NASFAA's "Off the Cuff" Podcast – Episode 303 Transcript

OTC Inside the Beltway: The Latest on GE & FVT Regulations, SCOTUS' Regulatory Shakeup, and FAFSA Timelines

Hugh Ferguson:

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

Karen McCarthy:

I'm Karen McCarthy with NAFSA's Policy Team.

Jill Desjean:

And I'm Jill Desjean, also with NAFSA's Policy Team.

Hugh Ferguson:

Welcome back everyone. It's been a minute since our last episode. We've had our national conference and virtual conference, both of which feel like they were eons ago at this point and have had some never-ending news cycles that have kept us pretty busy the last couple of weeks. But yeah, I was just wondering before we get into this week's episode, because we have a lot of topics to get through if Karen and Jill, you guys wanted to, I don't know, share any advice you guys have for just decompressing from the news cycle or anything you've done to just fill in the extra time we had at the conference to enjoy Milwaukee.

Jill Desjean:

I don't know if I have advice for people, but I can tell you how I've been decompressing. This is fresh in my memory because I was doing it this morning before I logged on. I'm going to the Olympics in August and I have some tickets, but I don't have them all, and they kind of release them on Thursdays. So I get up and I show the tickets, and this morning one that opened up that hadn't been opened before was racewalking, and I was like, "Okay, tell me more." I know what it is, but then I was sort of like, would it be interesting to watch? I don't really know.

So I ended up in some YouTube video that was a explaining just like the body mechanics of racewalking, all the rules of racewalking, the fact that, I don't know if you guys knew this, when you racewalk a marathon, people can do it in under seven minutes per mile, which is a lot faster than I can regular run. But I spent all that time researching and learning and then when I went, the tickets were all sold, so I'm not going to do racewalking or maybe I'm if some tickets open up next week. But yeah, I know a lot, but I won't be able to share any personal experiences of Olympic racewalking.

Karen McCarthy:

Do they do it around a track or are they out on the roads around a track?

Jill Desjean:

It was not clear. It looked like it was the marathon, but it was around a track. The videos I saw on YouTube were actually outside, so I guess the racewalking marathons do take place outside sometimes, but this was around a track, I think probably around the track for the judges because you get disqualified if you have to have some-

Karen McCarthy:

One foot on the ground at all times, right? Yeah.

Jill Desjean:

And so I think it's probably harder to judge if you just let them go outside. So they must have judges placed around the... This is all conjecture, I don't really know.

Karen McCarthy:

Yeah.

Jill Desjean:

I learned just enough to be dangerous this morning about racewalking.

Karen McCarthy:

Huh? On the flip side of that, I know Jill and I are both runners and I have heard sometimes people will say, oh, well I'm just so slow. I was not even really running. It was more like a fast walk or a Jog like thing. And so my response is always, if both feet were off the ground at any time you are running because yeah, it's the flip side of race walking, right?

Jill Desjean:

Because you are a race walking rules expert.

Karen McCarthy:

Yeah.

Hugh Ferguson:

Oh, learning so much. Are you guys able to run outdoors with the heat wave we've been having or are you mostly inside?

Karen McCarthy:

I'm outside.

Jill Desjean:

Outside.

Karen McCarthy:

I cannot stand treadmills to run on. I don't mind walking on them every once in a while. But yeah, I do call it the dreadmill. It's just a terrible, I'd much rather be outside in almost any kind of weather.

Jill Desjean:

I like a treadmill if I'm trying to pace myself for some reason, especially your body just has a natural cadence and you go out and you want to run it, and sometimes your body's just not in a place to do that. And so it's like you need to... If I'm outside just the cues outside, I want to go whatever that pace is, and then I'm dead. So I will go on the treadmill and set it to be like, this is how fast you're capable of running right now. Don't go faster than that. So I do like a treadmill for that, for speed training and stuff. But outside is more pleasant, even if it is super-hot.

