



## The Supreme Court Could Block Debt Relief for 40 Million Americans

President Biden's student debt relief plan could help more than 40 million Americans qualify for up to \$20,000 in student debt forgiveness. But in two closely related cases, *Biden v. Nebraska* and *Department of Education v. Brown*, the Supreme Court may side with Republican-led states and two individual borrowers to permanently block the plan from going into effect — despite the fact that the parties challenging the plan likely do not have standing. An adverse ruling would hurt tens of millions of Americans and disproportionately burden Black borrowers and borrowers of color while opening the floodgates to future challenges to the Biden administration's policies. The case is the latest example of the Court inventing new doctrines to ensure conservative policy outcomes.

### The Harms Alleged in Challenges to the Relief Plan Are Fabricated by Right-Wing Groups

President Biden [announced](#) his student loan debt forgiveness plan in August 2022 to provide relief to low- and middle-income borrowers. The forgiveness program would cancel \$10,000 of debt for borrowers making less than \$125,000, and \$20,000 of debt for borrowers who have previously received Pell Grants. The plan falls under a provision of the 2003 HEROES Act, which gives the Department of Education the ability to “waive” or “modify” federal student loan programs due to a national emergency<sup>1</sup> — [in this case](#), the COVID-19 pandemic and the ensuing economic crisis. Under the plan, up to [20 million borrowers](#) could have their debt totally erased.

Of the around 43 million Americans eligible for relief, more than [26 million borrowers](#) applied this fall. More than 16 million of those borrowers had their applications fully approved by the Department of Education and sent to loan servicers. The application for relief was available for less than four weeks before right-wing activist judges in the Fifth and Eighth Circuits prevented the Department of Education from forgiving student debt, even for the applications that were already approved. Now, the Supreme Court will hear cases concerning two challenges to the plan — *Biden v. Nebraska* and *Department of Education v. Brown* — and determine the economic fates of tens of millions of Americans. The cases were originally brought by Republican-led states and legal activists.

Six Republican state attorneys general originally filed the suit at issue in *Biden v. Nebraska*, alleging that canceling student debt would cause financial harm to businesses in their states and to the states' tax bases. In particular, the states alleged that the Higher Education Loan Authority of the State of Missouri (MOHELA) will suffer financially from President Biden's debt forgiveness. After a district court dismissed the suit, the Eighth Circuit issued a [nation-wide injunction](#) blocking the relief plan. But claims of financial injury are baseless. MOHELA is financially independent from the state of Missouri, and evidence shows that MOHELA's “year-over-year revenue from direct loans will actually *increase* substantially, even after debt

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<sup>1</sup> 20 U.S.C. §§ 1098aa–1098ee.



relief,” with the entity earning nearly twice as much revenue from servicing federal direct loans as it has in any year prior to cancellation.<sup>2</sup>

The alleged harm central to the *Department of Education v. Brown* suit is equally dubious. The original suit was brought in the Northern District of Texas by two student loan borrowers — Myra Brown and Alexander Taylor. Brown alleges that the plan will harm her because her privately-held student loans do not qualify for relief; Taylor qualifies for \$10,000 of relief but alleges harm because he is not a Pell Grant recipient and therefore ineligible for \$20,000. Ironically, Brown has already benefited from loan forgiveness; her [\\$48,000 PPP loan was forgiven](#) in 2022. Brown and Taylor are mere facades; the actual suit is orchestrated by and funded through Job Creators Network. Job Creators Network is a right-wing advocacy group bankrolled by major corporations and the right-wing Mercer Family Foundation; it also had a [\\$135,000 PPP loan forgiven](#).

The facts behind the suits reveal that right-wing groups are willing to fabricate harms and manufacture injured parties to steamroll President Biden’s agenda. And if the Supreme Court sides with them, it will harm tens of millions of real borrowers who need debt relief to survive and thrive.

