

# Top universities face losing billions as legal case gains traction

*Prospect of huge payout grows as Biden administration backs student claim that elite campuses colluded to hold down financial aid*

**Paul Basken**  
**Times Higher Education**

July 25, 2022 - The Biden administration has handed a major boost to students who have brought a lawsuit against top U.S. universities over financial aid benefits, increasing the likelihood that institutions will have to pay several billion dollars in repayments.

The lawsuit was [brought earlier this year](#) by five former undergraduates backed by several major law firms. As the case nears a key hearing on a [move by the universities to dismiss it](#), the U.S. Justice Department has stepped in to endorse the central claim of the students that the universities were allegedly illegally colluding on setting financial aid awards.

A part of a 1994 federal law, section 568, does allow universities to work together on setting aid formulas if every participating institution admits all its students on a need-blind basis.

But evidence compiled for the case shows that a number of the institutions did not meet that requirement, and the Justice Department has now argued in a court filing that such a situation should be sufficient evidence for a ruling in favour of the students.

“This interpretation is consistent with how courts have interpreted other antitrust exemptions,” the [Justice Department lawyers told the court](#).

The 17 institutions named in the case are a list of the nation’s best known and include Brown, Columbia, Duke and Notre Dame universities as well as the [California Institute of Technology](#), [Dartmouth College](#), [Massachusetts Institute of Technology](#) and Yale.

They belong to a forum known as the 568 Presidents Group, through which the institutions jointly set student aid-related definitions – such as methods of calculating overall family income – and formulas for allocating that aid.

But without meeting the legal requirement that every participating institution takes a fully need-blind approach to its entire admissions processes – a failure the plaintiffs argue they can prove in clear and multiple ways – the 568 Presidents Group is accused of being an illegal and costly violation of federal antitrust law.

Although the case initially had five plaintiffs, their lawyers have estimated that more than 200,000 former students of the universities had their financial aid awards reduced in the range of \$10,000 (£8,500) to \$20,000 (£17,000) apiece, and could be eligible to join the case.

That level of a judgment – combined with the federal requirement that antitrust verdicts are automatically tripled in value – could mean multiple billions of dollars in losses for the universities.

Yet that scale of loss could still represent only [a fraction of the endowments of the universities](#), in what the plaintiffs describe as a stark indicator of the degree to which many top U.S. universities have been prioritising wealth accumulation over the needs of the students they serve.

The endowments of the 17 institutions collectively exceed \$230 billion, said one of the attorneys for the plaintiffs, Robert Gilbert.

“By devoting just 2 per cent per year of the unrestricted funds in their extraordinarily large and successful endowments to scholarship aid,” Mr. Gilbert said, “nine of the defendants could give every aid recipient a completely free four-year education, and the other eight could give every aid recipient an additional \$12,000 per year, on average, in scholarship funds – all while still growing their endowments.”

The parties are due early next month at a hearing in federal court in Illinois on a request by the universities to dismiss the case.

In addition to the court process, the language of section 568 is due to expire in September. Yet there is concern among the plaintiffs that the participating universities – especially if they show any hope of winning the court case – might succeed in convincing Congress to renew the section 568 authority.

[paul.basken@timeshighereducation.com](mailto:paul.basken@timeshighereducation.com)