Karen McCarthy:

I do go before sunrise, which does make it better. Still not great lately with the heat, but it is better. Yeah, once I referred to myself as a vampire, once the sun is out, get inside in the AC.

Hugh Ferguson:

Yeah, I completely agree. I feel like it's the only time that it's bearable, but then you're sleep cycle gets very messed up for the summer, but the treadmills days because at least where you're going to end up when you're all done as opposed to being outdoors.

Karen McCarthy:

That is true.

Hugh Ferguson:

Yeah. Well anyway, trying to keep the sanity this summer, but the department I guess has other plans. We're into July now, and let's dive into our first topic of the week, which is the latest developments on gainful employment and some of the changes to the regulatory landscape in the past couple of weeks. Jill, could you catch us up on where things stand specifically with gainful employment and financial value transparency reporting?

Jill Desjean:

Yeah. So there's two gainful employment program related things going on right now, and I think sometimes people conflate them. The first one has to do with the length of a program that leads to gainful employment, and that's a rule that changed on July one. And this actually part of the program participation agreement regulations as opposed to part of the gainful employment slash financial value transparency regulations. And the rules changed through negotiated rulemaking and were released last fall effective on July one to further limit the amount of the number of clock hours that an institution can offer a gainful employment program and still receive Title IV aid for it. The idea, it used to be your program length couldn't be more than 150% of your state's minimum requirements for entry into that occupation. And the department is chopped that down to 100%.

So just for an example, if say in Maryland you needed 1500 clock hours of education to work as a cosmetologist here, schools in Maryland offering cosmetologist programs used to be able to offer programs as long as 2,250 hours, which was 50% longer than the state minimum, and they could still give Title IV aid to students for those programs. But under the new rules, a school would not be able to offer a program that was longer than 1500 hours in Maryland in order to offer Title IV aid. And this would've been for new students only. So continuing students if they were enrolled in a longer program could continue under the old rules, the 150% of the program length and still get Title IV aid, but new students enrolling would have to be in these shorter programs.

So that's kind of all the old news. We've been talking about that forever. I've actually talked about that like five times in the podcast already. So sorry, everyone. The update is that an organization called 360 Degree Education sued the Department of Education and we're granted a temporary injunction on this rule, which prevents the department from forcing the rule change until a court issues a final decision. So this doesn't make the program length limitations go away entirely because the old rule has been on the books for a long time. So basically it prevents the new rule from then becoming effective, which means the old run is still in place. So pre-July 2024 rule that applied before with 150% of your program length being the longest of the state minimum being the maximum allowed program length is still in place until there is a final court decision.

Karen McCarthy:

And to clarify, so you just talked about this maximum program length, it only applies to GE programs.

Jill Desjean:

Yap.

Karen McCarthy:

And only the length limitation really only comes into play if the state has a length limitation. And there are some states for some programs or across the board who do not have these, because I know we've had some questions about what do I do if my state doesn't have such a limitation?

Jill Desjean:

Yep. That's been the most popular question we've heard for sure. If your state doesn't have a minimum program length, then you don't have one, you can refer it. Your accreditor might have one, so you might have to comply with whatever your accreditor offers, but that wouldn't be a rule for Title IV eligibility, that would just be to maintain your accreditation.

Karen McCarthy:

And then the other thing that I have heard a lot is that you mentioned that there were two separate gainful employment items, and so far you've only talked about the one about the program length because people hear that this one is "on hold" from the temporary injunction, and they then jump to thinking that the on hold also applies to gainful employment reporting, which I think is the next thing you're going to talk about.

Jill Desjean:

Karen, it's like you're reading my mind.

Karen McCarthy:

I know, I know.

Jill Desjean:

Same way like race walking, gainful employment.

Karen McCarthy:

Yeah.

Jill Desjean:

So this is separate from what I just talked about. All that I just talked about is part of the PPA regulations. It's about the length only of a gainful employment program. The gainful employment financial value transparency, accountability and transparency framework that the department came up with also through NEGREG is a separate piece. And that also became effective July 1st. So that's where there's more confusion, two GE things all effective on the same day. So this gainful employment financial value transparency framework is about finding the value of a post-secondary program. Does it pay off? And so it's looking at students completers debts and their earnings and applying these metrics to them and seeing if programs pass or fail those metrics and using those as a proxy for the value that someone could get from these programs.

