

NASFAA's "Off the Cuff" Podcast – Episode 227 Transcript

OTC From the Field: An Aid Director's Experience With Data Sharing

Justin Draeger:

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

Mary Sommers:

And I'm Mary Sommers. I'm the Director of Financial Aid at the University of Nebraska at Kearney.

Justin Draeger:

Welcome, Mary. I'm glad to have you here.

Mary Sommers:

Thank you. It's great to be here.

Justin Draeger:

Yeah. I've known you for a really long time, but even when you know someone for a long time, you learn new things about them.

Mary Sommers:

Yes.

Justin Draeger:

And we were just chatting before we went live and yeah, I said that sometimes people don't like to hear the sound of their own voice.

Mary Sommers:

Right.

Justin Draeger:

And you said you're fine with it, basically.

Mary Sommers:

You bet.

Justin Draeger:

Why is that?

Mary Sommers:

Well, my prior profession before financial aid was radio news and my undergraduate degree, shout out to Iowa State University, my alma mater, is in broadcast journalism. So for seven years I was a radio news reporter before I got into higher ed, and therefore this is like old school to me.

Justin Draeger:

I find that so, first of all, very envious. Takes a lot of hubris for a person to think that they could do news radio and have their own talk show. That's right up. That tracks for me. I have a lot of hubris and so I'm sort of like, "If I could just have a microphone and just talk into it for a couple hours a day." You were doing news.

Mary Sommers:

Yes.

Justin Draeger:

That's different. It wasn't like the Mary Sommers hour.

Mary Sommers:

No, no, not at all. Not at all.

Justin Draeger:

Was it a PBS affiliate or something else?

Mary Sommers:

Well, no, it was... So, I started in Wichita, Kansas at an, I say, old radio station in that it's one of the old first radio stations, KFS. So it only had three digits, like WBLS or whatever. And that radio station, Justin, you would love this, was owned by Alf Landon. Do you know who he is?

Justin Draeger:

Is that right? Yeah, yeah, yeah, yeah.

Mary Sommers:

So, famous Kansas politician and he started his business before he got into politics was radio, and so it was his station. And then I worked in Des Moines, Iowa while I was in college, and then I also worked in Sioux City, Iowa, and then made the move into higher education. So yeah, radio news is more fun than anything in the world because you can do radio news with minimal equipment from any location. So when there's a crisis...

Justin Draeger:

Right.

Mary Sommers:

You want a radio on.

Justin Draeger:

When you were doing it, were you reading the news or were you reporter on the scene?

Mary Sommers:

So I did radio news broadcast and then sometimes I would go out and cover live events, like plane crashes or tornadoes. See, in Kansas...

Justin Draeger:

Were there a lot of plane crashes in Wichita?

Mary Sommers:

I covered one small plane crash. Yeah.

Justin Draeger:

Wow.

Mary Sommers:

And then bad weather, like tornadoes.

Justin Draeger:

Yeah. Well, of course.

Mary Sommers:

Yeah.

Justin Draeger:

Yeah. But of course in Kansas you have the weather and then you also have the tornado sirens, right? That's pretty standard and they don't have those in DC, coming from the Midwest myself. They never had sirens here and they also don't confuse tornado watches and warnings all the time.

Mary Sommers:

Really?

Justin Draeger:

In DC, yeah. It's just a different world. So here and nowadays, Mary, I don't know, in Nebraska and Kearney, do you guys get a lot of tornadic activity?

Mary Sommers:

Yes. Just even... Now we didn't have it this week, but Tuesday night we had tornadoes in Nebraska on the Eastern side of the state. Yeah.

Justin Draeger:

And now we just had a tornado here, I don't know, a week or two ago, Owen. And it went off on my phone.

Mary Sommers:

Yeah.

Justin Draeger:

So I guess we don't need the sirens anymore, but now we get the break in on the phone. So I don't know. I sort of miss... I like a good thunderstorm. I don't like tornadoes, but I like a good thunderstorm. I find it calming. I don't know.

Mary Sommers:

As soon as there's severe weather on our block in Kearney, Nebraska, all of the men are out in the middle of the street.

Justin Draeger:

Yes.

Mary Sommers:

Looking at the sky.

