

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA**

FRANK GARRISON,

Plaintiff,

v.

U.S. DEPARTMENT OF EDUCATION,

&

MIGUEL CARDONA, in his official capacity
as U.S. SECRETARY OF EDUCATION

Defendants.

CIVIL ACTION NO.: 1:22-cv-1895

COMPLAINT

JURY TRIAL DEMANDED

INTRODUCTION

Student debt cancellation has been the subject of great debate in America for at least a decade. Some argue that the government should provide relief to students to offset skyrocketing tuition costs and the consequent debt incurred by many to attend college. Others point to the regressive quality of student debt relief, arguing that it is unfair to cancel student debts that were freely assumed with taxes raised from those who predominately have not attended college, or attended but avoided debt, or paid it off. Congress has authorized a variety of student debt relief programs, including the Public Service Loan Forgiveness program, by which some debt is written off for students who choose to work in relatively lower-paying public service or non-profit organization positions after graduation and follow program rules for a period of years. Perhaps because of the costs of student loan cancellation, or its potential impact on the economy, or the inherently divisive nature of this debate, Congress has declined to enact more sweeping debt

cancellation. This is, of course, Congress’s prerogative under our Constitution, as Congress is the branch of government that possesses the exclusive power to make law.

Purporting to step into the breach left by Congress, and making good on a campaign promise, the President in August announced that his administration would, by October, begin canceling between \$10,000 and \$20,000 of loan debts categorically—without respect to hardship or Congressionally authorized program rules—for more than 40 million borrowers. The authority for this \$500 billion write-off, according to the administration, can be found in a 2003 law passed in response to the Iraq war as a means of aiding veterans and their families. This law—the Higher Education Relief Opportunities for Students or “HEROES” Act—authorizes the Secretary of Education to “waive or modify any statutory or regulatory provision applicable to” student aid programs when “necessary in connection with a war or other military operation or national emergency.” 20 U.S.C. § 1098bb(a)(1). Importantly, to qualify for such a waiver or modification, individuals must reside or be employed in a “disaster area” as declared by a “Federal, State, or local official in connection with a national emergency.” Concluding that the entire nation is a “disaster area” because of the COVID pandemic, the administration claims that the Secretary of Education has the power to “automatically” issue blanket loan forgiveness to 8 million borrowers in the first week of October.

Despite the staggering scope of this regulatory action, it was taken with breathtaking informality and opacity. The Department did not undertake the notice-and-comment process required for rulemaking, much less solicit any public input. It did not even issue a formal order or directive setting out its cancellation program. Instead, it issued a press release on August 12th along with two legal memoranda providing its justifications, and, later, a hastily created a FAQ section on its website.

In the rush, the administration has created new problems for borrowers in at least six states that tax loan cancellation as income. People like Plaintiff Frank Garrison will actually be worse off because of the cancellation. Indeed, Mr. Garrison will face immediate tax liability from the state of Indiana because of the automatic cancellation of a portion of his debt. These taxes would not be owed for debt forgiveness under the Congressionally authorized program rewarding public service. Mr. Garrison and millions of others similarly situated in the six relevant states will receive no additional benefit from the cancellation—just a one-time additional *penalty*.

Nothing about loan cancellation is lawful or appropriate. In an end-run around Congress, the administration threatens to enact a profound and transformational policy that will have untold economic impacts. The administration's lawless action should be stopped immediately.

PARTIES

1. Plaintiff Frank Garrison is an individual who resides within the jurisdiction of the U.S. District Court for the Southern District of Indiana. He is employed by Pacific Legal Foundation, a 501(c)(3) non-profit organization in a position that qualifies him for the Congressionally authorized Public Service Loan Forgiveness program.
2. Defendant U.S. Department of Education (ED) is an agency of the United States.
3. Defendant ED will implement the challenged regulatory action in this case—cancellation of federal student loan debt for more than 40 million Americans (loan cancellation).
4. Defendant Miguel Cardona (Secretary Cardona) is the U.S. Secretary of Education and is sued in his official capacity.
5. Defendant Secretary Cardona is the agency head of Defendant ED, which is responsible for issuing and implementing the challenge regulatory action.

