

NASFAA's "Off the Cuff" Podcast – Episode 334 Transcript

OTC Inside the Beltway: SCOTUS Weighs in on ED's RIF, Reconciliation Becomes Law and PSLF Goes to NegReg

Hugh Ferguson:

Hey, everyone, welcome to another episode of "Off the Cuff." I am Hugh Ferguson with our communications team.

Karen McCarthy:

I'm Karen McCarthy with our policy and federal relations team.

Megan Walter:

I am Megan Walter, also with our policy and federal relations team.

Sarah Austin:

I'm Sarah Austin, also with the policy and federal relations team. It's policy takeover.

Hugh Ferguson:

Yeah. I feel like I'm in on a different meeting today.

Karen McCarthy:

Yeah.

Hugh Ferguson:

Yeah, welcome back, everyone. I'm filling in for Melanie today. It's been quite a hectic month for all of us at NASFAA. I just think that tends to happen towards the end of June each year. In the past month, we've had our national conference, gone through some hectic vote scheduling, and seeing the whole amending process to the reconciliation bill that's kept us up quite late into the evenings and seen some changes in the early morning. We got through a negotiated rulemaking session, our virtual conference. And we've seen more things happening in the courts than I can remember in quite some time.

Before we just dig into things, how's everyone doing keeping pace?

Karen McCarthy:

Yeah. It is quite a lot. We did, we went right from one thing into another. The 4th of July was in there. Holidays are great. Also, you lose a couple of workdays in there when people aren't around who you need. Yeah, that was in there. It is quite a lot.

I feel like here at NASFAA, after the virtual conference is over, there tends to be our only little bit of downtime in the year. I am trepidatious that that won't happen this year, that there won't be any downtime. We'll just roll right through the summer and into the fall, when things always pick up again.

I don't know how, Megan and Sarah, how you're feeling?

Megan Walter:

Yeah. I am missing Jill Desjean. I'm wishing she was with us, but I hope she's enjoying her vacation. I'm missing having her around for all of this craziness.

Hugh Ferguson:

Yeah. Well, there's a lot to get through today as we begin to wrap up things on the podcast before our little summer break. I think we should just get started with what happened at the Supreme Court this week.

To catch listeners up, while the court isn't currently in session, we got some significant news related to the reduction in force notice. Without getting into too much of the technicality of the order that came out, the court is essentially allowing the administration to carry out its RIF for the Department of Education if they decide to pursue it while this ongoing legal challenge continues to make its way through the court. Kind of convoluted. There is some technicalities with how this order came out, but that's currently where things stand. As our recording on Thursday afternoon, we haven't heard an update from the department about whether or not they are going to carry out the original RIF they had been pursuing that's been stalled for the last couple months, but we're continuing to monitor things as it develops.

Yeah, for the time being, there's some ambiguity here. But to just look at how things have changed in the last couple of months, we've seen Congress pushing the department to get an explanation as to why they've been bringing some folks back into the department that were originally RIFed. During, I believe this was an appropriations hearing, Secretary McMahon told members that, "When you're restructuring a company, you hope that you're just cutting fat, and sometimes you cut a little muscle and you realize it as you are continuing your programs, and you can bring people back." Essentially, saying that, well, not saying directly, but indicating that some folks who were highlighted as possibly not being needed at the department are actually needed. We're seeing a lot of things in flux there.

Yeah. I just want to get the policy team's thoughts on this development and where things stand with the staffing at the department and any concerns we have at NASFAA?

Karen McCarthy:

Yeah, I can start us off on that one. To say that I don't think we know a lot about where the staffing situation stands over at the department because, interestingly, as you gave that quote from Secretary McMahon, it sounds like a little bit of an implicit acknowledgement that maybe they realized they might have gone overboard. We have heard that they were reaching out to some folks who had been RIFed to find out if they had found other employment, or if they were interested in coming back because people do move on and make other plans. I haven't heard a lot of detail yet as to the results of all of that, if they have actually started to bring some people back.