Justin Draeger:

Yeah. You got to watch the funnel cloud. There's a bit of staring into the abyss. There is something existential and fulfilling about staring at your own mortality I think, but I get that. In Ohio, we would do the same thing. It was like rush outside and see if you could see it.

Mary Sommers:

I think there's something about sort of just the experience of the power of nature too, something entirely outside of your control.

Justin Draeger:

Well, speaking of things that are outside of our control, this is a good transition into what we asked you to come on here to talk about today. We both know financial aid offices collect and manage and have access to a vast amount of confidential student and parental information. And even with like the best of intentions, institutional offices outside the financial aid office and third party vendors and regulators and researchers and scholarship offices, they want that data.

Justin Draeger:

And those are, like I said, I don't know that there's anything necessarily, or even oftentimes, nefarious about it, but it places a lot of pressure on financial aid offices who, I don't know, I think have obviously a statutory requirement to keep that data private, except for specific uses and then an ethical responsibility. It's actually in our principle of ethical statements. And then there are three separate laws that all interact on this. We can talk about all that. But Mary, when I think about student privacy, you come first and foremost in my mind, because you've worked on this stuff with us for a number of years, right?

Mary Sommers:

Right, right. Justin, I was just reflecting on that. It goes back to when we were revisiting our code of conduct and our statement of ethical principles for NASFI and I was so fortunate to be asked to work on that project with you and the staff and a bunch of our colleagues that were experienced financial aid administrators. And we spent a lot of time really talking about what made sense for us professionally

and as an association when it comes to protecting student data. And the conversations were so rich. People are so committed in our profession to protecting student information, but also being good partners with our campus colleagues. It was just a very invigorating professional experience for me and I'm really grateful that I had the opportunity to participate, but now we are dealing with all these requests and all these challenges. And I think it is really hard for us to know where to land.

Justin Draeger:

I would agree with you just based on the number of questions that we get at NASFAA from schools who are sort of looking for help and sort of back up about what is or isn't appropriate. Let me start with some bigger questions and then I want to dive into an example that you shared with me offline a couple weeks ago that might be, I don't know, it might illustrate some points for schools that are struggling with this, or will be. Big question, which is why do you think this is, student privacy seems pretty clear to me, but why do you think it's so confusing? It's not very clear. It can start to get really complicated really quickly.

Mary Sommers:

It can. Yeah. And I think one of the difficulties is what you alluded to, Justin, is that there's really three statutes at play. There's the Privacy Act, which is this kind of obscure sort of statute that kind of rarely intervenes with the work we do, but does have a place in this discussion. There's the Higher Education Act, which is our Bible, right?

Justin Draeger:

Right.

Mary Sommers:

And then there is FERPA. And I think one of the things that can be confusing for financial aid administrators is that FERPA is sort of the dominant thing, statute regulation, for our campuses. And so there's a lot of training that happens on the campus level regarding FERPA, but there's not any training that really occurs campus-wide on HEA. And I think that's where sometimes things can be confusing for practitioners, but also where the pressure can come from a little bit for our colleagues.

Justin Draeger:

Yeah, so this sort of creates the ripe for tension that might exist, because every office has been trained on some aspect of FERPA probably, but when it comes to the Privacy Act or the HEA, and specifically on student financial aid data, talk to me about the tension. What sort of pressures?

Mary Sommers:

So our campus colleagues can understand a little bit about the educational record and the fact that that should not be disclosed to external entities, especially for dependent students to parents, right? So we know we cannot tell a parent what their students grades are and that is drilled into us from day one, but we don't say to a faculty member, we don't tell a faculty member, "Hey, under the Higher Education Act, you really can't know what a student's need is or whether or not a student is Pell Grant eligible. That even though you may feel like, under FERPA, you might have a case to make to have that data, under HEA you may not." And I think that's where the conflict gets difficult.

Justin Draeger:

And what are some of the reasons that, let's stick with that example for a moment and then maybe you can walk us through what you recently did, but sticking with that example, let's say I'm at the College of Humanities or something, and I want to focus scholarship money that's been endowed to us on needy students, and we're going to use Pell Grant students or in EFC range as a proxy here, they come asking for that from your aid office and you say what?

Mary Sommers:

Well, now I tell you, that example that you just gave me, that nuance is a little different because...

Justin Draeger:

Okay.

