NASFAA's "Off the Cuff" Podcast – Episode 377 Transcript

OBBBA, PSLF, and Accreditation: Untangling the Latest Developments

Hugh Ferguson:

Hey everyone. Welcome to another episode of "Off the Cuff." I'm Hugh Ferguson with our communications team.

Jill Desjean:

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

Sarah Austin:

And I'm Sarah Austin, also with the policy team.

Hugh Ferguson:

Jill and Sarah, welcome back. We've got a lot of things happening these last couple of weeks. And yeah, I think today we're going to dive into some new actions going on in the courts and our litigation tracker where we've been monitoring several different lawsuits that have been affecting financial aid recently and folks can navigate to the show notes to see all those different cases we've been following. But Sarah, do you want to kick us off with some more specific updates that we've been seeing these last couple weeks?

Sarah Austin:

Yeah, certainly. So we do have a lot going on. The fact that we even decided to make a litigation tracker tells you how many cases we've been following recently because that didn't exist previously.

So I have two updates really on lawsuits that I wanted to mention today. One is about a lawsuit against the RISE final rule from OB3, so kind of the loan related stuff, specifically the professional degree program definition, and then the other one regarding public service loan forgiveness.

Hugh Ferguson:

Awesome. Yeah. So to start on the professional degree developments and the updates to that definition, where do things stand right now? And just for members listening in, can you give us some background as to how we've gotten to this moment?

Sarah Austin:

Yes. Yeah. So of course what started all this was OB3, the One Big Beautiful Bill Act, has this new distinction between professional programs and graduate programs in terms of which loan limits apply to them. So the new distinction is what has prompted these lawsuits.

We've had several lawsuits about the RISE Final Rule and specifically this new professional degree program definition, what programs fall under that, which programs do not. We've talked about that part on "Off the Cuff" before. I know at some point, gosh, I don't know, time. I never know if that was a week ago or six months ago, but at some point I know we talked about it on "Off the Cuff." So I won't go into the details of all the cases, but definitely look at that litigation tracker on our website if you do want to see the multiple cases about this.

But the recent update that I wanted to mention was that one of the cases involves the naturopathic... Jill, tell me if I'm saying that right. She's our resident doctor on the policy team, but naturopathic-

Jill Desjean:

I've always said naturopathic, but I don't know.

Sarah Austin:

That works too. I'll say that. I'm going to trust you over me, naturopathic medicine. So this involves the associations for those schools, and they're challenging the RISE Final Rules exclusion of the doctor of naturopathic medicine, or the ND degree, from the definition of professional programs. So it was not on the list of professional programs and so they were challenging that.

And unlike the other RISE lawsuits, which targeted the eligibility criteria, this case argues that the department misapplied the original three-part test, kind of the criteria, that three-part test, when it determined that the ND degree did not qualify. And so the recent movement here is back on October 16th, the district court for the District of Oregon granted a preliminary injunction that requires the department to treat that ND degree as a professional degree. So that was the change back in October. And so therefore, they would have the higher loan limits for those programs for the plaintiff associations and their members. So it's specific to that.

But back in June, if you'll remember, this is kind of going even further back, back in June when the federal court had temporarily halted or stayed is kind of the actual terminology, parts of that Department of Education's narrow definition of the professional degree programs, the Department of Ed had put out a electronic announcement that basically gave a list of all the programs that were to be considered professional degrees during this kind of stay, this temporary time period. And so they would be temporarily considered professional programs until we know more.

So under this court order, here's the list of all the temporary degrees that are professional. So that was back in June, that electronic announcement. Once this new district court in Oregon granted this preliminary injunction for the ND degrees in October, the department then updated that electronic announcement.

So they added a blue note update, which I'm sure we're all familiar with now. We get these blue note updates quite a bit. They added a blue note update saying that now that ND degree, the doctor of naturopathy, naturopathy, I'm looking at Jill again, however you say it, someone will tell me, I'm sure, that degree, the ND degree or the NMD degree, are now included on that list of professional programs. So we got that update at the end of October.

And so now we also got another blue note update shortly after that, that basically was just clarifying that those were added to the list and they are considered professional degree programs for the duration of the District of Oregon's preliminary injunction. So a couple things to note here is that this injunction is actually the first to affirmatively award the professional degree program designation to a single degree. So that's kind of new there. And also, I think this goes without saying, but the department may appeal. So we've been seeing a lot of action on these lawsuits. We've been seeing a lot of appeals. So more to come here.