And so this is the rule where the debt-to-earnings ratio comes into play, this new earnings premium metric that is a new piece of the gainful employment regs because they've come and gone over the years. This is I believe, the fourth iteration. And so this is what the Department of Education would ultimately publish and require schools to issue warnings and acknowledgments for programs that fail those metrics. And notably, there is a ton of institutional data reporting requirements for the Department of Ed to be able to perform those calculations to figure out if you pass or fail the metrics. And when the department first passed these final rules, wrote these final rules last fall, they said that they wanted schools to report their institutional data by July, 31st, that would've been a little more than a week from now. They extended that deadline to October 1st.

And NASFAA has been asking for more time before the extension and ever since the extension and our justification has been that we've lost so much time and picked up so much extra work dealing with all these FAFSA issues this year, the schools just don't have the time to be able to prepare that data talk with the other offices who hold that data and to report it all even by October one. So we've just been asking ed for an extension but haven't been successful there. So we escalated that to Congress in a letter we sent up to Congress in June right before our national conference. And I think it's important to stress here that we've been clear we don't want a delay of the regulations, we don't want a delay of the accountability and transparency pieces of this, we want to a delay of our reporting.

We think that the department can still meet their own deadline of publishing these metrics in 2026 and imposing the warnings and the acknowledgement pieces. We would just be giving them less time to compile all that school data that was collected. So we want until next July to report, and we're basically kind of saying, "Look, we lost about a year this year of our ability to be able to collect all this data because we've been dealing with the fallout from the FAFSA. So we would appreciate it if you would take some burden now and have less time to do all of this work and still get your accountability and transparency framework in place by 2026 like you always wanted to do."

Karen McCarthy:

Hey, Jill, I have a follow-up on that one too because one of the things that I have heard from folks who are really pushing for GE to be implemented do not want schools to have any delay, really want to get this going, what's the problem here? Schools did this reporting with the last iteration, so can they just do it again? They already know what they're doing. It's new data, new students, but they've gone through this before. How hard is it?

Jill Desjean:

Yeah, it's a good question. I think the biggest thing is the addition of this financial value transparency framework, that's new. Gainful employment used to apply to this subset of programs, and it was most programs offered at for-profit institutions, and it was certificate programs offered at publics and not-forprofits. So it was a small subset of all programs offered in post-secondary education. And so yes, those institutions that had "gainful employment programs" in the past might be well prepared to report again. It is a largely similar framework. There are enough changes that you can't just whip out your old reports. Of course, there could be systems changes, you could have personnel changes. The last time these rules were in place were almost a decade ago in 2015.

But the big thing is the addition of the financial value transparency framework because that encompasses all programs. So schools that never even had to think about gainful employment before because they didn't offer any gainful employment programs now have to do all the supporting. So they're starting from scratch. So that's really where the biggest deal is. Not to say it isn't a big deal for schools that had GE programs, but it's a very big deal for schools that didn't have GE programs in the past.

Karen McCarthy:

Yeah, so Jill mentioned that we sent this letter to Congress asking for them to push the Department of Education, either through legislation or otherwise to further postpone the reporting deadline for gainful employment and financial value transparency. And then we went to the conference, we talked about it at the conference. Everyone was asking us, what is NASA doing? This deadline is untenable. And after we got back from Milwaukee, we then went out to the NASFAA membership with what we call a call to action. And so we are thinking that if we are going to be successful in getting a further delay in gainful employment reporting, then we will need the involvement of our full membership to put pressure on their congressional representation. And we don't do these call to actions lightly. We really do reach out when we really think that A, we need your help and B, your help can really be the difference maker here.

