views potential participation as a way to solve some of the problems the school is currently experiencing in receiving loan funds under the FFEL Program. The commenter supported foreign school participation in the Direct Loan Program.

Further, the commenter suggested that the Secretary should not group all foreign schools together for purposes of participation in the Direct Loan Program and recommended that a separate category be established for schools that are located outside of the U.S. but are U.S. accredited. It is the school's opinion that this group would present a lower potential financial risk for the Federal Government since these schools maintain a U.S. Admissions Office and a U.S. dollar bank account. This commenter also pointed out the importance of making sure that foreign schools have trained individuals processing loans for their students.

Another commenter felt that it was premature to consider foreign school participation in the Direct Loan Program and recommended that processing system changes be implemented prior to allowing foreign school participation.

A third commenter recommended that foreign schools be allowed to participate, but not allowed to originate loans. This commenter suggested that foreign schools be required to use an alternative originator. This suggestion was made based on the commenter's opinion that all foreign schools are not uniform in their ability to administer the Title IV programs.

The Secretary understands and appreciates the issues raised by these commenters. As discussed in the NPRM, the Secretary is aware that, due to the nature of the Direct Loan Program, additional fiscal oversight and administrative requirements are warranted for participating foreign schools. The Direct Loan Program is unique among the financial aid programs with respect to its funds disbursement processes and requirements. Because there is no authorized limit to the amount of funds that schools may draw down in the Direct Loan Program, the Department must rigorously oversee the funds disbursement process. To prevent potential program abuse, the Secretary is committed to the careful monitoring of the drawdown of funds to schools and the disbursement to students

Based on the comments received, the Secretary has determined that the issue of foreign school participation in the Direct Loan Program warrants further consideration. Therefore, no specific provisions related to foreign school participation are included in these regulations.

Discussion of Major Issues

Section 685.102 Definitions

School Origination Option 1, School Origination Option 2, and Standard Origination

## Section 685.102(b)

*Comments:* Several commenters responded to the proposed revisions of the current definitions of school origination option 1, school origination option 2, and standard origination. These commenters viewed these changes as a positive step that would allow institutions greater flexibility to have the origination process modified based on the their unique capabilities and individual needs.

Several other commenters did not support the proposed change. These commenters argued that the Secretary should not amend the "origination requirements."

Discussion: It appeared from the comments that there may be some confusion regarding the proposed change. The Secretary is not changing the origination criteria, nor is the Secretary redesignating the functions performed at a given level of origination. The purpose of this amendment is to allow a school the flexibility to ask the Secretary to perform a function that the school must, under current regulation, perform, at a given origination level. If the Secretary approves the school's request, the Secretary will perform the functions, but the school would not be required to change its origination level.

For example, during the 1996–1997 academic year, an origination option 2 level school is fully qualified to perform all loan origination functions and to draw down loan funds. If a school wanted to ask the Secretary to handle the promissory note functions, but still wanted to be able to draw down funds (for which the school is fully qualified), current regulations would not allow this option. The proposed change would allow the Secretary to establish this type of individual agreement with the school.

The proposed regulatory amendment would not undermine the integrity of the program or the Secretary's ability to provide sound oversight. Furthermore, the change is consistent with the Secretary's current initiative to promote regulatory flexibility and reduce unnecessary burden on institutions. The Secretary is confident that this regulatory change allows schools to customize the origination process in a manner that would be beneficial for schools, as well as the Direct Loan Program.

*Change:* For clarity, the word "status" has been changed to "options" in each of the definitions.

*Comments:* A number of commenters recommended that any revisions to the origination criteria be established through negotiated rulemaking. These commenters noted that the existing origination criteria were developed through extensive negotiated rulemaking.

Discussion: Section 457 of the HEA requires the Secretary to conduct negotiated rulemaking for the Direct Loan Program only to the extent practicable. This section does not require negotiated rulemaking for amendments to existing regulations. Further, the Secretary does not believe that it is practicable to conduct negotiated rulemaking for amendments to these regulations. Negotiated rulemaking is a lengthy process that would have prevented implementation of the revised definitions of school origination option 1, school origination option 2, and standard origination for the 1996/1997 academic year. For these amendments, the Secretary has decided not to use the negotiated rulemaking process to solicit input from the higher education community. In the Secretary's opinion, these changes are a positive step that allow institutions the flexibility to modify the origination process based on their individual needs and capabilities. Because this is an improvement over the existing process, schools should be able to benefit from these regulatory revisions as soon as possible. The majority of the commenters supported the Secretary's proposal to revise these definitions of origination criteria.

Changes: None.

## Section 685.208 Repayment Plans, Section 685.210 Choice of Repayment Plans, and Section 685.215 Consolidation

Comments: None of the commenters supported these proposed amendments. One commenter argued that borrowers with one FFEL Program loan should not be precluded from initially consolidating into the Direct Loan Program using the standard repayment plan. The commenter felt that a borrower's repayment options should not be limited by the number of loans the borrower wishes to consolidate. The commenter also asserted that, if the standard repayment plan offered the best terms for that Direct Consolidation Loan borrower, that option should be available to the borrower.