

Conservative groups sue to block plan to cancel \$39B in student loans

August 7, 2023

Collin Binkley

Two conservative groups are asking a federal court to block the Biden administration’s plan to cancel \$39 billion in student loans for more than 800,000 borrowers.

In a lawsuit filed Friday in Michigan, the groups argue that the administration overstepped its power when it announced the forgiveness in July, just weeks after the Supreme Court struck down a broader cancellation plan pushed by President Joe Biden.

It asks a judge to rule the cancellation illegal and stop the Education Department from carrying it out while the case is decided. The suit was filed by the New Civil Liberties Alliance on behalf of the Mackinac Center for Public Policy and the Cato Institute.

The Education Department called the suit “a desperate attempt from right wing special interests to keep hundreds of thousands of borrowers in debt.”

“We are not going to back down or give an inch when it comes to defending working families,” the department said in a statement.

It’s part of a wave of legal challenges Republicans have leveled at the Biden administration’s efforts to reduce or eliminate student debt for millions of Americans. Biden has said he will pursue a different cancellation plan after the Supreme Court decision, and his administration is separately unrolling a more generous repayment plan that opponents call a “backdoor attempt” at cancellation.

The Biden administration announced July 14 that it would soon forgive loans for 804,000 borrowers enrolled in income-driven repayment plans. The plans have long offered cancellation after borrowers make 20 or 25 years of payments, but “past administrative failures” resulted in inaccurate payments counts that set borrowers back on their progress toward forgiveness, the department said.

The new action was announced as a “one-time adjustment” that would count certain periods of past nonpayment as if borrowers had been making payments during that time. It moved 804,000 borrowers across the 20- or 25-year mark needed for cancellation, and it moved millions of others closer to that threshold.

It’s meant to address a practice known as forbearance steering, in which student loan servicers hired by the government wrongly pushed borrowers to go into forbearance – a temporary pause on payments because of hardship – even if they would have been better served by enrolling in one of the income-driven repayment plans.

Under the one-time fix, past periods in forbearance were also counted as progress toward Public Service Loan Forgiveness, a program that offers cancellation after 10 years of payments while working in a government or nonprofit job.

Biden’s action was illegal, the lawsuit says, because it wasn’t authorized by Congress and didn’t go through a federal rule-making process that invites public feedback.

“No authority allows the Department to count nonpayments as payments,” the lawsuit says. It adds that the action came in “a news release that neither identified the policy’s legal authority nor considered its exorbitant price tag.”

The conservative groups say Biden’s plan undercuts Public Service Loan Forgiveness. The Mackinac Center and Cato Institute say they employ borrowers who are working toward student loan cancellation through the program. They say Biden’s action illegally accelerates progress toward relief, diminishing the benefit for nonprofit employers.

“This unlawful reduction in the PSLF service requirement injures public service employers that rely on PSLF to recruit and retain college-educated employees,” the suit alleges.

The Cato Institute previously sued the administration over the cancellation plan that was struck down by the Supreme Court. The Mackinac Center is separately challenging Biden's pause on student loan payments, which is scheduled to end this fall with payments resuming Oct. 1.