

NASFAA's "Off the Cuff" Podcast – Episode 244 Transcript

OTC AskRegs Experts: A Blizzard of New Regulations, FAFSA Simplification Guidance, and a Quick Debrief on Midterm Elections

Allie Arcese:

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Justin Draeger:

Hey, everybody. 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 Jill and David, good to have you here. We are coming to you a little bit early this week. We wanted to do something shortly after the election just to take a quick look. We're going to have an episode entirely devoted to what happened with the election next week, and we'll have a special guest next week, Hugh, that will walk us through everything that's going on in the Republican and Democratic side still being sorted out today. First I should ask David and Jill, did you were able to do your civic duty and vote this year?

Jill Desjean:

Absolutely.

David Tolman:

Yeah, definitely.

Justin Draeger:

Okay, good. We did. I voted back in October, which, I don't know, the drop off ballot system is awesome. It is awesome. So no lines, you could just go in, you could get it done. I did forget to have somebody witness it, so I had to have a stranger witness my ballot this year. You have to have somebody sign the envelope that says they witnessed you put it in there. And so I just stopped a stranger and I knew as soon as I started it was a mistake because this person was very... They were like, "This sounds fraudulent." And I'm like, "No. No, I just need somebody to sign. I just need you to sign this envelope because it's not signed." And she's like, "Well how do I know?" So I showed her my license. I don't know. I was in deep with this person, but she did sign it and so my ballot was accepted.

Jill Desjean:

She probably didn't sleep that night.

Justin Draeger:

Right? Well, she did record the whole thing on her cell. So I assume I'm uploaded to some site somewhere as fraudulent trickster. But a couple things, I think just sort of where we are at 12:08 on Wednesday, the day after. We've talked before on this podcast, and as I've gone around the country, Democrats and Republicans are continuing to have a bit of an identity crisis between the more extreme members of their party and the more moderate members of their party. If you were looking at the more maybe extreme side of the Republican ticket, President Trump and a lot of the MAGA folks that he endorsed, these would be folks that are in full Trump-land or election deniers, don't have a lot to celebrate in Pennsylvania, Arizona, competitive races in the Virginia House, not going towards Republicans, at least the MAGA Republicans there.

Another one for President Trump is he is apparently going to announce in the next week or two. Brad Raffensperger who is the Republican Secretary of State in Georgia, famously the one who rebuffed President Trump's request to help him, quote, "find enough votes to overturn the election", he won. He won. He won pretty well in Georgia. He continues to be the Secretary of State. And then the other one I watch, everybody watched this closely is Georgia, where Governor Kemp won reelection by eight points, which is not a small margin, but there's a dead heat in the Senate side, which means people split their ticket. They went in and voted for a Republican governor and then voted for a Democratic senator, which is not normal especially in Georgia. So Herschel Walker who is President Trump's pick and endorsed candidate not doing as well as Governor Kemp did in that same state.

So the other big question, of course, is Governor DeSantis won big and he won with all the swing groups. So suburban women, Hispanic Latino votes, Puerto Ricans broke for Governor DeSantis. He's the first Republican governor in Florida to win Miami Dade County since 2002 and is not President Trump. So I think it's just sort of interesting in terms of is he the presumptive potential nominee for Republicans in 2024. Republicans ran on the economy. Democrats ran on democracy, the survival of the republic and social issues, which did seem to turn out the vote more than people were expecting. Of course, we don't know why everybody votes the way they do so people can get all of their analysis from somewhere else. We're not here to break down the general election. I would just say for education, what does all of this mean? Well, if Republicans take the House, which it looks like they will, the Senate is still in question.

Let's keep our attention on the House for a moment. Dr. Foxx, Virginia Foxx from North Carolina would be the chairwoman and they laid out their vision. And Jill, I know you went through this legislation back in September, but they laid out their vision for higher education through the Real Reforms Act. Let me run through the bullets here and then Jill, if there's anything that you recall from this bill that's worth highlighting, let me know. This bill came out in September. It was a framework bill, so it was not a fully fleshed out HEA Reauthorization, but it did things like place caps on the overall amount that borrowers would repay.

