



Browse

Subscriptions

Rankings

Submit a paper

My Library

Blog



Shopping Cart (https://papers.ssrn.com/sol3/ShoppingCart.cfm)

Create account

(https://hq.ssrn.com/login/pubsiginjoin.cfm)

Sign in

(https://hq.ssrn.com/login/pubsiginjoin.cfm)

Download This Paper (Delivery.cfm/SSRN_ID3819989_code52344.pdf?abstractid=3819989&mirid=1)

Open PDF in Browser (Delivery.cfm/SSRN_ID3819989_code52344.pdf?abstractid=3819989&mirid=1&type=2)

Add Paper to My Library

Share: f t e p

May the Executive Branch Forgive Student Loan Debt Without Further Congressional Action?

71 Pages
Posted: 6 Apr 2021

Howell E. Jackson (https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=52344)
Harvard Law School

Colin Mark (https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=4651772)
Harvard Law School

Date Written: April 5, 2021

Abstract

On April 1, 2021, the Biden Administration announced that Secretary of Education Michael Cardona will consider whether the President has legal authority to forgive up to \$50,000 per debtor in student loan debt without further Congressional action. This paper collects the leading arguments for and against the position that the Biden Administration can forgive this student loan debt as an administrative action and without additional congressional authorization. The paper first surveys the history of federal student loan forgiveness programs in the United States. The paper then considers whether statutes on the books—in particular, the Higher Education Act of 1965 and the Federal Claims Collection Act of 1966—grant the executive branch the authority to effect widespread student loan forgiveness. The paper considers how the Department of Education might use administrative action to forgive loans and assesses the pros and cons of the Department proceeding without notice and comment rulemaking. Finally, the paper evaluates the Biden Administration's prospects in court, including whether any parties would have standing to challenge administrative student loan forgiveness and which forms of administrative action are likeliest to survive judicial review.

Keywords: Student Loans, Debt Forgiveness, Federal Budget Policy, Administrative Law, Appropriations Clause, Department of Education

JEL Classification: D1, H3, H31, H52, K32, I22, I24, I28

Suggested Citation >

Hide Contact Information v

Howell Edmunds Jackson (Contact Author) (https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=52344)



(http://hls.harvard.edu/)

Harvard Law School (email)
Griswald 402
1563 Massachusetts Avenue
Cambridge, MA 02138
United States
617-495-5466 (Phone)
617-495-5156 (Fax)

Colin Mark (https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=4651772)

Harvard Law School (email)
United States

Download This Paper (Delivery.cfm/SSRN_ID3819989_code52344.pdf?abstractid=3819989&mirid=1)

Open PDF in Browser (Delivery.cfm/SSRN_ID3819989_code52344.pdf?abstractid=3819989&mirid=1&type=2)

31 References

- C F R
70(b) (referring to section 452(f) of the General Education Provisions Act (20 U.S.C. § 1234a), which only applies to "recipients" of a "grant or cooperative agreement under an applicable program, volume 30
- Fed. Reg., volume 75926
Posted: 2016-11-01
Crossref (https://doi.org/10.1093/wwj/9780199540884.013.u224852)
- Generally speaking, the FCCS were amended to allow for agencies to compromise debts at a higher dollar level, volume 100
- Fed, Reg
(proposing to amend § 30.70 to "[c]larify that the generally-applicable \$100,000 limit does not apply to resolution of claims arising under" FFELP, DLP, or PLP; and include the requirement that the Department seek DO) review of any proposed resolution of a claim exceeding \$1,000
Negotiated Rulemaking Committee, volume 39930
Posted: 2016-06-16

Load more

Do you have a job opening that you would like to promote on SSRN?

Place job opening (https://www.ssrn.com/index.cfm/en/Announcements-Jobs/)

Paper statistics

DOWNLOADS	432
ABSTRACT VIEWS	1,684
RANK	84,060

31 References

PlumX Metrics



[Related Journals](https://plu.mx/ssrn/a/?ssrn_id=3819989)


Social Sciences Education eJournal (https://papers.ssrn.com/sol3/ELJOUR_Results.cfm?form_name=journalBrowse&journal_id=3128507)

Follow 




U.S. Administrative Law eJournal (https://papers.ssrn.com/sol3/ELJOUR_Results.cfm?form_name=journalBrowse&journal_id=2127732)

Follow 


View more >

Feedback 


[Submit a Paper >](https://hq.ssrn.com/submissions/CreateNewAbstract.cfm) (<https://hq.ssrn.com/submissions/CreateNewAbstract.cfm>)

- [SSRN Quick Links](#) 
- [SSRN Rankings](#) 
- [About SSRN](#) 

 (<https://www.facebook.com/SSRNcommunity/>)

 ([https://www.linkedin.com/company/493409?](https://www.linkedin.com/company/493409?trk=tyah&trkl=info=clickedVertical%3Acompany%2CentityType%3AentityHistoryName%2CclickedEntityId%3Acompany_493409%2Cidx%3A0)

[trk=tyah&trkl=info=clickedVertical%3Acompany%2CentityType%3AentityHistoryName%2CclickedEntityId%3Acompany_493409%2Cidx%3A0](https://www.linkedin.com/company/493409?trk=tyah&trkl=info=clickedVertical%3Acompany%2CentityType%3AentityHistoryName%2CclickedEntityId%3Acompany_493409%2Cidx%3A0)

 (<https://twitter.com/SSRN>)

[\(https://www.elsevier.com/\)](https://www.elsevier.com/)

Copyright (<https://www.ssrn.com/index.cfm/en/dmca-notice-policy/>) Terms and Conditions (<https://www.ssrn.com/index.cfm/en/terms-of-use/>)
Privacy Policy (<https://www.elsevier.com/egal/privacy-policy>)

We use cookies to help provide and enhance our service and tailor content.

To learn more, visit [Cookie Settings](#).

[\(http://www.relx.com/\)](http://www.relx.com/)

<https://papers.ssrn.com/sol3/updateInformationLog.cfm?process=true>