PSLF eligibility to some degree just for people at religious organizations to what they're doing actual work.

Justin Draeger: I mean, it's an expansion though, you should say.

Jill Desjean: Yeah, for sure. Right. Yeah. And the College Affordability Act had actually sought to do that even more broadly, to link what you do versus who you work for, for certain types of professions like nurses, saying, the job you do for a for profit hospital versus not for profit hospital is still public service, and should count either way. So yeah, this is an expansion. And we'll see what comes out of the reauthorization.

Justin Draeger: Yeah. I always like that example because when I... The last time I had trauma, I didn't... when they were like, which... and the ambulance picked me up, and they were like, "Which hospital do you want to go to?" I was like-

Megan Coval: Nonprofit.
Justin Draeger: "Well, what's their tax status?"

Megan Coval: You didn't care?

Justin Draeger: No.

Megan Coval: No. Okay.

Justin Draeger: I was like, "What's the closest? And do you have any narcotics because my shoulder really hurts right now?" Go ahead. Anything else?

Jill Desjean: So, that's it on faith-based entities. On teach grants, there are a lot of good improvements in there. This has been a program that's been sort of plagued by implementation issues. There was a GAO report back in 2015. That said, two out of every three TEACH Grants were converted to loans. Which is not a great statistic.

Justin Draeger: No.

Jill Desjean: Not as bad as 99% of denied PSLF applications, but still not great.

Justin Draeger: Not a great.

Jill Desjean: And so one of the big things about the TEACH Grant is, say, you've got four years to complete eligible teaching service within an eight year period. And students currently have to do an annual certification of their eligibility. And what was happening was a student would miss a deadline in years one through four, because maybe they gave their form to their principal to sign and mail, and they didn't do it, or it got lost in the mail, or it literally took one day longer than it should, bam, your grant is converted to a loan. And that's it. And there was no appeal process.

Jill Desjean: And so the process was kind of rewarding people who were not only doing service, but also were really good at paperwork. And that really isn't the point of the program. And so they did a nice thing where essentially, there cannot be any conversion until the point at which it would be impossible for you to complete four years of service in your eight year timeframe.

Jill Desjean: So years one through four, no grants will get converted to loans. After that point, even if the Department determined, "Okay. Well, you've only got three and a half years left of your service period. You can't do four years in that time, and you've never proven anything." They have to tell the student up front. "Seems like you haven't given the documentation. If you want to go ahead and send some, do that now." And after that point, they would convert the loan and they would still have an appeal process.
Jill Desjean: So even if you missed all that communication, and then suddenly you're like, "Oh, my God, now I have an unsubsidized loan," you could go back and prove your four years of service or that you were on the path to achieving it and have it converted back to a grant.

Justin Draeger: So again, more expensive to students.

Jill Desjean: Yeah.

Justin Draeger: And there was consensus in all of this.

Jill Desjean: Yeah. Just better and more fair, and just not kicking people out on a technicality, essentially.

Justin Draeger: What is the comment period?

Jill Desjean: The comment period- 30 years, 60?

Justin Draeger: Comments are due back by January 10. So that's- 30 days.

Jill Desjean: Yeah.

Justin Draeger: So if people are looking for things to do over the holiday break, please send us your comments. NASFAA will be doing a review, and we'll see if there's any technical issues, may be weighing in on some of the open questions they provided. And would I be happy to insert any member comments into comments that we might submit.

Jill Desjean: Absolutely.

Justin Draeger: Okay. Thank you very much. Just in the interest of time, lots more things we possibly could be talking about, but I think we're going to try to wrap this up. Please pay attention to Today's News. And I want to point out, next Tuesday, Megan and I and our director of policy analysis, Karen McCarthy, will be doing a webinar, a policy webinar where people will be able to ask us questions live. That will be at one at, I think... Is that 1:30 PM or 2:00 PM? 2:00 PM Eastern.

Allie Arcese: 2:00 PM. And right before that, Blue Icon Advisors, our consulting service is doing a Facebook Live Q&A, from one 1:00 PM to 2:00 PM East Coast Time on establishing your personal brand as a financial aid professional. Why that's important, why it's something you might want to think about. So it's a good opportunity to get to know some of Blue Icon's staff and what they could potentially offer you.
Justin Draeger: Fantastic. Our listener question this week, what do we want to hear from our folks?

Allie Arcese: Sure. Our listener question this week, what is one luxury that you indulge in once in a while, such as something you couldn't do every day, but it's something that you do to pamper yourself occasionally?

Justin Draeger: That self-indulgent thing. What do you do, Allie?

Allie Arcese: Well, I've only had this twice in my life, but I did it once on our honeymoon, a massage. I never had a massage until I was almost 30.

Justin Draeger: Wow.

Allie Arcese: I can't believe I waited that long.

Justin Draeger: How did it like it?

Allie Arcese: It is great.

Justin Draeger: Yeah. Fantastic. Megan, you got one?

Megan Coval: Yeah. Usually, twice a year go to this resort in Pennsylvania that I love, that I feel like-

Justin Draeger: I feel like I've heard you talk about this before.

Megan Coval: Yeah, it's called Bedford Springs. I highly recommend it.

Justin Draeger: What do you do there?

Megan Coval: Not much, but it's like an Omni. And it's all just... It's one of those places where it's kind of in the middle of nowhere where they have a few restaurants on-site, a pool.

Justin Draeger: You go by yourself?

Megan Coval: No. Although, that does not sound that bad either.

Justin Draeger: Yeah. So, you and Nick go.

Megan Coval: Nick, but I actually do it with my girlfriends. Definitely once a year, two of my best friends we go. And we only go for one night. And I find it to be absurdly expensive. We go for one night and it's like you go, you get a steak at the steak house, relax.

Justin Draeger: And you're recharged.
Megan Coval: Yeah. And it feels indulgent.

Justin Draeger: Okay. Great.

Megan Coval: But it's great. Yeah.

Justin Draeger: How about you, Jill?

Jill Desjean: I buy myself a really expensive yoga pants.

Allie Arcese: Oh, that's a good one.

Megan Coval: That's a good one.

Justin Draeger: I don't get that at all.

Allie Arcese: But they're not just for yoga.

Jill Desjean: Right. Oh, yeah. No, I mean, yeah, they get worn. Lululemon or Athleta.

Justin Draeger: What is the difference between expensive and inexpensive? They just last longer. Do they actually fit differently?

Jill Desjean: Yeah.

Allie Arcese: They feels good.

Justin Draeger: Aren't they just spandex?

Megan Coval: More support.

Jill Desjean: Different. Yeah. It is a perfect combination of super... Sometimes if you get super stretchy, they're not super flattering. But you get this mix of super stretchy but just not stretchy enough that they just hold everything in. So they look nice on you, but they also feel incredible. I can't describe the feeling.

Allie Arcese: They're soft when you touch them.

Jill Desjean: Oh, so soft.

Megan Coval: You can wear them to work too. I feel like I can pass them off as leggings or tights.

Jill Desjean: You can wear them anywhere.

Justin Draeger: Really?
Jill Desjean: Yeah.

Justin Draeger: All right.

Jill Desjean: Like Old Navy leggings are fine. I’ll go out and buy three pairs on sale.

Allie Arcese: But if you wear them consistently, they're done in a year.

Jill Desjean: Yeah. But, yeah, nice yoga pants are absolutely a worthwhile splurge.

Justin Draeger: That's it. All right. Well, that's good to know. That's a pro tip for people out there looking for-

Jill Desjean: A good Christmas gift.

Megan Coval: Yeah. There you go.

Justin Draeger: Can I just ask, when you say expensive, how much?

Jill Desjean: $120, $130.

Justin Draeger: $120 for yoga pants?

Jill Desjean: You said a luxury, right?

Justin Draeger: Oh my gosh.

Megan Coval: You know this about me.

Justin Draeger: I just can't even wrap my mind around $120. What happens if you snag them on a nail? That's, they're done, right?


Allie Arcese: Not good ones.

Justin Draeger: Not the good ones? They're like Kevlar. Those can withstand-

Jill Desjean: They do hold up to a lot, I must say.

Justin Draeger: Okay.

Jill Desjean: None of mine have any snags.

Justin Draeger: Good for you. I'm going to-

Megan Coval: What's yours?
Justin Draeger: I'm with you, Allie. I did not get massages until I was probably like 30. And now I do a massage every other week. After every NASFAA conference, I'll do a 90 minute.

Megan Coval: Oh, okay. Yeah.

Justin Draeger: Just because I'm all kinked up too. Being in a conference center sitting in uncomfortable chairs for an entire week will do things to your back.

Justin Draeger: All right. So people can send us their indulgences. The holidays, these are good gift ideas. And if you want to get something for us, massages and not personally-

Allie Arcese: Yeah. Fancy yoga pants.

Justin Draeger: And fancy yoga pants. And I guess a-

Megan Coval: Omni gift card.

Justin Draeger: Don't actually send us any gifts. Do not send us gifts.

Justin Draeger: All right. Thank you for joining us for another edition of “Off The Cuff.” We will be back next week and have a great holiday season.