Dan Silverman: Good day, listening public. Today is June 20, 2019, and this is the inaugural SAN podcast. I'm Dan Silverman, and I am joined today by Russ Poulin and Cheryl Dowd.

Cheryl Dowd: Hi.

Dan Silverman: Whenever you're listening to this, we'll be voices from the past, so perhaps this is time travel in the most lame and tame way imaginable. But it does remind me of a class I took in college. It was a physics class called Einstein, and it was for decidedly non-physics majors. In the first class, we did learn about Einstein, his life and his theories. We just didn't do all of the math. In the first class, a student probably in not the most scholarly way, raised his hand and said, "Didn't Einstein believe in time travel?" And the professor waved him off, and he said, "Well, you and I are talking right now, and time is passing, so isn't this time travel?" And he just kind of moved on in a brusque way from there and set the tone for the class in that way.

Dan Silverman: But I think that's a good segue to our conversation with Russ because Russ is the opposite of this professor in so many ways. Russ takes all questions with a lot of patience and grace, so we are going to kick it off with some questions from Russ. Some of these I've come up with, Cheryl's come up with some, and some of these come from suggestions from you, our SAN members, so we thank you for that.

Dan Silverman: Russ, so often when we talk to you, we're talking about very particular pieces of legislation, of regulation, of administrative law, procedure, and I think sometimes we can forget why we're doing this and where you're coming from. I think it's very interesting to get some of that context. So, Russ, why do you care about higher education regulation in general?

Russ Poulin: Well, thank you for hosting this and thanks, everyone, for joining us for this kickoff event. But to your question about why do I care, I guess I could say, well, somebody's got to. But we need to go beyond that, I think, that really, when you look at the regulations, really every one of them has some basis, there's some idea in terms of trying to protect the students and sometimes trying to protect the institutions or trying to protect federal financial aid dollars for some or trying to protect state investments, if it's for the state. There's always usually some good reason behind them, that we want to make things better and improve the quality of education that is part of it. Sometimes those get a little weird in terms of how they get put together, so I always am looking at that. How can we make things better?

Russ Poulin: And the other part of it too that really interests me and people don't always think about is that we made these regulations. We made these rules as people, that we have an impact where we can go, and we can try to change them. So if they're not doing what they're supposed to do, what can we do? How can we work together to try to improve them so that the end result is that we are improving higher education and improving student learning at the end?

Russ Poulin: That's another part of it is how do we take what we have and make things better?

Dan Silverman: You have a number of higher education regulatory areas that you follow closely. What is it about state authorization in particular that grabbed your attention, and how has it continued to keep your attention?

Russ Poulin: Well, a couple things. One is the complexity. People forget that, yes, we are the United States. We say that name every once in a while, but the reality that every state has its own jurisdiction, and one of the things that they are in charge of is education in the states. That is something that is not a federal issue. It is every state. And so, while that's great and you have local control on that, it also means that, if you're trying to go across the states, that you have to worry about that, so it creates great complexity and then a lot of interest in, my god, something new every day in terms of working on that. So that's kind of a big part of it.

Russ Poulin: And then the other part of it does get back to that really there are a lot of states who really weren't paying attention to what was going on, at least on the distance education side of it, and so what can we do in terms of making sure that there is some oversight so that, if a student signs up, it'd be nice that they have a place where ... that there's some oversight by the state, if possible, and that if there's a complaint, if something goes wrong, that they have a place that they can complain to.

Russ Poulin: And then finally, the other thing that's sort of interesting about it is that I know of no other regulation I've ever seen where the Department of Education, U.S. Department of Education, has fumbled on so many times. And so it keeps it fresh, if not for the ever-changing nature of it, but sometimes the comedy of errors I guess in terms of what has happened. So I'm hoping we're finally to a regulation that we actually know what it is, and it's out there, and that we know how to comply.

Dan Silverman: Well, speaking of the states, is there a particular state that you think does an excellent job of regulating higher education?

Russ Poulin: Well, that's an interesting question to try to get to. States are certainly all over the map, and I think ... I don't know that there's one that does great on everything. I think you probably see some that are maybe very good in some parts but maybe not as good as others. I remember that there's a regulatory expert. I'm in Colorado. It's where we're housed, and so that's not the only reason I pick it, but some regulatory expert actually pointed to some of the things that are going on in Colorado as sort of a just right sort of state for a couple things, not only for higher ed regulation, but for other regulations, and that they have an agency that kind of coordinates things across some of the regulatory bodies, so they're working a little bit more together on that.