I don't think we have any final resolution. Like I said, there's multiple cases out there that are still kind of ongoing related to this professional degree program definition. And we do know that there still could potentially be an appeal on this one. So that's the latest update, but we definitely, I'm sure, we'll see more shortly as well.

Hugh Ferguson:

Yes. There are a lot of moving parts on this definition and applaud you for making an effort to pronounce this specific degree because I-

Sarah Austin:

Probably not well.

Hugh Ferguson:

... have just been... Better than me, I've just been referring to it as a medical degree, but that isn't super helpful for folks that are like, "wait a minute, another medical degree is applied here? Is it mine? Is it something I'm trying to navigate for my institution?"

And so it's really tricky to stay up to date on what specific things have changed in the degree, the degree designation that is. And so Sarah, is there any advice you have for schools or students trying to keep track of all these changes and updates to this list?

Sarah Austin:

Yeah. So we've done our best to create a few resources that we think may be helpful for students and for schools. So we of course have our OB3 web center, which I'm sure our members know about by now because we're constantly adding stuff to that, updating things. But on that web center, we do have one resource that is called Temporary Changes to Professional Student Loan Limits: What Students Need to Know. And so that is really student facing, but also helpful if schools want to take a look at that, of course, in their counseling of students.

But to just make sure that what students need to know about all these temporary changes, because like I said, there's a lot going on and it's kind of like some things are temporary, some things are more definitive, where are we at in the middle? Schools are making decisions on what loan limits to go with based on this temporary nature. So that document is really for student facing what they need to know about all these changes.

And then we also have a professional degree program definition timeline. That is more geared towards the financial aid offices, but really trying to make it clear of when these changes have happened and why you may have awarded different amounts depending on where you're at in the timeline. So the initial RISE rule, what programs qualified, then when we had that temporary stay, what programs were added.

So you may have changed the loan limits for certain programs at your school, and then the timeline of since then what other updates we have gotten. And both of those have been updated since this most recent change that I mentioned. So definitely take a look at both of those if you have not already. And I'm sure we'll link them in the show notes.

Hugh Ferguson:

Yeah, for sure. And a lot of helpful resources there in the litigation tracker and this professional degree definition is just one component of things that we've been monitoring over the last couple of months. And really it's approaching years now it feels like.

But yeah, so another thing we've also been monitoring is changes impacting the PSLF program. We've had a whole negotiated rulemaking session on this topic a while ago and have now seen this enter the legal system and there are things happening on multiple fronts with this. So Sarah, could you catch us up with what's been going on with the PSLF under the current administration?

Sarah Austin:

Yeah, there has been a lot. This is another one that's now going on years of all of this being top of mind. So back in March 2025, President Trump had signed an executive order directing the Department of Education to revise the PSLF eligibility criteria to ensure that the definition of public service excludes organizations that engage in activities with a "substantial illegal purpose." And I'm putting those in quotes for people who can't see me.

But really this is kind of on the employer side of things. So which employers would actually qualify if someone is working, if it would be public service or not. And so like Hugh mentioned, the Department of Ed actually went through a whole negotiated rulemaking session in summer of 2025, which that feels like a lifetime ago now. They did not reach consensus during that negotiated rulemaking session. So that really gave the department free rein to draft the final rule on this.

And they did that back in October 2025 again, so over a year ago. And that had an effective date of July 1, 2026. So the final rule would have allowed the Department of Ed to deny eligibility for forgiveness for public service if the employer was deemed to have a substantial illegal purpose. So that was kind of set to go into effect July one.

On June 30th, so just hours before it was to go into effect, a federal judge struck down that final rule, basically meaning that then that final rule was vacated, so we'd go back to what it was before then. So it did not actually go into effect on July 1. And the judge had ruled that the final rule was contrary to law. It exceeded the department's authority, violates the First Amendment, a whole bunch of things were said in that ruling. But then because of that, did not go into effect July 1.

