



November 1, 2022

WHAT YOU NEED TO KNOW ABOUT

# Student Loan Debt Forgiveness Challenges

## PRO POINTS

- **President Joe Biden's student debt relief program is facing more than a half dozen lawsuits filed by a range of conservative groups and Republican state attorneys general.**
- **The lawsuits are winding through the federal courts.** One already reached the Supreme Court, which turned away an emergency request to block the program. But it's likely the high court will be asked to intervene in other cases, too.
- **The Biden administration says it's confident in its legal authority, which is tied to the Covid-19 pandemic.**
- **Officials are urging student loan borrowers to continue applying for relief even amid the legal challenges.** So far, the Education Department has received about 22 million applications.

## HOW WE GOT HERE

President Joe Biden's plan to cancel hundreds of billions of dollars of federal student loan debt without Congressional action was always going to set off a fierce political battle. But the fate of the plan now rests largely in the federal courts, as Republican officials and conservative groups pursue legal challenges.

The challenges are aimed at stopping Biden's debt relief program, which would provide up to \$20,000 of relief to individuals earning below \$125,000 or couples earning below \$250,000. The Education Department estimates that more than 40 million Americans will qualify for the program. So far, about 22 million applications have been submitted.

The lawsuits are varied but they all generally ask a court to stop Biden's student debt relief on the grounds that it is illegal, unconstitutional or both. Most argue that the Biden administration's move to cancel debt exceeds its legal authority and circumvents Congress. Others say the Education Department improperly and arbitrarily developed the policy. A key question is whether any of the plaintiffs can demonstrate the type of direct injury that allows them to have their case heard in federal court.

The Biden administration, for its part, says it is confident in the strength of its legal case. The Education Department argues it has the power to cancel student loan debt under a 2003 law, known as the HEROES Act, that grants the agency special powers to modify or waive the terms of federal student loans during periods of war or national emergency.

## WHAT'S NEXT

The various lawsuits are winding through the federal courts. Two federal appeals courts — in the 7th and 8th circuits — have already taken up some of the cases. Supreme Court Justice Amy Coney Barrett rejected an



emergency plea to put the program on hold, but it's likely that the high court will again be asked to intervene.

Meanwhile, the Biden administration continues to promote the debt relief program and encourage borrowers to apply for student debt relief while the legal challenges continue.

If the legal challenges aren't largely resolved by January 1, when payments are set to resume on federal student loans after nearly three years of pandemic relief, expect the Biden administration to face pressure to extend that deadline once again.

## Lawsuits pile up against Biden's student loan debt forgiveness plan

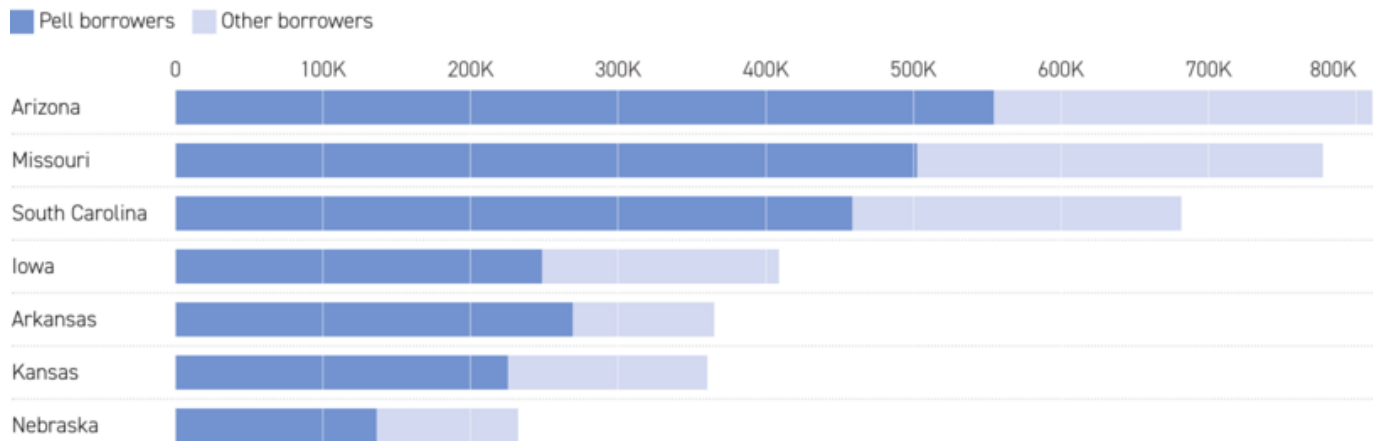
| Plaintiff<br>(Organization)   | Status   | Filed    | Standing argument   |
|---|--|----------|---|
| <b>Cato Institute</b>   | Pending before a district court judge in Kansas.   | Oct. 28  | Cato argues that debt relief would make the Public Service Loan Forgiveness program a less valuable recruiting tool to hire employees.  |
| <b>Myra Brown and Alexander Taylor (Job Creators Network)</b>                         | Pending before a district court judge in Texas.  | Oct. 10  | Two borrowers excluded from any relief or full relief under the program claim they were deprived of their right to comment on the proposal, which did not go through the traditional rulemaking process.        |
| <b>Brown County Taxpayers Association (Wisconsin Institute For Law &amp; Liberty)</b> | Supreme Court Justice Amy Coney Barrett rejected an emergency request to block the program. The 7th Circuit Court of Appeals is weighing an appeal of a lower court's ruling that the group lacks standing.  | Oct. 04  | A Wisconsin taxpayer advocacy group argues it should be able to challenge the plan on behalf of taxpayers who it says will be injured by the program.   |
| <b>Arizona</b>  | Pending before a district court judge. No hearing set.   | Sept. 30 | The Arizona attorney general's office argues, among other reasons, that debt relief would make the Public Service Loan Forgiveness program a less valuable recruiting tool to hire employees.                   |
| <b>Nebraska, Missouri, Arkansas, Iowa, Kansas, and South Carolina</b>                 | The 8th Circuit Court of Appeals temporarily ordered Biden's administration to refrain from canceling student debt while it hears a request by the states to block the program. The states are appealing a lower court's ruling that they lack standing. | Sept. 29 | The states claim that their tax revenues would decrease as a result of the debt relief plan. They also claim that state-related organizations that own, manage or invest in federal student loans would suffer. |
| <b>Frank Garrison and Noel Johnson (Pacific Legal Foundation)</b>                     | The 7th Circuit Court of Appeals agreed with a lower court's ruling that the plaintiffs lack standing to bring the case.   | Sept. 27 | Two student loan borrowers claim they'll be left worse off by debt relief because of the state tax consequences in Indiana.   |

Source: POLITICO reporting



## 3.6 million eligible borrowers live in the states challenging the program

Number of borrowers eligible for student debt relief



Source: White House

### POWER PLAYERS

- **State attorneys general:** Nebraska Attorney General Doug Peterson and Missouri Attorney General Eric Schmitt are the two GOP officials leading a coalition of six states to challenge the debt relief program.
- **The Supreme Court:** The high court, where conservatives hold a majority, will likely be asked to weigh in on Biden's debt relief program.
- **Miguel Cardona, Education Secretary:** Cardona says that his agency is continuing to process debt relief applications as the legal challenges play out and encourages borrowers to apply.