Then, there was this Supreme Court decision, which to be clear, really only gives the department permission to move forward with the RIF if they choose to do so. We don't know where they are in their deliberations and their assessment of their staffing situation. It doesn't necessarily mean that anything is imminent on the staffing side at the Department of Ed, but it does open the door and give them that permission to resume the RIF if they choose to do so. Because there had been an injunction in place, everything halted while this court case was going on, and the Supreme Court said, "We'll let you continue if you wish to do so while the court decision is making its way through the court system." I feel like there are a lot of unknowns and things up in the air, both from outside and from what I have heard from conversations with staffers on the inside.

But as you mentioned, as we talked about, there's so many other things that are going on at the same time. Which would require a lot of staff work, they have a lot of heavy lift when we're going to talk

about the reconciliation bill in a little bit. I think that is one of our bigger concerns is that there are a lot of big things happening, a lot of tight timelines that would be a lot of work for the Department of Ed to carry out even if they were fully staffed. We don't know what their exact numbers are, but we know they're not what they were at before. I think that is our larger concern is their ability to do good work in the limited period of time that they have before statutory deadlines that are coming up.

Hugh Ferguson:

Yeah. A lot of just waiting and seeing what happens with this process. It's also important to just note that the lawsuit will still continue as Ed makes its actions. Even if we see the RIF carried out, it's just unclear what the timeline is going to be. Yeah, a lot of uncertainty there. But we have been getting some updates from the department through other lawsuits that we've been tracking, particularly related to the income-driven repayment program.

I know, Megan, you've been following this really closely. Can you share what's going on there?

Megan Walter:

Yeah, sure. There was a lawsuit by the American Federation of Teachers back earlier this year. As a result of that lawsuit, it required Ed to publish monthly status reports of how many income-driven applications they have pending to be reviewed, as well as how many PSLF buyback request applications they have pending to be reviewed.

The last one that we saw was June 15th is when we got it and that covered May. They were about 1.5 million IDR applications still pending review. We just received their most recent update, which is as of June 30th, and that number didn't go down too much. It's still at about 1.5. About 70,000 or so applications that actually went through and were processed, and a lot of that is they're just adding more applications in, too. Even if they're getting some done, people are still changing repayment plans so the application number is just going to keep rising as well.

I think a lot of our concern around that is, A, as you both mentioned, there's a reduction in staff. This is a manual process for these reviews done by some of the Department of Ed staff, and we know there is less staff there potentially processing these. Then we also know that the department announced earlier that they're going to start accruing interest on borrowers enrolled in the SAVE plan, and there's about eight million or so borrowers right now in the SAVE plan. Even if a small portion of those, a couple million, decide to try to change repayment plans, that's a one, two, three million more applications added to this already pretty extreme backlog. Definitely concerns about how that will be manageable and how that's going to look in the future.

Hugh Ferguson:

Yeah, definitely some concerns there. The lawsuit had it so that these are monthly reports coming out, and I think we're only guaranteed up to six of these reports. Is that right, Megan?

Megan Walter:

Yeah. They have to do at least three. Then after this third one, so the one we just got is the third one, the courts will go back and they'll decide, they'll have a decision with both plaintiffs and decide if they should continue. They'll do at least three more. Then it could go on from there, but six is the maximum number that was laid out in the original lawsuit, but they could always continue to add if this number still continues to grow or there's concerns about the progress. We'll probably hear something in the next couple weeks about if they'll still be required to be doing the status reports going forward.

Hugh Ferguson:

Yeah. We will definitely be tracking updates there. Definitely helpful that these things are coming in monthly and not just randomly.

Karen McCarthy:

Yeah. And that they're required by the court. There are a lot of public-facing reports that the Department of Ed does willingly, I would say. But because they're not required by anyone to do them, sometimes the deadlines, their monthly report turns into more of a quarterly report. The good thing here is that because it is required by the court, we have so far have been seeing them on time publicly released. And does have a lot of useful data in there.

Megan Walter:

Absolutely.

Hugh Ferguson:

Definitely makes things easier when there's a lot of ambiguity. Yeah. While there's been a lot of ambiguity, as I said, with the RIF and these court cases, we do finally have more clarity over the finishing line of this reconciliation process that has been going on really since the election. And has taken many different shapes and forms, and now we have a final law that's been signed and is in the process of being enacted. And have descriptions and highlights as to how this impacts higher education policy. I know this has taken up a lot of the policy team's focus for the last couple of weeks and we've got a lot of questions.

