# How Biden is continuing to cancel student loan debt despite Supreme Court ruling

*CNN,* by Katie Lobosco, October 22, 2023

Although the Supreme Court struck down President Joe Biden's signature student loan forgiveness program in late June, his administration has found ways to cancel more than $48 billion in debt since then.

The cancellations have come through existing federal student loan forgiveness programs, which are limited to specific categories of borrowers, such as public-sector workers, people defrauded by for-profit colleges, and borrowers who have paid for at least 20 years.

These programs are separate from the rejected forgiveness plan, which would have canceled about $430 billion of the $1.6 trillion of outstanding federal student loan debt all at one time.

The Biden administration has been granting student loan forgiveness through these existing programs on a rolling basis since coming into office and has discharged a total of $127 billion for nearly 3.6 million people to date.

That's more student loan forgiveness than was granted under any other administration – in part due to the Biden administration's efforts to temporarily expand some debt relief programs and to correct past administrative errors made to borrowers' student loan accounts. The actions draw a stark contrast with the Trump administration, which tried to limit some of these forgiveness programs and slowed the processing of some applications.

But Biden's Republican critics say that at least some of his debt relief actions are illegal and are an attempt to circumvent the Supreme Court's ruling.

## Recounting past payments and fixing errors

Nearly $42 billion of federal student loan debt has been canceled for almost 855,000 borrowers enrolled in income-driven repayment plans – largely due to the Biden administration's effort to recount borrowers' past payments and fix what officials have called "past administrative failures."

Borrowers enrolled in income-driven repayment plans, which have been available in some form since 1993, are generally eligible for debt discharges after making qualifying payments for at least 20 years. The plans lower monthly payments by tying them to a borrower's income and family size.

But the Department of Education has historically had trouble tracking borrowers' payments.

Last year, the US Government Accountability Office recommended that the department do more to ensure that borrowers receive the forgiveness they are entitled to, after it found that there were thousands of loans still in repayment that could already be eligible for forgiveness.

“These are borrowers getting discharges that they should have received under programs authorized by Congress if they’d been operated as they should have over decades,” a Department of Education official said to CNN in an emailed statement.

Generally, the one-time recount will give borrowers credit toward forgiveness for any months in which they made payments regardless of what repayment plan they were enrolled in at the time, according to the Department of Education. The recount especially helps borrowers who may have been inappropriately steered by their student loan servicing company into a long-term forbearance, a period in which they stopped making payments.

## A legal challenge moves forward

The one-time account adjustment effort was first announced by the Biden administration in April 2022 – but the cancellations did not begin until this year.

The administration announced it was canceling $39 billion in student loan debt due to the changes just two weeks after the Supreme Court knocked down Biden’s signature loan forgiveness program – drawing some skepticism about whether the move was legal.

“The Biden administration is trampling the rule of law, hurting borrowers, and abusing taxpayers to chase headlines,” Republican Rep. Virginia Foxx, chair of the House Committee on Education and the Workforce, said in a statement at the time.

“Today’s celebration of counting no payments as payments is just the latest example of the ongoing delusion at the White House,” she added.

The Biden administration is facing at least one lawsuit over the account adjustments, filed by the New Civil Liberties Alliance on behalf of the conservative groups Cato Institute and the Mackinac Center for Public Policy. The plaintiffs recently filed an appeal after the lawsuit was dismissed by a federal judge in Michigan, who ruled that they did not have standing to bring the complaint.

Lawyers for the Biden administration have not yet been required to respond to the complaint and specify the legal authority relied on to cancel billions of dollars of student loan debt by adjusting past payments.

“There are several sources of authority that the department may be relying on, given its expansive authority over the federal student loan program generally and the income-driven repayment plans in particular,” said Abby Shafroth, co-director of advocacy at the National Consumer Law Center and director of its Student Loan Borrower Assistance Project.

Even if the lawsuit succeeds, Shafroth said it would surprise her if the court’s decision would result in reversing the debt relief that has already occurred.

