

initiate any proceedings against schools in the Direct Loan Program unless an institution participating in the FFEL Program would also face potential liability.

An FFEL Program borrower who alleges that he or she has a defense against repayment of his or her loan because of some action or failure of the borrower's school may present his or her arguments to the guaranty agency or the Department during the collection process. (34 CFR 30.24, 682.410(b)(5)(ii)(C), and 682.410(b)(5)(vi)(I)) If, as part of this process, part or all of the loan is deemed unenforceable, the Department will next consider whether the school should be

held liable for the amount of the loan forgiven.

The Direct Loan Program regulations at 34 CFR 685.206 establish a similar process and allow the borrower to assert as a defense against repayment of his or her loan "any act or omission of the school attended by the student that would give rise to a cause of action against the school under applicable State law." If the Department forgives all or part of a loan under this process, it will, in the same manner as it will in the FFEL Program, consider whether the school should be held liable for the amount of the loan forgiven.

Thus, the Secretary will initiate proceedings to establish school liability for borrower defenses in the same

manner and based on the same reasons for a school that participates in the Direct Loan Program or the FFEL Program. The school will be entitled to due process in these proceedings, in accordance with the statutory and regulatory provisions addressing them. The Department intends to perform its oversight responsibilities for both loan programs in a manner that provides equitable determinations of institutional liability and promotes sound program administration.

Dated: July 17, 1995.

Richard W. Riley,

Secretary of Education.

[FR Doc. 95-17988 Filed 7-20-95; 8:45 am]

BILLING CODE 4000-01-P