Mary Sommers:

Because we've been told and in the work that we did with the great attorneys that helped us draft the NASFAA white paper on data sharing, which is a wonderful resource that I highly recommend to people, if there is an aspect of the request that is to administer the awarding of financial aid of some kind, and that includes scholarships, you can disclose information. So the way that we handle that here is, first of all, when students are submitting an application for scholarships, and we do that in a broad way, we have an online scholarship application that our students fill out, and part of what we disclose to them when they're filling that out is we are going to share information that may be relevant or applicable to a particular scholarship criteria with the selector. So we do a disclosure and we get the student's permission to release that information electronically as part of the application process. So in that scenario, then it is okay for me to go ahead and release some data. I don't give them everything.

Justin Draeger:

Right.

Mary Sommers:

But I give them a flag.

Justin Draeger:

And so in this sense, that's it. That's the big caveat, is it can't be shared for any other purpose other than awarding financial aid. So let me twist this example one second and now let's say a faculty member comes to you from the college of arts and humanities and they say, "We would like to create a new program and that program is going to focus on needy students or low income students." Tell us who they are.

Mary Sommers:

Yeah. There's the line, right? So again, the challenge is what a great initiative to have faculty that are interested in maybe developing some programmatic or intervention strategies to support students. We don't want to discourage that and we want to be good partners in that situation. So I would say, if I were in that situation and a Dean or a faculty member came to me and asked for that information, I would try to find a way to help them do what they want to do, but with me controlling the information that has to do with need.

Mary Sommers:

So in the scenario that you just gave me, right off the top of my head, I would have to kind of think about how could we do that. That may be a particularly challenging scenario, but there may be a way that we could do it, where we provide the information back to the department in some manner that protects the student's information, but still gives them the resources they need to apply to the treatment or the program that they want to give to the student. That particular situation is a little bit challenging.

Mary Sommers:

I'm thinking about something that we've been working on on our campus, which has to do with books and the expense for books. And there's a lot of initiative with faculty right now to find ways to provide free access or access to learning materials, books, and supplies without any costs. And they were asking us for some information about students in particular classes and what kind of need do they have. And so far, we've not found a way to do that to them and do that for them by still protecting the student data. And so we're still kind of having conversations with them about how we can do that. So some of these situations are a little bit dicey, but to me, that's the perspective or the way I want to approach these inquiries.

Justin Draeger:

Right. What I like about it is that aid offices sometimes get the reputation of being uncooperative.

Mary Sommers:

Exactly.

Justin Draeger:

Because we have to be looking out from where we sit for the interest of the institution and the entire financial aid population. We don't want to do something in the name of innovation that then puts our entire financial aid program at some sort of risk, or on a reimbursement program through cash management, or something, or a program finding that becomes sort of a black eye to the institution. And so we're thinking of this about keeping the school on the straight and narrow, but also being cooperative and what I'm hearing you say is best of intentions can be met with let's think about how we do this together that protects the privacy of the student.

Mary Sommers:

Mm-hmm (affirmative).

Justin Draeger:

Maybe it means the aid office actually has to take on more work.

Mary Sommers:

Exactly.

Justin Draeger:

Because maybe you are looking through the records and not disclosing any of that outside your office. Maybe you're doing the outreach to students or financial aid students letting them know about programs.

Mary Sommers:

Exactly.

Justin Draeger:

But you're not giving that information out and so in some ways that's more work, but you're helping them achieve what you mutually want to do together.

Mary Sommers:

Right. Right. And that is exactly the approach that we want to take and it is sometimes where, again, when I think about our schools and our colleagues, Justin, throughout the entire country, I know that there are situations where financial aid professionals just don't have the time or the resources or the staffing to do what you just described, which is we control the information, we do the reach out, we collect the permissions, all those steps that we can do that can still protect our student's information, but provide the information or access to the opportunities that our colleagues on campus want. And that is what I think is often really concerning to us.

Justin Draeger:

Right. Well, let's walk through a specific you are willing to give us to protect the interest of folks you're willing to give, walk us through maybe an example that you just went through on campus.

