

NASFAA's "Off the Cuff" Podcast – Episode 324 Transcript

OTC Inside the Beltway: All Things New - Executive Orders, Melanie Storey, PSLF and IDR Updates

Beth Maglione:

Hello, and welcome to another episode of NASFAA's Off the Cuff. I'm Beth Maglione, interim CEO of NASFAA.

Jill Desjean:

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

Hugh Ferguson:

And I'm Hugh Ferguson with our communications team.

Beth Maglione:

And joining us in spirit today is Karen McCarthy, who is having significant internet troubles. And it's kind of a funny story. Apparently, she was sitting at home and having tree work done, and then, all of a sudden, her internet went out. Did you guys hear this from her?

Hugh Ferguson:

No.

Beth Maglione:

And she was like, "Surely they didn't just cut through the internet wires." Oh yeah, they did. The guy came in and was like, "Ah, I cut this wire." So she-

Jill Desjean:

At least they owned it.

Beth Maglione:

I know.

Jill Desjean:

At least they did.

Beth Maglione:

At least they owned it. We've all been there. Oh, my gosh. So she's been trying to dial in from her local library. She's so diligent, but those connections are spotty at best. We know Karen would be here with us if the technology gods would allow it, but not today, they're not smiling on her.

Jill Desjean:

No.

Beth Maglione:

Well, we have a little bit of breaking news, a couple new things and we'll jump into some policy updates. This is our Inside The Beltway. And yeah, we have had a few exciting things happen since we last met, which I think was mid-March, March 14th, I believe, when we last recorded Inside The Beltway.

So one bit of news that I'm absolutely thrilled to announce to our OTC listeners, I'm sure many of you are already aware that on March 25th, we announced that Melanie Storey would be taking over as NASFAA's new president and CEO. Yay, pause for applause. And yeah, we're so excited to share this news. It's been a many-months-long search process, a wonderful, detailed and diligent process by our Presidential Search Committee led by Sharon Oliver, and so gratitude to the Presidential Search Committee who really did such a wonderful job on getting us to this point.

And just a couple words about Melanie. First of all, we're just absolutely thrilled to have her joining on May 1st. If the name rings a bell, you probably know her from her recent position as director of policy implementation and oversight at the department's Office of Federal Student Aid. And she was a frequent attendee at NASFAA conferences and would speak to our members on behalf of FSA. So very well known to conference attendees specifically. She provided policy development and implementation strategy related to student financial aid so she knows our issues so well. Very active in development and delivery of critical FSA initiatives. And she lived with us on the department side through the FAFSA debacle. So she lived that in real-time too and knows what we all went through together.

So in addition to this time at the department though, Melanie has a lot of association experience. She's been at the American Council on Education, she has been at NICU in policy roles, and she was at the College Board. So we are very excited for May 1. She has graciously agreed to meet with us and get some of the internal processes going, and we sort of hit the ground running on May 1.

And I just want to also say, if you weren't able to read the open letter from Melanie, please do so. On March 25th, when we announced, she published an open letter to the NASFAA membership. And there was also a wonderful Q&A done in the Chronicle of Higher Education that day that I think really illuminates why she's such a wonderful fit for this position. So more to come. We're going to be introducing her to our members and OTC listeners in the future. So sometime after her May 1 start date, we will have an OTC episode with Melanie and look forward to doing that. So that is exciting.

Other somewhat exciting news, I understand there's been an announcement just this morning on PSLF hearings. Anyone want to catch us up there?

Jill Desjean:

Yeah, I can talk about that. Equally interesting, probably not as exciting as a new leader for NASFAA, but yeah, this is in the Federal Register preview site today, so it will get published tomorrow, but the department of ED is going to be holding negotiated rulemaking on PSLF and income-driven repayment plans. So we'll see that announced tomorrow. They've already got public hearings scheduled for the end of April, April 29th, and then May 1st, where interested parties can come and give comments to Department of Education representatives.

