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Supreme Court Rules Student Loan Forgiveness Unconstitutional

Jon Edelman
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The U.S. Supreme Court dashed the hopes of 40 million student borrowers Friday, striking down President Joe Biden's student loan forgiveness program. The plan would have offered $10,000 of relief to borrowers making under $125,000 and $20,000 to those who had received Pell grants, for an estimated $430 billion of forgiveness. The court ruled 6-3 along partisan lines that a program with such a large impact was beyond the power of the Department of Education to enact without the approval of Congress.

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In February's oral arguments, the Biden administration had argued that the forgiveness program was permissible under the Higher Education Relief Opportunities for Students (HEROES) Act of 2003, which, in the event of a national emergency such as the COVID-19 pandemic, gives the Secretary of Education the power to "waive or modify" provisions of the Higher Education Act of 1965, which governs federal student aid.

But in his majority opinion, Chief Justice John Roberts said that widespread loan forgiveness represented unconstitutional "basic and fundamental changes in the scheme."

"The Secretary's plan has 'modified' the cited provisions only in the same sense that 'the French Revolution 'modified' the status of the French nobility'—it has abolished them and supplanted them with a new regime entirely," Roberts wrote.

Chief Justice of the Supreme Court John Roberts

The plan, ruled Roberts, could not be justified as a "waiver," because it adds new and different provisions to the law, such as the amounts to be forgiven and the eligibility requirements. The administration's actions, Roberts argued, are less of a waiver and more of a wholesale rewriting of the law.

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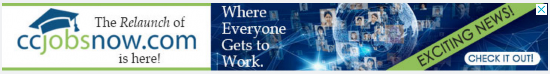

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“What the Secretary has actually done is draft a new section of the Education Act from scratch by ‘waiving’ provisions root and branch and then filling the empty space with radically new text,” the chief justice wrote.

Roberts concluded that Congress would be the appropriate body to enact a mass debt cancellation and that it would not have intended for such a power to fall to the Secretary of Education, an affirmation of the so-called “major questions doctrine,” in which the court has required “clear Congressional authorization” for action on important issues of economic or political significance.

As part of its decision, the majority also ruled that Missouri, which sued on behalf of a group of six states claiming that the debt relief program would damage them economically, had standing to bring the case, meaning that it had suffered a clear, direct injury from the debt relief policy. The state had argued that the Missouri Higher Education Loan Authority (MOHELA), a non-profit government corporation, would suffer decreased revenues and be unable to make mandatory payments into a state fund. The court ruled that although MOHELA is distinct from the state itself, Missouri may still sue to remedy harm involving the non-profit. However, in the other case challenging the loan program, filed by two students who said that they didn’t receive enough of a benefit, or any benefit, respectively, the court ruled unanimously that they did not have standing.

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In a dissent that was joined by the court’s other two liberal justices, Associate Justice Elena Kagan argued that the court had overstepped its bounds.

Associate Justice of the Supreme Court Elena Kagan

“The Court is supposed to stick to its business—to decide only cases and controversies, and to stay away from making this Nation’s policy about subjects like student-loan relief,” she wrote.

Kagan argued that Congress had chosen to delegate authority to the Secretary of Education to respond to emergencies and that the student loan forgiveness program was within the power that had been delegated.

“That authority kicks in only under exceptional conditions,” wrote Kagan. “But when it kicks in, the Secretary can take exceptional measures.”

In a speech from the White House, Biden vowed to continue fighting, announcing a plan to offer debt relief through an alternate source of authority: the Higher Education Act, itself. A line in the legislation gives the Secretary of Education the power to “modify” and to “compromise, waive, or release," claims against borrowers without a precondition like a national emergency.

However, Jonathan Glater, a professor at the University of California, Berkeley School of Law, thought that any attempt to do so was likely to meet the same fate.

"The tone of the opinion and the reasoning suggest that the conservative supermajority would oppose an administration effort to do the same thing relying on a different law," he said. "I don't know what Congress could have written that would persuade the conservative justices in the majority that the Department has the authority to engage in cancellation."

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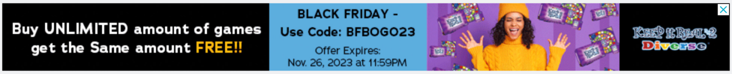
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Biden also announced plans to create a "12-month on-ramp" program for borrowers that would temporarily remove the threat of default for those who miss initial payments.

"The on-ramp to repayment will help borrowers avoid the harshest consequences of missed, partial, or late payments like negative credit reports and having loans referred to collection agencies," said U.S. Secretary of Education Dr. Miguel A. Cardona in a statement.

The court's decision was cheered by Republican, including several presidential candidates.

"Joe Biden's massive trillion-dollar student loan bailout subsidizes the education of elites on the backs of hardworking Americans, and it was an egregious violation of the Constitution for him to attempt to do so unilaterally with the stroke of the executive pen," wrote former vice president and 2024 presidential candidate Mike Pence on Twitter. "I am pleased that the Court struck down the Radical Left's effort to use the money of taxpayers who played by the rules and repaid their debts in order to cancel the debt of bankers and lawyers in New York, San Francisco, and Washington, D.C."

"A president cannot just wave his hand and eliminate loans for students he favors, while leaving out all those who worked hard to pay back their loans or made other career choices," said former South Carolina governor Nikki Haley on Twitter. "The Supreme Court was right to throw out Joe Biden's power grab."

The ruling was criticized by higher ed access groups and borrower advocates.

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"Today's ruling against the Biden-Harris Administration's one-time student debt relief program is a significant blow to millions of borrowers, throwing their financial futures into uncertainty just as the pandemic payment pause is set to end," said Sameer Gadkaree, president of The Institute for College Access & Success (TICAS), in a statement. "Policymakers must provide immediate help to those who were counting on this relief and support the administration's ongoing efforts to strengthen borrower protections and reform the repayment system going forward."

The Student Borrower Protection Center (SBPC) struck an angrier tone.

“Today’s decision is an absolute betrayal to 40 million student loan borrowers and their families counting on the court to uphold the law and move them closer to economic freedom,” said Persis Yu, executive director of the SBPC, in a statement. “Caving to craven and naked political interests, this court relied on convoluted reasoning and distorted facts to allow these two politically contrived cases to deny desperately needed relief to tens of millions of low-income and working-class student loan borrowers.”

Justin Draeger, president and CEO of the National Association of Student Financial Aid Administrators, wondered whether the decision would lead to more lasting fixes in the future.

“There’s a real impasse on policy reform as it relates to student loans, so I don’t know if this clears the way for us to think about bipartisan solutions,” he said. “At some point, we need both Democrats and Republicans, Congress and the president, to be focusing on real reform to these loan programs so that today’s and tomorrow’s students don’t have to carry so much loan debt.”

In the meanwhile, borrowers will have to pay the full amounts that they owe. After a three-year pandemic pause, student loan interest will start back up again on September 1st, and payments will be collected in October.

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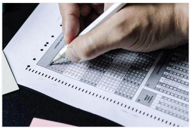

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