## Expanding debt relief program for public-sector workers

Nearly $51 billion of student loan debt has been canceled for 715,000 borrowers through the Public Service Loan Forgiveness program since Biden took office.

The PSLF program cancels outstanding federal student loan debt for public-sector workers who have made 120 qualifying monthly student loan payments, or about 10 years' worth of payments. A variety of government and nonprofit workers – including teachers, social workers, some nurses and doctors, and government lawyers – may qualify for the program.

The program was created by Congress in 2007 but was plagued with administrative problems before Biden took office.

In 2021, Biden put a temporary waiver in place, expanding eligibility so that some borrowers could retroactively receive credit for past payments that did not otherwise qualify for PSLF.

More than 95% of the borrowers who have been granted debt relief by the PSLF program qualified because of Biden's temporary waiver.

The temporary benefits ended in October 2022. But the Department of Education has since conducted an executive rulemaking process to permanently change some of the qualifying restrictions of the PSLF program. The changes allow borrowers to receive credit toward PSLF on payments that are made late, in installments or in a lump sum, for example. Those changes went into effect in July.

## Processing claims left over from the Trump administration

The Biden administration has canceled $22.5 billion of student loan debt for more than 1.3 million borrowers through an existing program known as borrower defense to repayment, which delivers student debt relief to people who were defrauded by their college.

Most recently, $37 million was canceled for more than 1,200 borrowers who attended the University of Phoenix because the government found that the for-profit school misled students about job prospects.

The borrower defense program was created by Congress decades ago but was rarely used until Corinthian Colleges, a for-profit network of schools, collapsed in 2015.

Under Biden, the Department of Education has made progress in whittling down a backlog of borrower defense claims that built up during the Trump administration.

At one point, more than 200,000 borrower defense claims were pending as former Education Secretary Betsy DeVos made efforts to limit the program. Those efforts were ultimately unsuccessful.

## Cutting red tape for disabled borrowers eligible for debt relief

The Biden administration has also made it easier for disabled borrowers to receive the debt relief to which they are entitled. Nearly 513,000 borrowers with a total and permanent disability have received $11.7 billion in student loan forgiveness since 2021.

Previously, borrowers were required to provide documentation from a physician, the Social Security Administration or the Department of Veterans Affairs to show that they qualified for debt relief.

But the Biden administration changed the rule so that the Department of Education can provide automatic discharges for disabled borrowers who are identified through administrative data matching with the Social Security Administration – without the borrowers submitting paperwork.

## Student loan debt in England surpasses £200bn for first time

*The Guardian*, by Richard Adams, June 16, 2023

Outstanding student loans in England have surpassed £200bn for the first time – 20 years earlier than previous government forecasts, as the number of students at universities continues to outstrip expectations.

The Student Loans Company (SLC), which administers tuition and maintenance loans in England, said that the balance of government-backed loans reached £205bn in the current academic year, including £19bn worth of new loans to undergraduates. The figure has doubled in just six years. It reached more than £100bn in 2016-17 after the coalition government decided to increase undergraduate tuition fees from £3,600 a year to £9,000 in 2012.

The SLC also revealed that the average amount owed by graduating students had risen again, and now sits at just under £45,000.

Loan repayments by graduates also rose to more than £4bn in 2022-23, which the SLC said was "considerably higher" than the previous years, in part because higher inflation "may have positively affected borrower salaries".

Loans to students in England remain far higher than those in other countries in the UK. Students in Scotland – where tuition is free for residents – have £15,400 in outstanding loans on average, while students from Wales owe £35,500 and those from Northern Ireland owe £24,500 after graduation, according to the SLC.

Government forecasts in 2013 were for outstanding student loans to reach £200bn by 2042, but England's undergraduate population has swelled more rapidly than expected while postgraduate students have also been able to take out loans. More recent government forecasts cited by the House of Commons library are for the total to reach £460bn by the mid-2040s.

Student finances are expected to be a battleground in next year's general election, with the government having recently revised the loans system so that lower and middle-earning graduates will have to repay a greater share.

