NASFAA's "Off The Cuff" Podcast - Episode 176 Transcript

Justin Draeger:

Hey, everyone. Welcome to a special edition of Off the Cuff. I'm Justin Draeger.

Megan Coval:

I'm Megan Coval, with our policy team.

Karen McCarthy:

Karen McCarthy, also with our policy team.

Rachel Gentry:

And, I'm Rachel Gentry, also with our policy team.

Justin Draeger:

Welcome, everybody. Allie and Jill get the week off this week going into the holiday break. We have some breaking news, which is why we decided to do this special edition. We want to dig into all the last minute legislating that Congress has now done, that will be heading to the president's desk shortly. And, we'll make some pretty significant changes to the federal student aid programs and give us some spending assuredly for next year.

Justin Draeger:

Before we get into all of that, I feel like we should acknowledge, Megan, for like ... I don't know ... maybe 12 weeks now, every week, we've been saying, "Megan, do you want to predict whether we will have an agreement on additional stimulus funding?" And, I think you've been pretty consistent, right?

Megan Coval:

Mmmmm. Yeah. I've been giving the DC answer, which allows it to go either way and still feel like you're right.

Justin Draeger:

You were jumping on both sides. But, I think, most of the time, you were optimistic. You're an optimistic person anyway. So, you were optimistic they'd reach a deal. I think a lot of people were pessimistic, especially as we got closer and closer to Christmas. Whatever the reasoning, Megan, I'm going to put this as a W in your column because you've-

Megan Coval:

All right. I'll take it.

Justin Draeger:

Yeah. You're welcome.

Megan Coval:

I'll take it. I'll take her.

Justin Draeger:

Owen, who's producing this week, make sure that W goes to Megan.

Megan Coval:

Thank you.

Justin Draeger:

Yeah. We finally have something. I think, just so folks know ... And, Megan, I think you can help out with this. It's been a week, and I mean week as in the last seven to 10 days. So, we couldn't say all of this last week, but we did see, in a roundabout way, as they say in DC, a copy of the legislative text maybe fell off the back of a truck. We saw a copy of the leg text, and when news started breaking over the weekend, on Twitter, people were pinging me, like, "When is NASFAA going to publish its summaries?" And, the final leg text hadn't actually been released. We always want to make sure before we ... It's easier to give you the right information upfront than it is to double back and have to change things. So, we had seen all these bills, but we wanted to make sure everything matched before we out with it.

Megan Coval:

Yeah. It's such a dance because you're eager to let folks know, but making sure it's final is really important, and, obviously, keeping the confidence of the truck that the bill fell off of, so to speak.

Justin Draeger:

In this case, last week, so people know, last week we ended up with this copy. Megan and Karen and Rachel and Jill and Megan Walter all were digging through this bill, tearing it apart, trying to get questions answered, looking where there might be issues. As we said before, there's always Easter eggs in these sorts of last-minute legislative deals, and, like Easter, some of those eggs are sweet. They're great toppings on top of the dessert. And, some of those eggs might not be so great. Those are like the Peeps for me. It's like the Easter Peeps. Who likes-

Rachel Gentry:

I like Peeps.

Justin Draeger:

Easter Peeps. Okay.

Karen McCarthy:

No.

Justin Draeger:

Rachel.

Rachel Gentry:

I'm sorry.

Justin Draeger:

Maybe it's the circus peanuts candy, then, for Halloween. I've never met a person who likes those.

Rachel Gentry:

I'm with you on that.

Justin Draeger:

Anyway, you guys were digging through all of these bills last week. I would jump in and get briefed as you were going along. And then, it's like a waiting game through the weekend. The policy team and the communications team were in touch all weekend, we're waiting for this final bill. And then, news breaks. I think it might've actually been Politico that I saw it first from, that they had a deal, but then, no leg text. And so, everybody's waiting for the leg text. And then, did I see this right? Was there a snafu, like they couldn't get the 5,500 pages actually uploaded to the internet or something basic like that?

Megan Coval:

Yeah.

Rachel Gentry:

They had printer issues.

Megan Coval:

It seems very on brand for 2020.

Justin Draeger:

Right. They couldn't get it printed. So, it finally gets uploaded, and then yesterday you guys did another marathon sprint tearing through that final leg to make sure everything matched with our previous version.

Justin Draeger:

So, all that is to say kudos to the policy team and kudos to our communications team, and advanced kudos to our training team who will be in charge of helping schools-

Karen McCarthy:

Advanced kudos. I like that.

Justin Draeger:

Yeah. Advanced kudos to our training and regulatory systems group.