So we did send out an email to all of our membership to explain what the issue is and that we were trying to get a deadline extension, and we'd like your help in reaching out to your congressional delegation. So in that call to action, there's a links to help you find contact info for your congressional representatives, and there's also a template letter where you can insert information about the number of programs that you have at your school and the number of students and how much work would be involved and how prepared you feel or not to do that. So we did do that several weeks ago.

So hopefully some of you have been able to reach out to your congressional representatives. We know that not everybody has the freedom to do that on their own and that some of you need to work internally within your institution to do that. So to the extent that you were able to send those messages to Congress, thank you very much. We hope they help. We'll be doing some follow up with Hill offices shortly to revisit and see what they're thinking and if there is any traction there, and we'll keep you all updated.

Hugh Ferguson:

Yeah, that all sounds great. And the regulatory landscape has been pretty active these last couple of weeks and months, and it's not just limited to GE and financial value transparency. I feel weird saying FVT, it just does not come off easily for me.

Karen McCarthy:

I know. I just say GE, but it's also financial value transparency. Don't forget that.

Jill Desjean:

You say it nine million times, it starts to roll off the tongue, I speak from experience.

Karen McCarthy:

So do you say it like GE FVT?

Jill Desjean:

GEFVT. GEFVT.

Karen McCarthy:

Okay. All right.

Jill Desjean:

Mostly in my head I think because I write about it a lot and when I write I'm kind of stream of consciousness. So yeah, it's in there.

Hugh Ferguson:

Yeah. Well, aside from those two acronyms, we've also seen quite a lot of uncertainty in the regulatory landscape due to this recent ruling that came from the Supreme Court and it concerns the administrations, this being the White House's regulatory authority, and how much flexibility agencies like the Department of Education have to interpret laws and how they're formulated. And so we're still getting a sense of what the fallout is going to be from this ruling, but Karen and Jill, could you fill our members in on just what this ruling could mean and how we're approaching the uncertainty that could come from it?

Karen McCarthy:

Yeah, I can get us started. And this will also allow us to bring in GEFVT again when we talk about it. So this is the Chevron case in the Supreme Court, doesn't directly impact any of our issues. I remember last year at this time, we were all very anxiously awaiting the decision on race-conscious admissions, which obviously is in our wheelhouse. Chevron is much bigger than that and will really affect all of the federal agencies across the federal government. And as you mentioned Hugh, it involves how much power federal agencies have when they are interpreting ambiguous legislative language. And in the past, there was always this deference to the federal agencies where legislation say didn't address something in particular or was a little ambiguous. And the assumption there is that there are experts in the federal agencies who have a lot more subject matter expertise in this area. So we should defer to those experts in the agencies to do a proper interpretation of what the law is really saying or not saying, especially in areas where it is ambiguous.

And that has been kind of the standard for many decades, I think about four decades. And so that deference, Chevron deference was overturned. And so what that means is kind of remains to be seen what that means in terms of our space, but there will be implications across the federal government. And so when you think about that, that means that the Department of Education has a lot less leeway than it has historically had to interpret statute, which if you do not follow the regulatory process very closely, you would not understand necessarily that they do that all day every day in every regulatory NGREG that we have ever had. We talk a lot in our presentations lately about how it used to be that Congress would legislate, we'd have some big reauthorization or other smaller bills, and then the Department of Education would need to implement what the legislation told them to do.

And that legislation would be laid out, there'd be a little bit of interpretation in there implementation that they would do, but that the rulemaking process generally followed legislation. And that now in recent years, we are way, way overdue to have reauthorization, but the regulatory machinery has just been cranking and cranking year after year. There were four or five years that every single year we were doing negotiated rulemaking. And that was mostly because the Department of Education was using the authority that it had either to regulate on its own where the statute didn't specify certain things or to interpret the statute in certain kinds of ways. And we got new rules out of that. And so this is, I think one of the biggest examples of that is gainful employment, like what Jill was just talking about, which has always been just gainful employment. Financial value transparency is a new thing.

