NASFAA's "Off the Cuff" Podcast – Episode 228 Transcript

OTC AskRegs Experts: Transcript Withholding and Answering Questions About Summer Aid

Justin Draeger:

Hey, everyone. Welcome to another edition of off the cuff. I'm Justin Draeger.

Jill Desjean:

I'm Jill Desjean with NASFAA's policy team.

David Tolman:

And I'm David Tolman with training and regulatory assistance.

Justin Draeger:

Welcome back gang. Glad to have you here to talk about some hot topics that are happening, questions we're getting here at NASFAA from schools across the country. All right, Jill, let's get into this week's topic. I'm going to start with you on a topic we've been hearing a lot about in recent months. There are some new guidelines out on transcript withholding. Is that right?

Jill Desjean:

Yeah. That's right.

Justin Draeger:

And let me ask you a question. Are these guidelines or regulations?

Jill Desjean:

These are guidelines.

Justin Draeger:

Okay.

Jill Desjean:

So these are from two associations. AACRAO, which is the professional association of college and university registrars and admissions officers. And NACUBO, which represents college and university business officers. And they issued a joint statement on registration and transcript holds. So, guidelines but not guidance. Nothing that binds a school to any of this, but certainly recommendations they are hoping that schools will follow.

Justin Draeger:

I feel like that's a good point because not every risk is a compliance risk.

Jill Desjean:

Mm-hmm (affirmative).

Justin Draeger:

Some of the risk that people need to be thinking about is reputational risk.

Jill Desjean:

Absolutely. Yeah.

Justin Draeger:

So some of this comes down to like fairness, equity, how your school would be viewed through an external lens if you're engaging in practices that might hurt your graduates on the back end.

Jill Desjean:

Mm-hmm.

Justin Draeger:

And this is sort of a reputational risk issue, right?

Jill Desjean:

Yeah. Yeah. Although some states actually do have bans on transcript withholdings. So there are certain schools that have to abide by state laws. But in a place that doesn't have a state law, then these are guidelines that schools could follow.

Justin Draeger:

Okay. So our registrar and business office colleagues, what do they have to say?

Jill Desjean:

Well, they started by establishing their position on holds and they argue in favor of the fact that holds can be useful. They talk about the fact that college and university administrators often have difficulty in getting students attention. They kind of note that faculty members see students every day in class, or maybe by zoom, in an in person situation, certainly they see students. And so, they have more opportunities to interact.

Jill Desjean:

Whereas administrators don't have those. And so when they need a student to do something, whether it be pay their bill or turn in some documents, it's kind of phone calls, emails, text messages, those sorts of things. But if you don't get a response, you might need to take another step. And so they were saying that institutions should be allowed to use holds, but within these guidelines that they're setting. They don't want to say institution shouldn't set holds at all. They think that they have a place, but just that they should follow guidelines. Because they argue that eliminating institution's ability to place holds, could actually cause harm to students in that institutions might have to take some other action that could actually be more punitive.

Jill Desjean:

And they talk about the instance where a student might, a pass due balance. And instead of putting a transcript hold on the student's account, they go ahead and put the student into collections. And then that can damage their credit, it can cost them fees, collections cost , things like that. So, they start off by kind of saying holds aren't all bad.

Justin Draeger:

Okay.

Jill Desjean:

But they offer some guidance on the use of them. And so that includes things like communicating clearly with students about that they have a hold for one thing, indicating the reason for that hold, what the impact is, what that would actually stop a student from being able to do, and also instructions on how that they can resolve the hold. So that it's not just kind of something that's out there forever.

Justin Draeger:

So let me go back to one thing you just said, because there's a couple dynamics here with the holds. Yes. Maybe if we all lived in a perfect utopia, people wouldn't owe anybody money. But in the world that we live, the school's providing several different types of services. Maybe they have restricted parking and maybe that's for good reason. This parking is for loading and unloading or to keep a road clear and somebody might get a parking ticket. The bottom line is the student owes the school money and let's assume it's a legitimate expense. And the way that the school is leveraging the student situation to get that money is to say, we're going to put a hold on your transcript. So, not all holds are illegitimate. What would differentiate, what's a righteous hold and what would be an unjust hold then on a transcript?