Megan Coval:

But, Justin, I have to tell you that I think we just ... I mean, waiting for it was like ... I felt like over the weekend, we were all at a point like ... I'm being dramatic here, but we were in touch, like, "Okay. I'm going to go take a shower, but I'll be back in an hour," and it just never came. But, I think it's made us all a little crazy because I had this dream last night. Senator Alexander was in it, A. We were in this giant, confusing library, and we were about to film Off the Cuff. I couldn't find you guys, and I was late, and all the escalators were going the wrong way. I finally got there, and you were so mad. You were like, "This is unacceptable." And Owen was there. It's so unlike you because you're not like that. I woke up, and I was like, "Oh ..."

Megan Coval:

And then, Karen had a similar dream about you.

Justin Draeger:

That I was mad?

Karen McCarthy:

Yes.

Justin Draeger:

A similar me?

Karen McCarthy:

Yes, it was.

Justin Draeger:

Aw, I feel bad for you all.

Karen McCarthy:

It was within the last couple weeks, and there was really no reason for it. I woke up. I was like, "Whoa, I've never seen Justin like that in real life."

Justin Draeger:

Well-

Megan Coval:

That's how I felt, too. I was like-

Justin Draeger:

You know what? Let me ask a question. Let me just ask Megan and maybe Karen. Rachel, I don't think you've ever seen me angry.

Rachel Gentry:

I don't think so.

Justin Draeger:

I hope not. But, Megan and Karen, we've worked together a long time. I'm sure you've seen me angry. What's the maddest you've ever seen me? Do you recall?

Karen McCarthy:

I do.

Justin Draeger:

Okay. I want to see if ours match.

Megan Coval:

Karen's like, "I ..."

Justin Draeger:

Karen, what was it?

Karen McCarthy:

Well, it wasn't anything outward, but I don't know. I'm not in the office, so I'm not with you all the time, even in pre-pandemic days. But, I think that the time when there was a snafu with us getting paid-

Justin Draeger:

Where we missed like ... Yeah, that's true.

Karen McCarthy:

... and nobody got their direct deposit. I happened to be in the office that day, and where I was set up was very close to you. I was like, "Whoa. Nobody talk to him. Just stay away." I was like the gatekeeper in your vicinity. Yeah. I could see the smoke.

Justin Draeger:

Well, thank you.

Karen McCarthy:

Yeah. I could see the smoke coming out of your ears.

Justin Draeger:

All right. That's fair.

Karen McCarthy:

But, I appreciate it.

Justin Draeger:

I do remember that day.

Karen McCarthy:

I mean, I was like, "Great." You want your boss to be angry when you don't get paid on time, right?

Justin Draeger:

Right. I was like, "This is basic. Come on." Okay. That's true. Megan, do you remember?

Megan Coval:

I don't. I'm struggling to think of a time when-

Justin Draeger:

I'm so glad you don't remember because I remember when we did a 200-some mile relay. Do you remember this? Karen, you might've been there. We did a relay race. It was 200-some miles.

Megan Coval:

Oh, yeah. Yes.

Justin Draeger:

You were right after me. Do you remember this now, Karen?

Karen McCarthy:

I remember, yes.

Justin Draeger:

Megan kept being late for the handoff, so at one point ... which is fine, Megan. God, it's fine, obviously. But, you haven't slept, and you've run like 100 miles. It was raining, and it was cold, and it was the middle of the night. I got to the spot where everybody's celebrating for the handoff transition, and I'm like, "Where is our team?" I ran fast and came up. And then, you were there, and I was like, "Bah!" And then, I was like, "All right."

Karen McCarthy:

I do remember.

Justin Draeger:

But, I got that out. It was fine.

Karen McCarthy:

Well, because it was raining.

Megan Coval:

Yes. But, you were early. You were early on your scheduled time. It was not me, though.

Karen McCarthy:

You ran faster.

Justin Draeger:

So, it was my athleticism.

Karen McCarthy:

Yeah.

Megan Coval:

It was your speedy ... Yes.

Justin Draeger:

Okay.

Karen McCarthy:

And, we kept Megan-

Megan Coval:

I forgot about that.

Justin Draeger:

I've always felt bad about that.

Karen McCarthy:

We kept Megan in the van longer because it was pouring rain. And so, we were looking at the clock, like, "He's not going to be there. You're just going to be standing there in the rain. Stay here in the van a little longer." Yeah. Didn't work out.

Megan Coval:

Well, I forgot all about that. See? It didn't even stick with me.

Justin Draeger:

Oh, I'm so glad you did, because I've always felt bad about that.

Megan Coval:

Well, it's not-

Justin Draeger:

For what it's worth, it was like one sentence of an outburst, and it was to the entire team. I didn't mean to direct it at you.

