



Written by [R. Cort Kirkwood](#) on May 3, 2021

# White Farmers Sue USDA Over Race-based Loan Forgiveness

Five white farmers have sued the Biden administration because it plans to administer an anti-white, openly discriminatory loan-forgiveness program.

The lawsuit argues that the U.S. Department of Agriculture and its Farm Service Agency (FSA), which lends money to farmers and ranchers, are discriminating against white farmers in offering debt forgiveness via the recently passed, \$2 trillion American Rescue Plan Act of 2021. Only minorities can apply, the FSA openly says, because it must help repair the damage from years of “systemic discrimination” in lending.



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In other words, whites need not apply.

## The Program

FSA chief Zach Ducheneaux explained the racially discriminatory policy at USDA websites.

“USDA recognizes that socially disadvantaged farmers and ranchers have faced systemic discrimination with cumulative effects that have, among other consequences, led to a substantial loss in the number of socially disadvantaged producers, reduced the amount of farmland they control, and contributed to a cycle of debt that was exacerbated during the COVID-19 pandemic,” [he wrote](#) on March 26:

During the pandemic, socially disadvantaged communities saw a disproportionate amount of COVID-19 infection rates, loss of property, hospitalizations, death, and economic hurt.

To address these systemic challenges, the American Rescue Plan Act of 2021 provides historic debt relief to socially disadvantaged producers including Black/African American, American Indian or Alaskan native, Hispanic or Latino, and Asian American or Pacific Islander.

On April 16, [he explained](#) that the USDA ARPA will “pay up to 120% of loan balances, as of January 1, 2021” for FSA loans. “If you are a Black, Native American/Alaskan Native, Asian American or Pacific Islander, or are of Hispanic/Latino ethnicity, with one of the loans listed above, you are eligible for the loan payment.”

Citing testimony from Agriculture Secretary Thomas Vilsach, the lawsuit says the agency will forgive up to 15,000 loans and more than \$4 billion debt for “non-white farmers.”

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The plaintiffs are Adam P. Faust and Christopher C. Baird of Wisconsin, Jonathan P. Stevens of



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Minnesota, Jay T. Slaba of South Dakota, and Joseph W. Schmitz of Ohio. Each is a farmer, the lawsuit avers, who would “otherwise be eligible for the loan forgiveness provisions of Section 1005 of ARPA, except that he is white.”

“In March 2021, the United States retreated from the principle of equality under the law by enacting a race-based loan-forgiveness program” in ARPA, the lawsuit argues, because it excludes whites.

### **It’s Illegal**

Such discrimination is illegal unless the defendants, Ducheneaux and Vilsack, can “prove that its discriminatory benefit is narrowly tailored and serves a compelling government interest,” the [lawsuit argues](#):

While Defendants’ public statements about ARPA describe their generalized goal of ending “systemic racism,” such broad goals do not override the constitutional ban on race discrimination. In fact, the Supreme Court has “rejected the interest in remedying societal discrimination because it had no logical stopping point.... In short, “[t]he way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”

Previous case law and the U.S. Constitution, the lawsuit argues, ban the open racial discrimination the program involves.

“The liberty protected by the Fifth Amendment’s Due Process Clause contains within it the prohibition against denying to any person the equal protection of the laws,” the lawsuit avers. “The racial classifications under Section 1005 of ARPA are unconstitutional because they violate the Equal Protection guarantee in the United States Constitution.”

Nor do they serve a compelling government interest, the lawsuit argues.

The lawsuit asks the court to declare the program unconstitutional and stop the USDA from “applying racial classifications when determining eligibility” for the programs.

The lawsuit has not deterred the USDA, the [Green Bay Press Gazette reported](#). While the agency reviews the complaint with the Justice Department, it will continue to implement the program, a spokesman said.

“There should absolutely be no federal dollars going anywhere just based on race,” Faust told the newspaper. “The economic impact from COVID-19 didn’t hurt any race more than another as far as agriculture goes.”

**H/T:** [Legal Insurrection](#), [Daily Signal](#)



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