6. Throughout this Complaint, Defendants are referred to jointly as ED or the Department except where otherwise specified.

JURISDICTION AND VENUE

7. This Court has federal question jurisdiction pursuant to 5 U.S.C. § 702 and 28 U.S.C. § 1331.

8. This Court has the authority to grant an injunction and declaratory judgment and to “set aside” agency action in this matter pursuant to 28 U.S.C. §§ 2201, 2202 and 5 U.S.C. §§ 705, 706(2).

9. Venue for this action properly lies in this district pursuant to 5 U.S.C. § 703 and 28 U.S.C. § 1391(b)(2), (e)(1) because a defendant resides in this district, Plaintiff resides in this judicial district, and a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

STATEMENT OF FACTS

I. BACKGROUND

A. Statutory Background

10. The Higher Education Act (HEA) establishes the Direct Loan Program (DLP) and Federal Family Education Loan Program (FFELP). 20 U.S.C. §§ 1071 *et seq.*, 1087a *et seq.*

11. The HEA and its implementing federal regulations provide a comprehensive legal framework governing federal student loan assistance and borrowers’ obligations to repay their loans, including how and when certain loan statuses qualify for income-driven repayment (IDR) and the Public Service Loan Forgiveness (PSLF) program.

12. The HEA sets forth the “[t]erms and conditions” of DLP loans, including the “[r]epayment plan for public service employees” and “income-based repayment plan.” *Id.* § 1087e. Federal

regulation also specifies the conditions under which “[a] borrower may obtain loan forgiveness under [the FFELP] program,” 34 C.F.R. § 685.219(c), and under which a borrower “qualif[ies] for loan forgiveness” under the IDR program, *id.* § 685.221(f).

B. The Department’s Actions

13. While on the campaign trail in 2020, then-candidate Biden promised to provide sweeping relief to federal student loan borrowers.

14. For instance, Mr. Biden tweeted on March 22, 2020, “We should forgive a minimum of \$10,000/person of federal student loans, as proposed by Senator Warren and colleagues.”

15. In October 2021, ED announced “transformational changes” to the PSLF program. U.S. Department of Education, *U.S. Department of Education Announces Transformational Changes to the Public Service Loan Forgiveness Program, Will Put Over 550,000 Public Service Workers Closer to Loan Forgiveness* (Oct. 6, 2021).

16. ED later stated that this “[r]evamping” of the PSLF program has already resulted in loan relief for approximately 100,000 borrowers under that program. U.S. Department of Education, *Biden-Harris Administration Extends Student Loan Pause Through August 31* (Apr. 6, 2022).

17. In April 2022, ED announced additional actions to provide loan forgiveness to borrowers through the PSLF program and IDR plans, which it estimated would result in debt cancellation for more than 40,000 borrowers and credit toward IDR forgiveness for millions more. U.S. Department of Education, *Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs* (Apr. 19, 2022).

18. On August 24, 2022, President Biden finally revealed his new regulatory policy by press release.

19. On that date, ED announced that it plans to cancel \$10,000 to \$20,000 in student debt for all borrowers with ED-owned loans and annual income “during the pandemic” less than \$125,000 (or \$250,000 for households).

20. According to ED, “The U.S. Department of Education will provide up to \$20,000 in debt cancellation to Pell Grant recipients with loans held by the Department of Education and up to \$10,000 in debt cancellation to non-Pell Grant recipients. Borrowers are eligible for this relief if their individual income is less than \$125,000 or \$250,000 for households.” U.S. Department of Education, *One-Time Student Loan Debt Relief*, <https://studentaid.gov/debt-relief-announcement/one-time-cancellation> (last accessed Sept. 26, 2022).