Megan Coval:

It's all good.

Justin Draeger:

All right. Anyway, I'm really sorry for the psychic trauma that I've caused you all in your dreams. But, we got everything out. Everything looks great. You guys did a fantastic job. Let's dig into these summaries. First and foremost, Rachel, we have a spending agreement.

Rachel Gentry:

Yeah, we do. I feel like with all of the other exciting things in the bill, this is probably actually gotten the least coverage, which is different from years past. This bill will set spending levels for fiscal year '21, which is academic year 2021-'22. The bill provides a total of 73 and a half billion dollars in discretionary appropriations for the Department of Education, which is 785 million dollars above 2020 levels. So, that's great. Got a little boost there. And, it's about seven billion dollars above the levels that President Trump requested for ED in his budget request back in February.

Rachel Gentry:

In terms of student aid numbers, the bill provides 24 and a half billion dollars for Federal Student Aid programs, which is 25 million dollars above fiscal year '20 levels. This would increase the maximum Pell Grant by $150, so the new max Pell would be $6,495. There is a 15 million dollar increase to SEOG funding, bringing the total to 880 million dollars and a 10 million dollar increase for Federal Work-Study, bringing the total to 1.19 billion dollars.

Rachel Gentry:

I think it's important to note that it's a 25 million dollar increase over the funding for those three programs, from over last year. While that may not seem like a lot, I think it's actually probably a win that we saw any increases at all. The budget deal Congress struck in August of 2019 set the spending caps for fiscal year '20 and '21, and there really wasn't much of a difference at all in those top-line numbers between the two years. And so, I think we were expecting level funding. Even to see a small boost of 25 million dollars to the campus-based aid programs is definitely a good thing.

Rachel Gentry:

It does include a 500 million dollar rescission from the Pell reserve, which is not something that we are going to celebrate. There wasn't an increase in the discretionary funding for Pell, and so, that 500 million dollar revision from the reserve is how they paid for the increase to the maximum grant. So, again, we're always advocating to protect the reserve, but, I think in a year like this where the top-line numbers were so tight, doesn't necessarily come as a surprise. And, I think, overall, seeing the boost to campus-based aid, along with the increase to the max grant, is definitely a win. So, those are the top-line numbers.

Justin Draeger:

Good news for all schools who want to start packaging, or have started packaging. Now you have actual numbers. This also means that we would fully expect the Department of Education to get out with the Pell schedules by February 1st if not sooner, if any of our federal colleagues are listening. We would certainly welcome them sooner. But, they have the appropriated numbers now.

Justin Draeger:

And, to your point, Rachel, for people who don't always follow all of this, top-line numbers means that's the whole bucket. And so, if we get more money, that often means other programs get less. It's an ugly environment to try to advocate in. So, to your point, getting any increase is a much-appreciated benefit.

Rachel Gentry:

That's right. I think especially when you consider that the education programs are funded in the same bill as the health programs, and we're in the middle of a global pandemic where there's a lot of emphasis on funding research, and NIH, and vaccines. So seeing small boosts especially this year is, I think, a win. So, good stuff in the fiscal year '21 bill.

Justin Draeger:

Thanks, Rachel. All right. Another big piece of legislation, of legislative agreement on additional stimulus funding and money for colleges. Megan, you want to catch us up?

Megan Coval:

Yes. Yeah, we were excited to see this, that a deal was, in fact, struck, and the COVID relief piece is what kept this whole train from moving out of the station. So, 82 billion dollars overall for Education and the Education Stabilization Fund, and a total of 23 billion for higher education that will be put into the Higher Education Emergency Relief Fund. So, the same model that we saw in CARES.

Justin Draeger:

That's a lot more, though, right? We exceeded CARES by about what, 10 billion?

Megan Coval:

Yeah. CARES was 14 billion in the Higher Education Emergency Relief Fund, and this is 23. Yeah, it's definitely-

Justin Draeger:

Yeah. Good increase.

Megan Coval:

... a good increase. If we break it down a little bit further, there will be 20 billion that will be going to public and not-for-profit private institutions. What's different here is the allocation formula. Last time, this pot of funds was based 75% on your full-time equivalent enrollment of your Pell grant recipients and 25% on your full-time equivalent overall enrollment. This allocation formula is a little bit more complicated. It takes into account both full-time equivalent enrollment and head count of Pell Grant recipients, and then full-time equivalent enrollment and head count of your overall enrollment, for students who were not enrolled exclusively in distance ed prior to the pandemic.

Justin Draeger:

So, this would presumably then benefit the schools with large numbers of part-time students because you're at least taking into account head count, as opposed to FTE.