From 2024-25, undergraduates will have to start repaying their loans when they earn £25,000, rather than the current threshold of £27,295, and will have to continue repaying for a maximum of 40 years rather than 30, when outstanding loans are written off. Interest rates will be lowered for new borrowers, which benefits high-earning graduates able to pay off their loans earlier.

The changes are expected to double the number of graduates who pay off their loans in full. But the Institute for Fiscal Studies has said that they will more than treble the expected repayments for the lowest-earning 30% of graduates.

Labour has pledged to reverse the changes if elected, accusing the government of "hammering the next generation of nurses, teachers and social workers".

While the £205bn would equate to about 8% of the UK's public sector net debt of more than £2.5 trillion, how students loans are accounted for in the national accounts is complex. The portion of loans forecast to be repaid are treated as a loan, while the part expected to be written off is recorded as government spending at the time the loans are made.

## Labour vows to overhaul planned Tory changes to student loan system

*The Guardian,* by Kiran Stacey, June 2, 2023

Labour has promised to overhaul changes to the student loan system being planned by the Conservative government in a way that could reduce monthly repayments for graduates.

Bridget Phillipson, the shadow education secretary, said on Friday the tuition fees system was "broken", but repeated the insistence by her party leader, Keir Starmer, that Labour would not be able to afford to scrap fees altogether.

Starmer's decision to drop the promise to end fees caused anger among students and on the Labour left. But Phillipson's comments in the Times give the first sense of how the party may seek to win those voters back.

Phillipson said: "The Conservative tuition fees system has long been broken, and their latest set of reforms will make it worse."

She added: "Plenty of proposals have been put forward for how the government could make the system fairer and more progressive, including modelling showing that the government could reduce the monthly repayments for every single new graduate without adding a penny to government borrowing or general taxation – Labour will not be increasing government spending on this."

Under the plans announced by the Treasury last year, graduates will have to start repaying their loans when they earn £25,000, rather than £27,295, and will have to continue repaying for a maximum of 40 years rather than 30. Interest rates will be cut for new borrowers and tuition fees capped at £9,250 for another two years.

The measures are predicted to double the number of graduates who pay off their loans in full, and save the government tens of billions of pounds. But lower earners will have to pay significantly more, thanks to the reduction in the lower repayment threshold.

Phillipson said: "The Tories' choices are hammering the next generation of nurses, teachers and social workers; of engineers, of designers and researchers." But she did not go into detail about how Labour would change the system, or how the party could reduce monthly repayments without spending public money to do so.

Phillipson's promise, however, has not defused anger among many in the Labour party over the decision to drop the promise to end the fees system altogether.

Fabiha Askari, vice-chair of the National Labour Students Committee, said: "When Labour committed itself to abolishing tuition fees in 2017, hundreds of thousands of students flocked to the Labour party. As more young people find themselves disillusioned with Westminster politics, Labour should make commitments that seek to build a broad coalition of voters to kick out the Tories and their failed policies."

A spokesperson for Momentum, the leftwing grassroots campaign organisation, said: "Once again we are seeing a worrying poverty of ambition from the Labour leadership. The proposed cuts to repayments will still leave young people facing mountains of debts, even as they already struggle with sky-high rents."

## ‘It’s perverse’: how Australia’s student loan scheme traps graduates in a debt spiral

*The Guardian*, by Caitlin Cassidy, April 25, 2023

*Hit with a decades high indexation rate, many young people don’t see how they will ever make a dent in their Help debt.*

Zoe thought 2023 would be the first year she’d make a dent in her $123,000 student debt.

The arts law graduate from Victoria has been working full-time in the public service sector for five years. In that time her higher education loan program – previously the higher education contribution scheme hasn’t shifted, even though she has been making payments on it for five years.

In Australia, student loans are tied to inflation and increase annually in line with the consumer price index, which means rises cause Help loans to spiral, sometimes in excess of repayments.

On Wednesday the last consumer price index (CPI) revealed debts will be indexed at 7.1% this year, up from 3.9% last year and 0.6% in 2020. It will take effect on 1 June.

A promotion to a $100,000 salary last year had Zoe hopeful. But with indexation, her debt will rise by about $9,000 when it comes into effect on 1 June.