It would make a number of adjustments to income driven repayment plans to try to make them a little bit more targeted. Notably for schools, it would give them the authority to limit loans for certain borrowers in certain circumstances, which we've been asking for. So for example, part-time students would be borrowing at part-time rates unless authorized by aid professionals to borrow more. It also did some things we didn't like eliminate public service loan forgiveness. Jill, anything else notable from that bill that you can recall?

Jill Desjean:

I think it eliminated the Grad PLUS program as well.

Justin Draeger:

Yeah, that's a big one, right?

Jill Desjean:

Yep.

Justin Draeger:

And you've worked a lot with that community that will, of course, raise a lot of questions about how graduate students are going to be able to afford graduate education. And they tried to do a little bit of offset outside of the Grad PLUS program, but wouldn't make up for a big number of grad students. So that was their framework. So we would expect to see them roll something out on that early in her tenure. The other thing I would just add is Representative Foxx has also signaled a big interest in accountability, institutional accountability to be more specific. So we'll get into more of that next week on our special episode, our election episode. On the Senate side, this is the quintessential odd couple, although not like the 1970 to 1975 series. This would be Senator Sanders who is a self described socialist democrat and Rand Paul whose father famously was a libertarian and Senator Paul, who is I think one of the most consistent senators who files bills to eliminate the entire Department of Education.

So those two, however this shakes out, have pretty good odds at potentially being the chairman and ranking member of the Senate Education Committee, which will be bizarre to see how these two work together. Anyway, we'll talk more about all of that next week. If you have questions, submit them. Hugh, we can work those in right into some of our agenda next week so people can send us any questions they have. Let's get into this week. A couple big things happened this last week that you're going to help us sort out. One is we had another flurry of regulations come out and Jill, hopefully you can help us sort through what those regulations are and when they're going to be hitting. And then David, a big DCL came out that we've been waiting on changes to, among other things, cost of attendance for the '23-'24 year. I think timing is a big question on both of these, so I want to get into that a little bit. But Jill, let's start with you. Jill, so we've had final rules issued, any big changes from when we first saw prior drafts a couple months ago?

Jill Desjean:

Yeah, a handful of fairly significant changes. So these were rules on borrower defense to repayment, pre-dispute arbitration agreements, class action waivers, public service loan forgiveness, loan discharges for both or for three things, total and permanent disability, closed schools and false certification, and the elimination of non-statutory interest capitalization.

Justin Draeger:

So a big bucket of issues.

Jill Desjean:

Yeah, maybe not a flurry, maybe a blizzard-

Justin Draeger:

A blizzard.

Jill Desjean:

... of new regulations, that's what I'm going to call it. And sometimes you see pretty much no change between proposed and final rules. Sometimes you see big changes. There's not a lot, but a few of the changes are relatively significant. As part of the borrower defense negotiations to start out, the Department of Education introduced something new called... a new definition of aggressive and deceptive recruitment tactics. And this would be one of the five grounds that could lead to an approved borrower defense claim. And that definition included repeated unsolicited contact from an institution to a prospective student as being considered aggressive and deceptive recruitment or aggressive in recruitment tactics. And when NASFAA commented on the proposed language, we weren't opposed to the concept, but we found the definition to be a bit vague. And we were especially worried that otherwise well-intentioned efforts by institutions could be caught up into this vague definition of aggressive tactics and lead to approved borrower defense claims.

And so the example we gave in our comments was things like open access institutions where people might not decide to attend until fairly late in the game, maybe just a couple of days before a term begins. Or also students who had applied to schools with waitlists and suddenly getting off the waitlist in the last couple of weeks before school begins and then they're scurrying to get all of their affairs in order to be able to attend. And they might be in a situation where they're talking to the financial aid office trying to get their funding together. And after exploring all options, the school might say, "A loan seems to be your only option." And there is a time crunch, legitimately, might be self-imposed by the student who waited until last minute, might have to do with other mitigating factors like having been admitted off a waitlist but student may not feel like they made a fully informed decision about borrowing a loan and could interpret that or say that they felt that, that was an aggressive tactic that the school used to get them to borrow a loan.