Yeah, just to turn it over to you guys, what's in this thing?

Sarah Austin:

Yeah. You were saying that there's any sort of clarity now is almost comical to me, Hugh.

Hugh Ferguson:

In comparison to other things I think is an important caveat.

Sarah Austin:

I'll give you that. Yes. First of all, you're right, this has taken over a lot of our time, understandably so. I was trying to even think how many days have we actually had this signed into law? It's not many, but we've done a lot in that time.

One thing that I was joking about is that saying the entire law's name, the One Big Beautiful Act ... Did I even miss a word in there? Gosh.

Karen McCarthy:

You did. Bill. Bill is in there.

Megan Walter:

One Big Beautiful Bill Act.

Karen McCarthy:

The Bill Act, yeah.

Sarah Austin:

There's too many words, exactly. Over on the policy team, I'm going to give Karen credit, I think you came up with OB3 as how we refer to it.

Karen McCarthy:

That's my shorthand, yeah.

Sarah Austin:

Because as you can see, I can't remember the entire name. Megan and I did a lot of work on this, and we had to keep meeting, and putting a Zoom meeting on our calendars. It was OB3.

Megan Walter:

Again.

Sarah Austin:

OB3 [inaudible 00:13:25]. OB3 Again. Those were our meetings all week long. We're calling it the OB3, but I don't know if that's caught on to anyone else.

Megan Walter:

Yeah.

Sarah Austin:

It's much easier for us at least. But as Hugh said, we do have a lot in here. We will not go through every single provision today, but I do want to just highlight some of the major provisions that made it into the actual law since we had so many different versions in the proposal stages.

I do want to highlight that NASFAA put out a chart that has all of the federal student aid policy-related changes that did in fact make it to law. We put that out in Today's News, I believe last week. Again, all time has run together. But it's also on our reconciliation web center, so if you want to go there you can find it as well. Basically, a comprehensive chart that shows the provisions and any additional notes. Then also, effective dates, which I know a lot of our members' questions were around the effective dates, so we did include that as well.

I would say that we grouped them into so overarching categories to help make it make a little more sense. We have a lot related to student loans. The loan program is on the front end in terms of borrowing, and then also on the back end in terms of repayment. We had some Pell changes, some need analysis or FAFSA changes. Then a new accountability measure that we'll talk about as well.

Looking first over at the loan provisions. We, like I said, have some front end in terms of borrowing, and then the repayment side is separate. I'd say one of the big changes that I know a lot of people were watching for is the elimination of the Graduate PLUS program did in fact make its way into the final law. This would eliminate the Grad PLUS program as of July 1, 2026. However, as with a lot of the loan provisions, there is a legacy provision for current borrowers in order to finish out their program. There's a little more detail there in terms of they had to have borrowed a Grad PLUS loan before July 1, 2026. They have to still be in that program. They can only continue to borrow from the Grad PLUS program for

three years or the remainder of their program, whichever is less. That whichever is less piece is important because that really could change their eligibility.

We have gotten a lot of questions on the legacy provision on this one and I will say we don't have any more detail than what is in the actual law. What we have in our chart is the information we know as of right now, but I know we've gotten a lot of questions about if a student's on a leave of absence, if the student changes programs, and we have a lot of unanswered questions here.

Karen McCarthy:

Hey, Sarah, you did say there are a lot of unanswered questions around that legacy provision. I just wanted to flag that we understand the urgency around knowing how that will work, particularly as we head into the fall. If it is actually effective July 1, 2026, many schools have graduate programs that start in the summer, so they'll be starting. Those students, those prospective students are making enrollment decisions now for next summer, so schools need to know what their loan options will be, and who's considered to be a legacy student and who is not. Students need to be able to make their plans and enrollment decisions. That is one.

There are a few of the provisions in the reconciliation bill that we consider to be a little bit more urgent in terms of unanswered questions and needing guidance from the Department of Ed. This is one of them that people need to make plans ahead of time. Schools need to know to tell their students who are making enrollment decisions and whatnot. This is one of them that is on that list.

