



New
Civil Liberties
Alliance

Biden's Plan to Cancel Student Debt Undermines Nonprofits, Argues NCLA In Cato Institute Lawsuit

October 18, 2022

Cato Institute v. U.S. Department of Education, Miguel Cardona, Richard Cordray and Joseph Biden

Washington, D.C., Oct. 18, 2022 (GLOBE NEWSWIRE) -- Today, the New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, filed a lawsuit on behalf of its client, the Cato Institute, urging the U.S. District Court for the District of Kansas to stop the Biden Administration's student-loan-debt-cancellation plan.

NCLA's complaint argues the unilateral plan issued by the U.S. Department of Education to cancel student loan debt is supported by no legitimate claim of statutory authority and effectively strips away a significant competitive advantage to recruit and retain talented borrower-employees from nonprofits, thereby frustrating the primary purpose of the pre-existing Public Service Loan Forgiveness (PSLF) program.

The Cato Institute is a nonprofit organization that promotes individual liberty, limited government, free markets, and peaceful international relations. Like other nonprofits, including the ACLU and NCLA, it attracts and retains talented employees who have student loans with incentives enacted by Congress through the PSLF program.

Among other things, the PSLF program allows student loan borrowers to have their outstanding balances forgiven after they work for at least ten years at a qualifying nonprofit organization. The careful and stringent criteria for debt cancellation obtainable under the PSLF program erodes any claim that Congress authorized the Secretary of Education to arbitrarily forgive debt without requiring borrowers to satisfy such stringent criteria.

The government attempts to justify debt cancellation under the Higher Education Relief Opportunities for Students (HEROES) Act of 2003, which was passed following the September 11 terrorist attacks to help soldiers who must respond to national security threats. That Act in no way authorizes blanket cancellation of student debt. Even the government's own lawyers at the Office of Legal Counsel in the U.S. Department of Justice concede that any debt relief under the HEROES Act must be "necessary to ensure" that individuals affected by a national emergency,

here the Covid-19 pandemic, “are not placed in a worse financial position in relation to [their student loans] *because of* their status as affected individual.”

But that condition is impossible to satisfy because—due to having their payments and interests suspended during the pandemic—borrowers’ financial positions in relation to their loans have not worsened but rather improved as a result of the Covid-19 pandemic. The Department of Education has no authority to cancel some half a trillion dollars owed to the U.S. Treasury. Such cancellation entails an appropriation, which the Constitution makes clear only Congress may authorize.