Jill Desjean:

Well, I think something that has come up a lot from people who are arguing against transcript holds being allowed, wanting a ban on them, is they talk about students who withdraw. And so students who had every intention of paying, but paying with federal student aid because they didn't have their own resources to be able to pay themselves. So they had a way to pay for school, they came to school, they withdrew before the 60% mark and were subject to an R2T4 calculation. And some of their aid had to go back. And so, yes, they do owe the school, but they don't have the resources to pay the school. And it wasn't as though they went and enrolled without any intention of paying. And who knows the circumstances that led to their withdrawal, they may have had something come up in their family or personal lives, health wise, whatever it might be. Not just some decision, I don't feel like going to school anymore. And so that's, pretty understandable why somebody would feel like a student didn't necessarily quote unquote deserve a hold in a case like that.

Justin Draeger:

Those are good examples. What about the amount of the hold? Does that play any role in determining whether they should put a hold the school should put a hold on the transcript or not how big that is?

Jill Desjean:

Yeah. These guidelines from AACRAO and NACUBO do say, they don't specify an amount, but they do say that holds should not be tied to trivial or minor debt as compared to the overall fees already paid to the institution. They left it nice and vague. They don't give a dollar amount, a hold shouldn't go on for a very small amount is what they're arguing.

Justin Draeger:

Okay. What other pieces of advice do our colleagues at NACUBO and AACRAO suggest?

Jill Desjean:

They recommend that schools routinely examine the use and impact of holds on students as relates to equity. They recommend that schools consider establishing a payment plan option. If it's a current student and it's a hold on registration, to allow them to resolve their outstanding balance and still register for an upcoming term. They're also recommending that a student have access to an unofficial transcript, when there are cases that they won't issue an official transcript. And also that they allow students to appeal holds that are on their accounts. At least in order for them to be able send those transcripts to something like an institution they're trying to transfer to, or if they're applying for a job or for a professional license, to be able to at least get that while they have the hold on their account.

Justin Draeger:

What about those students who are facing, they need a licensure or something. Withholding a transcript might prevent them from earning money to actually pay the school back. So any exceptions there?

Jill Desjean:

Yeah. Yeah. That was one of the exceptions. So sending a transcript to another school to transfer a prospective employer or professional licensing agency.

Justin Draeger:

I feel like this topic's been getting a lot of interest and attention over the last few months, not just from states and the news, but maybe even from the department of education.

Jill Desjean:

Yeah. Yeah. So secretary of education, Dr. Cardona, mentioned the need for institutions to evaluate their policies of transcript holding. And he made note of the fact that those policies may block retention and completion for underserved students. He said that, there are many policies that might do that, but that one might be transcript holds. So he encouraged schools to look at those policies. This also came up during NegReg. The most recent NegReg, it wasn't on the agenda, but some of the negotiators themselves were arguing for the department to add a federal ban on transcript holds, pardon me, to the regulations.

Justin Draeger:

Just out of curiosity, did they recommend doing that through the PPA or what was going to be the hook?

Jill Desjean:

Yeah, it would be on the PPA.

Justin Draeger:

All right. What about you mentioned states earlier, so we have some states that are already doing this?

Jill Desjean:

Yeah. There are a handful of states that are already doing it. California, Washington and Louisiana have bans. It's being considered in Massachusetts, Minnesota, Ohio, and New York. And in fact, in New York, the CUNY system, the city university of New York and the SUNY system, the state university of New York have already banned the practice.

Justin Draeger:

I imagine that each of these states might have a slight variation or two in their exact requirements. What'll be interesting to see is, if there's a straight ban and you're a school who cannot withhold a transcript to collect funds, will that same school then decide to not allow a student a register? If their balance isn't up to date, or if the student hasn't made a plan on how to pay off a past due balance. At some point, schools, they have outstanding balances mandating that they not collect. Doesn't seem to be the most elegant solution in trying to solve what our budget gaps at a school.

Jill Desjean:

Yeah. It's definitely a thorny issue. There are some cases where, if someone just isn't willing to pay, you might want to just do everything in your power to absolutely get them to. But when someone's not able to pay it's [inaudible 00:08:54].

Justin Draeger:

Seems to me, the CFPB also made a comment about this and they're an organization that might have some teeth that they would dig into schools with. What's the CFPB's angle on withholding transcripts.

Jill Desjean:

Yeah. So they announced earlier this year that they were going to be investigating broadly institutional loan practices, but they mentioned specifically that they would be looking at the practice of restricting enrollment or withholding transcripts when borrowers are late on their institutional loan payments. So this was a small piece of a bigger investigation that they're launching,

Justin Draeger:

Right? So in their jurisdiction, they're looking at private institutional loans. And if somebody's not making a payment on that loan, if the school's withholding a transcript, they feel that falls within their jurisdiction and they might be taking a closer look at those schools.

Jill Desjean:

Mm-hmm (affirmative).

