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Student Loan Debt Forgiveness in a Pandemic

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Student Loan Debt Forgiveness in a Pandemic

The COVID-19 pandemic has changed the lives of Americans across the country negatively impacting the health and livelihoods of millions. Student loan debt statistics for 2021 show U.S. student loan debt is the second highest consumer debt in the United States--crippling 45 million borrowers who collectively owe nearly \$1.7 trillion.[1] As part of the CARES Act, passed in March of 2020 in response to the Covid-19 pandemic, student loans were paused; meaning, no federal student loan payments were owed, no interest accrued, and no student loans in default would be collected.[2]

The pause on student loans began on March 13, 2020 and the U.S. Department of Education determined the final extension would end on January 31, 2022.[3] While borrowers were granted student loan forbearance during this difficult time, the relief was only temporary. Student loans were paused not cancelled. For most Americans, payments will be due, and interest will accrue as soon as January 31, 2022 arrives.[4]

Since winning the 2020 election, President Biden has faced pressure to issue an executive order cancelling student loans.[5] While Biden has so far refused to issue an executive order universally forgiving student loans, he has cancelled over \$11.5 billion in student loans since beginning his term as President. Rather than cancelling all student loan debt in one swoop, President Biden has cancelled student loans in waves, identifying specific groups of borrowers identified by statute but were put on hold by the Trump and DeVos Department of Education.[6] \$7.1 billion were cancelled for borrowers with “total and permanent disability”, \$1.1 billion were forgiven for former students who were “misled” by ITT Technical Institute, \$55.6 million were discharged for people who attended three other trade schools which misrepresented themselves to students, and \$1 billion were dismissed for borrowers who claimed they were defrauded by schools.[7]

While the steps taken by the Biden Administration have helped millions of people overcome their student debt, it does not have a sizable impact on the 45 million Americans who owe federal student loans. Senator Elizabeth Warren of Massachusetts and Senate Majority Leader Charles Schumer of New York have introduced a resolution in Congress calling on President Biden to use executive action to cancel up to \$50,000 in student loan debt per borrower. Unlike their proposal in September of 2020, which would allow the debt forgiveness to apply to all borrowers, this resolution was limited to borrowers with federal student loans who earn less than \$125,000 a year.[8] President Biden has rejected the proposed \$50,000 forgiveness and instead has stated an intention to cancel \$10,000 in federal student loan debt for every borrower. President Biden is reported to have inquired as to whether a president can legally forgive widespread student debt through executive action and no response to this question has been publicly recorded.[9]

While we are far away from any extensive student loan forgiveness, changes are continually being made. For example, the U.S. Department of Education made changes to allow student loan forgiveness to be more accessible to Americans working in public service roles. It was announced on October 6, 2021, that changes were made to the Public Service Loan Forgiveness (PSLF) Program to improve the process.[10] The PSLF was enacted in 2007 and up until now has only benefited 5,500 borrowers because of its “complicated eligibility rules, servicing errors, or other technicalities.”[11] Recognizing that public service workers were suffering immensely on the front lines of the pandemic, the program now simply requires the borrower to have made payments towards federal loans for 10 years while working in a public service position—no matter the type of loan they will be eligible for forgiveness. These changes have brought 550,000 borrowers closer to student loan forgiveness by an average of 23 payments. [12]

The Biden Administration recognizes the burden student loan debt has on the lives of Americans and has chosen to act. While those actions are not as fast and not as broad as many would like to see, the actions are still being done. President Biden continues to grant relief to small waves of groups of borrowers, and those small groups will add up to create an enormous impact on the lives of American borrowers. A quicker way to help borrowers in need without eradicating all loans for all borrowers under any circumstances would be for Congress to amend bankruptcy laws. It is nearly impossible for borrowers to discharge student loans in bankruptcy, but amended bankruptcy laws could aid borrowers who are desperate for relief without a wide-scale student loan cancellation that is so controversial in Congress. [13]

[1] Zack Friedman, *Student Loan Debt Statistics In 2021: A Record \$1.7 Trillion*, FORBES (Feb. 20, 2021, 8:30 AM), <https://www.forbes.com/sites/zackfriedman/2021/02/20/student-loan-debt-statistics-in-2021-a-record-17-trillion/?sh=394c0bda1431>.

[2] Zack Friedman, *Biden Pauses Student Loans For 8 Months – What It Means For Student Loan Cancellation*, FORBES (Jan. 20, 2021, 9:58 AM), <https://www.forbes.com/sites/zackfriedman/2021/01/20/biden-pauses-student-loans-for-8-months-what-it-means-for-student-loan-cancellation/?sh=621206a554da>.

[3] *Coronavirus Info for Students, Borrowers, and Parents*, FEDERAL STUDENT AID, <https://studentaid.gov/announcements-events/coronavirus>.

[4] Friedman, *supra* note 2.

[5] Friedman, *supra* note 2.

[6] Danielle Douglas-Gabriel, *Biden administration grants automatic student loan forgiveness to 323,000 permanently disabled borrowers*, THE WASH. POST (Aug. 19, 2021, 2:04 PM), <https://www.washingtonpost.com/education/2021/08/19/disability-student-debt-forgiveness/>.

[7] Clayton Jarvis, *Biden has cancelled \$11.5B in student loan debt -- but what about vast forgiveness?*, YAHOO! (Oct. 11, 2021, 11:20 AM), <https://www.yahoo.com/now/biden-canceled-11-5b-student-152000920.html>.

[8] Zack Friedman, *Democrats Plan \$50,000 of Student Loan Cancellation By Executive Order*, FORBES (Feb. 4, 2021, 10:47 AM), <https://www.forbes.com/sites/zackfriedman/2021/02/04/democrats-will-introduce-plan-to-cancel-50000-of-student-loans/?sh=12fcbbab486f>.

[9] Jarvis, *supra* note 5.

[10] *Fact Sheet: Public Service Loan Forgiveness (PSLF) Program Overhaul*, U.S. Dep't of Educ. (Oct. 6, 2021), <https://www.ed.gov/news/press-releases/fact-sheet-public-service-loan-forgiveness-pslf-program-overhaul>.

[11] Kayla Galloway, *Here's Who is Eligible for Student Loan Forgiveness Under New Federal Relief Plan*, NBC L.A. (Oct. 7, 2021), <https://www.nbclosangeles.com/news/national-international/heres-who-is-eligible-for-student-loan-forgiveness-under-new-federal-relief-plan/2709285/>.

[12] Galloway, *supra* note 10.

[13] Zack Friedman, *5 Ways Congress Could Cancel Your Student Loans Without Biden*, FORBES (Oct. 18, 2021, 9:04 AM), <https://www.forbes.com/sites/zackfriedman/2021/10/18/5-ways-congress-can-enact-wide-scale-student-loan-cancellation-without-president-biden/?sh=654e5c032361>.