Sarah Austin:

Yes. Thank you for that additional information.

With the other loan provisions, we also have some changes to loan limits. PLUS loans, the Parent PLUS loan program has some new limits for annual and aggregate, as well as just our graduate and professional. The unsubsidized loan, we have some new limits there as well. And we do have a new lifetime limit. All of those new limits are also currently effective July 1, 2026. They also all do have some legacy provisions. The chart lays out more information on all of those.

I know one of the big questions we have been getting quite a bit of is when we talk about the graduate and professional student loan limits, they now have broken apart graduate student versus professional student, where before it was all just lumped together. The biggest question, and understandably so, is what is a professional student? What is that break apart? In the actual law, it does refer to some regulations that give examples of professional degrees, but it's not an all-encompassing list. Also, there's no real definition there. I know that is another one that people are very curious on and we need to get some more information on so that you know, in fact, which limit to be going by in a graduate program versus professional student.

Karen McCarthy:

Yeah. On the professional degree thing, yeah, you're right. I think the way that it's worded in the rules is it says includes, but is not limited to. That's another one where we really need Ed to give some guidance because the difference in those limits is very significant between a straight graduate student versus a professional student. Particularly since there's no Grad PLUS available at all. Yeah, that's definitely another one that is more time sensitive.

Sarah Austin:

Looking more at the repayment side of things, we do have a lot. This is a big section, a major overhaul of the loan repayment system. Simplifying down to really majorly two repayment plans, an income-based and then a standard. However, how we get there is the complicated part. There is, again, some for current borrowers, one set of guidelines. For the other new borrowers, there's this whole other set. We have, in the chart, all of that broken down, but I do want to give you an overview of what we're going towards.

The income-based repayment is now switching to a new plan that's called Repayment Assistance Plan, or RAP as you'll see it mentioned. This is really a, like I said, way of all the different income-based repayment plans now are going to go down into just this one. We also have a new standard plan, so it's not the existing standard plan. There will be a new standard plan that has really different term lengths based on the amount borrowed, which is a new concept in terms of the standard repayment plan.

We also have some, I don't even want to call this a legacy provision because it's kind of different than what we were talking about with the loan limits, but how they are saying new borrowers versus current borrowers is for borrowers who have no new loans made after July 1, 2026. Which I think is a bit confusing, because you could be a current borrower and have no new loans after that. You could be a current borrower and have new loans after July 1, 2026. The wording is a bit weird here. But really, if you're considered a new borrower or a current borrower will determine what repayment plans you have access to moving forward.

Also, there's this overarching sunset of several of our repayment plans that we know right now. ICR, PAYE, and SAVE are all going away. There is quite a bit of a long on-ramp of all of those current borrowers that are in those plans to transition out. This was something that was different throughout the different provisions in the bill, but in the final law it actually gives those current borrowers until 2028 to move out of those plans. If by July 1, 2028, they have not moved out of one of those plans, they will be moved automatically. They don't get to stay in it. But again, a lot longer on-ramp for that transition to the new repayment plans. Here, we do have quite a bit of unanswered questions as well. We have a list of questions I'd say on a lot of these pieces.

Jumping over to a few other big categories we had here. In our chart, you will see we have a section on the Pell Grant, which really, not a lot made it in. But one of the major pieces, it's only one item on the chart but it is a big piece, is this Workforce Pell program. This new law creates a Workforce Pell program. We already have a lot of questions on this as well. I think that's just my standard now is saying, "Yes, we know there's a lot of questions."

One of the interesting pieces here is that this also is effective July 1, 2026. This is a big lift. I would assume this is a big lift.

Karen McCarthy:

Oh my gosh, yeah! Enormous. Yeah.

Sarah Austin:

Yes. July 1, 2026 seems very, very fast for something of this magnitude. But we do have quite a few unanswered questions we would hope to get more information here. One thing in the chart that you will see is what is an eligible program, what programs are not eligible, what coursework is not eligible, that sort of thing. I would definitely tune into the chart on that Workforce Pell item. But again, we are hoping for much more information on this one, especially with the tight turnaround.

