

Student Loans Overview

Supreme Court Case: *Biden v. Nebraska* Summary

Parties

Joe Biden (Plaintiff) v. Nebraska (Defendant)

1. The five other states in the suit are Missouri, Arkansas, Iowa, Kansas, and South Carolina.

Issue

1. Do Nebraska and five other states have standing to challenge the Secretary of Education's student loan forgiveness program?
2. Does the Secretary of Education have the authority to launch a student-loan forgiveness program to erase \$430 billion in debt under the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act)?

Rule

1. If a state instrumentality (organization) is injured, it has standing because that equates to a direct injury to the state itself.
2. The Secretary of Education has the authority to incrementally modify or waive existing statutory and regulatory provisions related to financial assistance programs.

Facts

In 2022, the Secretary of Education announced that the Biden Administration would cancel roughly \$430 billion in federal student loans under the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act) by forgiving \$10,000 in student loan debt for borrowers with an annual income of less than \$125,000 and waiving \$20,000 in student loan debt for Pell Grant recipients. In response to this announcement, Nebraska and five other states filed suit in the United States District Court for the Eastern District of Missouri, alleging that the Biden Administration violated the Administrative Procedure Act and the separation of powers. The district court ruled that the states lacked standing. On appeal, the U.S. Court of Appeals for the Eighth Circuit reversed the district court's ruling and issued a nationwide injunction freezing the loan forgiveness program pending the Supreme Court's decision.

Holding

To determine whether an instrumentality has standing, the Court must assess whether harm to the instrumentality would also harm the state. The Secretary's student-loan forgiveness program would harm the State of Missouri because MOHELA, the instrumentality, would no longer service closed accounts, costing it \$44 million a year in fees that it would have otherwise earned but for the Secretary's plan. Additionally, the Court held that the Secretary's plan is invalid because instead of waiving or modifying a statutory provision, it attempts to rewrite it.

Conclusion

The Secretary does not have the authority under the HEROES Act to establish a student-loan forgiveness program to cancel roughly \$430 billion in student loan debt.

Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program

The U.S. Department of Education issued [final regulations](#) governing income-contingent repayment plans. The changes to the repayment plans are meant to increase enrollment in income driven repayment plans, make it easier for borrowers to choose the repayment plan that is best for them, and make it easier for borrowers to navigate repayment. The amendments were made with the goal of streamlining and standardizing the Direct Loan Program repayment regulations by categorizing existing repayment plans into three types:

1. Fixed payment repayment plans, which establish monthly payment amounts based on the scheduled repayment period, loan debt, and interest rate;
2. Income-driven repayment (IDR) plans, which establish monthly payment amounts based in whole or in part on the borrower's income and family size; and
3. Alternative repayment plans, which are used on a case-by-case basis when a borrower has exceptional circumstances or has failed to recertify the information needed to calculate an IDR payment as outlined in § 685.221.

Summary of the Major Provisions

The final regulation changes include:

1. Expand access to affordable monthly Direct Loan payments through changes to the Revised Pay-As-You-Earn (REPAYE) repayment plan, which may also be referred to as the Saving on a Valuable Education (SAVE) plan;
2. **Provide that the borrower will not be charged any remaining accrued interest each month after the borrower's payment is applied under the REPAYE plan so that no borrower's loan balance will grow as long as they make their monthly payments;**
3. Increase the amount of income exempted from the calculation of the borrower's payment amount from 150 percent of the Federal poverty guideline or level (FPL) to 225 percent of FPL for borrowers on the REPAYE plan;
4. Lower the share of discretionary income used to calculate the borrower's monthly payment for outstanding loans under REPAYE to five percent of discretionary income for loans for the borrower's undergraduate study and 10 percent of discretionary income for other outstanding loans; and an amount between five and 10 percent of discretionary income based upon the weighted average of the original principal balances for those with outstanding loans in both categories;
5. Provide a 10-year maximum repayment period for borrowers with original loan balances of \$12,000 or less;
6. Credit certain periods of deferment or forbearance toward time needed to receive loan forgiveness;
7. Adjusting the treatment of spousal income in the REPAYE plan for married borrowers who file separately;
8. Permit borrowers to receive credit toward forgiveness for payments made prior to consolidating their loans; and
9. Reduce complexity by prohibiting or restricting new enrollment in certain existing IDR plans starting on July 1, 2024, to the extent that the law allows.

Future Actions of the Biden Administration

The Biden Administration is currently working on alternative pathways to provide some student loan forgiveness. Subsequent to the Supreme Court's decision in *Biden v. Nebraska*, the Administration has begun working on a new rule that would provide a path for some student debt relief using the Secretary's authority under the Higher Education Act.

However, while this rulemaking is underway, student loan repayments are restarting for the first time in years. To ease this transition the Administration is implementing a [12-month reintegration](#) into repayment. Borrowers should be aware of this timeline:

1. On September 1, 2023, the pause on interest will end.
2. In October 2023, student loan payments will resume. In order to [prepare](#) for this, individuals should ensure that they know who their student loan servicers are, update their contract information, consider applying for an income driven repayment plan, and consider enrolling in an auto-debit program.
3. Beginning on October 1, 2023, and ending September 30, 2024, missed monthly payment will not be considered delinquent, reported to credit bureaus, placed in default, or referred to debt collection agencies. Moreover, interest will not capitalize at the end of this on-ramp period.

As student loan repayments restart, especially if an individual would like to change repayment plans based upon the new finalized regulation and the creation of the SAVE repayment plan, any changes should be made as soon as possible. Any changes made to a student loan account could take weeks to implement, and it is important to ensure that one's student loan portfolio is up to date and accurate. As such, it is important to touch base with your student loan servicer to ensure that borrowers are on the best plan for them and that payments restart smoothly.