21. The Department estimates that approximately 40 million borrowers would receive this relief, including approximately 856,400 in the state of Indiana. *FACT SHEET: The Biden-Harris Administration’s Plan for Student Debt Relief Could Benefit Tens of Millions of Borrowers in All Fifty States*, White House (Sept. 20, 2022).

22. Independent estimates calculate the one-time cost of debt cancellation to be up to \$519 billion. See Chen, Smetters & Paulson, *The Biden Student Loan Forgiveness Plan: Budgetary Costs and Distributional Impact*, University of Pennsylvania, Wharton School (August 26, 2022).

23. Many borrowers will have cancellation automatically applied to them almost immediately.

24. According to the White House, “Nearly 8 million borrowers may be eligible to receive relief automatically because relevant income data is already available to the U.S. Department of Education.” *FACT SHEET: President Biden Announces Student Loan Relief for Borrowers Who Need It Most*, White House (Aug. 24, 2022).

25. For the “8 million people for whom” the Department “ha[s] data,” they “will get the relief automatically.”

26. Indeed, ED has emphasized on its website that, “Although most borrowers will have to apply for debt relief, we have income data on hand for around 8 million borrowers. These borrowers will get the relief automatically.” *One-Time Student Loan Debt Relief*, <https://studentaid.gov/debt-relief-announcement/one-time-cancellation> (last accessed Sept. 26, 2022).

27. ED will apply this automatic cancellation in early October.

28. For other borrowers, “If the U.S. Department of Education doesn’t have your income data, the Administration will launch a simple application which will be available by early October.” U.S. Department of Education, *The Biden-Harris Administration's Student Debt Relief Plan Explained*, <https://studentaid.gov/debt-relief-announcement/> (last accessed Sept. 26, 2022).

29. “Once a borrower completes the application, they can expect relief within 4-6 weeks.” *Id.*

30. The “automatic[]” cancellation for the approximate 8 million borrowers applies to borrowers who have provided income or other information to ED or their servicer because they have enrolled in programs like IDR or have certified payments made under PSLF. *Id.*

31. According to ED, for those receiving automatic cancellation, “Your loan servicer will notify you when the relief has been applied to your account, with details on how the relief was applied.” U.S. Department of Education, *One-Time Student Loan Debt Relief*, <https://studentaid.gov/debt-relief-announcement/one-time-cancellation> (last accessed Sept. 26, 2022).

32. ED has not issued a formal rule and has not complied with notice-and-comment rulemaking procedures concerning the loan cancellation.

33. ED has also confirmed that it does not intend to undergo formal rulemaking or submit its actions to Congress under the Congressional Review Act.

C. The Purported Source of Authority for ED's Action

34. ED stated that it had determined that the Higher Education Relief Opportunities for Students (HEROES) Act of 2003 provides the Secretary of Education with legal authority to cancel student debt.

35. The HEROES Act was passed in 2003, in response to the Iraq war as a means of providing assistance to veterans and their family.

36. It provides that ED may “waive or modify any statutory or regulatory provision applicable to the student financial assistance programs” when “necessary in connection with a war or other military operation or national emergency.” 20 U.S.C. § 1098bb(a)(1).

37. The Act further specifies, as relevant here, that this waiver or modification must be “necessary to ensure that” one of certain statutory objectives are achieved, including to ensure that “recipients of student financial assistance . . . are not placed in a worse position financially in relation to that financial assistance because of their status as affected individuals.” *Id.* § 1098bb(a)(2)(A).

38. In a legal memorandum issued with its announcement of loan cancellation, ED revoked a prior Department legal analysis of the issue and asserted that the HEROES Act “grants the Secretary authority that could be used to effectuate a program of targeted loan cancellation directed at addressing the financial harms of the COVID-19 pandemic.” Lisa Brown, General Counsel, U.S. Department of Education, *The Secretary's Legal Authority for Debt Cancellation* at 1 (Aug. 23, 2022).

