

# Can Biden legally cancel student debt? There's no question.

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In the Supreme Court case about challenges to President Biden's student debt relief plan, three Republican former representatives — former speaker John A. Boehner (Ohio), John Kline (Minn.) and Howard P. "Buck" McKeon (Calif.) — [filed a brief](#) telling the court that "Congress" never authorized the plan.

But they certainly don't speak for every member of Congress who voted for the law undergirding Biden's plan.

During my time in Congress, I co-sponsored the Heroes Act of 2003, as well as [a 2007 law](#) making the act permanent. As I explained [in my own brief in the case](#), the student debt relief plan is clearly authorized by the Heroes Act. A look at the text and history of the law makes that clear.

[The Heroes Act](#) gives the education secretary the [authority](#) to "waive or modify any statutory or regulatory provision" regarding federal student-loan programs as he or she "deems necessary in connection with a . . . national emergency."

That language could hardly be clearer. "Statutory or regulatory provision[s]" regarding federal student-loan programs include the rules or regulations that would ordinarily require borrowers to pay their loan balances. By giving officials the authority to "waive" those requirements in connection with a national emergency, Congress empowered officials to say that those requirements no longer apply — that borrowers no longer need to pay off the debt they owe.

As I explain in my brief, this is how the federal government has used the word "waive" in other contexts and is consistent with how the Education Department and the courts have understood the secretary's waiver authority for decades.

And there's no question that the covid-19 pandemic is a "national emergency" within the meaning of the law. The law specifically states that a "national emergency" includes [any event declared](#) by the president to be a national emergency. President Donald Trump [declared](#) covid-19 to be a "national emergency," and Biden has extended that national emergency [declaration twice](#).

Why did we give the education secretary this authority? We wanted to make sure that federal student-aid recipients who are affected by national emergencies "are not placed in a worse position financially in relation to that financial assistance" because of the emergency. And we thought the education secretary would be in the best position to determine how best to effectuate that goal. As a 2003 House of Representatives [report](#) stated, we wanted to provide the secretary with "flexibility" and "the authority to implement waivers deemed necessary and not yet contemplated."

The Biden student debt relief plan achieves our goal of ensuring that student-aid recipients are not put in a worse position by a national emergency. As Education Secretary Miguel Cardona explained in an [analysis submitted to the court](#), education officials determined that the debt-relief plan was necessary to ensure that borrowers would not default on their loans when pandemic-related payment pauses — in place since March 2020 — expired at the end of 2022. While experts might disagree on this analysis, it's the exact type of assessment that the Heroes Act empowers the education secretary to make.

Sure, Congress could have gone further by *requiring* the Education Department to relieve student debt. (In fact, as Boehner, McKeon and Kline noted in their brief, I pushed for this type of measure at one point, fearing that the department would not act fast enough on its own.) But instead, we gave education officials the flexibility to decide what waivers or modifications would best protect borrowers who were affected by national emergencies. Instead of constraining the education secretary's options, as my former colleagues argue, we deliberately kept those options open.

The Supreme Court should respect the law that Congress passed and the authority that it gives the education secretary. To reach that result, the court doesn't need to address the debate among former lawmakers about what Congress "intended." It should look no further than the text of the law that my colleagues and I passed.