And so we just wanted some assurance that those sorts of things that just happen in the normal course of business in a financial aid office aren't someone trying to bait and switch somebody, pull the wool over their eyes, but just it is what it is. We're in this position. This seems like your only option wouldn't be misconstrued as aggressive. And so-

Justin Draeger:

I imagine the department then, because if it's vague, then they could misconstrue, which is something like just because of timing or other mitigating factors, this is it. This is the only option that we can get processed quickly and we wouldn't want that to come back and bite a school who is trying to legitimately enroll a student who wants to be enrolled. So did the department respond to this comment?

Jill Desjean:

They did and they did it in a way... an interesting way. They didn't change that definition of aggressive and deceptive tactics. What they did was they added a piece of criteria to what would give rise to an approved borrower defense claim that says that the borrower has to have suffered some detriment from the institution's actions and that detriment has to be able to be remedied by a loan discharge. So it not only addresses our concerns about that big definition of aggressive and deceptive tactics, but it addresses other concerns about just the possibility of frivolous claims based on school conduct that didn't necessarily have any bearing on a student's loans. Basically kind of acknowledges like ED has other ways of going after schools for misconduct. Everything doesn't give rise to a borrower defense claim. For it to be a borrower defense claim, it has to be tied to the student's borrowing has to not just prove that the school engaged in these tactics, but also that the borrower suffered some sort of harm and that canceling their debt would actually remedy that harm.

Justin Draeger:

Okay, anything else on borrower defense?

Jill Desjean:

Yeah, one last thing on that. In the proposed regulations, the department had left open the possibility of partial relief. So even in a case where they agreed that a borrower had a legitimate claim and approved it, they might not forgive all of the students loans, they might just grant partial relief and this has been in place before as well. And this was another thing that NASFAA raised in our comments. The department had given a handful of examples about how they would determine partial relief and we had a lot of questions.

The examples were not super clear. There didn't seem to be any real rhyme or reason as to how the department could actually arrive at a figure to say this would fix the harm that you suffered. And so it seems like, I like to think because of our persuasive comments, but probably due to others as well, and maybe just them having the benefit of some time to think it through, the department said in their preamble that it would just be too hard to decide who would qualify for partial relief and how much once they decided who would qualify for the partial relief. So they just abandoned that all together. Approved BDR claims under the new rule will be full relief only.

Justin Draeger:

Yeah, and that's good news. I think the problem with this is in theory, yes, you only grant partial relief based up to the amount that they were harmed but the problem with that we've seen in the past is that holds up the process in such an unreasonable way that borrowers never get any relief because they're just held in perpetual adjudication with no actual judgment being issued. So in this case, it seems like we've learned from the past. If somebody's been harmed, they can receive full relief and hopefully their application can be processed. They're not stuck in limbo. Any other big changes in these final rules?

Jill Desjean:

Yeah, one other big change was to PSLF so the department in the proposal didn't address this specific issue, I'm going to mention, having to do with physicians in Texas and California. But in the final rule, they actually did address it. There's this sort of unique legal situation in Texas and California where physicians can work at a not-for-profit hospital, but they're not allowed per state law to work for the non-profit hospital. So they actually are employed as contractors. And so they're performing a public service, they're doctors. They work at a not-for-profit hospital, seems they should get PSLF, but because they're being paid as contractors, they don't qualify for PSLF. And this has been a problem obviously since the inception of PSLF and in the final rule, the department addressed this and said that they would let these employers, these not-for-profit hospitals in Texas and California to certify these physicians who are working as contractors due to state law that prohibits them being paid any other way, they're going to let the employers basically certify them as if they are direct employees of the hospital and let them qualify for PSLF.

Justin Draeger:

It seems like this has been a bigger issue about people who are performing public service but at a for-profit entity, but it's clearly public service. Did that get sorted out in any meaningful way with this new final rule?

Jill Desjean:

That bigger issue is not sorted out. It got talked about a lot during Neg Reg. A lot of the negotiators said that they wanted to see anybody performing a public service regardless of where it was to get PSLF. And the department really pushed back on that, not philosophically, they weren't opposed to the idea, but they said the reason that they landed on PSLF being based on where you work versus what you do is just because that's the most feasible way for them to be able to do it. It's much easier to create a universe of eligible PSLF employers because they're classified as not-for-profits. And so to do it on a case by case basis based on the individual, you would have to get some kind of a job description. It would just be really complex. But in these final rules, they at least are still entertaining the possibility of expanding more.

One specific place they're still looking at, they got comments on this in the comment period and said it was just they got too much, they didn't have a chance to address it, but specific to early childhood education professionals who work at for-profit organizations, they're really interested in expanding PSLF to that specific group. But they also sort of left the door open to say that they were looking broadly at other opportunities for people who work at for-profits to qualify for PSLF some way. So they promised to issue a subsequent final rule on just that piece of PSLF eligibility sometime in the future.

Justin Draeger:

Yeah, and I actually do see this as a pretty sticky wicket. I could see them opening the doors to people who are doing public service work for for-profit entities and then, of course, the pendulum swinging the other direction, and then in a few years, people coming back and saying somehow somebody is potentially maybe a for-profit employer is somehow doing something they shouldn't be doing. Do you agree with me there, Jill? Or do you see this as a pretty cut and dry issue?

Jill Desjean:

Yeah. I mean, that's where the department was coming from really was saying that they would essentially be relying entirely on self-certification that you're performing a public service or just relying on the employer to say, "Yep, it's public service work." There's not really any other way, some sort of objective verification that the person actually qualifies. And so that obviously opens up the door to misuse and the department just wouldn't be able to go after and to really verify those in a meaningful way to prevent misuse.

Justin Draeger:

The one thing they didn't cite though was statutory authority. Did they get into whether they even have the authority to recognize someone who's not... that doesn't have a tax exempt status?

Jill Desjean:

Not that I recall, no. No. They seemed open in concept to it, but said that just feasibility wise, they couldn't make it work. They couldn't find a way.

Justin Draeger:

Okay. Let's talk about two other things because you just scratched the surface of a lot of pages of final rules that you've read, Jill. Let's talk about timing. When do all of these things go into effect? And is that it? Is everything from what was negotiated over the last 18 months or is there more coming?

Jill Desjean:

That is not everything. So to start with timing, implementation of this stuff that all came out, this is all by November 1st. And so for the most part, all of it has an effective date of July 1, 2023. That's how the master calendar works in the law. You release regs by November 1 to become effective July 1. The department has the authority to authorize early implementation. They only took advantage of that for one small thing and that was with respect to PSLF, the definition of full-time employment. So right now, full-time employment is the greater of 30 hours per week or whatever the employer considers full-time. And so you have this sort of mismatch, for example, with NASFAA, our work week is 35 hours. So if we have someone who works at NASFAA who works 30 hours a week, they are not full-time for PSLF because it's the greater of 30 or whatever the employer considers full-time. Now the definition's going to be much simpler. It's just 30 hours per week, period. So employers can take advantage of that now and start certifying their employees who work 30 hours per week as full-time at their discretion if they want to do that.

Justin Draeger:

Okay. So some of it has early implementation and what's left? What rules are we waiting for now?

Jill Desjean:

So we are waiting on the new income-driven repayment plan that has not been delayed, it's delayed obviously in that it's not come out, but it hasn't been officially delayed by the department. The White House has been talking about it a lot so we have a lot of information about this plan in terms of press releases and things like that, but we've not actually seen even draft language on this. So we still have to see draft language, open it up for public comment, and then wait for the department to publish final language. The other items that got negotiated in the '21-'22 Neg Reg session have officially been delayed. And so those include things like administrative capability, financial responsibility, gainful employment, and a handful of other things. And the department has delayed the release of draft rules for those until next spring. They're saying April 2023. So we're not holding our breath on anything on those for another half a year, but we are holding our breath on IDR because we'd like to see those proposed rules.

Justin Draeger:

Absolutely. Okay, thanks very much Jill, and thanks to you and the team for staying on top of all of this and publishing in today's news articles that are summarizing all these final rules. People can check those out in our show notes and we'll be sure to send out more information as we have it. All right, David, let's turn to you for just a moment. Last week, I think it was on Friday, a pretty monumental day because long awaited guidance that impacts the '23-'24 year for which the FAFSA is already out on landed stuff we've been waiting for GEN-22-15 and let's today specifically talk about cost of attendance changes. So what's going on here? What's in this DCL?

David Tolman:

Yeah, so the Dear Colleague Letter addresses FAFSA Simplification Act changes that go into effect like you said, July 1st, 2023. But it's anything that takes effect in the '23-'24 award year and that includes cost of attendance, professional judgment, dependency status for unaccompanied homeless youth and foster care youth, the Pell Grant LEU and Pell Grant eligibility for incarcerated students. But like you talked about, we're going to just focus on cost of attendance today.

Justin Draeger:

And this is all separate from final regulations that Jill just talked about, right?

David Tolman:

Yeah, that's right. The Dear Colleague Letter refers directly to changes made by the FAFSA Simplification Act. And this goes back to December 27th, 2020 when it was signed into law as part of the Consolidated Appropriations Act of 2021 with some other technical changes that were done by Congress. But what's important to note is that these changes originated with Congress and these changes are now part of statute or law and don't require the process of negotiated rulemaking that Jill described for those other topics, because they're not departing yet from statutes.

Justin Draeger:

All right, so if people's heads are spinning because of all the different timing implementation, this DCL is about FAFSA Simplification that is going into effect for the '23-'24 year. And today we're going to talk specifically about the cost of attendance changes. Are they good or bad, David?

David Tolman:

Yeah, well there's both. There's good news and bad news depending on how much attention a school might have been paying to what's coming up in statutes. So the good news, the department didn't add any requirements that weren't already in the law, although Congress gave them, the Department of Education, the authority to start regulating for the '24-'25 award year. This is outside of that. So if you've been paying attention to the law and articles, today's news and so forth on what's happening with cost of attendance, then you're, you're ahead of the game. But the bad news is that this Dear Colleague Letter might be bringing attention to an item that many schools have already put in place, cost of attendance as part of their packaging process for the '23-'24 award year. And if they weren't aware of those statutory changes, they're going to have to make some adjustments maybe to the cost of attendance that they've already put together for the '23-'24 award year.

Justin Draeger:

Okay, so a lot of schools will be used to this anyway because they don't even get their tuition amounts for '23-'24 for a couple months so issuing estimated costs of attendance, but if you are one of those schools who was hoping to package now in November, you may have some adjustments you have to make depending on this DCL. So what are the changes? Can you summarize them for us?

David Tolman:

Yeah, the biggest one is probably to what we currently call the room and board category. The first is, there's just a change in the naming of that. There's a new category called living expenses and within living expenses are food and housing, no longer room and board. So for food, it makes clear that all students who are enrolled on at least a halftime enrollment status or greater, the food allowance must be or must include the equivalent of three meals every day. And that applies to a student who might be living on campus and doesn't participate in a meal plan that provides for three meals. The school still has to calculate the equivalent of three meals. And the rationale here is the student's still eating. Might not be in the cafeteria, might be off campus or from food the student keeps in the room but there needs to be an allowance besides just what is assessed the student in their on campus meal plan.

Justin Draeger:

Okay, David, let me ask you a question about that. So if I'm doing an on campus budget for a student and my meal plan offers three meals a day, five days a week but on the weekends we only do two meals, even if that's the meal plan, they still have to include that third meal on Saturday and Sundays in the cost of attendance, that has to be budgeted in.

David Tolman:

That's correct. In the cost of attendance allowance, you're giving them in recognition that they might not be eating everything on campus, there might be some meals off campus, or they might be shopping and have a little refrigerator or something in there.

Justin Draeger:

None of this mandates the schools change their meal plans-

David Tolman:

No.

Justin Draeger:

... or their meal plan offerings? It's really about the cost of attendance.

David Tolman:

Yeah.

Justin Draeger:

All right, let's focus on housing next. Where are we here?

David Tolman:

Okay, so for determining the housing allowance for those living on campus, there needs to be at least two ways of calculating costs. There's going to be one category for students without dependents who are living on campus, and the other is for students with dependents who are living on campus. So there has to be at least that division. Now, nothing's going to prevent a school from going further than that if they want to, but you at least have to have one housing for each of those on-campus categories. So however the institution defines its on campus housing categories. When determining costs, it must calculate the average cost as well as the median cost, and then use the higher of those two amounts.

Justin Draeger:

So this could happen, I assume, for any student, but I'm thinking mostly about graduate students who are more likely to have dependents. Is this who we might largely be talking about on a campus?

David Tolman:

Yeah, depending on the campus and the makeup of the campus. In the typical campus, it's more likely that graduate students are living on campus with dependents but as you know, there's other places where undergraduates may have the same type of-

Justin Draeger:

Make up.

David Tolman:

Yeah.

Justin Draeger:

Help me do the math for those who maybe haven't done statistics in a while, average and median, give us the difference in these two.

David Tolman:

Yeah, I know we thought we left this all behind in stats. So, all right, so say the simple example, five imaginary students, two of those students pay \$100 a month in institutional housing, two pay \$200 per month, and the last one pays \$400 a month. So the average is determined by adding what each pays. So 100 plus 100 plus 200 plus 200 plus 400 is a thousand. You take that total of a thousand divide by the five students, and that equals 250. That's the average. The median is determined by lining up the amounts from smallest to largest by what the student pays and then you take the middle number. So out of five students, the middle is three. So what is the third student paying? The first two pay a hundred dollars a month. The third pays \$200 a month, so the median is \$200.

So of the two in this imaginary example, the average of 250 is higher than the median of 200. So that \$250 average is the amount used in the cost of attendance allowance for students living on campus in this category, because it's the highest of the two. When doing these calculations, make sure you're looking at charges by the number of students who pay those charges. So for example, if an institution charges \$300 for one residence hall and a thousand dollars for another residence hall, the average of those two is 650. But that's not what you're going to use unless there's an equal number of students in each hall. So if a thousand students live in the \$300 hall and only 50 live in the \$1,000 hall, the average is going to be a lot closer to 300 and the median will be 300.

Justin Draeger:

So bottom line is the department is implementing statute that says figure out the average, figure out the median in which you can do in any spreadsheet pretty easily. You just have to have a full data set and then use the higher of the two. Is that right?

David Tolman:

Yep. Just make sure if you're using spreadsheet or whatever you're using that you've got good data and complete data going in.

Justin Draeger:

All right. What changes are in the food and housing category then?

David Tolman:

Okay, so for students living at home, statute says there needs to be a reasonable standard living allowance that is not equal to zero. So some institutions are like, okay, if you're living at home, we're going to just zero out your room and board. And if that's a practice that you've been doing, you're going to have to calculate a reasonable amount for those students. For students living off campus, it specifies that the allowance includes rent, but also other housing costs the students might incur, presumably

utilities associated with the rent for example. Many institutions are already doing this, but for those who are not, make sure it's other related housing costs. And then just clarified some wording on the basic allowance from the military for those who are serving or for those who are living on a military base, no housing costs, but a reasonable allowance for food.

Justin Draeger:

All right. And what about other categories like transportation?

David Tolman:

Yeah, so the statute now it specifically allows for transportation between the campus and the student's residence, but also with the student's place of work. And then the Dear Colleague Letter explained that, that's not an exhaustive list. Nothing prohibits an institution for adding additional transportation costs for other types of travel that's part of the student's academic program. And this could be things like field trips or conferences and even medical residency interviews they use as an example. And all that can be done without exercising professional judgment.

Justin Draeger:

There's also, I saw in there, David, something about now included in the cost of attendance will be changes to the cost of a first professional credential or license, and that's now required. Let me ask you a question about that, because are schools always aware of what the professional or licensure expenses are for students?

David Tolman:

Not always, but for those programs that are specifically training their students to enter a profession, they're probably aware of what those requirements are and giving that information to the student to prepare them for that transition. So if they're not aware of the requirements, the chances are they've got the contact information to find out what those costs are, but they might not know who's taking the test and when.

Justin Draeger:

Okay. I know we're running a little bit short on time today. People can go check out the DCL. NASFAA has articles on it, and we have questions that are being populated now into our AskRegs knowledge base. But real quick, did the department say anything about the consumer information piece on cost of attendance, like a timeline for making those changes?

David Tolman:

Well, so any webpage that discusses tuition and fees now must have a list of all those cost of attendance elements starting with the '23-'24 year. Other than that, the department is allowing institutions to take a reasonable approach to getting this information out to students, including those name changes, housing and food for example. And they can do this with its regular update of consumer information materials but schools should not delay making the changes outside that.

Justin Draeger:

So it sounds like the timeline is a little squishy. It's like as soon as you can get to it, please get to it.

David Tolman:

Yeah, and that's really the consumer information piece. Schools are going to be scrambling. The big part of this is if you have to do some new calculations or gather some additional data.

Justin Draeger:

All right, any final words of wisdom or advice for schools that need to now dig back into their cost of attendance and do these calculations?

David Tolman:

Well, statute has and continues to refer to two terms quite frequently, and that's reasonable and documented. There's no specific way other than that average or median, there's no specific way to determine these costs. So institutions should continually ask is what we're doing reasonable, and then make sure they can point to documentation that backs up the determined amounts. And we'll include links to the Dear Colleague Letter in the show notes as well as to NASFAA resources on FAFSA Simplification.

Justin Draeger:

All right, and if folks have additional questions or comments, go ahead and send those in. We may tackle those in future episodes of Off the Cuff with David and Jill. Both of you, thanks very much for being here.

David Tolman:

Yeah, you're welcome.

Jill Desjean:

Thank you.

Justin Draeger:

All right. All right, let's bring in Hugh Ferguson, who is our senior editor and reporter. Hugh, what's going on in the news this last week?

Hugh Ferguson:

Yeah, thanks Justin. So as we mentioned, we're still seeing the results from the midterm elections pour in, and we're still waiting for a final outcome on both the House and Senate side. So far, the Senate results haven't been all that surprising, and we are expecting a very narrow majority for either party in that chamber. But on the House side, it seemed as if Republicans were expecting to have a very big evening. And as of our recording, Democrats still have a chance to eke out and retain their majority. So there's still a lot of unanswered questions here, but we do know that the race for leadership positions will be in full swing in the coming days. And we have an article detailing who could be leading the varying education panels in both chambers and just how these results could play out on upcoming leadership and we're going to continue to monitor those developments.

Justin Draeger:

All right, great. What else is happening?

Hugh Ferguson:

Yeah, and then just the other thing is that while all our focus has been on the election, there is also news on Biden's debt cancellation plans that are still making their way through the legal system. And we're expecting some updates soon on this one challenge that's moving through the courts. But prior to the election, Biden said that about 16 million borrowers were slated for approval of their applications. So we're keeping an eye out to see if and how that will be communicated to borrowers and what this sort of handoff between the administration going through all these applications and sending that over to the servicers look like. So we're expecting more indicators to come in the coming days. And yeah, just another news story that we're following.

Justin Draeger:

Yeah, for a temporary injunction, it sure seems to be going on for a very long time and we're still encouraging schools to encourage their borrowers to apply for this benefit because the department is doing everything except forgiving the debt. So they're still processing applications, they're still working on it. They're going right up until that line in hopes that once the courts are cleared, they can actually start forgiving debt. All right, Hugh, so thanks very much for you and the team for keeping up on all of that and getting all of those articles and updates into today's news. Just a reminder to everybody else, check out the show notes for all today's resources and references. Remember to send us your comments, remember to subscribe, tell your friends, and if you have a moment, leave a comment and a rating in your podcast listening app of choice that will help other people find our content. And we will see you again very soon. Thanks.