Russ Poulin: And it also ... it's not ... We're back to Goldilocks here, where it's not too stringent and not too lenient as well because we do get a few states where we are bordering on ... where they've been protecting students on protectionism that we're really trying to put so many regulations in. Are we really protecting the students, or are we protecting the institutions from outside? And so that's where we have to ...

Russ Poulin: I always like to be moderate on these sort of things. What's going to work and work best for everyone? We still have to protect the students, but we don't want to protect the students so much that they no longer have options.

Dan Silverman: Cheryl, I'm afraid that I interrupted you a second ago. Did you have a question as well?

Cheryl Dowd: Oh, no, I think this is going in a great direction, but if I had the opportunity, which I do now, is to ask Russ if he could share a little bit about when this all came to light to him as being interesting ... I've heard this story before. I'm just asking him to reiterate it about when the first federal regulation was released in 2010, what was his first impression and his concern? How did he react to it?

Russ Poulin: So way back in the dark ages, back in 2010, I was fairly new to Twitter then, and then the regulation had come out, and I was following some people in terms of what they were writing about the regulation. One of the ... I can't remember who it was, but somebody out there said, "Well, there's this strange section about distance education and state authorization." So I looked it up and tried to figure it out and thought, "Huh, well, that's interesting" because that had not been in the proposed regs, and this was new in there.

Russ Poulin: So we figured it out, and then we got on the phone with the Department of Ed, and I remember Fred Sellers, thank you very much, Fred, for all the help that he provided back then from the Department, was the person. We got in some dialogues.

Russ Poulin: So that was the end of October, and then I think two weeks later, I was up presenting on this at the WCET annual meeting, and we had a room. It was a popup session, and we had a room full of people, and they were all going, "What is this? What's going on?" But the truth is is that the state regulations had been there all along. We probably had not done a good job ... not probably, we had not done a good job of paying attention to them and fulfilling them, and then the federal regulations came out.

Russ Poulin: And then something that happened right then with the federal regulations as well is that we started ... we worked with SRAD at that time and some others in terms of coming up with the first list of, well, what are the expectations in the states? So that's how I spent my Christmas of 2010 was looking through state regulations law with Bruce [inaudible 00:09:58] at that time, Nick and Raymond and others looking at those regulations.

Russ Poulin: And then the thing that became clear to us was that, even if an institution had tried to comply the day the regulations came out, and that would be in October of 2010, and they were supposed to be in compliance by July of 2011, that some of the states took over a year to do the approval processes on this, that even if they applied that day, that there's no way they could do it. So we were able to get involved and work with the Department of Ed, and that's where they were able to be part of that conversation. And they also thought, Department of Ed also thought that all the institutions already have the approvals, which was not the case. We were able to get them to think about that.

Russ Poulin: So they were able to delay the enforcement of it and then put in some rules about, okay, you have to show that you're making good faith efforts to move forward on that. So it was very interesting, just the complexities and just how little that people in the Department and how little those of us in higher ed and many of us just in SAN even really knew about these regulations and what we were or were not doing with them.

Cheryl Dowd: I think that something that was really interesting that caught my eye just in the last year is I was at a conference, and Patty Landis from Pennsylvania shared a graph of distance education, online learning, and what the increases were of institutions providing online course ability. And there was a dramatic jump right about the time that these federal regulations came out, and so it kind of caught everybody by surprise because people were thinking innovation, they're thinking offering these new opportunities, modalities for education and hadn't considered that there would be any restriction in just simply offering an online course if the person is located outside of their state.

Cheryl Dowd: It kind of coincided. It was almost a perfect storm, if you will, of incidents that converged at that point. I thought that was very interesting because people were saying, "Well, we've never had to do it before." Well, you didn't have these opportunities available for students at that time either, so the area wasn't tested. I find it interesting that ... and also that, if I remember correctly from one of your stories, Russ, is that there was the thought that, oh, well, the publics probably already are doing this.

Russ Poulin: Right.

Cheryl Dowd: And so this shouldn't be a problem because isn't everybody already in compliance? And I remember you finding out that that was quite to the contrary. So the history is interesting of this regulation.

Russ Poulin: Yeah, that's a funny thing. The for-profits were all doing it, and the publics and nonprofits, hardly any of them were, yeah.

Cheryl Dowd: Yeah. Well, anyway, thanks for traveling down memory lane on that, Russ. Appreciate it.

Russ Poulin: Okay.

Dan Silverman: Yeah, so let's go from memory lane to crystal ball land. What do you think institutional compliance, Russ, will look like in five to 10 years?