But the history of gainful employment is that that word was in the law since 1965, that it said that certain programs, in order to be Title IV eligible must prepare students for gainful employment. But the law never specified what Congress meant by gainful employment. So that's what we have been doing time and time again through the regulatory process since 2010, is that the Department of Education has been establishing rules that interpret what it means to be gainfully employed. So now the Supreme Court decision has said, "Oh no, federal agencies, you really can't do that anymore." That the judicial process will then kick in. Well, a lot of these rules will be subject to a lot more judicial scrutiny in areas where the agency may have interpreted or gone out on their own.

Another really high profile example of this happening is in the area of income driven repayment plans, because the income, you all know we have a lot, the only one where all the provisions of the plan, the percentage of your discretionary income, if there's any forgiveness at the end, who's eligible, what loans are eligible, all of that is laid out in the law is IBR, the income-based repayment plan. All of the other plans have been created by ED under its authority in the law that allows them to create income contingent repayment plans. And so they have taken that kind of language that allows them to establish income contingent repayment plans and gone off and done what they wanted to do with income driven repayment plans, which we have seen has blossomed, I would say over several years. That's why we have all of these plans. And so particularly we've seen all the scrutiny around the save plan and the provisions there and some people not liking what the department has done with this new repayment plan.

So I would say with Chevron deference gone away, we might expect that things like initiatives like the save plan where it is a presidential administration pushing forward their agenda through the regulatory process, but not clearly laid out in the law, that that might be challenged more frequently than it has in the past because we no longer have this deference to the federal agencies. So a lot of it, I think it will change a lot in terms of what we see being regulated, perhaps how ED goes about it, because they don't want to see all of their work come undone by a federal court in the end. So they may be tackling things with an entirely different lens than what we have seen in recent years in the regulatory space.

Hugh Ferguson:

And I do wonder, Karen, the department being able to have these powers anymore, where is that line drawn from SCOTUS? Are regulations that went to effect this July 1st going to be impacted or what's the date of you've been grandfathered in to allow the department to carry out its authority?

Karen McCarthy:

Yeah, I don't know that we know that at all. It kind of remains to be seen.

Jill Desjean:

Yeah, I've got a list of articles I want to read about the retroactivity and statute of limitations on this and how far back you could possibly go because I'm super curious about that. I've only read a tiny bit and I don't understand it. This would be a good podcast for John to be on.

Karen McCarthy:

I know. And there was one other piece about this that I was like, oh, this kind of makes you say hum too, is that there's, how would the Department of Ed approach rulemaking differently? But then the other angle that I was thinking of is what does that mean in terms of how Congress writes and passes legislation? Because they know that this would require, if they want to see something happen, they need to be less ambiguous than they have. I think that they recognizing sometimes their lack of expertise, there's probably time constraints there as well. And there's also, there's a political angle to it as well that the broader they make legislation, I think they're more likely to get support and be able to pass the legislation once you start diving into the details. And there's just more points for people to object to things.

And so I think they often intentionally leave things vague with the understanding that A, we don't have time, this is how we're going to get it passed, and C, we are not the experts in this area. Let's let the Department of Ed figure out the best way to do this. And so now, if they have to really specify what it is that they want, I kind of wonder what that will mean for the legislative process as well. Especially think about gainful employment that we have been saying, and through this whole 15 years that we've been tackling the regulatory process with gainful employment, everybody has said, why doesn't Congress define what they mean by gainful employment? And they have chosen not to do that for whatever reason. And yeah, it would be super interesting. I don't know what all their reasons are for not taking that up if it is like a political time interest. We don't have the expertise, but all of those things are up in the air with this new decision.

Hugh Ferguson:

So big implications there still following what's going to happen. And it's very significant, we just don't know the level to which it is going to impact the department specifically. But I think now I want to turn to the topic that's been front of mind for what feels like forever now, but that's just the FAFSA in general. And we've had a lot of news and updates in the last couple of weeks. And I guess just to start Karen, could you catch listeners up to where things stand right now since our conference?

