

# NASFAA's "Off the Cuff" Podcast – Episode 264 Transcript

## OTC AskRegs Experts: Federal Work-Study and Murky COVID Flexibility

Allie Arcese:

Hi, everyone. Welcome to another episode of "Off the Cuff." I'm Allie Arcese, NASFAA's Director of Communications filling in for Justin today.

Jill Desjean:

I'm Jill Desjean with NAFSAA's Policy Team.

David Tolman:

And I'm David Tolman with Training and Regulatory Assistance.

Allie Arcese:

Welcome, everyone. We were just before we started recording talking about Mother's Day and how it's mid-May already and that means our conference is right around the corner. If you didn't see in Today's News on Thursday, we did just announce the full schedule for the conference, so be sure to take a look at that and start making your plan for the conference. Jill, David, what are you guys most excited about for this year's conference?

Jill Desjean:

Hmm. Maybe a nap on the plane. It's a nice long flight.

Allie Arcese:

Ooh, okay. What about once you get there?

Jill Desjean:

Oh. I see where you're headed. Definitely presenting to all of our members, one of my favorite things to do.

Allie Arcese:

And then another nap?

Jill Desjean:

And then yes, yes.

Allie Arcese:

Yeah. What about you, David?

David Tolman:

Well, on flights, I'm looking forward to just a non-stop flight. They've all been on the East, so I can go nonstop to San Diego. I'll be involved in a few sessions. We're doing the game show webinar. We're going to do a session with the game show and I think that will be a lot of fun to do that live.

Allie Arcese:

That's cool, yeah.

Jill Desjean:

That sounds really fun.

Allie Arcese:

That should be really fun. We have Hugh here, too. Hugh, what are you looking forward to? This will be your second in-person conference, right?

Hugh Ferguson:

Yeah, this is my second one, first time out to San Diego, so very excited to compare venues and yeah, just looking forward to being out West again.

Jill Desjean:

Home base for you, right, Allie?

Allie Arcese:

Yes, but sadly I'm not going this year. If I were going, I would definitely be looking forward to, I know some things that are going to be exciting is the return of "Ask a Fed." I think our members will be excited about that. We also have our charity 5K going on the first morning that we're there and also part of that charity is the animal interaction opportunity in the innovation hall where you get to go and meet cool animals and take pictures with them, so yeah, I think we have a lot of fun things and it'll be nice to have everyone together.

But if you're like me and you can't make it to San Diego, we also have the virtual conference happening two weeks later from July 10th through the 14th, and the programming for that is completely unique from the in-person conference schedule. There may be a little overlap, I think in one area, which is FAFSA Simplification. I don't think we could have a virtual conference and not talk about that, but so be sure to check that out and we'll have some links in the resources for everyone to register for both conferences. It has been a really busy week, right?

Jill Desjean:

Yes.

Allie Arcese:

Yeah, lots of news going on and we have a couple topics for you all to dive into, but recently there's been a lot related to work-study. Jill, where should we start with that?

Jill Desjean:

Yeah, I feel like work-study usually just sort of hums along. It flies under the radar, but there have been some newsworthy work-study issues that came up recently, so first, we had an opportunity to comment on a proposed information collection related to work-study from the Department of Education.

Allie Arcese:

What did we say in those comments?

Jill Desjean:

Yeah, so the reason for the information collection was that was for compliance with the FAFSA Simplification Act, so Congress told the Department of Education to find a way to collect students' annual work-study earnings data in some way other than asking students to self-report that information. That makes sense, right? The whole effort behind FAFSA Simplification was to ask fewer questions and so this was sort of low-hanging fruit because schools are already tracking work-study earnings.

I suspect this question also was probably inaccurately answered most of the time, so getting it directly from schools who actually have that information handy will likely result in more accurate responses to this question, and especially where it's an income exclusion, so it actually benefits the student to report this information because it has the ultimate impact of reducing their EFC or in the future SAI, it will be better for this information to be reported and reported accurately, and so the idea is that schools would report annual student-level prior-year federal work-study earnings to COD at some point before the FAFSA is released and then ED could populate that information into the FAFSA as the applicant goes in and files it and then calculate the SAI with the work-study earnings taken treated as an income exclusion.

Allie Arcese:

Okay, but we weren't too happy with how ED went about implementing this requirement from Congress.

Jill Desjean:

No, we really, we were not. I just said some really positive things about the reason why we would collect this information, but the way the Department of Education went about it, we have some serious concerns with that. The directive from Congress was to collect a single data element from schools, annual work-study earnings, that's it, and the department's response to this was to issue an entirely new chapter of the COD technical reference for reporting campus-based aid and it actually includes 95 new data fields that schools have to submit to COD.