Russ Poulin: Well, that'll be interesting to see where we would go with that, but I think that we have to get a place where it's much more integrated, not only integrated into the day-to-day, what's going on, and not only for state authorization, but there's going to continue to be other things in terms of making sure that we're meeting the accessibility and equity needs and other sorts of needs there. Are we serving students who otherwise wouldn't get a chance? But I think that we'll ... I'm hoping that we'll see that more integrated in the day-to-day thinking and that we can start working with people that ... again trying to back away from how do we do the minimum so that we just get by, and how do we do things so that that this is a starting point where we're figuring out "Okay, we have to do this."

Russ Poulin: But where is the idea in terms of how does this make it better for students? I keep thinking about accessibility as an example for that. You're trying to just get by so you don't get sued by a student who has special needs. Well, actually, if you build the accessibility into all of the courses, all sorts of people find out that having closed captions is a pretty cool thing because I didn't quite get what that word was or having the ability to go back on a video or having other sorts of accessibility needs. Those things help everyone.

Russ Poulin: So I'm hoping that we start to get to that point, that we're figuring out how we can beyond just the minimal compliance.

Dan Silverman: Do you foresee regulation in the non-credit space in the future, including for MOOCs that are not immediately credit-bearing but can later lead to academic credit if a participant enrolls at an offering institutions, things like that?

Russ Poulin: Well, where I see it is more on the non-credit side. Where the regulation will come will be that there's an increasing number of non-credit credentials that have value in the workforce and that there are some states that regulate those and there are some that do not. It's not federal financial aid involved. There's no federal involvement nor should there be at this point.

Russ Poulin: However, if it's a workplace credential and it does have value, but you have ... and it's the same with credit, that you have some unscrupulous credit-providing institutions that they need to be regulated and need to make sure that there's quality going to the students. You're going to have the same thing on the non-credit side, and we have to assure ourselves that ...

Russ Poulin: I do worry about statements I've heard about some non-credit providers. One in particular said that "Well, the marketplace is my accreditor." Well, the problem with that is that whatever you do in the ... what happens to the students that, if you fail because the marketplace is your accreditor, what happens to the students who have your certificates that are in your programs, that are going along? It seems like there's ... you could go, "Oh, well, my business failed," but meanwhile you've taken down all these students who now there's no place to go for someone to prove that they got the credit from you.

Russ Poulin: So I think there's going to be some organization that's providing those credits, whether it be MOOC providers or some of the others who's going to get caught up in that and get caught up in a big lawsuit, get caught up in an action from an attorney general, and that there'll be more calls for regulation and that it will be more regulated, probably in the not-too-distant future.

Dan Silverman: What mechanisms do you see for how the workplace value of these credentials? I think that's going to be a fascinating development because ... my mind was jogged on this today actually. I was meeting a couple of friends for lunch, and I walked by an Irish pub on the way to the restaurant, and it had a sticker in the window that said, "Certified pour" for Guinness. I don't know if Guinness gives this credential or somebody else, but ...

Russ Poulin: You want to be on that accrediting agency, Dan.

Dan Silverman: Right, exactly. Exactly.

Russ Poulin: "You didn't pour it quite right. Give me another."

Dan Silverman: Right, right, right. So it's just interesting to me to just observe credentials in the wild, I guess is the way to put that. Who do they have value for and why and how has that changed?

Russ Poulin: And they're there, and more and more are coming, and traditional higher education ignores that at its own risk because as those providers start to figure out "Oh, we can work much more closely with the industry or with a certain group," they'll just continue to do that and make it go forward. It could be that for-credit becomes less and less of an issue or a need.

Dan Silverman: Cheryl, do you have any questions from that? I got a couple more from the members.

Cheryl Dowd: No, I appreciate where this is going. So keep going, Dan. It's great.

Dan Silverman: One of our members asked if you see progress being made to reauthorize HEA?

Russ Poulin: Oh, that's a good question. We've been talking to one of our friends who's a [inaudible 00:19:25] lawyer who really thinks that something's going to happen this year because of the amount of work that the Senate HELP Committee, that's health, education, labor, and pensions committee. They're the ones that will work on it. The amount of work that they've put into it.

Russ Poulin: I also was talking to somebody recently who has a lot of knowledge of this and just thinks that it doesn't matter what the Senate does, that nothing will ever get through the House. That hurt a whole lot of progress lately. There have been fewer hearings lately. I started the year saying it was like 1 or 2%, and then I was persuaded that it would be a better chance, but I'm back down to being pretty skeptical that anything will happen this year.

Dan Silverman: That's definitely one to watch. Those of you who are loyal readers of WCET and SAN's work, and let's face it, those are the only people listening to this, I would imagine, know that Russ has a passion for movies and his movie reviews. Russ has many comments, as any of the other more substantive stuff you do, I think, when you're on the road.

