

Guest Column: Taxpayers breathe sigh of relief — temporarily — after student loan decision

July 12, 2023



The Supreme Court has just saved American taxpayers more than half a trillion dollars by holding that President Biden and Secretary of Education Miguel Cardona cannot cancel federal student loans under the Higher Education Relief Opportunities for Students Act of 2003, the “HEROES Act.”

First, the court assessed whether any of the challengers to cancellation had standing to sue. In *Department of Education v. Brown*, the answer was “no.” A unanimous court held that the borrowers couldn’t demonstrate that their failure to receive debt relief was traceable to the secretary’s decision to proceed under HEROES.

The court, however, reached the opposite conclusion in *Biden v. Nebraska*, filed by a coalition of six states. There the court held 6-3 that at least Missouri would suffer a financial injury directly linked to Biden’s cancellation plan, which gave the state standing to challenge the president’s authority.

On the merits, Chief Justice John Roberts, writing for the majority, rejected the government’s contention that the HEROES Act, combined with the Covid-19 pandemic, allowed the executive branch authority to cancel millions of student loans without Congress.

Roberts reasoned that, under HEROES, authority to “waive or modify” parts of the Higher Education Act governing student loans couldn’t be used to “rewrite that statute from the ground up.” Yet, Biden and

Cardona had impermissibly “created a novel and fundamentally different loan forgiveness program” by “‘waiving’ provisions root and branch and then filling the empty space with radically new text.”

Student debt cancellation, Roberts observed, raises questions of deep “economic and political significance,” that have attracted Congress’s attention but have yet to prompt a legislative response. These, Roberts explained, are hallmarks of a “major question,” which the secretary had no clear authority to address. Thus, the majority reaffirmed that Congress, not the executive branch, has the power to write and amend laws.

Biden’s student loan scheme would have canceled up to \$20,000 in student loans per eligible borrower. Married households earning up to \$250,000 could’ve had up to \$40,000 in debt amnesty as a couple. The illegal plan represented breathtaking profligacy that would have only served as a handout to Big Academia on the backs of American workers.

The decision follows on the heels of more good news for taxpayers. The pause on loan repayments, which has been costing taxpayers \$5 billion per month since March 2020, is slated to end by late August. And the debt ceiling deal, despite its significant shortcomings, at least prevents Biden from extending the pause again without congressional approval.

In addition to halting the immediate cost to taxpayers of the Biden loan bailout, the court has also prevented what was sure to trigger massive inflationary pressures on tuition.

Student loan “forgiveness” today would certainly be followed by loud calls for debt cancellation tomorrow as new cohorts of students continue borrowing to pay for college. Universities would keep increasing tuition and fees in anticipation of ongoing cancellation and other subsidies. Universities now know that using emergency powers for such massive decisions is forbidden, so at least that option is off the table.

But that’s where the good news ends.

While the court was considering the student loan debt cancellation question, the administration was simultaneously pursuing a “Plan B” debt amnesty plan — one that’s still very much alive.

A proposed rule would change the parameters for Income-Driven Repayment such that qualified borrowers’ monthly loan payments would be capped at 5 percent of their discretionary income (down from 10 percent), which would increase the amount of income exempt from the calculation determining “discretionary” income from 150 percent to 225 percent of the federal poverty line, and — most consequentially — would reduce the time to ultimate loan “forgiveness” from 20 years to just 10.

As Preston Cooper and Lindsey Burke recently explained, the changes to IDR would provide “free” college, but only for low-return majors: the engineering student would have to repay his loan in full, while the sociology major would likely end up with significant debt forgiveness. Indeed, 22 percent of graduates with student loans who enter the IDR program would never make a single payment before total cancellation kicks in, according to an analysis by Matthew Chingos, Jason Delisle and Jason Cohn.

As others have noted, this proposal is so generous (costing hundreds of billions of dollars over 10 years), it might have been the administration's "Plan A" all along.

Congress just used the Congressional Review Act to claw back the proposed rule, but Biden is sure to veto the resolution.

Taxpayers — and future borrowers — can breathe a sigh of relief after the Supreme Court's decision. An otherwise expensive, regressive and inflationary disaster has been avoided. But the fight continues since the administration is investigating every nook and cranny of purported authority to provide debt amnesty to its favored constituency: gender studies majors and the rest of the future woke managerial class.

Congress must continue to fight and prohibit Biden from unilaterally remaking higher education into yet another entitlement program.

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