Megan Coval:

Yeah. That was a big point of debate within the community. I thought they would land one way or the other, keep FTE or move all to head count. And so, to see this split was an interesting way to do it.

Megan Coval:

One other piece of the allocation formula that is new is it's based one percent on FTE enrollment of Pell recipients who are exclusively enrolled in distance ed prior to the qualifying emergency, and one percent based on full-time enrollment of that same group, so opening the door to students who were enrolled exclusively online prior to the emergency. That was not part of the formula at all before.

Justin Draeger:

We're talking about allocation. We're not talking student eligibility. We're just talking money to the schools, right?

Megan Coval:

Yep.

Justin Draeger:

And so, we have a new cohort. There are schools who didn't qualify for funding last time who presumably would qualify this time, if they were all online.

Megan Coval:

Yep.

Justin Draeger:

All right. What else?

Megan Coval:

So, other big thing in here is in the CARES Act, there was the requirement that at least 50% had to go to students, and the other 50% could go to the institution, and there is not that requirement in this bill. What institutions are required to do, however, is to spend the same amount of money that they spent on their student portion in CARES. But, it's not the same percentage.

Justin Draeger:

So, if I end up with a larger allocation, then I at least have to meet the minimal amount that I spent on students previously. And then, the rest could be used for shoring up operational disruptions related to COVID.

Megan Coval:

Yep. Minimal dollar amount. Right. If we think about it big picture ... Rachel and I were talking about this. This means that at least six billion would have to go to students if we compare it to the six billion that went to students in CARES.

Justin Draeger:

And, certainly, there's nothing preventing them from going over that amount. If they want to-

Megan Coval:

No.

Justin Draeger:

... spend more on students, they could certainly do that as well.

Megan Coval:

The interesting part is there's not the 50-50 allocation. But, for the money that you spend on students, there is a requirement that you prioritize students with the greatest financial need. So, that is a must. And then, they suggest, for example, look at your Pell recipients. So, that requirement is in there.

Justin Draeger:

Well, is that true for all sectors? Are there any limitations based on sector? I guess I'm specifically asking about proprietary institutions, where there was some question of whether they would even be funded last week.

Megan Coval:

Yep. So, there are other pots of funds. This was referring to the public and private not-for-profit fund, but an additional 681 million is reserved in the fund for for-profit institutions. And, they would use the same allocation formula, except they could only spend money on student emergency grants.

Justin Draeger:

Okay. So, a limitation there on our for-profit institutions?

Megan Coval:

Yep.

Justin Draeger:

Okay. Anything else here you want to highlight, Megan?

Megan Coval:

Yeah. Just a couple other big picture things. There is, for both institutions and student grants, a more expansive allowable use of funds. So, if you'll remember from CARES, it was pretty restrictive what you could use the funds on. It's more expansive here, which is a good thing. And then, also very important I want to mention is that in the Higher Education Emergency Relief Fund, there is money again set aside for minority-serving institutions, $1.7 billion, and then an additional 113.5 million, to be specific, for institutions with a greatest unmet need, which goes through the FIPSE program, which is similar to the CARES Act.

Justin Draeger:

So, we know that there's an outstanding interim final rule right now from the Department of Education that limits the student grants to Title IV eligible students. Is that still the same in this next round of funding?

Megan Coval:

I think that is unclear. The IFR specifically points to the CARES Act, so we're hoping that means that it is only relevant to the CARES Act. But, I think that is probably open for interpretation.

Justin Draeger:

Something we have flagged for the incoming Biden administration, who we've had meetings with, is the need to address this IFR as soon as possible.

Megan Coval:

Yep. I did have one other thing, speaking of the CARES Act. This new bill does stipulate that schools can apply the new allowable uses of funds to their leftover CARES funds. The only stipulation that the funds must stay in their respective student or institution bucket. So, if you're a school with leftover student funds, you may use the broader allowable uses of funds for the students. But, you have to make sure that it stays with the student.

Justin Draeger:

I see. So, you can't reallocate funding you've already received. It has to stay in those buckets, but can be used in the more expansive-

Megan Coval:

That's right.

Justin Draeger:

... ways that they've outlined. Okay.

Megan Coval:

I'm happy to list off what the bill says here. For institutions, you can use the funds to defray expenses associated with COVID-19. So, that's pretty broad, including lost revenue, which you could not do before, reimbursements for expenses already incurred, technology costs, payroll, faculty and staff training. So, much broader than what was in CARES.

Karen McCarthy:

Yeah. I think that if you all remember, I know that some schools were struggling with can we use our funds to do this, that, or the other thing, how they could do the gymnastics to tie it to the requirements that were in CARES. And, I think, on the institutional side in CARES, it had to cover expenses related to changes in the delivery of instruction. And so, I think what you just said now is really any COVID-related expenses at the institution.

