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## Biden's Student Loan Relief Plan in Chaos: Experts Suggest Untested Plan B

The future of President Biden's student loan forgiveness program is uncertain as the US Supreme Court considers whether the education secretary has the power to forgive debts for 40 million Americans under the Higher Education Relief Opportunities for Students (HEROES) Act. The Biden administration has a backup plan if the court strikes down the program. Michael Connelly, an attorney for student loan borrowers challenging the relief, said that the administration would try again using the authority provided by the Higher Education Act (HEA) and follow the proper notice and comment rulemaking process.

Legal scholars are still determining if the education act is a valid Plan B. Using the HEA raises many unanswered questions, including what would happen to student debts in the interim, whether it would survive another legal challenge, and whether it would be worth the effort with a presidential election less than a year away.

Boston-based attorney Adam Minsky said there is a provision in the education law that grants the education secretary broad authority to "compromise, waive, or release" federal student loan obligations. The Education Department recently invoked the HEA in agreeing to discharge some federal loans as part of a class action settlement. However, the law has never been used for an overall cancellation plan.

Dalié Jiménez, a professor and director of the Student Loan Law Initiative at the University of California, Irvine School of Law, said it is unclear if the government could bypass specific notice and comment rulemaking requirements. If it can't, the rule could get stuck in the drafting stage long after the election.



The Education Department is also facing a lawsuit from an online lender that wants people to start paying student loans again. SoFi Bank and SoFi Lending Corp., which offer federal student loan borrowers private funding to refinance their loans, allege it was unlawful for Biden to extend the freeze on payments while its forgiveness plan is being prosecuted. The companies say the moratorium has hurt their bottom line.

Tara Grove, a federal courts and constitutional law professor at the University of Texas at Austin School of Law, said political campaign managers must determine what will most appeal to voters. The administration may decide it has no other choice but to try again. The alternative would be to reinstate payments while working on a rule, which may be worse. Luke Herrine, an assistant professor and expert in student loan law at the University of Alabama School of Law, said the Education Department should start canceling debts with its HEA authority and not wait to be sued.

In conclusion, the future of President Biden's student loan forgiveness program is still being determined as legal scholars debate the validity of using the HEA as a backup plan. While the program faces a Supreme Court challenge, the Education Department also faces a lawsuit from an online lender that wants people to start paying student loans again. The Biden administration must consider what will be most appealing to voters as it navigates the legal and political hurdles of providing relief to student loan borrowers.