Karen McCarthy:

Yeah, there've been several announcements both during the conference and in the weeks following. And so we won't go into all of them, but I categorize things in two buckets with what's happening with 24/25, which for those who don't follow closely, we're still not done with 24/25 and we're not fully implemented on 24/25 yet because I think a lot of people have already looking forward to 25/26 and that October one release date, is that a possibility? What's going to happen there? But 24/25 is not done yet. And during the conference, the department did announce several things on 24/25, particularly around corrections and the ability for schools to make corrections. They did say that the corrections through the FAFSA partner portal would come live at the end of June. That did happen. They're not going entirely smoothly, I understand. But that process is basically a manual one by one submission of corrections. So it is some kind of corrections, but not scalable in any way, not ideal and not the big thing that everybody is waiting for.

The big thing that everybody is waiting for are batch corrections, which you submit corrections via a batch. So it's a lot more streamlined. You can make all the changes as you're working through on your system and then all of the corrections are submitted in a batch to the Department of Education. And that functionality is still not available. And they did announce during the conference that they are now hoping to have that up and running in the first part of August, so that is much later than everybody had hoped for. For those who aren't financial aid administrators who might be listening a reminder that corrections are normally available when the FAFSA opens up. So ideally last October 1st, batch corrections would've been available. But here we are for the 24/25 year, and we don't have them yet.

I haven't received any updates. I'm sure there are some people listening, hoping I'll have some insider info on this. I haven't received any updates on where they are now since they made that announcement. Do we think that it will actually be in the first half of August? Do we have an idea if it's the 1st or the 15th or when it is? I don't have any updates on that at this time. They did say also with regards to 25/26, that they will be, by and large, I hate to use the word rolling over because it's not rolling over, but using kind of rolling over the 24/25 FAFSA into 25/26. So they will not be doing any big updates or enhancements for 25/26. And because they are not making significant changes, they will not be having a FAFSA public comment process like they would otherwise be required to do per the law.

So what they will be doing instead is having listening sessions with groups of stakeholders. And then for folks who are not able to participate in one of the listening sessions, they will also be putting out an RFI, a request for information, which is a way for people to send in comments anyway. So I do know that those listening sessions have started from FSA. We haven't participated in any yet, but we have been in touch with them about getting those scheduled. We do know that they plan to have several listening sessions with financial aid administrators directly. But if you look at the announcement when they announce the listening sessions, they very clearly are asking for feedback on items that areas where they are willing to make changes.

So they said, we'll take feedback related to communications to applicants help text, pop-up things. They are not soliciting feedback for 25/26 on things that they clearly will not be able to implement in time for 25/26. So if you look at that announcement, you kind of have to read between the lines there in terms of what they're looking for and what they're not looking for with these listening sessions. They did say also that they still have a goal of launching the 25/26 FAFSA on October 1st, but they do use some kind of language about we will be sharing more information about additional FAFSA functionalities as it becomes available.

And that was one of our big questions was about the launch of the FAFSA for students and does that October 1 goal, does that also include all the other pieces that for 24/25 were very delayed?

So the processing of the FAFSA, sending the ICERS to the schools corrections, all of that, it sounds to me from the announcement and from what they shared at the conference that their October 1st goal applies to the launch of the FAFSA only. Again, reading between the lines, the additional functionality and more information is coming. Sounds to me like they will have some kind of alternative timeline for the other pieces of the FAFSA. So we have been following up with them pretty regularly on that timeline. Stressing, again, similar to what we did last year, that we need to know the timeline pronto so that schools can make plans on their workload, communications, resources within the institution, all of that as well.

Hugh Ferguson:

So a lot of moving parts and a lot of things to keep track of. But thankfully, NASFAA has put out a updated timeline on the FAFSA implementation process and Jill, could you catch us up on what's in the timeline and what members can expect in the coming weeks?