39. ED further claimed that it is “not required to show that any individual borrower is entitled to a specific amount of relief” and “instead may provide relief on a categorical basis.” *Id.* at 3.

40. In a separate memo published that same day, the Office of Legal Counsel concluded that “the Secretary can exercise the waiver or modification authority granted by the HEROES Act of 2003 to reduce or cancel the principal balances of student loans[.]” Christopher H. Schroeder, Asst. Attorney General, U.S. Dept. of Justice, Office of Legal Counsel, *Use of the HEROES Act of 2003 to Cancel the Principal Amounts of Student Loans*, Memorandum Op. for the General Counsel, Dept. of Education, 46 Op. O.L.C. ___, Slip Op. at 24 (Aug. 23, 2022) (OLC Memo).

41. As an initial matter, OLC concluded that because ED may waive or modify “any” covered statutory or regulatory provision, it may waive or modify any provisions “applicable to the repayment of the principal balances of loans.” *Id.* at 2.

42. The memo then proceeded to analyze three relevant criteria governing the Secretary of Education’s authority under the Act to effect mass cancellation. *Id.* at 19.

43. First, it considered whether cancellation is directed toward “affected individuals,” *id.*, which here includes individuals who “reside[] or [are] employed in an area that is declared a disaster area by any Federal, State, or local official in connection with a national emergency.” 20 U.S.C. § 1098ee(2).

44. OLC noted that all of the United States and its permanently populated territories had been declared a disaster area due to COVID-19 and therefore all persons residing or working in those areas were eligible (along with anyone who suffered direct economic hardship due to the pandemic). *Id.* at 21.

45. Second, OLC observed that, under the Act, a waiver or modification “would be permissible only as may be necessary to ensure the individuals are not placed in a ‘worse position financially . . . because of’” their status as affected individuals. *Id.* (quoting 20 U.S.C. § 1098bb(a)(2)(A) (emphasis added)).

46. According to OLC, this required ED to “determine that the COVID-19 pandemic was a but-for cause of the financial harm” to be addressed by mass debt cancellation. *Id.*

47. Third, the OLC memo considered the Act’s requirement that any waiver and modification “be necessary” to “ensure” that affected individuals “*are not placed in a worse position financially in relation to that financial assistance* because of their status as affected individuals.” *Id.* at 22 (quoting 20 U.S.C. § 1098bb(a)(2) (emphasis added)).

48. OLC read this requirement to mean that any waiver or modification should “put loan recipients back into the financial position they would be in” in relation to their loans “were it not for the national emergency.” *Id.* at 21.

49. Having defined the Act’s criteria for waiver or modification, OLC then analyzed whether “within these parameters” the Secretary was authorized to implement mass debt cancellation.

50. At this point, the memo balked at reaching a firm conclusion, stating only that affording “broad, categorical” debt cancellation “*could be* an appropriate invocation of the Act.” *Id.* OLC asserted that the Secretary has unlimited discretion to make this analysis as he “deems necessary.” *Id.* at 22.

51. OLC also claimed to find “contextual clues” in the Act that “Congress used the word ‘necessary’ in a more flexible and capacious sense, as meaning ‘appropriate’ or ‘conducive’ rather than ‘essential.’” *Id.* at 23.

52. In addition, the memo implicitly acknowledged the lack of a “closely tailored fit” between ED’s mass debt cancellation plan and the Act’s waiver requirements—in particular, the requirement that the waiver be necessary to restore affected individuals to the position they would have been in but for the pandemic-caused financial harm to their student loans. *Id.*

53. But no such “fit” is necessary, OLC concluded, because the Secretary need not proceed “case-by-case” under the Act and is allowed to “minimize ‘administrative requirements.’” *Id.*

II. THE EFFECT ON PLAINTIFF

54. Mr. Garrison financed his college education using federal student loans, which have been consolidated and are currently serviced by the Missouri Higher Education Loan Authority (MOHELA).