Justin Draeger:

Okay. All right. Thanks very much, Jill. This is something we'll obviously keep our eyes on. Thanks, Jill. David, I want to turn to you now. Summer's right around the corner and you and the team over at AskRegs that you're fielding a lot of questions about summer aid. I'm curious, what kind of issues are you hearing about?

David Tolman:

On Wednesday NASFAA presented a webinar on summer aid issues, and we're going to delve deeper into one of the topics that he discussed, which aligns with some of the questions coming in. And that has to do with crossover payment periods. This ties back to one of the easiest calendar concepts in financial aid, because if anything is related to calendar or times it's regulated or has a definition to it. But an award year, is simply the time from July 1st of one year to June 30th of the next year. We're currently in 2021-22 award year. And for most of the year, there's no question on which FAFSA are we going to use for a payment period. Fall and spring both fit nicely into the award year.

Justin Draeger:

All right. So when we're talking about crossover periods, we are probably then talking about the period that overlaps to award years.

David Tolman:

Yeah. It's a payment period that begins before July 1st and it ends on or after July 1st. Because then, we move from the 2021-22 award year to the 2022-23 this July 1st. Rather than saying that over and over, I'm just going to refer to them as award year A and award year B. It's typically summer, but it can be any payment period. Such as one that runs from April 1st to July 3rd or June 28th to October 31st. And usually they're referred to as a header or a trailer to the award year.

Justin Draeger:

I'm thinking about award years. This is the time of year people are probably thinking about them as well as they start up their spring or summer terms. What are some of the issues that the school would need to be aware of here?

David Tolman:

Well, the issues kind of fall into two main categories. One is determining students eligibility. Which cost of attendance from which year, which expected family contribution are we going to use for this crossover payment period? Is it going to be from award year A or award year B? And then the second one is drawing down funds. Which award year do we draw down funds for. And does it always align with what the school uses for the student's expected family contribution?

Justin Draeger:

So can a school assign a summer to be either a header or trailer and just call it good from there?

David Tolman:

Well, that could be the case when you're looking only at determining student eligibility, but not with drawing down funds. They don't always align. It depends on timing. But it's important to know that crossover regulations have a lot of flexibility and schools usually lock down how they handle summer in their policies and procedures. But once in a while, an unusual situation will come up, they want to make an exception and they're not sure how to handle it. They look back to their own policies, but it's always helpful to understand the flexibility offered by the regulations.

Justin Draeger:

All right. So let's back up and start with the first basket of issues you talked about, which is student eligibility. So let's talk about student eligibility issues with crossover.

David Tolman:

Okay. So let's start with need analysis. And that is which award years cost of attendance and EFC are we going to use? The payment period is usually assigned to one award year for most title four programs, including direct loans, FSEOG and federal work study. The cost of attendance in ESC the school uses for a student, has to be assigned to either award year A or award year B for all those programs. So the one you use for direct loans has to be used for FSEOG. It's used for all three programs actually. But the Federal Pell Grant and also the IASG, the Iraq and Afghanistan service grant, or the teach grant, which both followed the Pell rules. They can be assigned to a different award year than what was used for the direct loans or the campus based state.

Justin Draeger:

So even when I was doing financial aid many moons ago, directly on a campus, we had lots of crossover periods. It might seem like the easiest thing to do here is just to align everything, you have all of your programs assigned to one award year. But why might a school choose to use a different award for direct loans than for their Pell grant?

David Tolman:

That's a good question. And one of the big changes probably has to do with year round Pell grants. A student has to be enrolled at least half time to qualify for more than 100%. And a student that's Pell eligible and has used a hundred percent during the fall and spring, but is enrolled less than halftime in the summer, that student wouldn't be eligible if you're still looking at award year A. But, attaching it to award year B, with it being first payment period in award year B, you can award that student a Pell grant.

David Tolman:

And my son-in-law actually is dealing with that very situation. He is enrolled less than half time, but he is thinking, should I enroll half time just to get the extra Pell, it won't be switched. Sometimes a school's locked in when they're using a borrower based academic year basis for their direct loan period and it ends in summer, and they've made an exception for a student to process a loan using BBAY. And sometimes there's differences in EFC's across years. The loan, it might not make a difference to the student eligibility on loans, but Pell, my goodness in award year B their EFC is much lower. So can we switch for Pell and award this student a much larger Pell if we go to the next award year.

Justin Draeger:

Just to be clear, schools have complete discretion here. Which is different than the first time we had year round Pell grant. But we would hope that schools would be doing these calculations and advising their students, and hopefully awarding them in award years that would maximize the funds for the students. Is that fair?