Jill Desjean:

Yeah, so we created this timeline. We kind of created it once we realized that a lot of things were going to be happening with the FAFSA. It wasn't going to just be a, hey, everything is done. And so we were just keeping track of every announcement that got made. Hey, ICERs will be available by the end of January. Hey, they won't. Hey, we need to fix the formula, whatever it might be. And we turned it into something for our congressional testimony that happened back in the spring as an appendix to our testimony to just show the members of the education committee the series of events that had unfolded to date. And our members really liked it, and they said that it might be helpful for them to share with others on campus to be able to show them what this year has looked like for them and where we've encountered bumps in the road, should I say.

And so we decided to just keep updating that once a month with all of the latest updates from the department, any new developments in terms of timing, opening of corrections, potential, future processing of paper FAFSAs, that sort of thing. So it's updated through the end of June. We sort of wait until the end of the month. We put in everything that happened that month, and then we publish it early the next month. So keep your eyes open for an updated version again in early August.

Hugh Ferguson:

So yeah, the FAFSA has been top of mind for everyone, and it's even gotten into the congressional agenda that we've seen in the last couple of weeks. We've seen congressional Republicans in both chambers put forward a bill that would aim to cement an October 1st launch of the upcoming form. And so Karen and Jill, could you catch us up on where things stand with this legislation and what its potential impact could be?

Karen McCarthy:

Yeah, I can tackle this one. So the bill is called the FAFSA Deadline Act, which I love because I don't know, you both write a lot about various pieces of legislation. I don't know if you get lost sometimes with these bills that are called Supporting College Student Success. What does that bill do again? I love FAFSA Deadline Act because we know exactly what it does.

Hugh Ferguson:

I'm surprised that Deadline isn't a whole acronym for what they actually want.

Karen McCarthy:

I know, yes. So what the FAFSA Deadline Act would do is that it would force the department to release the FAFSA by October 1st. And so as we know, we've talked about this in the past, that right now in the law, the deadline for the department to release the FAFSA is still January 1st. They have in recent years, up until last year, been releasing it on October 1st since we moved to prior year back in 2016. They've been doing that, but they were not required by law to release on October 1st. And so what this would do is codify that October 1st release in the Higher Education Act. And it moved, these initial steps, it moved pretty quickly. It was introduced and it went to markup and it passed through the education committee in the house. I believe the vote, I think you told us Hugh was 34 to six.

All Republicans voted for it, and there were 14 Democrats that also joined the Republicans. So it's nowhere near being law at this point. There's still a lot of steps that need to happen, has to go before the full house, then over to the Senate. And so all of that, they have ways of moving things along, but it's still a long ways or many steps that need to happen before it became law, if it did. There is an amendment that they agreed to in addition to the October one launch date, it would require that the secretary must certify by September 1st that they are on track for the release by October 1st. And if not, then Secretary Cardona would be required to testify before the education committee. And I did see a statement, which made me laugh. It said that the idea there is that if they're not on track, that Congress might be able to offer some assistance in that month of September to help them get on track by October 1st and I can't imagine what kind of assistance that might be.

But they did approve that amendment and it did pass through the education committee with bipartisan support. So we'll be keeping close tabs on it. When the bill was introduced, we had lots of folks reaching out to ask for our comments and what our thoughts were on this October one date. And as many of you know, it has been a very long standing reauthorization recommendation at NASFAA to codify the October 1st date in the HEA. So on the one hand, we would love to see October 1st in the law, and that we can reliably predict that the FAFSA will come out on October 1st every year. However, this year is a little bit of a different year, and we do not think that necessarily forcing the department to comply with an October 1st full launch in this particular year would guarantee that the FAFSA is up, available 24/7 and fully functional for all types of FAFSA applicants.

And so our concern is that if they were required by law to push it out on October 1st this year, that it might not end well and that we might end up with a reprise of what we saw last year when they had released the FAFSA. It was only available for a couple of hours and nobody wants to see that happen again. So while overall we're very supportive of an October 1st launch, we want to see that in the law, we just don't know that this year is the right year to be forcing the department into that October one launch date.