Lastly ... Well, I guess there's really two more other categories. We have the need analysis and FAFSA items, which are actually the most straightforward. This was nice to look at this piece because these are

probably the most straightforward of all of these provisions. We have the reinstatement of some asset exemptions with an expansion to commercial fishery. It used to be family farms and small businesses, now there is also commercial fishing businesses included. We also have the foreign income exclusion. I know a lot of our members were likely hoping for a change here because there was this individual determination that financial aid administrators would have to make on if foreign income had to be added back to the AGI for Pell eligibility. That is no longer going to be a thing. It will be required that foreign income is added to the AGI so you, as financial aid administrators, will not have to be making that determination and doing the math yourself. This will all be something that has to happen for all applicants that have foreign income.

Karen McCarthy:

And it will happen on the back end. Ed will do that through the FPS system.

Sarah Austin:

Right.

Karen McCarthy:

Yeah.

Sarah Austin:

No math on your part, it will all be done for you, which is good. We also have some changes to Pell eligibility in terms of if they have a high SAI, so what a lot of people have been calling the Pellionaires. High SAI will no longer be able to get Pell Grant like they were able to before. If the SAI is twice the maximum award, that would be the cutoff. Again, this is behind the scenes, you don't have to figure that out. It will be done on the back end, which is good news.

The piece that may impact the financial aid administrators' actual work is more the new provision that a student who was awarded up to their full cost of attendance is no longer eligible for Pell. Where they used to be able to exceed that cost of attendance with Pell Grant, that no longer may be the case. That seems much more of a financial aid administrators' side of things than something that could be programmed into the FAFSA. More to come on that.

Karen McCarthy:

Yeah, I think that piece. That piece, Sarah, when you said, "Oh, these are pretty straightforward," I was like, oh, not that COA thing though.

Sarah Austin:

Yes, that's true.

Karen McCarthy:

Yeah, that one, there's a lot of complications, so lots more to come. I think the straight FAFSA ones are definitely pretty straightforward.

Sarah Austin:

I agree.

Karen McCarthy:

Yeah.

Sarah Austin:

I will say that those FAFSA changes, while the effective date does seem very quick on those because while they have that July 1, 2026 effective date, they specify in the law that that starts with the 26-27 award year. As we all know, that for the FAFSA cycle is very soon.

Karen McCarthy:

Yeah.

Sarah Austin:

An October 1 date for the 26-27 FAFSA is very quickly approaching. Of course, we have this beta testing that happens beforehand as well. While these are straightforward, it is still a very, very tight timeline for some of these. We have no indication that these will at all push out that October 1 launch date though.

Karen McCarthy:

Yeah.

Sarah Austin:

I think that is important to know.

Karen McCarthy:

Sarah, you've been on a couple calls with me with the FAFSA team where they are optimistic that they'll be able to get these programming changes in place in time for that October 1 rollout. Because yeah, that was one of our concerns is that the 26-27 FAFSA is pretty well baked, 95% done at this point.

Sarah Austin:

Right.

Karen McCarthy:

But they are optimistic that they will be able to stick to their schedule. I know that's the one thing that everybody asks. If there are going to be any changes to the FAFSA, are they still going to be able to get the FAFSA out on time? They're optimistic that they will.

Sarah Austin:

Yeah. Yeah, I think that's great.

Karen McCarthy:

Yeah.

Sarah Austin:

Moving on to the last section, we have this new accountability measure. I won't go through all the details on this, but we do have some resources that have our prior coverage of this piece. But we do

have a new accountability measure that made it into the final law and it's related to the low earnings of your graduates. Basically, Bachelor's degree completers should be earning more than people without a Bachelor's degree. Graduate students should be earning more than someone with just a Bachelor's degree. It's this comparison model. If you are failing those comparisons two out of three years, then you are going to lose direct loan eligibility for that program. That's a very, very simplistic view of that, there's a lot more to it there.

But what I wanted to point out is, number one, this is different than what the House had initially proposed. I think some people were still looking into the initial proposal versus what made it into the law. Just to point out that this is very different than the institutional accountability piece that was proposed by the House. This is also completely separate from gainful employment and financial value transparency, even though it feels a FET-ish in terms of looking at the earnings. The thing is here there's no debt comparison, it is the earnings piece. And also, GEFET still exists. This law does not change anything for GE or FET. There actually was no mention of it in the law. In some earlier proposals, they had some changes to GE in the definitions of certain things, but that did not make it into the final law. I'm going to say it one more time, there is no change to GE or FET from this law.

Just to reiterate, nothing in the final law changes GE or FET, so those deadlines that are approaching are still in fact in place. We just wanted to make it very clear that nothing has changed with GE or FET right now.

Right, Karen?

Karen McCarthy:

Yeah. Yeah, yeah, that's exactly right. This is one of the things that people have made some assumptions I think with the new law because there's this very similar, but different new accountability framework. I think it doesn't have a name, there's no name in the law for what we're calling it, so it's the new accountability framework. That it's very similar to GE/FET, so some people have assumed that one is replacing the other, that this new thing is replacing GE, and it is not. As you said, at this instance, we have both. Because the new accountability framework, which is a mouthful, is in the law, so Ed has to implement that because it is in the law. The GEFET framework, as you mentioned, that is not laid out in the law, that is purely regulatory. Ed has some discussions I imagine that are happening right now as to what they want to do going forward with GE and FET. Because it's purely regulatory, they have a lot more control over the GEFET and whether they're going to move forward with that.

They have to do what's in the law though. This new framework is in the law, we're definitely getting that. What we don't know is how Ed will choose to proceed with GEFET because that is regulatory. I have no inklings as to how they might go. They're similar frameworks, but there are some significant differences. One thing you mention under the law is that it only takes into account earnings. It doesn't take into account borrowing at all that we have under GE.

The other thing that you mention with the new framework is that programs that fail the metrics only lose their ability to participate in the direct loan programs. I don't know if everybody caught that. You definitely said it though, Sarah. It's only about DL eligibility. GE, as we know, is Title IV eligibility for those programs. It's a little bit different. It wouldn't make any sense for us, it would be a lot to have both. But I don't know exactly how Ed will choose to move forward or tweak GE. If they want to change rules, that is regulatory so theoretically has to go through the Neg Reg process.

Yeah, definitely we expect more to come. I expect that they will make some kind of announcement about the future of GEFET, given that this new framework. I also think that there a lot of details still to be sorted on this new framework, which also has a July 1, 2026 effective date.

Sarah Austin:

Yes, very true. I will say the most recent thing we've heard from the department on GEFET was a reminder that a deadline is approaching.

Karen McCarthy:

Yes!

Sarah Austin:

Not one, but two deadlines are approaching.

Karen McCarthy:

Yes.

Sarah Austin:

As of today, I'm calling it, as of today on July 17th, we have GE/FET and the 2024 cycle reporting is due September 30th. The 2025 cycle reporting is due October 1st. Which yes, are one day apart. Both of those deadlines still stand as of right now and they did just put out a reminder about that. No change there yet, so don't ignore it hoping it's going to change. Is my advice.

Karen McCarthy:

Yeah, yeah.

Sarah Austin:

Okay, great. I think we've really covered most of the major provisions. I will plug again that chart that NASFAA put out has a lot more detail on specific items that we did not get to today. But overall, those are the major highlights. Again, we have a lot of unanswered questions, just like all of you. I think many people thought NASFAA would have some real insider information on these, but we have pretty much as much as in the law, which is just like all of you. We are trying to get some answers to some questions, and of course we'll always keep you updated as we learn more.

But with that, I think I'll take a little break and pass things back to Hugh.

Hugh Ferguson:

Yeah. Thanks for all that, Sarah. I know we've only grazed the surface here on this bill. Or law now. I'm even getting confused with my terminology.

Karen McCarthy:

Well, because bill is in the name of it.

Hugh Ferguson:

Yeah.

Karen McCarthy:

That's why we do OB3. That's why we go with OB3, Hugh, because otherwise it's the Bill Act. Yeah.

Hugh Ferguson:

Yeah.

Karen McCarthy:

Yeah.