#### Student Loan Debt Disproportionately Impacts Vulnerable Communities

College tuition costs have skyrocketed in recent years, and student borrowers need relief now. The cost of tuition at public four-year institutions increased [31.4%](#) from 2010 to 2020. After adjusting for currency inflation, college tuition has increased 747.8% since 1963. On average, students take out more than [\\$30,000 of debt](#) to pursue a bachelor’s degree, and more than half of student borrowers owe \$20,000 20 years after graduation.

The burdens of student loan debt compound existing inequities for marginalized communities, and President Biden’s relief plan is expected to [especially help](#) people of color and low-income Americans. Around [24% of Black adults in America have federal student loans](#), compared to 15% of Latinx, 14% of white, and 11% of Asian adults. Black borrowers also take out the largest average amount of federal student loans to finance their educations.

Women are also more likely than men to have student loan debt across all racial and ethnic groups surveyed; [19% of women](#) and 11% of men have loans. Black and Latinx women are twice as likely to have student debt as their male peers.

In addition to the crushing financial burden, student loans also take a detrimental toll on borrowers’ mental health. A whopping [62% of adults](#) with federal student loans report that their mental health has suffered because of their student loans. That figure jumps to 70% for those making less than \$50,000 per year.

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<sup>2</sup> Thomas Gokey, Eleni Schirmer, Braxton Brewington, and Louise Seamster, “[The Suit against Student Debt Relief Doesn’t Add Up: Flawed Claims of Legal Standing in Biden v. Nebraska](#),” Roosevelt Institute and Debt Collective (May 2023).



More than [80% of people with student loans](#) say they have had to delay life milestones in order to pay off student loans. 42% delay paying off other loans, 40% delay investing money, 38% delay saving for retirement, 35% delay travel, 16% delay having a baby, 14% delay getting married, and 12% delay switching jobs because of student loan debt. One-third of all borrowers and nearly half of borrowers under age 35 report that they have delayed buying a home because of student loans.

### An Adverse Ruling Could Drastically Harm Millions of Americans and the Biden Administration

The Supreme Court is widely [expected to rule against the Biden administration](#) in a 6-3 ideological split, according to legal experts, and payments are currently scheduled to resume no later than October of this year. The Court that will determine the fate of tens of millions of Americans is woefully out of touch with the costs of college and the hardships facing low- and middle-income Americans. When the nine justices got their degrees, tuition cost a mere fraction of what students pay at those same institutions today. Justices Thomas and Alito's undergraduate degrees, for example, would have cost around \$15,000. Today, those degrees cost about \$300,000. Even after adjusting for inflation, each of the justices' degrees would today cost roughly [two to three times](#) what they did at the time.

Nine people who went to college decades ago should not be the sole arbiters of what help borrowers need today as a catastrophic pandemic and economic downturn rage on. That decision-making power is properly reserved by the Department of Education under the express authority vested by Congress through the HEROES Act and other federal laws. Striking down debt relief is more than an attack on everyday Americans — the Supreme Court is sending a signal to the Biden administration that it will continue to usurp the executive branch if left unchecked.

This attack is part of a larger effort by our rogue Court to ensure that Democrats aren't able to govern by stealing as much power as it can. Extreme right-wing policies aren't popular with voters, so the Court is attempting to impose a radical right-wing agenda from the bench. A 2022 poll showed that more than [69% of Americans](#) wanted President Biden to grant some type of student debt relief. From immigration to environmental protections to workplace safety regulations, the right-wing supermajority has ensured that a democratically-elected president cannot enact the agenda on which basis he was elected. The Court is acting as a right-wing policy shop rather than an independent legal authority with the express objective of usurping the current administration.

Moreover, a ruling against the Biden administration will reveal just how far out of their way the justices will go to further the far-right's interests. For a party to have standing in federal court, it must establish an actual or imminent injury beyond mere policy disagreement. Granting standing to either party challenging the student debt relief plan would illustrate that the Court is once again willing to throw out its own rules and write new ones whenever Republican-backed right wing interests come knocking at its door. Our democratic and legal institutions cannot function with a rogue, unaccountable judiciary that will change its own rules to further one-party



rule. We must immediately rebalance and expand the Supreme Court to preserve our democracy and ensure that millions do not falter under the crushing weight of student debt.