55. Mr. Garrison was also a Pell Grant recipient.

56. Since entering the workforce Mr. Garrison has worked in the public interest and has pursued PSLF while making timely monthly payments on his outstanding loan debt.

57. Mr. Garrison has also enrolled in income-driven repayment, which has capped his monthly payment amount based on his income.

58. Mr. Garrison has regularly certified both his IDR eligibility and PSLF payments with his loan servicers.

59. As of October 2021, the Department of Education recognized that Mr. Garrison had made 57 payments toward PSLF while working in qualifying public service employment.

60. Since that time, he has accrued additional qualifying payments towards PSLF.

61. As of October 2021, Mr. Garrison also certified his IDR eligibility with the Department, through his servicer, and voluntarily disclosed his yearly tax information to the Department to support that certification.

62. Mr. Garrison intends to continue making monthly payments toward PSLF and expects to qualify for full forgiveness based on his public service in slightly more than four years.

63. Mr. Garrison is a current resident of the State of Indiana.

64. By statute, any loan forgiveness that Mr. Garrison receives pursuant to the pre-existing PSLF program, as it was enacted prior to January 1, 2020, will not be taxed in the State of Indiana as income. *See* Ind. Code § 6-3-1-3.5(a)(30).

65. Mr. Garrison qualifies for \$20,000 in loan cancellation under ED's impending regulatory action, as his household income is less than \$125,000 per year, he holds eligible student loan debt, and was a Pell Grant recipient.

66. As a borrower who has recently certified his employment status and income with ED through his servicer, Mr. Garrison will also be in the class of automatic cancellation during the first week of October 2022.

67. Under Indiana law, when Mr. Garrison receives \$20,000 in automatic cancellation of his federal student loan debt, he will face a state income tax liability of more than \$1,000 for 2022. *See* Ind. Code § 6-3-1-3.5(a)(30).

68. Mr. Garrison would not incur that state tax liability if not for the Department's automatic cancellation of a portion of his federal student loan debt.

69. Because Mr. Garrison otherwise intends to seek forgiveness under PSLF and has limited monthly payments under IDR, a \$20,000 reduction in his total indebtedness will not change either his monthly payment obligation or the total amount of the loans he must repay.

70. ED's loan cancellation will cause Mr. Garrison to incur a financial obligation that he would not otherwise have faced.

**COUNT I—VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT,
5 U.S.C. § 706(2)—RULE IN EXCESS OF STATUTORY AUTHORITY**

71. Plaintiff repeats and realleges each and every allegation above as if fully set forth herein.

72. "It is axiomatic that an administrative agency's power to promulgate legislative regulations is limited to the authority delegated by Congress." *Bowen v. Georgetown Univ. Hosp.*, 488 U.S.

204, 208 (1988). Thus, “an agency literally has no power to act . . . unless and until Congress confers power upon it.” *La. Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 374 (1986). The Administrative Procedure Act (APA) directs a court to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” “contrary to constitutional right” or “in excess of statutory jurisdiction [or] authority.” 5 U.S.C. § 706(2)(A), (B), (C).

73. “[A]gency action’ includes the whole or a part of an agency rule, order, license, sanction, relief[.]” 5 U.S.C. § 551(13).

74. ED’s debt cancellation is reviewable agency action as it is a final decision by the agency that has sweeping legal consequences.

75. The cancellation, announced formally and supported by two memos, one from ED’s own general counsel and one from OLC, marks the consummation of the Department’s decision-making process concerning its decision to cancel student loans.

76. The action also determines rights and legal obligations, as it purports to erase more than \$500 billion in federal student debt, for more than 40 million borrowers, and does so automatically for up to 8 million borrowers.

77. The Department has no lawful authority to issue the rule.

78. The debt cancellation is not justified by the HEROES Act because, among other reasons, the cancellation is neither “necessary,” nor is it targeted at harms that are “a direct result of a . . . national emergency.” *See* 20 U.S.C. § 1098ee(2).