Hugh Ferguson:

I mentioned earlier in the recording that I didn't want to get too technical about what was going on with the Supreme Court and the shadow docket process that we saw with the RIF. But I think with the reconciliation process, we do need to get a little technical because of some confusion that's popped up for tracking how we've gone from frameworks, to drafts, to a House version, to a Senate version. There's been a lot of moving parts to the reconciliation process.

We normally don't see too many reconciliation bills. It just seems within the last couple administrations, things have aligned where the White House, House, and Senate have all been controlled by the same party, which makes the process a much more streamlined effort to carry this process out. We've seen some confusion about members thinking certain provisions were included in the reconciliation bill that actually weren't. I think we need to take some time to just differentiate how reconciliation, while it is a budgeting process, is different from the annual budgeting cycle, which is what we commonly refer to as the appropriations process.

Karen McCarthy:

Yeah. I think, Hugh, you are absolutely right that we have had some confusion there as to things that people saw over in the appropriations proposals, budget proposals on that side, thinking that they were part of the reconciliation bill and they were not.

Would it be helpful to review? I do think it's confusing because both processes were technically going on at the same time. But as you mentioned, reconciliation is not an annual thing. It is completely optional. We have seen, used by both parties, you mentioned the unified government, that that tends to be the environment most ripe for reconciliation to happen. The Republicans in Congress and President Trump decided to move forward a lot of their fiscal priorities through the reconciliation process largely because it's easier to get bills through because it allows them to do it without needing 60 votes over in the Senate side. While all of the items in a reconciliation bill are budget related, it is different from the other more annual appropriations process, which is also how what government broadly gets funded on an annual basis.

The appropriations process is required. Every single year, we go through it. It is required in order to keep the government up and running. We have seen, when Congress does not complete that process on time by the start of the fiscal year, then there's all the shuffling. Are we passing a continuing resolution? Is there a threat of a government shutdown? All of that. But that process has to happen, and reconciliation is an optional process.

You mentioned we had a House proposal on the reconciliation side, we had a Senate proposal, and then we had the final bill and not everything in those earlier versions ended up in the final bill. At the same time, the appropriations process kicked off for the next fiscal year. It always kicks off with the president's budget proposal. President Trump released his budget proposal where significantly, in our space, he has proposed elimination of the FSEOG program, pretty drastic cuts in funding to work study. A proposed reduction in the maximum Pell Grant. I think what has happened is that people remember

that, and then reconciliation, when that ended up getting finalized, they're wondering, "What happened to campus base? Did SEOG go away?" When those are two separate processes that are happening.

The proposals around campus base and the Pell maximum are just proposals and we're at the very beginning of that annual appropriations process. I'm looking at you, Hugh, because I know you follow this every single day. What's happening with the appropriations cycle? We haven't seen anything yet from Congress in terms of their proposal, so there's still a lot to come before we get to a final bill.

As everyone remembers, we lately have rarely gotten to a final passed bill by the time the year starts on October 1. This will continue. It's July 17th and we'll likely still be talking about appropriations in the last week of September because that's what we've been doing lately. But yeah, those are two separate processes, they just happened to both be happening at the same time so I think there's been some confusion out there as to this proposal, did this happen, did this not happen. Yeah, that is where we are with reconciliation versus the appropriations proposals.

Hugh Ferguson:

Yeah. We're still waiting for texts from both the House and the Senate on their Labor HHS Education bills. We were supposed to see the House schedule a markup next week when we would first see their version of texts, but there seems to be some shuffling of their scheduling and it seems like that might be delayed until September. When Congress gets back from their recess, the House at least will do a subcommittee markup, a full committee markup, and then try and get this on the floor before the end of September.

Karen McCarthy:

It's a lot.

Hugh Ferguson:

Yeah, it is a lot. The Senate can move things a little more quickly and make adjustments on the fly. I think we're very likely to see some sort of stopgap spending bill to further delay the process. Yeah, there's a lot of rumors going around about how they're going to address it this time. I think we might save that for later in the fall to assess where we're at and just see what happens these next couple of weeks.

Keeping up with the changes to reconciliation, OB3, it's been a long, drawn-out process. In the middle of all this, we even had a rulemaking process take place that was focused on the public service loan forgiveness program. While this session was confined to just a week, it was 9:00 to 4:00 PM every day and quite a slog. We have recaps of those sessions.