Megan Coval:

Yeah.

Karen McCarthy:

So much broader.

Megan Coval:

Yep.

Karen McCarthy:

And then, on the student side, is it any COVID expenses that students might incur?

Megan Coval:

Basically, anything related to COVID expenses, and they can cover any components of a student's cost of attendance, emergency costs that arise due to COVID, which would also include things like tuition, food, housing, healthcare, child care, so very broad.

Karen McCarthy:

Yeah. Last time, I think, with CARES, it had to be specifically related to the disruption on campus. And so, now it's any emergency COVID-related cost.

Megan Coval:

Yep.

Karen McCarthy:

Yeah. So much broader.

Megan Coval:

Yeah. Very broad.

Justin Draeger:

Good news for students, good news for schools. And, I think most in higher education now, of course, we were asking for a lot more, and I think the verbiage I've seen, Megan, is most are considering this a good down payment, but, hopefully, not the last tranche of funding, given the operational and fiscal bleeding that a lot of schools are experiencing this year.

Megan Coval:

Yep. I think that's right. We'll continue to fight and advocate for more funds. I think folks are already talking about an additional relief bill early next year.

Justin Draeger:

Great. All right. Thank you, Megan. Karen, we talked about this a lot last week in our deep dive into FAFSA simplification. A week later now. Here we are, and it's been actually released. Why don't you hit it at a high level? I guess, if folks want to do a deep dive, they can go into last week's episode that we'll include in the show notes. But, Karen, what about just high level? Any key differences from what we talked about last week?

Karen McCarthy:

Yeah. One thing I did want to point out, since Megan was just talking about the COVID relief, that one thing that is not in this bill anywhere is any other COVID flexibilities or waivers granted by legislation, like what we saw in the CARES Act. We had the funding piece, and then we had all, on the policy side, the waivers and flexibilities. We don't have any of those in this particular bill. We have the funding relief on the COVID side, and that's it.

Karen McCarthy:

And then, we have also tacked on this giant FAFSA simplification and other types of related student eligibility provisions. So, I believe on the FAFSA dedicated podcast, we talked about Senator Alexander's proposal to have Pell eligibility determined based only on AGI and family size, compared to the poverty line. On the House side, they did not have that for Pell eligibility. So, when those two parties came together and hammered out and did some negotiating, what we ended up in the final bill was a conglomeration of both of those.

Karen McCarthy:

So, we do still have AGI, family size compared to the poverty, for Pell eligibility, but only for maximum Pell and minimum Pell. For the sliding scale on the Pell range, in the middle, Pell eligibility would be determined based solely on the Student Aid Index. We talked a lot about this during the FAFSA podcast. The Student Aid Index is basically the replacement for the EFC. I think that is really the big shift and the big change that we saw from what we already discussed with you all during the FAFSA podcast.

Justin Draeger:

Overall, fewer questions for everyone. We get rid of questions that are tangential to financial aid. And, hopefully, with the FUTURE Act, as we talked about last week, we'll be able to do a lot of auto-populating for students and parents in the future. How far out into the future are we talking here, Karen? Because I think some people get a little panicked about is this all changing October 1, 2021?

Karen McCarthy:

Everything that is in the FAFSA side of the bill, so all the FAFSA plus all the student eligibility stuff that we'll talk about in a minute, is all effective with the '23-'24 year. This would be, for FAFSA purposes, the FAFSA that rolls out on October 1st, 2022. So, it is several years down the line. Coincidentally, that FAFSA, that October 1, 2022, FAFSA, is also scheduled to be the first FAFSA with the full implementation of the FUTURE Act and that direct data sharing. So, that will be a very big FAFSA planning year for our friends at the Department of Education.

Justin Draeger:

Yeah. I guess my question would be, even with that timeline, this will be pretty aggressive, I think, on the department side, too, because the production cycle for FAFSAs anymore is pretty far out when you're talking about a product that touches 19 million students.

Karen McCarthy:

Yeah. I think Rachel said that somebody asked her, "Is this going to be rolling out in next year's FAFSA?" Her response was, "Oh, God, no."

Justin Draeger:

So, people have a little bit of time to plan for that. We'll be talking a lot more about this, and we expect the Department of Education to be talking a lot more about this new simplified FAFSA in the coming months. Karen, what other provisions are in this bill that people will want to be paying attention to?

Karen McCarthy:

Yeah. There are several items on the student eligibility side, too. Drug convictions and Selective Service registration, NASFAA has been advocating for, I think, forever for those to go away, and they will go away, completely go away. Drug convictions and Selective Service registration will no longer be a student eligibility criterion. There will be no question on the FAFSA. Schools will be completely out of the business of monitoring for these two things. So, that is really positive.

