



Legal challenges to Biden’s student loan plans have borrowers anxious ahead of payment restart

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The Biden administration has found more of its student loan policies entangled in legal battles, raising anxiety for borrowers as repayments are set to start in the fall.

The most recent challenges threaten both student loan forgiveness for 800,000 borrowers and changes to the borrower defense student debt relief program that would make it easier for those defrauded by their colleges to receive forgiveness.

Borrowers are having to navigate what the legal developments mean for their loans while also losing faith in receiving more help from the administration before they have to begin repaying their debts in October.

“I believe even though the specificities of the various lawsuits that are being challenged [...] I think the question that is on a lot of people’s minds — specifically the 40 million borrowers, even if it doesn’t directly affect them — is, when does the line end? When do the challenges end?” said Dorien Rogers, president of the Maryland Youth & College Division for the NAACP.

The two most recent challenges directly impact borrowers who were defrauded by their institutions and those who have been paying on their loans for more than 20 years.

In the first case, the U.S. Court of Appeals for the 5th Circuit put a temporary injunction on updated rules the Education Department tried to apply that would change how loans are discharged for people who have been defrauded by their schools or their schools closed down.

Those who have been defrauded by their institutions are able to apply to get their loans forgiven through the borrower defense program.

The Career Colleges and Schools of Texas, which represents dozens of for-profit schools, sued the federal government over the updated guidance that would ease who could apply for debt relief through borrower defense and expand the violations applicable to borrower defense.

The injunction will last at least until Nov. 6, when the next court date is set for the case.

“We are reviewing the court’s order. The Department issued a set of new and stronger regulations to ensure that borrowers have a path to relief when their colleges take advantage of them or leave them stranded by closures,” an Education Department spokesperson said.

“And the Department won’t back down in our efforts to take on predatory colleges, provide relief to borrowers who have been cheated or had their school close, and hold institutions accountable for deceptive schemes,” the spokesperson added.

A second lawsuit was recently filed against the Biden administration for its plan to cancel \$39 billion in student loans for 800,000 borrowers. The suit was filed in federal court by the New Civil Liberties Alliance (NCLA) on behalf of the Cato Institute and Mackinac Center.

The Education Department said the debt would be canceled for the borrowers who have been paying on their loans for 20 years or more under an income-driven repayment (IDR) plan that allows debt to be canceled after a certain number of payments.

The administration is adjusting how it calculates which payments count in the plan toward student loan relief, with the updated rules allowing more than 800,000 borrowers to get enough credit from past payments to receive loan forgiveness.

“The [Public Service Loan Forgiveness] and IDR statutes require borrowers to make a certain number of monthly payments before earning forgiveness. By trying to count non-payments as payments, the strategy seems to be to cancel \$39 billion faster than a court can review and stop this blatantly unlawful act,” said Sheng Li, litigation counsel for the NCLA.

The Education Department, again, pledged to fight the lawsuit and insisted its plan is legal.

“The Biden-Harris Administration is fighting every day to fix the broken student loan system and make sure borrowers get the relief they earned, need, and deserve. This lawsuit is nothing but a desperate attempt from right wing special interests to keep hundreds of thousands of borrowers in debt, even though these borrowers have earned the forgiveness that is promised through income-driven repayment plans,” an Education Department spokesperson said. “We are not going to back down or give an inch when it comes to defending working families.”

Borrowers are watching the news, trying to parse out what will apply to them and how this will affect their payments, leaving many confused.

“You don’t know what part of the plan is sued or at risk. And borrowers are ... there’s already a major trust problem when it comes to borrowers and their student loans. Any added fuel to the fire is going to make it that much worse,” said Natalia Abrams, president and founder of the Student Debt Crisis Center.

Borrowers already saw relief snatched away from them in June, when the Supreme Court ruled against President Biden’s plan for all 45 million borrowers to receive up to \$10,000 in loan forgiveness, and up to \$20,000 for Pell Grant recipients.

While Biden said after the high court ruling that he is working on a new plan, there are no details set for it. And challenges to the next policy could not come until it is finalized and made it through the months-long negotiated rulemaking process.

Biden’s new IDR program, called the Saving on a Valuable Education plan, is one of his few student loan policies that has yet to face a legal challenge. The plan, which was recently launched by the administration, went through the negotiated rulemaking process and makes substantial IDR changes, such as allowing an individual borrower making \$32,800 or less per year to have \$0 monthly payments on their student loans.

The number of lawsuits borrowers are having to track regarding student loan policies has increased dramatically since previous years, according to Abrams.

“I’ve been working in this space for a long time, and I never really seen regulations be sued at this level,” Abrams said.

The additional lawsuits come as interest on student loans will turn back on at the beginning of September, and payments on loans will restart in October.

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Due to Biden’s “on-ramp” program, borrowers will be able to miss payments up until September 2024 without financial repercussions — other than the accruing interest on their loans.

“When it pertains to the confidence of the Biden-Harris administration, I think, truthfully, a lot of borrowers were hurt because they feel as though there was a lot of tokenized or false promises, given kind of the landscape of the legislative but then also the executive and judicial actions of our institutions of government,” Rogers said.

“But I believe also there’s still faith in the people seeking an education but are burdened with this debt, that — whether it’s going to be the president, whether it’s going to be their congressional figures or their state legislatures — that they’re going to do the right thing,” he added.