79. The putative harms targeted by the cancellation are not a “direct result” of the “national emergency” surrounding the COVID-19 pandemic, as student loan borrowers are not directly

“affected individuals” who “suffered direct economic hardship as a direct result of a war or other military operation or national emergency.” *See* 20 U.S.C. § 1098ee(2).

80. The mass cancellation is also hardly “necessary” to mitigate the economic harms of the pandemic. *See* 20 U.S.C. § 1098bb(a)(2)(A).

81. Cancellation also runs afoul of the requirement in Section 1098bb(a)(2) that borrowers “are not placed in a worse position financially in relation to that financial assistance because of their status as affected individuals.” For borrowers like Mr. Garrison, as well as other borrowers in other states that tax cancellation as income, the overall debt burden increases as a result of the Department’s debt cancellation program.

82. Cancellation also affords relief to those who are “not placed in a worse position financially in relation to [their] financial assistance because of their status as affected individuals,” because it extends to individuals who are not worse off compared to early 2020, individuals who are not worse off relative to their federal student loans, and individuals who are not worse off because of their status as affected individuals.

83. Additionally, to the extent the statute can *arguably* justify the cancellation, the major questions doctrine requires a clear authorization by Congress of such an economically and politically significant action, which is lacking here. *See West Virginia v. EPA*, No. 20-1530, 2022 WL 2347278 (U.S. June 30, 2022).

84. Without a valid source of authority, the Secretary has “literally has no power to act.” *See La. Pub. Serv. Comm’n*, 476 U.S. at 374.

85. The impending cancellation was issued in excess of statutory authority and is therefore invalid.

86. As a result of the foregoing, Plaintiff is entitled to a declaratory judgment and permanent injunction barring any cancellation action, attorneys' fees, expenses, costs and disbursements, and any other relief that may be appropriate.

**COUNT II—VIOLATION OF U.S. CONSTITUTION,
NON-DELEGATION DOCTRINE AND SEPARATION OF POWERS**

87. Plaintiff repeats and realleges each and every allegation hereinabove as if fully set forth herein.

88. The APA directs a court to “hold unlawful and set aside” an agency’s rule that is “contrary to constitutional right.” 5 U.S.C. § 706(2)(B).

89. Article I, § 1, of the Constitution provides: “All legislative Powers herein granted shall be vested in a Congress of the United States.”

90. No agency has any inherent power to make law, and “an agency literally has no power to act . . . unless and until Congress confers power upon it.” *La. Pub. Serv. Comm’n*, 476 U.S. at 374.

91. Article II, § 3, of the Constitution directs that the President “shall take Care that the Law be faithfully executed”

92. A “fundamental precept” of “another strand of [] separation-of-powers jurisprudence, the delegation doctrine,” “is that the lawmaking function belongs to Congress, U.S. Const., Art. I, § 1, and may not be conveyed to another branch or entity.” *Loving v. United States*, 517 U.S. 748, 758 (1996).

93. Congress may not “abdicate or [] transfer to others the essential legislative functions with which it is thus vested.” *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495, 529 (1935).

94. The HEROES Act empowers an Executive official to “waive or modify any statutory . . . provision” as that official “deems necessary.” 20 U.S.C. § 1098bb(a)(1).

95. Such waiver or modification of a statute has a “legislative character,” as “confirmed by the character of the Congressional action it supplants”—legislative amendment. *INS v. Chadha*, 462 U.S. 919 (1983).

96. The statute permits the Secretary to suspend the law, to “modify” it with his own “terms and conditions,” 20 U.S.C. § 1098bb(a)(1), (b)(2), and to do so when and how “[he] deems necessary,” *id.* § 1098bb(a)(1).

97. The statute thus bestows the Executive with lawmaking power in violation of Article I of the Constitution.

98. As a result of the foregoing, Plaintiff is entitled to a declaratory judgment and permanent injunction declaring the delegations in 20 U.S.C. § 1098bb(a)(1) invalid, barring any cancellation action, attorneys’ fees, expenses, costs and disbursements, and any other relief that may be appropriate.

