



Written by [David Kelly](#) on September 27, 2022

Lawsuit Challenges Biden's Costly Student-loan Forgiveness Plan

American taxpayers who don't have a college degree or who have dutifully paid off their loans have cause to celebrate, as a federal [lawsuit](#) was filed Tuesday with the intent of putting a stop to President Biden's [Student Debt Relief Plan](#).

Biden's executive order to cancel up to \$20,000 in federal student loan debt for millions of Americans will cost U.S. taxpayers about \$400 billion over 30 years. But before the debts were to be cancelled, the [Pacific Legal Foundation](#) (PLF) filed a federal lawsuit against the Department of Education (DOE) to stop to the loan-cancellation plan, as well as seeking a temporary restraining order. It's the first legal challenge to the administration's executive action.

Taxpayers typically don't have standing to sue the government if they're displeased with policies or spending, but the PLF identified a group of taxpayers who will be unfairly hurt by loan forgiveness. And the firm believes Biden's executive order is a huge "unlawful" overreach that will cost taxpayers hundreds of billions.

The PLF [stated](#), "Congress did not authorize the executive branch to unilaterally cancel student debt. It's flagrantly illegal for the executive branch to create a \$500 billion program by press release, and without statutory authority or even the basic notice and comment procedure for regulations."

To get the ball rolling on the debt-cancellation and lacking legislative authority to carry out the president's wishes, the DOE turned to the [HEROES Act](#) of 2003, which allows for the modification of loans during war or a national emergency. Conveniently, according to the federal government, we're still in a national and public-health emergency due to Covid-19.

The DOE decided to use the HEROES Act to begin student debt-cancellation as a way to combat the financial harms caused by the pandemic. But a PLF [press release](#) noted, "President Biden himself recently declared that the pandemic 'is over.' So, The HEROES Act is a flimsy pretext for a major policy change that Congress has declined to enact. And even if the Education Department had this power, it should have gone through typical notice and comment rulemaking."

The most interesting part of this lawsuit is that the plaintiff, Frank Garrison, is already participating in the federal Public Service Loan Forgiveness [program](#) (PSLF), which would have had his debt forgiven after 10 years of payments — without any additional tax burden. He's already six years into payments, and those payments are capped based on his income.

But Garrison, who is public-interest attorney now employed by PLF, lives in Indiana, a state that would



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tax the upcoming cancellation as income but does not tax his future PSLF loan forgiveness. Garrison will be stuck with a tax bill that makes him financially worse off than continuing with his repayment program under PSLF. He did not ask for cancellation, doesn't want it, and has no way to opt out of it.

Garrison is not alone, the PLF reported: "There are hundreds of thousands of public interest workers and public servants in at least six states — Indiana, Wisconsin, North Carolina, Minnesota, Mississippi, and Arkansas — who will be stuck in a similar situation as Frank, according to the White House's [fact sheet](#)"

According to PLF, "Frank chose to take a lower salary than he could have earned in private practice, incentivized in part by Congress' authorized forgiveness program. Now the president is changing the rules in what is, by all appearances, a political move in advance of an election. But whatever the administration's motives, the loan cancellation program has been rushed, is ill thought out, and will have significant unintended consequences for borrowers, students, colleges, and the economy in general."

The lawsuit will shine the light on the fact that Biden and his brain-trust usurped the Constitution and need to be held accountable for their political ploy to gain votes in November. Biden doesn't have the authority to forgive loan debt, and his plan should have gone through the proper channels and garnered congressional approval before implementation.

"This is why the Framers designed the Constitution as they did," the PLF states in its press release. "The separation of powers ensures that no department of government can make unilateral decisions, and that laws come from the body that represents the people: Congress. Even when Congress does the wrong thing, the lawmaking process ensures that the people's voices are heard. Ramming expensive and divisive programs down the throats of Americans through executive fiat is never a good idea."



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