Mary Sommers:

Yeah. We've been working on an initiative involving a partner that is not affiliated with our institution, but it's a scholarship provider and they have been very interested in understanding the impact of the scholarship they provide to their students from an absolutely impressive holistic manner. They're interested in not just academic progress, but they're interested in social and mental health aspects and this just incredible rich research that they have the capacity to do.

Justin Draeger:

And this is all for good reasons, right?

Mary Sommers:

All for good reasons.

Justin Draeger:

They're trying to do evidence based research to help aid offices.

Mary Sommers:

Great research, I mean, really cutting edge research and so we've been really interested in seeing what they're learning and learning from them and trying to find ways that we can take what they've learned and apply it in a broader way on our campus. So it's been powerful research, but any good researcher wants to know, they want to have a control group, right? So they want to have data from those students

that aren't receiving the treatment of the experiment, if you want to put it in very scientific terms, and so the issue that we had to deal with a little bit was what about all those data points that they're requesting that students who aren't in their program might present so that they had a good control group on which to base their research, right?

Mary Sommers:

So the students that were receiving the benefit of their scholarship were signing a document that allowed us to release information, but that was not the case for any other student, right? And so we were engaging in discussions with our colleagues on campus about that and I was being quite adamant that really we were not in a safe place to release this information. And what finally really helped the leadership on our campus arrive at the decision that they did was we used the NASFAA decision tree relating to releasing information, which is a very simple tool, not so simple to create. I think your policy staff probably spent hours and hours on it, but there have been so many occasions where that's the document I pull out and in this scenario, I pulled it out, I worked on it, I gave it to our bosses, and I said, "I think this will help us determine where we have to go."

Mary Sommers:

They walked through the decision tree as well. They came to the same determination I did. Then they went to our legal counsel and just said, "Do you concur that this is where we need to land on this?" And our legal counsel backed us up and so it was just such an instructive experience for us because we were so torn. We knew the value of the research, and we understood exactly why they were asking for what they were asking for. So now what we're working on just is there another way that we can support the research, but protect the student data in an appropriate matter and I think we're going to arrive at that at some point here shortly. We have some wheels in motion and some approaches we're working on.

Mary Sommers:

But at first, it's a little intimidating when you're a director of financial aid and you're having these conversations with the very senior leadership of your campus. It may be the only time you regularly engage with a president or a vice president or whomever. It may be rarely that you engage with legal counsel on your campus. I don't know, it is for us. So it was a little intimidating, but I'm really pleased with the way it worked out. And I'm really appreciative of the tools NASFAA's given us to do it.

Justin Draeger:

Right, and we'll include links to this resource and several others in our show notes that people can check out. But this decision tree, I mean, I think the idea, the impetus, and you were sort of involved in all of this, Mary, when we were creating this, the idea of all of this is that it's sort of like an independent outside source saying, "Look, here's, what's allowed, here is what's not allowed," so the aid office isn't left alone pleading their case and again, sort of bumping up against this tension or this perception of being uncooperative. It's saying though, "Here are the lines," and what I'm hearing you say is once you had something independent to show, then they could sort of consider that, run it through the different chains of command and now you guys are left at a spot where you're still trying to figure out how to work with this scholarship provider.

Mary Sommers:

Yeah. And I think that one of the interesting things was it wasn't so much that my concerns weren't being taken seriously. They were being taken seriously. I think it was just that again, it was the fact that

it was HEA that we were talking about and the people that we were working with on this, on the academic side, were very familiar with FERPA and they're thinking about educational records in that regard, but they weren't really, really familiar with what the HEA said about FAFSA data in particular. And so when they had a chance to look at the decision tree, which includes not just sort of descriptions, but it has the citations to the statute and the regulations, that's where I think our colleagues have a really powerful tool because then clearly you're pointing them to the resources. And even our attorneys who deal with so many things when it comes to higher ed legal issues, they need those resources too. They need to know where do I go look this up, right? So all of the NASFAA tools provide that.

Justin Draeger:

So Mary, let me ask you what if the decision had gone the other way? Ultimately, it's an institutional decision. You talked about interacting with your president and legal counsel. They're the ones who ultimately make institutional decisions by authority given to them by the board. So if it hadn't gone that way, or if this is happening at another school where the decision goes against financial aid office's advice, what's the role and responsibility that you would see yourself having there?