David Tolman:

That is fair. Yeah. And you're right. The original regulations on year round Pell mandated to look at whatever situation was going to benefit the student the most. That's gone now, but the hope is that, you would be flexible with your policies and still follow that in general.

Justin Draeger:

Yep. Okay. Let's move on to the second issue you talked about, which is drawing down funds. So what are the issues there?

David Tolman:

Well, the issues primarily are that the regulations differ among all the different title four programs. Pell and IASG are the easiest. You simply draw down the funds according to the award year. EFC, that you use for the student direct loan funds though, you draw down from the award year in which the disbursements occur. FSEOG it doesn't matter that it doesn't have to align, if you've exhausted your award year A FSEOG allocation. Even if you've used the award year A for the students FSEOG, you can still draw down from award year B. And then federal work study might be the hardest, any hours that are worked prior to July 1st have to be drawn from award year A, at any hours worked on or after July 1st have to be drawn down from award year B.

Justin Draeger:

So you're not always paid according, when you've worked your hours. So if you work the hours in June, but aren't paid til July, what's a school do there in terms of a crossover period?

David Tolman:

Well, it is always based on when the hours are worked and not paid.

Justin Draeger:

So how's the school supposed to keep that straight?

David Tolman:

Well, it depends on the strength of the school system. Some are very sophisticated and can tie earnings to the award year. Some schools stop federal work study students from working during a pay period, not necessarily payment period, but a pay period that crosses over July 1st. So you stop working on June 30th, it gets paid out on July 10th. Then they know that, that whole payment was from the first award year.

Justin Draeger:

So you can make this a little bit easier on yourself by not bifurcating maybe paychecks, but even then it's possible if you have the systems to sort it out.

David Tolman:

Yeah. If you can track it by the system, you could do it that way. But lots of issues.

Justin Draeger:

So David, this is a good topic for this time of year. I understand why schools might be asking a lot of questions about this. Where can they go to learn more information about crossover periods?

David Tolman:

We'll put in a link to the webinar. That's a good source of information. And also in AskRegs, if you just type in the search term crossover, it will bring up a lot of articles. That should be helpful.

Justin Draeger:

All right. Thanks very much. David, Jill, glad to have you both on the podcast. We'll send links to those resources in the show notes. And we'll talk to you both again very soon.

David Tolman:

All right. Thanks, Justin.

Justin Draeger:

All right, let's bring Owen in. Owen seems like there's a lot happening in the news, catch us up. What do we got?

Owen Daugherty:

Yeah, thanks Justin. So this week we had some big news out of the department of education as income driven repayment plans will see a pretty big expansion that will significantly increase the pool of student loan borrowers who qualify for forgiveness. According to the department, they say at least 40,000 student loan borrowers will receive immediate automatic student loan forgiveness through PSLF. That'll happen right away. And another 3.6 million borrowers will accelerate their progress towards getting their student loans completely wiped out because the department did a one time adjustment to count borrowers accounts who were in long term forbearances. Pretty big from them. The one time adjustment will allow past periods of forbearance of 12 consecutive months or more, or 36 months of cumulative forbearance to now count towards a borrower's IDR loan progress term. So whether that be 20 or 25 years. We have a lot more details on that in the news coverage that we posted this week, that we will link in the show notes.

Justin Draeger:

We obviously applaud this effort because if there was an administrative issue with the department of education and or servicers, we don't want borrowers to be held responsible for that. So, this would be the right move. That said, Owen, does the department talk anywhere in their release about what they will do to forestall these sorts of issues in the future?

Owen Daugherty:

Yeah, they talk a little bit more about heightened scrutiny of servicers and just making sure that guidance is really clear about when to direct a borrower into long term forbearance or present an IDR plan that might be better suited to that borrower. So I think they're just going to be more detailed, more clear, and then have the after the fact scrutiny, Hey as a servicer, you didn't do what we told you to upfront.

Justin Draeger:

Yeah. The servicers of course are saying that they didn't receive two things. They didn't receive the guidance they needed from the department in order to implement some of these things. They would also contend, and I've seen in their press releases, there was a joint statement between several of the servicing organizations that represent servicers, that their long term fixes needed to this program that would make it administratively easier for them to get people into income driven repayment. And the other thing is, forbearance is always sort of the last resort before somebody's going to default. It is the catchall. It's the least administratively burdensome from a borrower standpoint. So I guess there's a lot of finger pointing going on, but the bottom line is borrowers do appear to have been materially harmed in this. This is a great action. We applaud the department for doing it. Looks like we need more work though, to make sure it's straightened out going forward. All right, what else is going on in the news?

Owen Daugherty:

Well, one more thing on top of that statement you alluded to, they also said they had servicers said they had no advanced notice of this announcement coming. Which is probably unsurprising considering the last few announcements. But because this is happening automatically now, servers are scrambling to, I think, implement this on borrowers' accounts. So we'll see how that goes.

Justin Draeger:

Well, the timing is interesting. So if we really want to get into the nitty gritty of DC politics. The department made this announcement and then 24 hours later, a GAO report came out from the government accountability office that slammed the department for its oversight of income driven repayment. So, if I was thinking Machiavellian, what I would say here is the department knew, because the GAO said we are going to go public with this report on this date. And the department preempted the news cycle by saying, we are going to rectify these accounts exactly, was it exactly 24 hours before the GAO report came out?

Owen Daugherty:

Less. But yeah, about a day.

Justin Draeger:

Okay. So what I would guess is the GAO report will get almost no attention. And the department's action will get all the attention. Hey, you know what, if I was looking it this solely politically, I would say smart political move in terms of timing. But all of this is sort of aligning, there's sort of some political behind the scenes stuff where the department just got slammed by GAO for its oversight of IDR. So, okay. Busy news week already. What else is going on?

Owen Daugherty:

Yeah, one more thing that caught our attention as Jill alluded to a bit earlier, the CFPB, Consumer Financial Protection Bureau, had been pretty active on some higher education issues. Posting a lot of their memos, reports, research, including some related to student loan borrowers. We know now that borrowers won't be making any student loan payments before August, but at some point we do expect payments to resume. And when they do, CFPB in this new research estimates that more than 5 million borrowers will face heightened risk factors. Some of those risk factors they identified include those with pre-pandemic delinquencies, those with pre-pandemic who are already receiving payment assistance on their student loans, and a group of borrowers that have had multiple student loan servicers. Which we know is something quite a few borrowers have experienced because of servicer turnover.

Owen Daugherty:

And one other thing that CFPB is able to identify is, borrowers with delinquencies on other credit products since the start of the pandemic. So, in total that's about 5 million borrowers and this is a group that we're going to keep our eye on and coverage. And I'm sure there's going to be other policy briefs out there. Because when payments resume, this is a group of borrowers that are going to struggle. And we know that no two borrowers are exactly the same. So there'll be need to be some different messaging and strategies for these groups.

Justin Draeger:

For the schools part, I'll just say this is something we've been talking about at NASFAA. Our board of directors and our board officers, in particular, are very concerned about this wave of delinquencies, and defaults that could potentially arise from these delinquencies on the other side of the payment pause. Look for more details coming out of NASFAA about how we can help schools, help their borrowers transition into successful repayment. Having people out of the habit of paying on a loan for two years, then adjusting their entire financial life without this payment, is going to be a pretty big adjustment, I think for a lot of borrowers. So, more to come there. Thanks very much Owen. And I should let people know, Owen, this is going to be your last podcast at NASFAA. You're moving on to, I won't say greener pastures, but different pastures. You're leaving NASFAA, your last day is on Monday. Tell us a little bit about what you'll be doing.

Owen Daugherty:

Yeah, certainly different pastures. It'll be a new challenge, a new endeavor for me, very bittersweet to leave because I really enjoyed my time at NASFAA. But I get to apply some of the things I learned here about reporting and promoting our work. And I'll also run a podcast over at the McChrystal Group. It's a consulting firm based in Northern Virginia. They do business and leadership development. And they've given me a pretty cool platform to promote the cool work they do and take this on. It's kind of the first of this role for them. So it'll be exciting.

Justin Draeger:

Well, congratulations to you. It's been a pleasure to work with you. I think you started a week or two or three before the pandemic, is that about right?

Owen Daugherty:

A week? Yeah, well...

Justin Draeger:

A week.

Owen Daugherty:

Maybe the week of the pandemic, depending on how we mark it. Yeah.

Justin Draeger:

So this is a period of in your life that'll be truly unique, I hope, in terms of we never have a pandemic again. But really glad that you've been with us for the last two years and sorry to see you go, but go for it. Our very best to you in your future.

Owen Daugherty:

Thanks. It's been a pleasure. It's been really great.

Justin Draeger:

All right. Thanks everybody for joining us for another edition of Off the Cuff. Remember to subscribe, tell your friends, leave us a rating that helps other people find the podcast and send us your comments. We will talk to you again very, very soon.