Karen McCarthy:

There would also be elimination of the subsidized loan limits. As we affectionately call it, the SULA requirement will completely go away. There will be no maximum subsidized loan eligibility for any undergraduate students.

Justin Draeger:

Just to clarify here, because I had some non-financial aid folks reach out to me when they saw this and asked, "Does that mean you can borrow more money in the subsidized loan program?" And, the answer is they didn't change the loan limits. They changed the cap at which students were no longer receiving interest-free benefit, which was what, like 150% of the program length, right?

Karen McCarthy:

Right.

Justin Draeger:

The other thing that we've been saying is we always said we would ... A lot of people hated the SULA reporting when it started ... I don't know. How many years ago was that? Eight, nine, 10 years ago?

Karen McCarthy:

2013, I think.

Justin Draeger:

2013. Seven years ago.

Karen McCarthy:

Yeah, seven years ago.

Justin Draeger:

Because with that, the department needed to start collecting program-level data so they could track the 150% of those programs. I think most people are used to that by now, but even by losing SULA, we don't suspect the department's going to roll back the reporting requirement for program-level data.

Karen McCarthy:

No. We were talking about that internally, that it would be really crazy if the department said, "Oh, we don't need to know anything about the students' program or the program length anymore. So, you'll stop reporting that." I mean, at this point, they use it for other purposes, scorecard purposes, and they have the authority to ask schools to report any information that they feel that they need to administer the program. So, since it's already in place, I don't see that going away any time soon.

Justin Draeger:

Yeah. In fact, I remember one of our favorite federal officials used to say, "It's federal student aid money. It's public funds, and we want the data at the time of the SULA." Because we asked, "Why do you need all the ZIP code data?"

Justin Draeger:

So, I guess the other thing I'd just say about SULA is this is good news because I've thought for the longest time that the easiest way that Congress might get rid of SULA is just by getting rid of subsidized loans entirely. We'll just go to 100% unsub. And, in fact, Senator Alexander looked at that very issue. So, the fact that we've retained subsidized loans and gotten rid of that limit is a holiday miracle.

Justin Draeger:

What else, Karen, is in this bill?

Karen McCarthy:

I might need Rachel to chime in a little bit on this because she's been following this issue a little more closely. But, it repealed the ban for incarcerated students to receive Pell Grants, which has been there since, I think, 1996. Is that when we had the Crime Bill, or '94? What year was that, Rachel?

Rachel Gentry:

1994, I believe.

Karen McCarthy:

Okay. So, it would allow students who are incarcerated and are enrolled in prison education programs to receive Pell Grants for their programs. One clarification ... We've already gotten some questions from schools who are little panicked that this means that all schools would need to be working with prisons and offering Pell Grants to prisoners, and how would that all work, and there are all these challenges with the experimental site program. That is not what this provision in the bill means. There are all kinds of requirements that the school would need to meet in order to participate in this program. So, it is definitely not a requirement that all institutions serve prisoners.

Rachel Gentry:

Yeah, that's right. This opens up the funding stream, allows these students to be eligible to receive Pell to pay for the cost of the education programs that are available to them. And then, there are certain requirements, so programs that want to operate in a correctional facility would have to have certain types of approval by various state agencies, meet certain metrics around ... They've taken the courses and met the requirements that they would need to receive a credential or a license.

Justin Draeger:

And, I assume the amount that they can receive can only cover direct expenses related to the program?

Rachel Gentry:

Yes, the bill does spell that out, and it's tuition and fees, books, supplies, things like that, costs that the students would be expected to pay to participate in a program in their facility.

Justin Draeger:

Okay. I'll just add that this has broad bipartisan support. Experiment that was started in the Obama years, that carry forward and was expanded in the Trump years, and fully realizes the vision of the person the Pell Grant's named after, Claiborne Pell was a supporter of this, and his daughter, in fact, after his passing, has continued the fight for Pell Grants for incarcerated students as part of reform, as opposed to punishment. So, all good news there.

Rachel Gentry:

I think one other thing, that, bringing together several of the provisions that we see in this bill, one of the main challenges that students have faced in the Second Chance Pell Pilot has been FAFSA completion, specifically the Selective Service requirement. That's been really challenging for these students. So, I think seeing that lifted ... Some of the other changes related to FAFSA simplification will really, I think, help the rollout and the implementation of the Pell for incarcerated piece will hopefully eliminate a lot of the barriers that those students have faced in the pilot. So, that's another good win there.