Now, like I said, we've had a lot of litigation recently and we've had a lot of appeals recently. So in August, the Department of Ed actually appealed that decision to vacate the final rule. So they still wanted to fight for that final rule to go into effect. But then on October 21st of this year, so this is much more recent, the department actually dropped their appeal, which I think was surprising to many people. We kind of weren't expecting that. So they dropped their appeal, meaning that the final rule is in fact vacated. So we did not have that final rule going into effect.

Hugh Ferguson:

Got it. Yeah, because I remember when the rule had been struck down, we were trying to figure out next steps and what goes on in the process and how this could possibly play out. And then got to October and it was like, oh, this is done. It's resolved. It's... Right.

Sarah Austin:

Yeah, it's not going to play out. That was the answer.

Hugh Ferguson:

Yeah. So another neg reg session reaches its conclusion. But yeah, so what exactly is new in this space for PSLF now, Sarah?

Sarah Austin:

Yeah. So we're still talking about PSLF, even though yes, that final rule did not go into effect. So instead, now we have a new lawsuit that is more about the processing involved in PSLF, the whole process of getting PSLF. So what is the most recent update here is that the American Federation of Teachers, or AFT, in late October, right before Halloween, I believe, filed a class action lawsuit against the Department of Ed, alleging that the department is illegally withholding or delaying PSLF buyback

determinations. They're failing to award borrowers credit for time worked in public service and that they're illegally clawing back previously credited time.

So that's kind of what they're saying. And just real quick, if anyone's unfamiliar with the buyback program, it allows borrowers to buy back months, so to make a payment, that did not count as PSLF qualifying payments because they were in say eligible deferment or forbearance status. So they've say completed their 10 years of service, but there were some months in there that they did not get counted because they were in deferment or forbearance. So now they can make an extra payment for those months... Once they've reached their 120 months, they can make an extra payment and basically submit this buyback agreement to have those months counted and then therefore get their forgiveness.

So this new lawsuit alleges that the department is forced borrowers into a special forbearance that denied them the ability to earn PSLF credit after all the SAVE litigation, which is a whole nother thing, a whole nother topic, and that the department is actually withholding or delaying determinations on those PSLF buyback agreements, so sitting on them too long. And they also have said that the department is unjustly reducing borrower's payment counts through a corrections process where they actually had stopped updating the qualifying payment count on studentaid.gov, which I know we've covered kind of elsewhere before as well. And then really the plaintiffs in this lawsuit are asking the court to order the Department of Ed to process buyback requests on time, in a timely fashion, to restore any removed credits and to post all qualifying payments.

And the lawsuit actually noted, we were getting these counts of the buyback applications previously, and so they had referred to some of these counts in their lawsuit. So they had noted that between April 2025 and March 2026, the number of PSLF buyback applications doubled or nearly doubled from just under 50,000 to just under 90,000. And with the department only deciding on about 1,400 buyback requests per month. So kind of this huge backlog and how quickly they're processing them.

They did the math of like, okay, how long would it actually take to process if they kept this speed? And it was outrageous. And that's noting that the payment count or the buyback count that we had was back from April 2026. So assuming they've gotten a lot more since then and if they were keeping that pace, but also getting more, we have this major backlog basically is my summary of that.

So the department responded to this lawsuit saying that they're already working on a plan to streamline the program. At this point in time, no motions have been filed, no ruling has been made. So I know there'll be more to come on this one. So we have added it to that litigation tracker for our members to keep up to date. I'm sure we'll update in Today's News as we hear more as well, but definitely watch that litigation tracker for updates here as well.

Hugh Ferguson:

Yeah, definitely good to keep in mind. And this PSLF issue is almost like two separate issues in a way. We at least have one of them that's been resolved with the proposed change of the definition for the program. So that's no longer being changed since the department dropped its challenge there. But this other lawsuit dealing with the ongoing backlogs is still something we're going to be monitoring and seeing developments with. So yeah, definitely check out the litigation tracker on that.

And then we've also seen more action from the department on issuing final rules. And we recently got a final rule related to accreditation, I believe. Jill, can you fill us in a little bit on what's going on with that rulemaking?

Jill Desjean:

Yeah, for sure. And this might be one that's flown a little bit more under the radar for the financial aid community because we're still recovering from the round of rulemaking from last year with the student loan changes and the Pell Grant changes from the Big Beautiful Bill Act. But the department went on with rulemaking after we sort of saw that come out and started implementing those things on our campuses. The department held another session called AIM, or the Accreditation Innovation and Modernization Committee, that was focused on accreditation related issues.