Hugh Ferguson:

Awesome. Yeah, this was a very interesting markup to follow just because you're not used to seeing Democrats and Republicans not at each other's throats the entire time. But yeah, that's definitely something we're going to be tracking. And it's been very active in Congress the last couple of weeks, and they've even kicked off their annual appropriations process for the upcoming fiscal year. And that's also in its sort of infancy stage, but has significant impacts on the Department of Education. And so Jill and Karen, could you catch us up where things are there? Because it seems like a bill, like the FAFSA Deadline Act could be a provision that would get tacked on to a spending bill, but that timeline aspect of September one with the secretary needing to report out whether or not the FAFSA is going to be delayed makes it seem like they wouldn't want to combine these two things.

Karen McCarthy:

Yeah, because we don't expect that an appropriations bill would pass before. Yes, I hadn't thought of that September one amendment, and that kind of tightens up the deadline even further. Interestingly, you mentioned, Hugh, that some Democrats joined with the Republicans in supporting this bill, and I think there was a lot of discussion about whether this is the right way to get the FAFSA out on time and working well. And I think the fact that some Democrats did join with the Republicans is a sign that we've been talking about that everybody in Congress wants to see a better rollout for 25/26 in that Republican offices and Democratic offices had been reaching out to us over the past year. What can we do to help? What's going on with the FAFSA? What do you need? So it definitely is not a single party area of concern. So I think some Democrats think this is the way to go, and others shared our concerns about maybe not this year. This might end up backfiring on us if we force them into October 1st.

And there are some people making the argument that if Congress really wanted to help the department in terms of the 25/26 FAFSA, that they need to have additional resources. And so that was part of the Congress required them to push out this new FAFSA and the Department of Education saying that it wasn't basically an unfunded mandate and that they needed additional resources in order to pull that off. So whether or not you agree with that kind of the resource argument plays into the appropriation cycle that's going on right now. And the house bill that did pass through the Appropriations Committee would substantially decrease the funding available to FSA to administer the Student aid program. So we haven't even talked about the funding for the actual programs. This is just money to go to federal student needs so that they can do their jobs.

And so I thought this was super interesting in this bill that did pass through the House Appropriations Committee, the Department of Ed would receive $1.5 billion to administer the student aid programs, which would be a 26% cut from what they received last year and much less than what the Biden administration had requested. So yeah, that's 26%, 1/4 of their budget would be reduced under the bill that did pass through the committee. And in terms of our programs and the funding for our programs, it doesn't look great either. It would flat fund the Pell grant program, so the maximum Pell grant would stay the same again for the second year in a row because last year, we didn't see any increase either. And then for both of the campus-based programs work study, and it would cut the funding by 50% for both of those programs.

I have seen some talking points around what that would mean if the campus-based programs were cut in half. And it wouldn't necessarily mean that there would be a 50% reduction in recipients, because if you understand how the programs work, the schools get their allocation, there's a matching requirement, and then they decide within the federal parameters how they're going to make those awards. So schools could not reduce the number of students, but reduce the size of the awards. There's lots of different ways that schools could tackle it. It wouldn't necessarily be 50% fewer recipients, but a 50% reduction in funding is super significant and not something that we would want to see. So we did also put out a statement condemning those proposed cuts to our programs as well.

Hugh Ferguson:

So yeah, thanks, Karen. It's important to note that the spending process could be heavily influenced by the upcoming presidential election, and members are typically out for the bulk of October. So these bills might not be finalized until much later in the cycle than usual. But we'll definitely be keeping track of how members try to avert government shutdowns and just what happens with these upcoming spending bills, especially since the Senate hasn't done their education portion yet. So yeah, lots to catch up on there. But thanks everyone for tuning into another episode of "Off The Cuff". As a reminder, our summer hiatus will be taking place for the next couple of weeks, and we'll be back with more episodes in September. But if there's any major breaking news there seems to always be, we will gather together some of our team to provide you guys with some quick updates. But if you don't hear from us, have a great summer and we will talk to you again really soon.