Mary Sommers:

Right. Great question. And I've had situations where colleagues have talked to me about something similar to that, where they found out that data was released after the fact as well and nobody talked to them about it ahead of time, or got permission, or anything. So these situations happen. This is the reality of the world in which we work. So my advice would be document, document, document. So write up a paper that says this is the situation, this is how it's been resolved, and then just have that in your audit file just in case you need to address it at some point.

Justin Draeger:

Right. And show directly that here was the conversations, here was the decision that was made.

Mary Sommers:

Right. Exactly.

Justin Draeger:

I think that's fair. And that's the advice I give aid offices or directors who contact me and say, "Hey, at my school, this is happening. I don't think it's a good idea." And I say, "Ultimately, the institution makes a decision. Who's empowered to make this decision?"

Mary Sommers:

That's right.

Justin Draeger:

"Is it you or someone else?"

Mary Sommers:

That's right.

Justin Draeger:

They say, "Well, in this instance, it's someone else." And I say, "Then you need to document what you've advised." And of course we're not talking about whistleblower.

Mary Sommers:

Right, no.

Justin Draeger:

Sort of illegal activity, of course, but in these situations, and this question sort of infers that as aid offices, and I see this again and again at FSA and at the NASFAA conference or other conferences where we're interacting with FSA leadership, we often want a clear yes or no answer. That's totally understandable and sometimes I think there just may not be. Sometimes there are these gray areas where we may not even want the department to come marching in and tell us what to do. In this particular instance, do you see sort of a gray area and maybe this is a bigger question about how aid offices should approach compliance management.

Mary Sommers:

Right. You always talk, Justin, so well about risk management and sort of making a judgment call about how far do we go in terms of risk management when it comes to something like this. So I think this discussion falls clearly in that bucket often. We talk about, with financial aid professionals, where does our loyalty lie? That's a challenge for us because we have a fiduciary responsibility to tax payers. We administer federal funds. That's a whole area of responsibility that we have when we sign that PPA, right, or our chancellor or president signs the PPA. We have a responsibility to our institutions as well and sometimes it can seem like those two cross paths.

Mary Sommers:

Now, if you are at an institution that respects your professionalism and understands the important role that financial aid and eligibility for financial aid plays in the health of the institution, generally I believe these things can be worked out. Now, sometimes they're worked out in a way where maybe the financial aid director doesn't feel 100% comfortable with it, but they can generally be worked out. There are situations, Justin, you and I know, we have colleagues who have made a decision to leave an institution because they weren't comfortable with something that was going on and sometimes that's a professional choice that an individual may make as well. So I think that's sort of where the risk management equation comes into play both for an institutional level but also as a personal level, as a financial aid administrator.

Justin Draeger:

Yeah. And sometimes, if I'm putting my empathy hat on, I'd say from a college president's standpoint, there are, I don't know, a hundred different fires that have to be put out every single day. And so I think it's always helpful to think of this in the way that you just framed it, which is presidents need to know because they're constantly having to make judgment calls. So they need to know sort of talking in absolutes, this is legal, this is illegal. When there is sometimes this gray area where there's not clear, precise guidance, it's helpful to say, "I see significant risk here. Here's the risk and here's how high I think the risk is."

Justin Draeger:

And then that sort of frames it up for the president to make a decision whether they think that risk is tolerable, and again, just so anybody who joins late or has tuned out for a second, we're not talking about in any way doing anything that would malign students. We're talking about privacy when there are organizations, researchers, scholarship providers that want to do the best thing possible and we're trying to find a way to meet them halfway to help our students without betraying privacy issues. So the point is what is the risk? And if we approach presidents, as aid folks, everything's on fire all the time, then they just can't hear that.

Mary Sommers:

Yeah.

Justin Draeger:

That if everything's urgent, nothing's urgent.

Mary Sommers:

Right.

Justin Draeger:

They can't decipher that.

Mary Sommers:

Right. Exactly.

Justin Draeger:

So I find that helpful. You've been involved in sort of our compliance track at the leadership conference and this is kind of how we talk about it, which is we need to do some risk assessment. We need to weigh what's important and what's not. This is Justin talking. I question whether there's any institution, besides the University of Nebraska-Kearney, that is 100% in compliance with every single thing.

Mary Sommers:

No.

Justin Draeger:

Because it's just not possible. It's just so vast.