And final rules came out for those on October 30th with an effective date of July 1, 2027 and an early implementation option of January 1 of 2027. And so even though this doesn't impact the day-to-day of the financial aid office, institutional eligibility to participate in the Title IV student aid programs all hinges in part on accreditation since institutions have to be accredited to be eligible to participate in these programs. And there also are some kind of downstream impacts of some of these changes that are going to fall on students and impact financial aid offices indirectly. So worth exploring for sure, even if we don't have to get mired in the details.

Hugh Ferguson:

Yeah, that sounds great. So Jill, what exactly does this rule do? I feel like we've been following so many final rules out of the department that it's hard to keep track of what's doing what.

Jill Desjean:

Yes, indeed. This is focused just on accreditation, and it does a handful of things. One, it allows for easier switching between accreditors. So right now, an institution is accredited by a single accreditor or maybe more than one if they have an institutional and a programmatic accreditor for some of their programs. But switching between accreditors is a whole process and the department, one of their aims from this rulemaking was to make it easier to encourage competition among the accrediting space and to allow institutions to more easily switch between accreditors.

It also imposes a number of new requirements on accreditors relating to how they are conducting their evaluations, ranging from how they're measuring student achievement and student outcomes, tips into academic freedom and intellectual diversity issues, as well as looking at an institution's compliance with federal and state laws. And it also imposes a new requirement on institutions related to how they accept transfer credits for students who are transferring into institutions.

Hugh Ferguson:

Got it. So is there anything here that directly impacts financial aid offices?

Jill Desjean:

Yeah, so nothing direct, but certainly indirect. I think the biggest one there is that the changes to how schools accept transfer credits. Obviously, the financial aid office is generally pretty far removed from that step, but certainly when students are transferring into our institutions, we are needing to look at the whole student and consider things like how many credits they transferred into when we're looking at SAP. And we're just looking at big picture, how much they're eligible to borrow or receive from Pell Grants and other types of financial aid and how much they're eligible for.

The change to the rule is that institutions must now accept all transfer credits that are comparable in content and learning outcomes from any other accredited institution, unless the school provides a reason in writing to the student for why they're not accepting those credits within 15 days. And then students will have the opportunity to appeal those denials. Schools also are not going to be allowed to have any kind of a blanket policy that would deny all transfer credits that came from a certain institution

or on the basis of accreditation. So you couldn't say we will not take any credits by transfer from any institution that's accredited by X accrediting agency. So the schools could still deny individual credits on a case by case basis, but not in these sort of broad ways against a single school or against a single accreditor.

And so from the financial aid administrator perspective, this could definitely address concerns about time to credential and the associated cost for transfer students to get their credentials. We know that there certainly is a real problem with transfer credits right now. Students lose an average of 43% of the credits that they earn in one place when they try to transfer to another institution.

So when you transfer, it typically means that it's going to extend the amount of time it takes you to earn that credential, and it's going to add to the cost of that credential. So presumably, if this leads to more transfer credits being accepted at the receiving institution, the school that the student is transferring to, students would likely be less likely to face Pell lifetime eligibility used caps, direct loan aggregate limits. So they won't be in the financial aid office in their last year or their last term saying, "Now I'm in trouble. I'm almost to the finish line, but now I don't have eligibility for one or more types of financial aid because I've used that all up." So these changes could potentially reduce those challenges, not just for students, but also for the financial aid office because they are really tricky to navigate in a world of limited resources.

I will say though, that said, the rules are not entirely clear in terms of how the credits are applied, whether a school just has to accept those transfer credits towards sort of general education or if they have to apply them toward specific major requirements for a student in whatever program of study they're in. So I could still see a potential for this not to solve all of those programs about student aid eligibility, because even if you've got 60 credits from another school, if they're all going to gen ed, odds are good that when you transfer, you're still going to have to retake some coursework that you took somewhere else. So I think kind of remains to be seen, but attempts to reduce the amount of time to degree, attempts to limit how much students have to borrow, attempts to not make students have to retake classes they take, all good intentioned, just waiting to see how this all plays out and whether it actually benefits students.