Dan Silverman: But what people might not know is that Cheryl Dowd is a musical aficionado, so in the spirit of Russ on movies, we're going to move into a segment we like to call Cheryl on Musicals. So, Cheryl and Russ, feel free to jump in if you have any questions for you. But let's just start. Cheryl, who has been your favorite character in a musical that you've seen?

Cheryl Dowd: Oh my goodness, is that a hard question. Well, I have to ... there are a lot of musicals that I enjoy, but I think probably the one that stands out to me right now is Reno Sweeney from "Anything Goes." She was most recently in the revival was Sutton Foster, so, of course, I'm kind of biased for that. And probably because the very first musical I saw in New York City was "Anything Goes," and it was Patti LuPone playing Reno in that version in the late '80s, so I guess that's probably why I'm attached to that musical quite a bit.

Cheryl Dowd: And then have to say that my youngest, who is the musical theater kid, played that part in her senior year of high school, so had a lot of reasons to love that character.

Dan Silverman: Do you think ... you mentioned seeing a show on Broadway. Do you think that Broadway is the place to see this, or have you had ... Maybe what's the best experience you've had outside of Broadway and maybe even in a movie version of musicals?

Cheryl Dowd: That's a good question too. It's interesting, and Russ and I have had these conversations too because Russ loves musicals as well, so I love being able to chat with him about it. But there are some types of shows that are smaller shows that I think fit a smaller venue, and Broadway venues tend to be smaller, except the Marquee Theater in New York. That's a very large theater. They've hosted the Tonys there before.

Cheryl Dowd: But most of the theaters are smaller than what you'll see in a city that hosts the traveling Broadway version, so big shows that have big dance breaks, like "Frozen" or some other large show. Well, "Anything Goes" can do that as well. But a smaller show, like Russ and I saw "Dear Evan Hansen" with his wife Laurie in Denver, and I had seen it on Broadway in an intimate setting, and then I saw it in the very large Denver Performing Arts Center, and it just didn't wow me. I think that, if it's a small setting like that, you need the emotion of the small setting.

Cheryl Dowd: So I guess I'm a snob for a New York setting, although I did see "Hamilton" in Chicago, and that theater was set up much like a Broadway-style theater. It wasn't the dramatic size of a performing arts center that you see in many cities, so I think smaller venues are better than gigantic venues. I guess we'll stick it with that.

Dan Silverman: So that's interesting. I would not have predicted that the road venues are larger than the Broadway venues. I just wouldn't have known that. So that is very interesting.

Cheryl Dowd: And that's why ... I don't know if anyone knows this or if they care, but Hugh Jackman is on the road, doing a lot of performances in a one-man show, and he's doing it in stadiums in the United States. I was not excited to hear that he would be in large arenas and stadiums because I would prefer him in a more intimate setting.

Dan Silverman: Now, the Tonys have come and gone here pretty recently. How good are your predictions, Cheryl?

Cheryl Dowd: Oh, I'm terrible at it. But I have to say the funniest thing that has happened in the Tonys is that just recently Russ burst my bubble in that he said that not that many people in the Western half of the country are watching the Tonys. He can take that back if he wants to. But I was aghast because I thought everybody cared what the Tonys were. Obviously not.

Cheryl Dowd: But my big dilemma that night was the Tonys were also game six of the Stanley Cup Finals, and St. Louis could've taken it that night. They ended up going to a game seven, but it was interesting to see the convergence of, in my mind, hockey and theater on the same night and to find out that there were a few others out there that felt the same pull for those things.

Cheryl Dowd: But the Tonys were spectacular as always. I appreciate James Corden as a host. Of course, I miss Hugh Jackman as a host. I guess there's a theme going here. But they were very good. I felt like the winners were ones that were well-deserving, and there are a few shows, especially plays, that I'm interested in seeing now because I didn't have as much information about them.

Dan Silverman: Well, Cheryl, we're trying to think of a name for this podcast, and maybe the Hugh Jackman Hour. I think that's a sleeper pic.

Cheryl Dowd: There you go.

Dan Silverman: Russ, what do you think?

Russ Poulin: Oh, I kind of like that. Or Wolverine the Musical. Maybe that's it.

Cheryl Dowd: There you go, Wolverine the Musical. That's funny.

Russ Poulin: Well ...

Cheryl Dowd: I just wanted to say, Dan, thank you for hosting our first podcast. This has been a grand experiment for us to be able to try this offering for our members, so that we can have conversations about the different aspects of compliance, state authorization, regulatory work, all the realms that we're touching upon. So we'll continue to come up with ideas to put these forward and hope that our members can benefit.

Dan Silverman: Absolutely. Thank you, Cheryl. Thank you, Russ. Thank you all for listening, and we will talk to you again in July.

Russ Poulin: Thank you.