Granted, a lot of those fields are demographic-type things and what is the school, what's the student's name, what's their address, things like that. But there are a lot of pieces of information related to student-level work-study data that they're asking schools to break out, which is going to be burdensome for schools. They want to find out now, not just how much did the student earn, which is the one thing Congress has them to collect, but they want to know what was the institutional share versus the federal share of that student's earnings, which schools collect in the aggregate and they report that on the FISAP, but they don't necessarily track the institutional portion from the federal portion at the individual student level. They want to know the work-study category, whether it was off campus, on campus, at a for-profit, or a nonprofit, the position types such as a math or a literacy tutor. They want to know whether the position is classified as community service, whether the student's been impacted by a disaster designation, and even more.

And the department also includes that they want to start collecting student-level data about FSEOG as well, so even extending the scope beyond just work-study and going into all of campus-based aid. So a lot of this data that they're asking for, including the FSEOG reporting is marked for future use, which is a good thing because it means that we have some time, the department is not saying schools have to start reporting this in July, but it's still pretty shocking that the department would take that one directive from Congress to collect this one data element and turn it into kind of a data collection frenzy. We think this is a really far overreach and we made that clear on our comments that we really oppose the departments move here.

Allie Arcese:

Yeah, that sounds like a pretty big burden. What else is going on with work-study?

Jill Desjean:

So in separate news related to work-study but not related to this data collection, the department recently issued a new letter to college presidents encouraging them to work with local school district leaders to use work-study funding to support elementary and secondary school students to recover from the negative academic impacts of the pandemic, and so what they're asking is for colleges and universities to devote at least 15% of their work-study funds within the next two years to community service roles, especially those in elementary and secondary schools to provide services like tutoring, literacy, coaching, and mentoring.

Allie Arcese:

And how do we think colleges are going to respond to this?

Jill Desjean:

Well, colleges likely already have structures in place for community service because there's already a requirement that they spend 7% of their work-study allocation on community service. That requirement has been waived during the pandemic, so they haven't been doing it. Not necessarily, some schools continued to do it, but they weren't required to do it over these past couple of pandemic-impacted years.

But many schools struggle to actually meet that 7% because of circumstances often beyond their control, things like where they're located, where either there just aren't a lot of community service opportunities, or there just may not be transportation available for students to get to those places that offer community service-type positions, and so thankfully, this is a suggestion, it's not a mandate. So I hope that schools that can do this will. It certainly is a noble goal to put more college and university students into elementary and secondary schools, especially in these vital roles that will help students to recover from the pandemic. But it's good to know that schools that simply can't operationalize this for reasons beyond their control won't be penalized.

And sort of related to that, NAFSAA has actually a task force that's currently working on work-study issues, especially related to the end of the COVID-related flexibilities and the challenges of transitioning back to normal work-study roles, so they'll be presenting at a conference. So please, I hope everyone, in addition to snuggling with fuzzy little animals goes to that conference session and look for the report that'll come out shortly after that.

Allie Arcese:

Yeah, I was actually just reading the report recently, doing some copy-editing on it and it's really thorough. Lots of good stuff in there, so-

Jill Desjean:

Yeah.

Allie Arcese:

Definitely be on the lookout for the dot. Yeah. Thanks, Jill. David, what do you have for us today?

David Tolman:

Well, Jill mentioned about community service and that waiver, which is of course winding down, but the world of financial aid just seems really kind of murky right now and I really feel for financial aid administrators who are in their office dealing with things like FAFSA Simplification.

But another murky area is the end of the COVID public health emergency and the national emergency and that's what I'm going to talk about today,. So a few things to start with, one is I think a lot of financial aid people may have started within the last three years and it could be difficult for those financial aid administrators to really understand what is a COVID flexibility and what is a normal process that we do, so it might be worth a review of these flexibilities with staff members. Students are still going to catch COVID. Some people are still dealing with long COVID symptoms, but if the flexibility has ended, the financial aid administrator won't be able to apply the waiver to that student as they have in the past.

So let me just do one example. Failure to begin attendance. A student received a direct loan disbursement but did not begin attendance because of a COVID episode and normally the student would not be eligible for that disbursement and the school would cancel it or notify the direct loan servicer. But the Heroes Act was used to provide a waiver of this requirement for these students. Borrower simply repaid the disbursed amount according to the terms of the promissory note, so lots of flexibilities like that are going to end, and so it's important to know what is a flexibility and what is just a normal process.

Allie Arcese:

Right, and also when, so when are these flexibilities ending?

