

POST-SCOTUS ORAL ARGUMENTS EXPLAINER AND TALKING POINTS [PARTNERS]

SUMMARY

The U.S. Supreme Court heard oral arguments in two cases set to determine the fate of President Biden's signature student debt relief program. This program promises to cancel up to \$20,000 in student debt for more than 40 million Americans, wiping balances in their entirety for 20 million people.

Before court orders in these two lawsuits blocked debt relief, more than 26 million people applied to have their loans cancelled and more than 16 million borrowers' applications were approved by the Department of Education and sent to loan servicers for processing.

In both cases, the Court considered two questions:

- Whether the parties that brought these challenges to student debt relief have legal standing; and
- Whether Education Secretary Cardona acted lawfully when he used emergency powers to execute this program.

Solicitor General Elizabeth B. Prelogar's [rigorous legal argument](#) forcefully demonstrated that President Biden's debt relief policy is a reasonable and necessary response to the pandemic and is authorized by the HEROES Act. The Solicitor General also anchored the government's defense around the question of legal standing: the six Republican state officials and two aggrieved borrowers did not have the right to sue.

In oral arguments, the justices also focused heavily on these questions:

- Four justices repeatedly questioned whether parties had standing to challenge the Administration's actions in this case.
- Two justices remained silent with respect to the parties' standing to bring suit, leaving space for a majority to reject these cases on standing grounds.
- While conservative justices showed skepticism about the legality of the President's student debt relief program, the question of legal standing is a threshold question which must be addressed before the court can reach the merits of the case.

We expect the Supreme Court to deliver a decision on the future of President Biden's debt relief program in June. In the meantime, millions of borrowers are left waiting on the economic relief that was promised. While we wait, it is important to emphasize that nothing in Tuesday's arguments suggested a majority of justices were persuaded by opponents' claims to have standing—leaving the door open for a majority of the Court to deliver debt relief for 40 million people in June without ever considering the legality of student debt relief.

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TALKING POINTS

OVERALL: President Biden’s debt relief plan is legal and the Department of Justice delivered a rigorous defense of the program while demonstrating the widespread need for millions of borrowers and their families to see this relief.

ON STANDING: Even the most conservative Justices showed skepticism of the speculative and attenuated legal standing that both cases rely on, and questioned opponents’ ability to use the courts to block debt relief:

- In *Biden v. Nebraska*, the six Republican-led states challenging debt relief failed to prove they had the right to sue—falsely claiming Missouri would be harmed by any theoretical harm resulting from debt relief to a single student loan company, a Missouri-backed corporation called MOHELA, despite evidence offered by the Justice Department that this company is a separate legal entity from the state and—in MOHELA’s own words—this is not their lawsuit.
- In *Department of Education v. Brown*, two aggrieved borrowers sued to address their supposed grievance that this program was *not generous enough* while seeking to block cancellation for everyone— an outcome that these borrowers failed to prove would address their claims.

ON PRECEDENT: Cancellation of student loans is authorized by numerous provisions of the Higher Education Act and occurs every day—Biden’s action is not an extraordinary measure.

ON HEROES: The Administration’s debt relief plan falls squarely within the plain text of the HEROES Act—it is directly responsive to the economic distress caused by the pandemic and is meant to help transition borrowers at risk of default back into repayment.

- The Solicitor General forcefully pushed back on the suggestion by some conservative justices that the Major Question Doctrine could block student debt relief. Congress provided the Secretary of Education with clear and unambiguous authority under the Higher Education Relief Opportunities for Students (HEROES) Act of 2003 Act to protect borrowers from economic distress as a result of a national emergency.
- In other cases where the court struck down executive actions using the Major Questions Doctrine, the government relied on a law that the Court did not believe clearly authorized the government action. This is not the case here. “We deal with congressional statutes every day that are really confusing,” said Justice Elena Kagan. “This one is not.”

ON PLAN B: Plan B for student debt relief is still Plan A—President Biden’s student debt cancellation action is legal and the Supreme Court needs to follow the letter of the law and allow millions of workers and families to get much needed economic relief.

- Hundreds of borrowers from across the country gathered in front of the court on February 28 to send that very message: If the Supreme Court fails the American people and chooses politics over the letter of the law, we’re not going away. The law is clear, the Supreme Court needs to follow the letter of the law.

ON PREDICTIONS: This case is far from decided. While conservative justices showed skepticism about the legality of the President’s student debt relief program, opponents’ lack of legal standing—which would dismiss the cases—was an equal area of focus for the court. The law is clear, the Supreme Court needs to follow the letter of the law.



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