Hugh Ferguson:

Awesome. Yeah, so it seems like the world of neg reg just continues on and on.

Jill Desjean:

It does seem never ending, Hugh.

Hugh Ferguson:

For sure, yeah. And I mean, it really has us looking at the calendars quite closely, trying to make sense of what's coming and what's changing and how things are affected. But as we were looking at the calendars earlier this week, we've also noticed some updates from FSA with more details concerning their training conference that's happening next month... It's literally just four weeks away now. So to change gears a little bit, Jill, can you catch us up on what's new with the training conference for December?

Jill Desjean:

Yeah. So information about this training conference has been coming out kind of piecemeal. So we have had the dates for a little while here in... Well, just outside of Washington, DC, National Harbor, Maryland. And the registration process has been open for a little while. It is still open if people haven't

had a chance to register. And a lot of people might've been waiting for the agenda, which is what just came out most recently this week.

And so the schedule shows all three days, December 14, 15, and 16 as full days. So if people were waiting to register to see how their travel arrangements might have to play out, how many nights they'd have to stay over, it does look like if anyone's coming from any appreciable difference, they'll probably have to arrive on Sunday and will likely be able to leave until, if they're lucky, get a Wednesday evening flight. If not, probably not till Thursday. So it'll be the bulk of the week for people who are coming from further away for sure.

The department has said registration will be open through December 9th or until they reach capacity, whichever comes first. So there are spaces open now, but certainly if you're thinking you want to come, I think sooner rather than later would be a good time to get that registration submitted. The registration is free, and the department provides information when you register about the hotel room blocks that they've booked in that area in National Harbor because there are a handful of lodging options there.

And in terms of content on that agenda, there are several sessions devoted to Workforce PAL and to the new stats and earnings accountability rules. There are some FAFSA updates in there as well. That's kind of an evergreen topic for the FSA training conference, but I saw a session that was also related to some upcoming improvements that the department is looking to make, including one related to sharing in-progress FAFSA information with states and institutions. So I think that'll be a really interesting session to see, to hear where the department is headed in that direction and how that could be helpful for schools and for students.

Some of those other evergreen topics that we know and love from the FSA training conference are back again for this conference, a session on NSLDS. There's one on COD. There's an update from the OIG. I feel like we always have those at FSA training conferences and they're always really interesting. I always learn at least one thing, even when I think I know everything in those sessions.

They're bringing back birds of a feather sessions. So they've got some based on highest degree awarded. There are some for HBCUs and tribal serving institutions, handful of other sort of different special interest sessions for people to get together and connect with people who are serving students in some broader category.

And the top 10 audit and compliance session, which I feel like is again, one that we always see at the training conference is back. I also saw some best practices sessions on aid offers and on affordability. I'll be really interested to see where the department heads on those things.

And the other big thing is that there's kind of a notably missing. I didn't see anything on the agenda related to adjustments to loans for less than full-time study, the schedule of reductions process that schools need to go through for adjusting direct loans. I didn't see anything about expected time to credential, given that we've had a lot of confusion in that space with sort of guidance all summer and then sort of a shift or a new interpretation or whatever you might want to call it back in August, just didn't see anything specific to loan related changes in the Big Beautiful Bill Act at all.

There is a policy implementation update scheduled, so presumably some of those topics will be covered there, but I was kind of expecting to see a real sort of training session on those topics, especially since we were expecting a schedule of reductions webinar back in September and that got rescheduled, but there's no date for that yet. So we'll see how much we hear about those topics, but it's certainly a very full agenda and looks to be like a really good conference.

Hugh Ferguson:

Yeah, for sure. And we will be keeping an eye out just to see if there's any more details provide about the sessions that are upcoming or any more previews. And yeah, just encourage folks, if you're able to register.

As we've previously covered, the conference had two open registration windows. The first phase has closed, and that was just for institutional registration. We're now in a period where it's open for anyone to register, but that could close once they reach capacity, and we don't know exactly if or when that'll happen. So definitely encourage people to get on that when they can.

And yeah, so I think that's everything we have for today. Lots of moving parts with the calendar. And yeah, there will be a lot of items in the resources section this week, so be sure to check all those out. And yeah, we will be continuing to monitor updates on all things litigation related and the FSA Conference, and we will be back with another episode real soon.