David Tolman:

Okay, and this is where it gets murky but there's two parts to that question and first flexibilities have different timeframes for ending, all of them, so some will expire at the end of the payment period. That includes the emergency end date. Some flexibilities will expire at the end of the payment period, which follows the end of the emergency, and other dates include the award year, the following award year academic year, so there's a chart that's attached to the February 15th or January 15th, 2021, electronic announcement and that chart, and we'll link to it in the show notes, describes the general way each type of flexibility will end.

Allie Arcese:

And so with multiple emergency end dates, which emergency end date should be used as the basis?

David Tolman:

Okay, so this is where it gets more difficult. There were two emergencies, the public health emergency and the general COVID-19 national emergency. Both were originally set to end on May 11th, and that would've been nice, but legislation which passed earlier this year ended the national emergency on April 10th, but it did not address the public health emergency, which ends on May 11th still, and some of the flexibilities that we have because of COVID are tied to the national emergency, which ended on April 10th, and that includes those that are under the Heroes Act, including the example I gave earlier about the treatment of direct loan funds when a student doesn't begin attendance, but other flexibilities are tied to the May 11th date, and for some, many, actually, it's not clear which emergency end date applies.

Allie Arcese:

That is incredibly confusing.

David Tolman:

Yes.

Allie Arcese:

Yeah, has the department provided any guidance for schools on how to follow along with what's going on?

David Tolman:

Well, right now they're pointing to sessions that they presented in the 2021 and the 2022 FSA conference that address the sunset of these flexibilities. Now since then, there hasn't been guidance specific to the different dates, but we do expect the department to issue an electronic announcement soon that will expand on what the FSA conference session did, but with actual dates.

Allie Arcese:

Mm, okay, so what guidance has NASFAA provided for schools to help out in the meantime?

David Tolman:

Well, the first bit of guidance was if in doubt wait for that electronic announcement before making any changes. But there are some areas where schools can proceed and the easiest case is since flexibilities are often tied to a payment period, not as of this date, but a payment period that either includes this date or follows, if April 10th and May 11th fall within the same period, it will not really make a difference if the flexibilities extend through the end of that payment period or the payment period which follows, because April 10th and May 11th fall in the same payment period.

So here's an example, so the CARES Act allowed unexpended federal work-study allocation to be transferable to FSEOG and another campus space was the FSEOG emergency grants. The offer rules were waived for those emergency grants and they were not considered estimated financial assistance, so the sunset on both of those is the end of the payment period in which the COVID-19 national emergency ends, so if April 10th and May 11th are both part of the school's spring payment period or their semester or quarter, then that flexibility would end when that school's spring payment period ends.

Allie Arcese:

Okay, and that makes sense, but what about if April 10th and May 11th are not in the same payment period?

David Tolman:

Yeah, well, there's two different situations. The first is what if one of those dates falls in between a payment period? If that happens, the waiver becomes programmed-specific, so let's go back to that failure to begin attendance for direct loan. This is a Heroes-based waiver and for that April 10th tied to the national emergency would be the correct date. The flexibility ends with a payment period that follows the emergency end date, so if April 10th occurred between the winter and the spring payment periods, meaning spring starts after April 10th, that particular flexibility would end with the spring payment period because that's the payment period that followed April 10th. But SAP flexibilities are a little different, those flexibilities and with a payment period that includes the emergency end date, so if the date that applies, either April 10th or May 11th, occurs between payment periods, that flexibility ended with the payment period that just ended, not the one that's about to start. And I admit, this is where it does get confusing, but we do have some ideas at the end to help track this.

Allie Arcese:

And so what happens when April 10th and May 11th are in different payment periods?

David Tolman:

Yeah, so the last example was what if one of them is in between a payment period and the other one is in a payment period, so what if they're firmly in two different payment periods? This is where we would advise schools to wait until we receive that electronic announcement if they're not sure which date applies. But if those two dates clearly fit into two different payment periods, it's still murky, so refer back to that chart that we are linking to and know that there will be different flexibilities expiring at different times for different students depending on the type of flexibility you're looking at.

Allie Arcese:

Whew. Many things I could say about that, but is there any flexibility in all of this?

David Tolman:

Yeah, I'm going to just quote the department. We've also quoted this in an AskRegs article, and I'll let this stand for itself. "Because most of the COVID-19 waivers tied to the end of the national emergency and at the end of the first payment period that begins after the April 10th date, we do not anticipate that many schools will run into issues even with guidance published later this month. But in the event that they do, the department's compliance teams will take into account the fact that clear guidance was not available until that time," that time being when the announcement's going to be published. "We do not plan to take negative actions against institutions who fail to return to normal compliance exactly in accordance with this timeline as long as it is clear that they made a good faith effort to comply based on their best understanding of the requirements."