And that's sort of the first step in the long and painful Neg Reg process. They collect those public comments, it sort of narrows down and shapes what they plan to actually discuss in the negotiations. But before they get to that point, they will open up a call for negotiators, make those selections, schedule the dates and all that good stuff, and then, ultimately, negotiate these issues.

So yeah, we will be, obviously, participating in the public comment process. We'll, obviously, be covering all of the ins and outs of Neg Reg as it comes along, but we don't know exactly when that will be.

Typically, they kind of do a October, November, December sort of thing so that's kind of what we're thinking will happen.

Beth Maglione:

Got it. Okay, so more to come on PSLF hearings and rulemaking.

Jill Desjean:

Yeah. And I think it's probably notable that this is likely in response to the PSLF executive order that the president put out a couple of weeks ago where he directed the secretary to look at the PSLF regulations, was going after certain types of organizations and saying that their employees should not be eligible for PSLF. So presumably, that's what prompted this Neg Reg, but more to come as we learn more details.

Beth Maglione:

Thank you. Yeah. And I think we went into some detail about that on our last Inside The Beltway recording, so go check that out if you haven't already. Okay, so that's sort of the new news.

This also is technically new, but feels like old news, the next issue, which is the president, on March 21st, signed an executive order seeking to dismantle the Department of Education. When I say old news, it's because we started talking about this executive order, I want to say January. And we thought it was going to come, we thought it was going to come, and each week, didn't come. So March 21st, we finally were able to lay eyes on this executive order.

And as you'll remember, at our last recording of this, we were talking about the mass layoffs and reduction in force at the Department of ED. I think there is some connection between these two situations. So if you don't mind, could we go ahead and talk a little bit? Maybe Hugh, can you give us some background on what we eventually saw on March 21st when we were able to look at the executive order?

Hugh Ferguson:

Yeah. So it's actually funny with the speaking of the PSLF executive order. We had, I believe, three pre-writes for this eventual order about the effort to dismantle the Department of Education. And on the day that the PSLF one dropped, we thought that the dismantling one was going to drop that day. So it's just a lot of confusion and tracking. And so, it's easy for folks to be getting a little confused as to what's happening and just the timing around all these things.

But essentially, the executive order dealing with dismantling the Department of Education seeks to formally dissolve the department and turn authority of education policy over to the states and local communities. And so, we had been waiting for Linda McMahon's confirmation as like an indicator that something of this would come out. And so, once she was situated in the ED, it seemed like this would be more imminent to come.

And so, a lot of the language that McMahon's been using is that she'll be working to close the department to the maximum extent appropriate and permitted by the law. And we've seen this phrasing used over and over. So when you see the word dismantle, you think it means one thing, but there are some limitations to how far the administration is pushing to pull apart different functions of the agency. And so we have some clarity, but we also have a lot more questions about what this means, especially for higher education.

In the executive order, we didn't specifically see what services were defined and what programs and benefits would be moved around. This includes federal student aid and statutory responsibilities and

how those could possibly move to other agencies and which one of those functions needs congressional approval. So we're still waiting to see what the fallout's going to be there.

Beth Maglione:

Thanks, Hugh. Yeah, that's a good overview. We have a lot of questions still on this. The executive order did not provide any sort of clarity on the financial aid programs, and it specifically did not provide clarity on what would happen with the student loan programs, \$1.6 trillion in student loan portfolio out there. So that's a significant question that needs to be answered.

And it was very confusing because the week after the executive order, I think there was a statement that student loans would stay within the department and then, it was no, the president said in a Oval Office meeting that it would be moved to the Small Business Administration, which is something that had been floated in the past, and I honestly don't know where. Do either of you know where that is right now or what the latest intel is?

Jill Desjean:

No.

Hugh Ferguson:

No. And I think that kind of gets to the crux of one of the biggest issues is that while the administration has pledged to abolish, dismantle and do away with the Department of Education, there's still education functions that they've indicated they want to carry out, be it through their Civil Rights office or other oversight functions.