But I know, Megan, you were physically there for these sessions. Can you catch people up on what happened and where things stand?

Megan Walter:

Yeah. Like you said, it was only actually three days, 9:00 to 4:00. This was probably one of the quickest negotiated rulemaking sessions that I've seen at least in my time here at NASFAA. Originally, this session was supposed to cover three topics, the PSLF employment eligibility, PAYE plan, ICR, and then also some areas for improving regulation. I think because of what happened with the reconciliation bill, the department decided not to do anything with the IDR plans and also deregulation because those were covered in the bill.

They just kept it to PSLF, which was a byproduct of an executive order that President Trump had put out earlier this year where we were ordering the Secretary of Ed to ensure that the definition of public service excluded organizations that engage in activities that have a substantial illegal purpose. The committee kicked off on that. We had proposed language day one from the Department of Education. By the end of day three, that language was changed quite a bit, there was a lot of concessions going on between both sides. But unfortunately, at the end of the day, there was a vote of no consensus.

What that means is that the department no longer has to abide by the language that the committee worked on and created during the session. They can go back and they can put out proposed rules with the original language they had, they can keep some of the stuff that the committee talked about, they could keep the whole thing the committee talked about, or they could do something completely brand new that we haven't seen. That will probably come out, we assume they're trying to meet this November 1st, 2025 date so that the rules would go into effect July 1st, 2026. Just another thing for July 1st, 2026.

Assuming they're trying to meet that November 1 deadline to get these rules, they have to publish their notice of proposed rulemaking, and then they have to do a 30-day public comment period. They'll have to review those comments. Then they'll publish final rules. All of that happening in four months basically, which is a really quick timeline for negotiated rulemaking. I imagine in the next few weeks to a month, we'll probably see what those proposed rules are going to look like.

Hugh Ferguson:

Awesome. Thanks for that, Megan. I know we're waiting for possibly more things to come out of negotiated rulemaking and just waiting for updates from the department.

Megan Walter:

Yeah.

Karen McCarthy:

Yeah. Hugh, I'm glad you mentioned that. We're expecting more news about negotiated rulemaking, particularly related to some of the bigger provisions that are in the OB3, OB3 Bill. Because, as Sarah mentioned, there are so many issues in there. The Workforce Pell is a brand new program. We'll have a complete overhaul of loan repayment options. Those in particular, probably the new accountability framework. We would expect that Ed would want to negotiate some of those. As we know, even if they ... I don't know. I never want to say anything for certain. But when you add negotiated rulemaking in the mix, it tends to extend the timeline because I don't know how quickly they could pull that off. But some of those items that we would expect them to negotiate have a July 1, 2026 effective date, so that would be super challenging for them to pull off.

It really points to the gap sometimes between the effective date as laid out by Congress in the law versus what is operationally feasible for the Department of Ed, particularly if they feel that they need to do a negotiated rulemaking to establish those rules. I do expect that that is part of the conversations that they're having right now. It's what do we want to negotiate and when can we do it, and letting the community know what their plans are. That's a big conversation in and of itself. We expect to hear more and that will tell us a lot more about timeline in the reconciliation space.

Hugh Ferguson:

Yeah, that's a really good point. Yeah, I think we're just waiting for a lot more timelines to be put out and we will continue tracking them. I think we're coming up on time for this episode. I feel like we

covered a lot and there's even more that we could dig into. I think this gives members good reminders and updates just to follow a lot of these news items that we have in our newsletter and on the NASFAA site. We'll have some links to all this in the resources section. Folks can try and catch up before September, when we're back to our regular episodes.

Yeah. Thanks, everyone, for tuning in to another episode. Just as a reminder, we'll be stepping away for our weekly episodes throughout the summer, and be back with our regular planning in September. We want to hear from our listeners and we've put together a new feedback form with some specific questions for you all to consider to highlight any updates you'd like to see from us in upcoming episodes. Feel free to fill that out in the resources section of our webpage. We might be back with a popup episode over the summer if something crazy happens, TBD. Yeah, until that time, until September, we appreciate you listening. Hope you can subscribe. We'll talk again real soon.