Justin Draeger:

Thank you for that, Rachel. Anything else in this bill that we should be aware of, Megan?

Megan Coval:

Yeah. There were a few changes to PJ, so one is that institutions are not allowed to maintain a policy that they are not going to do professional judgments. We don't think many schools are doing that, but it was spelled out there. And then, another positive change is that the bill codifies part of GEN-09-05, that we've talked about a lot before. The 2009 guidance that came about on the heels of the Great Recession, that would allow institutions to zero out income earned from work with proof of unemployment insurance. So, that is actually included in the legislation, along with the fact that ED must take out the number of PJs an institution performs as part of the model for determining which institutions get a program review.

Justin Draeger:

Well, for schools, then, if they're thinking about the immediate things they could be doing, this is one of them. They could be looking at their PJ policies because this will have been changed in law, and how they can be a little bit more maybe outgoing towards students, try to collect those who are receiving unemployment benefits, and if they have a policy where they don't do PJs, they would need to change that rather quickly.

Megan Coval:

Well, Karen and I were talking about that this morning. The issue is that the overall bill has an implementation of ... Is it July?

Justin Draeger:

2023.

Karen McCarthy:

Yeah.

Megan Coval:

2023. And, there's not any-

Justin Draeger:

So, that includes all those provisions.

Megan Coval:

Yeah. So, we are wondering if separately for folks and in a massive piece of legislation like this, there will be things that will need to be fixed, that were technical errors or oversights, and we are wondering if this was perhaps an oversight. So, we're going to be flagging this.

Justin Draeger:

Is there an early implementation option by the secretary?

Megan Coval:

No.

Karen McCarthy:

No. Not on this one.

Justin Draeger:

All right. We'll need some additional clarification there. Of course, it's never too soon to change a no-PJ policy, too. We will start processing PJs. And, NASFAA would certainly encourage any school to exercise that judgment on behalf of their students. Karen, we've talked about these last-minute deals sometimes end up with surprises. One of the things that we saw in here is something we've heard talked about in research circles and on Capitol Hill. Give us the changes on cost of attendance.

Karen McCarthy:

Yeah. So, as of right now, all of the components in cost of attendance are laid out in the Higher Education Act, with varying levels of detail. And, the Secretary of Education is prohibited from further regulating. The guidance that we have on cost of attendance is all based on the statute only. And so, the changes that we see in cost of attendance is that there are some changes to individual components that are already in the cost of attendance, in terms of the statutory language. For example, there is a statement that in your meal plans, you need to be allowing for three meals a day in whatever you're coming up with your allowance. There is a little bit more explicit guidance for certain components. So, there are a few changes there.

Justin Draeger:

Karen, those are expansive, though, right? In terms of like if a school was only planning for one meal a day or two meals a day and potentially constraining their cost of attendance, this is basically saying you must include these minimal elements.

Karen McCarthy:

Yes. There's also something in there about room and board allowance for dependent students who are living home with their parents, and it's very explicit that the school must allow them a room and board allowance, and it shall not be zero. So, hopefully, nobody is doing that, but there was some concern that institutions are. So, they made that very clear, that those people do get a room and board allowance from the institution and their cost of attendance.

Justin Draeger:

So, if anybody's listening to this podcast and wondering what is the problem we're trying to solve here, this gets back to an age-old tension where schools have no ... I mean, if I'm acknowledging the issue, the elephant in the room, schools have no authority, really, to limit borrowing, except students can't borrow or receive aid in excess of their cost of attendance. So, the extent that some schools would not ... I would say not fraudulently lower cost of attendance, but they might look and try to justify why students don't need to borrow so much. That might be one of things they've looked at. This is a tension that's been around for a while. People on both sides of the aisle of this argument, but at this point Congress has weighed in, and the schools cannot restrict cost of attendance for those populations. Anything else on cost of attendance?

Karen McCarthy:

Yeah, one of the other changes to the actual components, and we do have a flag in this item to follow up, because we do think it is particularly burdensome, and I'm sure all of our aid administrator friends who are listening would agree, is that for federal loan fees, it would no longer allow the institution to use a average loan fee amount. All loan fees that are in a student's cost of attendance would have to be actual loan fees. As any aid administrator knows, loan amounts change all the time as aid packages change. And, loan fees, because they're such a small percentage, like the actual amount of loan fees can vary by a couple of dollars, and it's particularly burdensome for schools to have to go in and make changes constantly every time a loan amount changes.

Karen McCarthy:

So, we will be flagging that item for follow-up. We're not sure that there was a ... I guess I should say like a full understanding of all of the implications of such a change. And, it was a surprise to us. It wasn't anything that anybody had floated to us. We certainly would have told anybody that was problematic. And so, there it was in the final bill.