And so, there's a lot of confusion as to if you have all these education policies you want to do, why would you completely eliminate the department in its entirety? And so, I think we're in this weird in between zone where we're just trying to get a sense of what functions stay central to the department and how this administration is looking to organize their authority.

Beth Maglione:

Yeah. And we've written about this. I think even before the election, we wrote an article that detailed what could and could not be possible in terms of eliminating the Department of ED according to federal statute. We are still waiting for a bill from Senator Cassidy that's expected to try and make changes to the Department of ED and the pieces that require congressional approval. I don't think we've seen that yet. And we certainly don't know whether it would have enough support in the Senate to go forward. So there's, again, more open questions which we'll be tracking.

And I'll also say, alluded to this earlier, but if I was going to start to dismantle a large organization, I probably would start by laying off half the staff that's obviously connected to all of this. And one thing that we have repeat, we've had a ton of media inquiries, we've done a ton of media on this. How many? It's like 30 or 40 different articles, I think, or interviews we've done. And one of-

Hugh Ferguson:

Yeah, it's around like 30 by the time we had gotten through all the requests, yeah.

Beth Maglione:

And the questions that we get answered are so often, what's going to happen with FAFSA? How does this impact FAFSA? We just pulled out of a dark era for FAFSA and finally, are feeling some sunshine on

our faces. And is this all going to go downhill again? Fair question. And how is this going to impact schools and students and is the RIF impacting school and students already? How so?

And I would say to our members, please do let us know if you see or hear of any sort of impacts. I mean, we're definitely tracking this to the best ability. We're very keen to hear how our members are feeling impacts from reduction in force at the Department of ED. And if you do have examples, please email us, submit them through the OTC feedback page. We really would love to hear more about that. And we're keeping an eye on our communities for potential issues as well.

Hugh Ferguson:

Yeah, I don't know if we're going to get as much clarity about possible landlines being whacked by landscapers from the department. So if any members see anything and want to show us those severed ties, definitely let us know.

Beth Maglione:

I love what you did there, Hugh.

Jill Desjean:

It's beautiful.

Hugh Ferguson:

I was really grasping for it.

Beth Maglione:

Beautifully done. Beautifully executed analogy. All right, well, let's turn to another percolating issue, which is IDR and loan consolidation applications. Jill, you want to catch us up, please?

Jill Desjean:

Yeah. So this is the latest installment in the ongoing saga of the SAVE Plan. Oddly enough, in February, the Department of Education took down all the applications for IDR plans and loan consolidation due to an injunction that came from the Eighth Circuit Court of Appeals. And this was just the latest in a series of steps that have been happening since lawsuits were filed by a few states challenging the legality of the SAVE Plan. Going back to last year, the plan had already been blocked by lower courts shortly after those suits were filed, meaning borrowers who were already enrolled in the SAVE Plan were placed in forbearance and new borrowers could not enroll.

So that SAVE application was not available, but the other IDR applications were. The department took it down in February after this latest court decision. And the reason they had to take down all of the IDR plan applications was because this most recent court ruling was broader in scope than what the lower court's ruling was. It blocks everything from the SAVE final rule as opposed to just portions of the save final rule. And there's a lot more in that final rule if you want to go back and dig it up from a couple of years ago and read it. It doesn't just cover the SAVE Repayment Plan because of course, all of the income-driven repayment plans are sort of interwoven.

And so, the department said that because this latest court decision blocked the entirety of those regulations, they needed to go back and even figure out whether and how they could calculate monthly payments under the IDR plans that are not being challenged in the courts. So under income-based

repayment, income contingent repayment, pay-as-you-earn, they didn't know how to calculate monthly payments in accordance with this latest court decision.

So presumably, they have sorted that out because they did, as of last week, bring the IDR application back up on StudentAid.gov. So that is good news. The SAVE Plan, of course, is still not an option because that is still very much entrenched in this litigation. But ICR, IDR and Pay-as-You-Earn are all available on that form. Despite the application being up, the department has indicated that services are now getting back up to speed and updating their systems to recalculate monthly payments under these plans. So while the applications are being accepted, they are not being processed. So we've sort of one little step, but not all the way. No timeline from the department on when that will happen, they've just said in the near future, so hopefully, that means really soon as opposed to not whatever else someone might define as the near future. So you'll hear more as we hear more.