The $10,000 she’s estimated to pay back this year – the second biggest expenditure in her life after rent – still won’t make a dent. In the past five years, she’s paid off more than $15,000 of her debt and it’s only reduced by about $4,000.

“It’s a bitter pill to swallow,” she says. “There doesn’t seem to be an end. My rent went up $80 a week in March and everything is more expensive … wages don’t keep up with indexation, why do our debts?”

At the new expected rate of indexation, people with an average student debt of $24,770 will face an increase of $1,759. The 585,000 people with debts in excess of $40,000 or more in the latest financial period will be hit with a $2,840 increase.

Zoe says even privileged graduates paid decent incomes like herself are being caught in a debt cycle. She’s been told by mortgage brokers her Hecs will impact her ability to finance a housing loan.

“It is incredibly disheartening to realise that the debt will probably not be paid for another 20 years if I choose to stay in the public service,” she says.

“It’s made it feel impossible to get ahead financially, despite being in an incredibly privileged position to have a high salary and a secure job.”

This month a committee recommended against passing a bill put forward by the Greens senator Mehreen Faruqi to freeze indexation and increase the minimum repayment threshold to the median wage.

Under the Coalition in 2019, the threshold was reduced from $52,000 to $48,361 – about $6,000 above the minimum wage.

Faruqi says the federal government is "completely out of touch" with the reality of millions holding student debts. "Labor has elected to sit back and watch as millions of Australians are hit with a student debt avalanche," she says.

"An education system that traps graduates in a debt spiral and forces them to repay student loans when they are barely earning above the minimum wage is unsustainable and broken."

On Wednesday the independent MP Zoe Daniel will call for an urgent review into Help after the release of the latest indexation rate.

She will say the federal government has "made it clear" it won't freeze indexation but there are immediate options that can be implemented to ease the pain on graduates.

"If indexation were applied after compulsory repayments, Australian students would be saving hundreds of dollars this year alone," she will say. "These are all stopgap measures. After being set up in the 1980s, Help is no longer fit for purpose and is overdue for independent review."

More than 3 million Australians owe in excess of $74bn in student debt. The time for graduates to repay debt in full has consistently increased year on year, now sitting at almost a decade.

Last year Australians were hit with a decades high indexation rate of 3.9%, which added $923 to the average student debt. At the same time real wages are falling.

The education minister, Jason Clare, said the universities accord process would consider issues of affordability and Help was designed to remove upfront cost barriers to tertiary education. "It encourages more people to engage in university education and obtain qualifications that help them to find better employment and increased wages," he said.

Jacob Atkins' approach is "[trying] to forget my Hecs exists".

Atkins, who lives and works in London, has a student debt of about $36,000 and is only managing to pay off about $500 a year.

With indexation, he estimates his debt will go up by more than double what he's managed to pay off since graduating with a bachelor of arts in 2015.

"It's grim," the 31-year-old says. "I'm only earning about $59,000 before tax, so given the cost of living here I really don't see how I'm ever going to manage to make a dent in debt.

“It’s perverse that the indexation is based on the CPI but doesn’t take into account the impact of the CPI on borrowers. It’s adding to the already increasing cost-of-living burden.”

If Atkins were to study today, his debt would be about three times higher.

In 2020 the former federal government rolled out the job-ready graduates program, which cut university funding by about 15% and more than doubled student fees for a range of courses including arts and commerce, while reducing fees for other degrees.

The system aimed to incentivise students to study certain science, technology, engineering and mathematics degrees.

Lia Perkins has seen the impact of the scheme first-hand. The University of Sydney student began her arts degree the semester before the scheme came into effect. If she’d deferred, the cost of her degree would have jumped from about $20,000 to $45,000.

Perkins is frustrated her generation is being saddled with greater debts at a time saving is becoming harder.

“I’m personally dreading it … it’s very scary, our first big debt and the prospect of it increasing without me being able to pay for it is alarming,” she says.

“Should I spend my savings to pay it off? I don’t know how we’re supposed to keep up with the cost of everything increasing.”