Mary Sommers:

It is. It is. And it seems like every single day you're coming in to work and you're looking at what's on your to-do list and there's a compliance decision every moment it seems like of every day now.

Justin Draeger:

Right. Well, anything else you want to talk about here, Mary? Are we good? What do you think?

Mary Sommers:

I think that depending upon one another is helpful too. I think your staff is so accessible, Justin, to members that need some help in these areas and so I urge us to just rely on each other for feedback and use your network, because that can sometimes be the best resource.

Justin Draeger:

Thanks, Mary, and finding a mentor or a colleague who's trodden through similar territory can be a lifesaver. For those who are interested in some of the resources we have, check out the show notes. We'll be posting an AskRegs question about some of the data that financial aid offices can or can't share. We have some case studies that people can browse through and sort of see which of those are applicable to their institution. We have a whole white paper on this. We have the decision tree that Mary pointed out and then there's a Department of ED resource out there as well. Mary, I'm really glad to have you on the podcast. Thanks for sharing your experience. I hope this has been useful for members out there who are struggling with these same issues.

Mary Sommers:

Me too. Thank you.

Justin Draeger:

All right. Let's bring in our producer this week, Owen Daugherty. Owen, what is happening in the news?

Owen Daugherty:

Yeah, Justin, good to see you. Actually, just this morning, before we started our recording session, the Department of Education came out with an announcement that the Biden Harris administration is going to put some effort to focus on striving for equity in their higher ed and education platform in general. This was a wide ranging announcement. Something that really caught our attention and applies here to financial aid is that they said they're going to review and improve the model used to currently verify financial aid applicants. This is something we've covered and we've talked about some of the findings that show there's some inequity in who gets selected for verification. So this is something that we were excited to see.

Justin Draeger:

Yeah. Any additional details in that announcement or just that they are going to be reexamining the model by which they select students for verification?

Owen Daugherty:

Pretty thin on details. I assume there'll be more in the coming weeks, months, but for today, just an announcement that they will be reviewing this.

Justin Draeger:

Well. That's great. We'll take any commitment or recommitment from our colleagues over at the Department of Education to reexamine their verification selection modeling. So we'll look for more details on that. What else is going on?

Owen Daugherty:

I feel like it should be like a weekly installment of where we would be student loan payment pause or potential forgiveness. As you know, the White House announced that student loan payments would not be taking place through the summer until August. That was an extension from May through August. And we'll see what happens later on in the summer, but Senator Chuck Schumer made some headlines again this week saying that he's making progress on pushing the White House to issue some form of student loan forgiveness. His words are, "The White House seems more open to it than ever before." And he's pushing quite hard for it. So this is something, no major news, but something we're going to keep following and expect to hear more about over the summer.

Justin Draeger:

Well, it'll be interesting, at our annual meeting in Austin, Texas, this June, we have both the Under Secretary of Higher Education coming, James Kvaal, and the Chief Operating Officer, Richard Cordray, coming in from FSA. It'll be interesting to see if there is any additional notes or comment on some of the new initiatives they've announced, including whether they're going to do any sort of across the board loan forgiveness. So we'll keep our eyes and ears open. Anything else?

Owen Daugherty:

We did have some news coverage last week about a memo from the Association of Collegiate Registrars and Admissions Officers and the National Association of College and University Business Officers detailing a framework about how they think schools should approach transcript withholding if there is outstanding balances on student accounts. This is something that's gotten a little bit more attention lately. It was discussed at negotiated rule making hearings and something that a few different groups have chimed in on. So their policy that they put out was hoping that an institution would not become a debt collection agency and that is a step that they don't see an institution should have to take.

Justin Draeger:

Right, so if it's a low balance outstanding debt, maybe the school can release the transcript and try to find some way to make a good faith effort at collecting, but let's have a gentle touch as they talk to students about their outstanding balance from our colleagues over at AACRAO and NACUBO. Okay, thanks very much Owen, and people can stay tuned to these stories and others that you guys are constantly monitoring and writing up in our daily newsletter. So thanks very much, Owen. And thanks to everybody who listened. Remember to send us your comments, remember to subscribe. If you get a chance to rate this podcast on your podcast application of choice, it does help other people find the podcast. We will talk to you again very, very soon.