Allie Arcese:

Okay, I think that's probably some welcome news, a little bit of a sigh of relief there. Man, it seems like you almost need a full-time staff person to go through and decipher all the different dates for the flexibilities.

David Tolman:

Yeah.

Allie Arcese:

But yeah, can you recap for us just again, what schools can do in the meantime to prepare for all of this?

David Tolman:

Well, first to use resources that are already available would be to read through that January 15th, 2021 electronic announcement and the attached chart, which explains all of the different flexibilities that exist and in general, when they sunset. Is it within a payment period or the payment period that follows the award year that follows? And then start diagramming which provisions expire according to your school's academic calendar, so at least know, "Okay, this is within the payment period, or it's the one that follows." And then view the FSA conference presentation. We'll link to that as well. If you don't have time to view it, you can still download a PDF of the slides and there's a lot of good information there as well. Then watch NAFSAA's Today's News. We will let you know when the department issues that electronic announcement, which we expect to come out sometime this month, which will be more specific with which dates apply, and again, we'll have all those links in the podcast notes.

Allie Arcese:

Great. Thanks, David for breaking all of that down. That was a lot, but it's super helpful.

David Tolman:

Sure.

Allie Arcese:

All right, now we have our senior reporter and podcast producer Hugh Ferguson here to give us our weekly news roundup. We talked about this a little bit at the beginning, but it's been a busy week or two here. What do you have for us?

Hugh Ferguson:

Yeah, for sure, days are definitely running together. But earlier this week, the Department of Education on Wednesday evening unveiled a forthcoming Notice of Proposed Rulemaking, an NPRM for an overhaul to gainful employment with top department officials calling the regulations the, quote, unquote, "strongest ever safeguard for students." As a part of the announcement, ED also detailed a new data collection initiative that would seek to provide more transparency across all sectors of post-secondary education.

Allie Arcese:

And so that data collection, it sort of was framed with a little bit of a different name when they published this this week, but if you remember back a few months ago, this is their low financial value initiative that ED was doing. Gainful employment is definitely something of interest for a lot of schools. It's been going through this whole neg reg saga for over 10 years, since like 2011, so yeah, we will have more analysis on that. And then the package, the NPRM had a few other regulations that will be of interest for NASFAA members, right?



Hugh Ferguson:

Yeah, so it also includes financial responsibility, certification, ability to benefit, and administrative capability regulations, which ED says would assist the department in engaging "targeted and proactive accountability" efforts, and yeah, just kind of builds on David's theme of a bit of murkiness.

Allie Arcese:

Yeah, definitely. So we do have a high-level summary of those that you wrote, Hugh, and then members, stay tuned to Today's News. Our policy team will have a more in-depth analysis getting into all the weeds there, the ins and outs of everything. What else do you have?

Hugh Ferguson:

Yeah, so earlier this week, Education Secretary Miguel Cardona offered testimony to the House Committee on Education & the Workforce to justify the department's budget request for fiscal year 2024 and also responded to questions that had a lot to do with committee oversight that members were looking to dive into. The hearing touched on the entirety of the Education Department, so we did have a little bit of a reference to higher education, but for folks that tuned into the entirety of the hearing, you would've gotten the wide gamut of topics. But for higher-ed purposes, the topics are mostly focused on the student loan portfolio, what's going on with the repayment system and short-term Pell Grants were some of the main topics,

Allie Arcese:

Mm-hmm, and that's one area that actually has a bit of bipartisan support, more than a bit.

Hugh Ferguson:

Yeah, definitely. I mean, there were other topics that were more confrontational among members, but the short-term Pell discussion was a far more policy-based discussion-

Allie Arcese:

Collaborative, yeah.

Hugh Ferguson:

... and yeah, collaborative effort. But yeah, the hearing also in hindsight kind of served as a bit of a preview for the gainful employment package that came out because during questioning, Cardona was asked how ED was working to prevent rising costs in higher education, and in his remarks, Cardona highlighted that the debt cancellation program would be working in conjunction with new accountability measures to make post-secondary education more affordable, and if listeners want, they can check out our full recap in the show notes.

Allie Arcese:

Great. Thanks, Hugh. Yeah, Secretary Cardona's been kind of making the rounds. That's part of the budgeting process. Various committees want to hear why the various agencies requested what they requested and the president's budget proposal, so yeah, it's definitely interesting to hear the takes from different lawmakers on where they might agree, disagree, and all that.

All right, that was a lot of information to throw at you all this week. Thanks for joining us for another episode of "Off the Cuff." Be sure to subscribe, tell a friend, send us your comments, questions, feedback, and we'll talk to you again soon.