Separate, but related to the IDR application, borrowers also had been unable to recertify their income for the IDR plans that they were already enrolled in. So people have been enrolled in Pay and ICR and IDR for many years, and every year you have to recertify your income. And that function was not available on StudentAid.gov, so people were bumping up against, either if you don't recertify your income, you get put on a standard repayment plan, which could mean that your monthly payment could rise significantly. We definitely saw stories in the media about that. The good news is that functionality is back up. It is only for the self-certification of income, not the IRS certification. So that piece of it is not functional so you can't take advantage of the future action, actually, get the IRS to verify your earnings. You're doing it manually, but nevertheless, borrowers can recertify their income so they can stay in their IDR plans and have affordable monthly payments.

And one last thing that's related to all of this is time-based forgiveness, which is also caught up in all of this litigation. Obviously, with SAVE blocked, any time-based forgiveness associated with SAVE would also be held up, but notably, even time-based forgiveness for income contingent repayment, Pay-as-you-earn, those are on hold because it's all caught up in those blocked SAVE rules.

The only time-based forgiveness that's available right now is income-based repayment, and that's because income-based repayment is established in statute and all the others are established in regulations. So the time-based forgiveness that's associated with IDR is in the statute, Department of ED can't touch that. So those borrowers are not in tough shape, but a lot of other borrowers are in tough shape. If not trying to get something done like apply for a repayment plan, recertify their income, or trying to get out of forbearance to make their way toward forgiveness, they're at least confused. So hopefully, this cleared up a little bit for all of you, but anyone who's confused about this, you are not alone. Yeah, that is a lot.

Hugh Ferguson:

I feel like adding Neg Reg on top of the court cases is now even more confusing.

Jill Desjean:

That's a great point. Yeah. Yeah. Yeah. I can't. I can't think about it right now.

Hugh Ferguson:

Yeah, no, it's just going to be a very interesting process to follow while dramatic changes could happen to the program through the courts or Congress or the regulatory sphere. It's a very lively topic.

Jill Desjean:

Yeah, we'll get to a point in a couple of years where we'll know what's going on, but we'll never be able to figure out why. We'll be like, oh, did they do that through Neg Reg? Did the court decide that? Did the law change? We'll never be able to piece this back together. Although, we do have a really nice timeline on our website that one of our policy analysts created so check that out if you're interested. And that gets updated regularly. So I guess we will be able to keep track on NASFAA.

Beth Maglione:

Yeah. Yep. Yes, when there's a thorny issue that needs untangling, we generally just try and take really good notes for you all.

Jill Desjean:

Well, it's a good timeline.

Beth Maglione:

That's a role we will continue to try and fill because it does get really complex. [inaudible 00:20:52]-

Jill Desjean:

And actually, to your point, Beth, I was thinking of another resource that NASFAA created to help our members when you were chatting earlier about dismantling the Department of Education. We are hearing from our members who were saying that students and families are coming in and saying they don't know at all what dismantling the Department of Education would look like. And so, they're saying things like, "Will there be any financial aid if the Department of Education gets dismantled?" Or, "Now that the Department of Education doesn't exist anymore, what's happening?"

And so, a lot of dispelling of myths needing to happen. And so, we are creating a resource now on the policy team that should be out in the next couple of weeks to help financial aid administrators with clear facts for students so that they can explain sort of, "This is what needs to happen, this is how this could play out," so that you can kind of quell people's fears that are entirely unfounded, while still being realistic about the threats to the department and to student aid generally.

Beth Maglione:

Got it. Thanks. We will look for that and be sure to publicize it in Today's News. And with that, I will thank you for joining us for another episode of Off the Cuff. Please remember to subscribe and recommend us to your friends. And keep checking in with us. Bye.