Justin Draeger:

Yeah. Not only that, besides changing loan amounts, what about the sequester that's changing the origination fee on October 1st every year?

Megan Coval:

Yeah. Right.

Justin Draeger:

I guess the easiest way to deal with this issue, besides maybe trying to get a technical change, is just getting-

Karen McCarthy:

Loan fees. Yeah.

Rachel Gentry:

That's what I was going to say.

Justin Draeger:

Problem solved. Okay. I would say, overall, with cost of attendance, obviously, some of this is disconcerting, I think the most disconcerting thing is maybe that we've now opened up cost of attendance for regulation. As you pointed out, Karen, this was an area where the secretary was not allowed to regulate. There were only a few of these sorts of things in the Higher Education Act, where the secretary is prohibited from regulating. Any time we open that up, I think there's reason for caution and concern. So, in order for the secretary to actually regulate, though, there would have to be a negotiated rule-making and a proposed regulation that would go out. And, the secretary's authority is limited only to the non-billable direct charges. Is that right? Or, is the entire thing?

Karen McCarthy:

All of cost of attendance could be regulated except for tuition and fees. All of the other components could be regulated. Again, all of this is in the FAFSA part of the bill. None of this would be effective until July 1st, 2023. And, again, you would then have to start a negotiated rule-making process at that time. It does not require the secretary to regulate every single component. It is permissive. So, we don't know. We'll have a new secretary. Who knows what that person might want to regulate or not?

Justin Draeger:

Thanks, Karen, for the cost of attendance piece. We'll certainly have more questions there. If I'm a school right now, I think the most important thing I would be thinking is what do I need to do now or immediately on the side of this break? As we've gone through the podcast today and in our deep dive articles and summaries we've provided, a couple things stand out. One is we do have appropriated amounts that Rachel reviewed with us for '21-'22. If you're gearing up or have already packaged, now you can fill in real numbers, at least for Pell Grants, and have some idea that your campus-based funding will remain at least stable, if not slight increases.

Justin Draeger:

The other thing we've talked about is some of the changes related to professional judgment. And so, again, while the implementation requirements won't be there for a couple years, schools could start thinking about ways that they would more expansively apply their professional judgment to the benefit of their students. The other thing is the additional CARES Act money that you talked about, Megan, the COVID relief bill that is going to be providing them with additional tranches of funding that would go to their students and their campuses. Megan, we don't have those exact allocations yet for institutions because the allocations all changed.

Megan Coval:

Right.

Justin Draeger:

It's fair to say, though, that if you received money before, you'll get money here because there's more money in the entire pool, and it's not too early to be thinking about how would we give those funds out? Would we use our previous methodology? Could we use a more expansive methodology, given some of the more expansive allowances that are in this bill that we've discussed? Anything else that you guys can think of that schools should be thinking about immediately?

Megan Coval:

Justin, I just had one thing to tack on to what you just said, related to the allocations. It's just that institutions really could see this money relatively quickly. The bill does stipulate to the extent possible the secretary gets the stimulus funds out the door to institutions within 30 days. So, that's pretty quick. And, I think a thing that will help with that a lot is that it also says that institutions that had approved CARES Act applications prior to the passage of this act will not have to submit a new one. So, I think that's all good news and all the more reason to expect that we might get these funds, and hopefully in a very timely manner.

Justin Draeger:

One thing we did not see in the bill was an extension of the borrower relief benefits that were provided in the original CARES Act. That does not, as we've seen, prevent the Secretary of Education from extending those benefits, and we would expect the Biden administration, when they come in, to take some immediate action there. As a reminder, Secretary DeVos only extended those benefits through January. So, more to come there. Be on the lookout. But, it was not included in the legislative text.

Justin Draeger:

All right. Policy team, thank you to you and to those on our policy team who aren't on the podcast today for all the work you've done these last many weeks. And, thank you to all of our members who have been advocating for years on some of these issues. This is how the sausage gets made. We talk about an issue for a lot of years. We work on bills as they're released. We work with lawmakers where they are. We find compromises, and then things move really quickly. This is a textbook example of how legislation moves today, and it's been a wild ride. And, now we're going to be shifting towards other HEA issues and implementing these provisions.

Justin Draeger:

The final thing I'd like to say is it's been a year. Thank you to all of our folks out in the aid community who have been hanging with us this last year, tuning into the podcast, sending us your comments, subscribing and telling friends. We do this because it's helpful, and to the extent it continues to be helpful, we're very much looking forward to seeing you all in 2021. Happy holidays to everyone. Stay safe. Stay well. Take care of each other, and see you in 2021.