PRAYER FOR RELIEF

WHEREFORE, for the foregoing reasons, Plaintiff demands judgment against Defendants as follows:

(i) The issuance of an injunction, pursuant to 5 U.S.C. § 705 and 28 U.S.C. § 2201, prohibiting Defendants from enacting loan cancellation;

(ii) A declaratory judgment, pursuant to 5 U.S.C. § 706(2) and 28 U.S.C. § 2202, holding unlawful and setting aside any action by Defendants to enact loan cancellation;

(iii) A declaratory judgment and permanent injunction declaring the delegations in 20 U.S.C. § 1098bb(a)(1) invalid;

(iv) An award of attorneys’ fees and costs to Plaintiff; and

(v) Any other relief as the Court deems just, equitable and proper.

JURY DEMAND

Plaintiff herein demands a trial by jury of all triable issues in the present matter.

DATED: September 27, 2022.

Respectfully submitted,

/s/ Caleb Kruckenberg

CALEB KRUCKENBERG*

Pacific Legal Foundation

3100 Clarendon Blvd, Suite 610

Arlington VA 22201

Telephone: 202-888-6881

incominglit@pacificlegal.org

MICHAEL POON*

Pacific Legal Foundation

555 Capitol Mall, Suite 1290

Sacramento, California 95814

Telephone: (916) 419-7111

incominglit@pacificlegal.org

**Pro Hac Vice pending*

Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

FRANK GARRISON

(b) County of Residence of First Listed Plaintiff Marion
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Caleb Kruckenberg, 3100 Clarendon Blvd, Ste. 1000,
Arlington, VA 22201, 202-888-6881

DEFENDANTS

U.S. DEPARTMENT OF EDUCATION, et al.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input checked="" type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
5 U.S.C. § 702

Brief description of cause:

A complaint for equitable relief against Defendants' debt cancellation plans in violation of statute and the Constitution

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

9/27/2022

SIGNATURE OF ATTORNEY OF RECORD

s/Caleb Kruckenberg

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Indiana

FRANK GARRISON

Plaintiff(s)

v.

U.S. DEPARTMENT OF EDUCATION and MIGUEL
CARDONA, U.S. SECRETARY OF EDUCATION

Defendant(s)

Civil Action No. 1:22-cv-1895

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

U.S. DEPARTMENT OF EDUCATION
400 MARYLAND AVE SW
WASHINGTON, DC 20202-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

CALEB KRUCKENBERG
Pacific Legal Foundation
3100 Clarendon Blvd, Suite 610
Arlington VA 22201

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:22-cv-1895

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Southern District of Indiana

Civil Action No. 1:22-cv-1895

Signature of Clerk or Deputy Clerk

Civil Action No. 1:22-cv-1895

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

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☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Indiana

FRANK GARRISON

Plaintiff(s)

v.

U.S. DEPARTMENT OF EDUCATION and MIGUEL
CARDONA, U.S. SECRETARY OF EDUCATION

Defendant(s)

)
)
)
)
)
) Civil Action No. 1:22-cv-1895
)
)
)
)
)
)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

MIGUEL CARDONA
U.S. SECRETARY OF EDUCATION
400 MARYLAND AVE SW
WASHINGTON, DC 20202-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

CALEB KRUCKENBERG
Pacific Legal Foundation
3100 Clarendon Blvd, Suite 610
Arlington VA 22201

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:22-cv-1895

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

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 was received by me on *(date)* _____ .

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 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Southern District of Indiana

SUMMONS IN A CIVIL ACTION

Zachary Myers
U.S. Attorney for the Southern District of Indiana
United States Attorney's Office
10 W Market St, Suite 2100
Indianapolis, IN 46204

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

CALEB KRUCKENBERG
Pacific Legal Foundation
3100 Clarendon Blvd, Suite 610
Arlington VA 22201

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:22-cv-1895

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 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: