

# NASFAA's "Off the Cuff" Podcast – Episode 319 Transcript

OTC Inside The Beltway: Working Through the Trump Administration's Latest Effort to Dismantle Education Department

Allie Arcese:

Hi everyone. Welcome to another episode of Off the Cuff. I'm Allie Arcese with our communications team.

Karen McCarthy:

I'm Karen McCarthy with our policy team.

Megan Walter:

I'm Megan Walter, also with our policy team.

Nalia Medina:

And I'm Nalia Medina, also with our policy team.

Allie Arcese:

It's policy takeover over here. It's good to see you guys.

Karen McCarthy:

We brought everybody.

Allie Arcese:

Yeah, the gang's here. It's been quite a busy couple weeks. I just came back from maternity leave. This is my fourth week back, and I feel like my first day back was slow and since then things have just been go, go, go.

Karen McCarthy:

Yeah. Allie was your first day right before the inauguration or the day after?

Allie Arcese:

Yes. My first day back was January 13th, so my first week back was the last week of the Biden administration. Perfect timing. Yeah, it was crazy. They were trying to push out a ton of stuff, and then we had inauguration

And now the new administration is pushing out tons of stuff. We won't beat around the bush too much and we'll probably just get right into it. I think the big news that's on everyone's mind right now is these news reports saying that President Donald Trump is preparing to sign an executive order that would, in some way, shape, or form dismantle the Department of Education. And things are still pretty abstract at the moment, but Karen, what do we know right now?

Karen McCarthy:

Yeah, we don't know a lot, to be honest. We've heard of, as you mentioned, we have not seen any texts. I haven't seen any texts at all floating around. We've heard of different things, different approaches I would say that they might be considering for this EO.

And we have also heard that they're still discussing the timing exactly of when they want to release it. We heard last week that it could be imminent, and then we have also heard, oh, now they're considering holding until after Linda McMahon's confirmation hearing, which has still not yet been scheduled. So that might be later this month. So we might be talking, theoretically, about this EO for the whole rest of February.

But yeah, so sorry, but we don't have a lot of details, but we can talk a little bit about what we're hearing they're considering, but absolutely nothing set in stone just yet.

Allie Arcese:

Yeah. Well, before we get into what they're considering, the different approaches to this, we thought we should take a step back and just do a little bit of an overview of what the Department of Education does do with regard to higher education, what it does not do. Megan, can you walk us through that?

Megan Walter:

Yeah, so just kind of briefly, I think when we're hearing this administration talking about eliminating the Department of Education, returning education to the states. That phrase in particular doesn't really apply to when we're talking about education, post-secondary education in particular. A lot of that returning education to the states is when they're talking about K-12 issues as far as we're concerned in the post-secondary space, the department's main responsibilities are going to be managing the federal student loan and grant programs, enforcing civil rights in higher education, and then administrating the Title I-B programs and those low-income programs.

Allie Arcese:

Thanks. So one thing we've been hearing is, first let's talk about can President Trump do this through an executive order alone?

Megan Walter:

Yeah, so as Karen had said, we've heard multiple things coming out of the Trump administration and what they want to do with the Department of Education. During his campaign and kind of early into the Trump administration, we heard the eliminating the Department of Education rhetoric repeated, and now we're kind of seeing and hearing these rumors of this executive order, which Moore talks about dismantling the Department of Education.

And I think we could maybe look at this as a acknowledgement that they understand that they actually do need Congress to eliminate the Department of Education, and so this is their way to do what they can without having to change the law, without having to get Congress involved. So possibly transferring some of the Department's responsibilities that aren't specifically mentioned in the Higher Education Act to other agencies, could be a way that they would go with this.

Allie Arcese:

And so let's talk a little bit more about the role of Congress, because this is not necessarily a new idea. This is something we've seen several times before. Bills being introduced to abolish the Department of

Education, they're usually one sentence long. But it doesn't really seem like in the past at least it hasn't seemed like there's the votes or the appetite to really move forward with this.

Megan Walter:

So we saw last session there was a vote to eliminate the Department of Education and it ultimately ended up failing. I think that something that's important to remember here is that even if they did manage to eliminate the Department of Education, that doesn't automatically eliminate the Higher Education Act. The two really are deeply intertwined, and so the HEA would still exist, unless Congress actively repeals or rewrites it on top of eliminating the Department of Education. Also protected in the Higher Education Act is a lot of the Title IV, our main Title IV programs, the one that we know, and those are all laid out in the HEA and protected the Pell Grant, public service loan forgiveness.

The loan part of this is a little more complicated as it's spread out throughout the HEA. So we're still digging in at NASPA along with probably everyone else. We haven't heard anyone say exactly what they can or can't do with the direct loan program. It's just a little more complicated to read through the entire Higher Education Act and figure out how it would or could be affected.

Allie Arcese:

So, Megan mentioned that a number of all of our Title IV programs are protected in the HEA. When you say that they're protected, Karen, maybe you can weigh in here. What does that mean exactly? Can you get it a little bit more specific?

Karen McCarthy:

Yeah. I think, like Megan mentioned, one of the ideas that we've heard being floated for this executive order would require that all functions of the Department of Education that are not explicitly stated in the HEA as being the responsibility of the Secretary of Education, could be transferred elsewhere.

So I think the one that everybody thinks of that has been in the press is loan servicing to move all of loan servicing, say over to Treasury, which is the idea that's out there. And so, when she says that and when she's talking about all of the other programs, all of our programs are authorized in the Higher Education Act, meaning they're not going anywhere without Congress. So they could not do that in any executive order. But when you're talking about the responsibilities, and being able to transfer the administration of the programs, a lot of the administration of the Title IV programs is very clearly in the HEA as saying "The Secretary shall..." or "Responsibilities of the Secretary," and then it has a bulleted list and it's administering, yada, yada, yada.

And everything is listed there and it's very clear for most of our programs, the only place where we are still doing more digging is the loan programs. Because it is just, as she mentioned, it's everywhere in the HEA. There are so many different references, particularly when you're talking about servicing and the contracts and what the secretary can do and what the secretary must do. That one is one that we need to take a little bit more time, honestly, to look through. And I'm not even sure that we at NASFAA would be able to definitively say one way or the other because as we were all saying, we are not lawyers and looking at the HEA and kind of making the final determination.

But in other areas it's much more clear cut, and even a non-lawyer could look at that and say, yeah, the Secretary of Education needs to be administering this program.

Allie Arcese:

Yeah, there's a lot untangle.

Karen McCarthy:

Yeah, the loan program in particular is just everywhere throughout the HEA.

Allie Arcese:

I want to get very hypothetical for a minute, so just bear with me. If the end goal here is to get rid of the Department of Education, regardless of whatever path that takes, say that is successful, there's not a Department of Education. Things are moved around. The programs like Pell that are protected in the HEA, that say are the responsibility of the Secretary of Education, what happens then if there is no Secretary of Education?

Karen McCarthy:

Yeah, that part I do not know.

Allie Arcese:

I think we're finding out this is a little bit more complicated than...

Megan Walter:

And I think that kind of gets back to if they're going to eliminate the Department of Education, they're going to have to have a major replacement of HEA as well, kind of tangential, not tangential at the same time to cover these programs.

Karen McCarthy:

I mean, Congress would have to do all of that at the same time. It kind of reminds me of, at a much smaller scale, whenever Congress is making any changes and they just want to tweak this one thing, but then they need to make sure that they are doing the corresponding changes everywhere. That one thing is mentioned throughout the HEA to make sure they're doing all of that cleanup. This obviously would be on a much larger scale, but it's like you can't just have a one-liner that says, we're eliminating the Department of Education without going through the entire HEA and seeing, well, in all of these 83 places it says that the Secretary of Education is going to do X, Y, Z.

Allie Arcese:

Yeah, it really just snowballs at that point.

Karen McCarthy:

It really does. It's a little overwhelming,

Megan Walter:

And that's just our post-secondary part of it, not the whole K-12. I think when people start panicking, this is going to take a lot of time, if they're able to do it's going to be a lot of time just in the smallest part, just for our programs. With a lot of time, let alone the entire K-12, post-secondary part of the HEA.

Allie Arcese:

I think it's worth noting too, that while doing this would take a long time, that is also where some of our concern is, because dismantling the Department of Education would be so complex, and there's a big potential there for some significant disruption for students.

Karen McCarthy:

Yeah. Yes. Absolutely. Not something that our community could handle. I feel like at this point in time, I mean, we all saw with the FAFSA rollout how that all went. So I mean, from our perspective, it's highly unlikely that such a transition would be quick or smooth, and would then cause disruptions for students, for schools, all of the parts of the ecosystem.

Allie Arcese:

Especially since students are, well, I don't have to say this because our members know, but receiving aid at different points throughout the year. There's not a clear window where you could just turn things off and move them over to another system.

Karen McCarthy:

God. Yeah, no, that's frightening.

Allie Arcese:

So while I have you frightened, let's just take a temperature check. Should we be panicking right now?

Karen McCarthy:

I would say no. I mean, part of that, yeah, I would say that, I mean, I'm generally not a person that panics. So personally I would say no. But I would also say that from the NASFAA perspective, we would say no, we should not be panicking.

I think that we are trying to, here at NASFAA, we are trying to parse through what is, and maybe you can chime in on this as well, Allie, from the communication side, what is actual reliable information and what is just speculation and rumors and fears? Because ultimately we all have a limited amount of time. We all have jobs to do. We want to focus our efforts where it really matters. So I think that is part of the thing that we are struggling with. And Allie, I don't know if you want to chime in with how we make that determination.

Allie Arcese:

So I mean, some of our members might notice that NASFAA is not always the first organization to put out a statement in response to news because we do like to take a step back, read whether it's a new bill that's been put out or a regulation or an executive order. Read the text, see what is actually being said, think about the implications, and then put out a statement.

Now, we'll share news when it happens and just alert people that, hey, this is happening. But it's kind of a fine line that you have to walk, between one, you do want to get the news out there. You want to be thoughtful with your response, but you also don't want to inadvertently spread misinformation, or have to go back and say, hey, we were wrong. Here's what actually happening. Once something's out there, it's really hard to walk it back. And the things that go through my mind are, well, if someone saw the incorrect information initially, we can't guarantee they're going to see our correction. It might get confusing.

So that's what we're doing behind the scenes. If you're ever wondering, what does NASFAA think about this? We're doing a lot of thinking.

Karen McCarthy:

And I do think one of the things that we often talk about internally is when do you go out based on the information that you know even when you still have a lot of unknowns, in that, I know that my personality wise, I don't want to go out until we have all of this sorted out, but you're never going to have all of that sorted out. So as long as we are clear on what we know and the questions that we're still asking, what we're trying to learn, that tends to be, there's always the, okay, this is a good point to go out and share what we know and what we don't know.

Allie Arcese:

And we do try to make that clear in our statements. If there are things that we don't know, we try to say that, or say it's unclear. We're still waiting for answers on this. We don't want to speculate necessarily, but when we have a good enough idea of what's going on, that's when we'll usually come out with something.

Karen McCarthy:

Sometimes people get frustrated because they think they see that we have a statement that they're going to get all the answers, and yeah, that's pretty rare actually.

Allie Arcese:

Yeah, and this applies to, when we're communicating with our members and with members of the media, because the last week, week and a half, we have been getting a lot of questions about this executive order stuff, and we just try to be very thoughtful and intentional in our responses there.

So, to recap things with the executive order, what's the timing looking like here and anything else that we want to add on this topic, Karen?

Karen McCarthy:

Yeah, I mentioned we don't know a lot about the timing. There is some talk now that they may end up holding this until after Linda McMahon's confirmation hearing. Her confirmation hearing still has not been scheduled, because they are still reviewing her financial disclosure paperwork over in Ethics.

So there's a little bit of a domino effect there if they do decide to hold it. And we don't know that that is a confirmed decision either. So we will be keeping informed. We are in constant contact with all of the other associations and all of our partners about who has heard what and what is the reliable information. And I'm not sure if this is reliable, this might just be a rumor. So we're in constant contact with our partners out there as well. So as we know things and things do seem imminent, then we'll be planning our next steps and we'll keep you all informed.

Allie Arcese:

Yeah, we're keeping a very, very close eye on things here. And definitely be sure to stay tuned to today's news, our social media channels and our Slack communities, which are sort of our three big avenues for pushing out breaking information to members. One thing we are also keeping a close eye on is, a word our members might have been hearing a lot the last couple of weeks, something called reconciliation and what Congress may do through a process called reconciliation. It's not a super common process, so

some may be unfamiliar with the term. Nalia, can you break it down for us what exactly this is what it means?

Nalia Medina:

Sure. So reconciliation is a process that members of Congress can use, a legislative process, that allows bills to quickly advance through the Senate. And this is a process that's oftentimes used when the same party has control of the White House and of the House and the Senate, both chambers of Congress. And it's able to advance quickly because rather than needing 60 votes to pass, it only needs a simple majority. So they would only need 51 out of a hundred votes to pass the bill.

And so, the House and the Senate, to kind get this process going, need to develop their own budget resolutions. And so we thought it would be helpful to give you all an explainer of what that looks like to kind of know what to keep your eye on in the coming weeks.

So in terms of these budget resolutions that the House and the Senate need to develop, these essentially demonstrate the high level priorities when it comes to the budget of each chamber. So it'll include numbers, how much the chamber is trying to save, and they'll need to agree on spending amounts and saving amounts related to different programs. And so when each chamber develops their own budget resolution, they will then need to reconcile and get one final version to pass and enact into law.

Allie Arcese:

So what are we seeing right now from the Republican Party, since the Republicans have control of both chambers of Congress?

Nalia Medina:

So in the last few weeks we saw a reconciliation menu, if you will. And this is a regular part of the process, but it hasn't always been released to the public, but it did come out a few weeks ago. And so this menu, if you will, it is kind of a compiled list of various areas that Congress could consider to try to save money in certain areas.

So right now, Congress is really in the brainstorming beginning stages of this process, but that menu, again, outlines a wide spread of areas. So not just education, not just higher education. It has everything in their potential proposals that they could follow to try to save money.

So in terms of the things that we're looking out for in the higher ed space, I know there are some proposals in there related to the risk sharing framework, or IDR plans, reforming DSLF, or reforming Pell. But again, all just ideas at this point. We haven't seen final language, and we don't know if all of these proposals will make it into that final reconciliation bill, but that menu has been going around for the last few weeks.

Karen McCarthy:

Yeah, Nalia, when we were, I know we mentioned earlier about people panicking and whether we should panic about certain things. And I will, I'm glad that you mentioned that you call this a menu because I did, in this case, the brainstorming document is kind of how I think of it, did get published, and some of our members did end up having that in their mailbox and sent that and said, oh my gosh, oh my gosh, look at all these things. This is terrible. Because it's a brainstorming list. So it is really long, and there are a lot of budget cuts listed in that document.

But as you mentioned, we're at the very beginning of the process. And my understanding is that they go out to the leaders, go out to each of the subcommittees and basically say, give me your list of everything that we can consider on the table. So it will then get discussed and, is this a priority or not a priority? And look at all the dollars of all these items, kind of put all the puzzle pieces together to get all the math to add up the way that they want to. And then ultimately we'll be whittled down to whatever point they agree to.

So the overarching point is it is really like a laundry list, and it is definitely not final. And we're at the very beginning of the process, as you mentioned.

Allie Arcese:

I said before that this is not necessarily common, but I don't want to imply that it's not normal. It's not...

Karen McCarthy:

Only to the extent that it's not particularly common that you have you [inaudible 00:21:27]-

Allie Arcese:

It doesn't happen [inaudible 00:21:29].

Karen McCarthy:

Yeah, yeah. Right, Right.

Allie Arcese:

Yeah.

Karen McCarthy:

And actually the last, we were kind of digging up the last time we had this, and I know I think you have kind of a list at hand, but I think that one of the Covid packages in the ARP was actually passed under the Biden administration through this same process. So because we do have a unified control of Congress, anybody who works in this space was not surprised at all to see the Republicans initiate the process.

Allie Arcese:

So what comes next?

Nalia Medina:

So kind of like Karen mentioned, Congress is really at the beginning stages of this process. So a lot is still up in the air right now, but again, not really unusual when there is a new presidential transition. So it really happens to, or it tends to happen when there's a unified government, or when the margins are really small. We see that right now in this current Congress.

In terms of the timeline and what we can expect throughout the next few weeks, the House speaker Mike Johnson has recently stated that he's hoping a final reconciliation bill will be enacted by Memorial Day, which is a very ambitious timeline, and there's still a lot that needs to be done before we kind of get to that final place by Memorial Day. So it's very likely that things will kind of get dragged on, and I feel like we'll be seeing more news in the coming weeks and months about this to see if Congress is staying on track.



But in terms of what we'll be looking out for, so the House will need to approve their own budget resolution. The Senate will need to approve their own budget resolution, and then both chambers will need to come together to reconcile their versions into one final bill. So we are going to be looking out for that in the next few weeks. I know both chambers are going to hard at work right now on that, but again, I do think that Memorial Day might be an ambitious timeline. I know that the Covid relief package a few years ago, and Karen, correct me if I'm wrong, but I'm pretty sure that went through kind of quickly, but I would say that that was probably because it had pandemic relief tied in there.

Allie Arcese:

It was incredibly urgent.

Nalia Medina:

The country was experiencing a pandemic. Well, the world was. So I-

Karen McCarthy:

Yeah, but I think it still dragged on longer than they wanted, and they did have this urgency of the pandemic relief in there.

Nalia Medina:

So it's very possible that we won't see this path for reconciliation, maybe move as quickly as that one a few years ago, but we'll definitely be kind of keeping an eye out in the coming weeks.

Allie Arcese:

Yeah, I remember a lot of late nights during that.

Nalia Medina:

Yeah, I wasn't at NASFAA then, so I can only imagine what that felt like.

Allie Arcese:

Yeah. Yeah, it was good times. Interesting times. One might say unprecedented. Anyway, so forgive me if this is just me being out of the loop and unaware, but aren't we under a continuing resolution right now? And how does that play into the process?

Nalia Medina:

So we are under a continuing resolution. That is a great question. So that's another thing that we're kind of following right now too. They're kind of two separate processes, I would say.

So that continuing resolution, president Biden signed that back in December when he was still in office to avoid a government shutdown. So that continuing resolution temporarily funded the government or temporarily funds the government at fiscal year '24 spending levels through the 14th of March of this year. So Congress also needs to figure out what we're going to do there to finalize fiscal year '25 appropriations.

So if it's another continuing resolution or I'm not sure there, I think that's another process that we're following closely right now.

Allie Arcese:

I know that even for me, the two happening at the same time can be pretty confusing.

Nalia Medina:

Me too.

Allie Arcese:

Good. I'm glad it's not just me.

Karen McCarthy:

Yeah, I mean, that's partly why we wanted to have Nalia kind of break down the reconciliation process, because a lot of people have heard the word being flung around, but don't remember the last time we did it or weren't really aware. And they're like, what is this? What is it?

Allie Arcese:

And it's not necessarily the big budget. Yeah.

Nalia Medina:

And because it's kind of at the same time, I feel like it's normal to try to... You get confused, are they happening at the same time? Are they relying on each other? And at the same time, the president typically releases the budget between February and March. So now people are starting to think about fiscal year '26.

Allie Arcese:

Gosh.

Nalia Medina:

Even though we haven't finalized fiscal year '25. So there's a good chance we'll be thinking about all three things at once. Fiscal year '25, '26, and reconciliation.

Allie Arcese:

That sounds like way too many numbers all at the same time.

Well, we just threw quite a bit of information at everyone, so we're going to wrap it up and let all of that soak in, and we will be back soon with another episode of Off the Cuff. But in the meantime, send us your questions, send us your comments, tell a friend, remember to subscribe, and we will talk to you soon.