

BUSINESS

Elite Universities, Called a Price-Fixing Cartel, May Face Judgment in US Court

Yale, Brown, Columbia, MIT and Cornell are named in a suit with the potential to open up the competitive market of financial aid.

By [Alexandra Tremayne-Pengelly](#) · 02/14/23 3:53pm



Sayles Hall on the campus of Brown University. (Photo by Lane Turner/The Boston Globe via Getty Images)

An antitrust lawsuit against a group of top-rated universities has the potential to trigger more generous financial aid packages across U.S. schools.

In January 2022, an initial complaint was filed against 17 universities in Illinois federal court, alleging that schools like Yale, Brown, Columbia, Cornell, the University of Pennsylvania and the Massachusetts Institute of Technology colluded by fixing the size of financial aid packages.

All the named schools allegedly belonged to the 568 Presidents Group at some point over the past two decades. The group, which was formed in 1998, supposedly determined a consensus methodology on how to determine financial aid offerings.

The universities in the 568 Presidents Group claimed they were exempt from antitrust laws because of Section 568 of the Improving America's School Act of 1994, which applies to institutions of higher education admitting students on a need-blind basis, meaning they disregard the financial circumstances of applicants.

However, the class action lawsuit, filed by former students of some of the universities, alleged the 17 schools do indeed take into account financial considerations of prospective students through various methods, including favoring wealthier waitlisted or transfer applicants and the children of generous donors.

“A price-fixing cartel”

The schools “have participated in a price-fixing cartel that is designed to reduce or eliminate financial aid as a locus of competition,” which has inflated the cost of the universities, read an amended complaint filed Feb. 6, which alleged that the named universities have overcharged more than 200,000 financial aid recipients by billions of dollars over the past 20 years.

In July, the U.S. Justice Department filed a statement of interest in the case, backing the anti-trust lawsuit. A month later, U.S. District Judge Matthew Kelly denied motions to dismiss the case from numerous schools,

and on Feb. 8 he rejected a bid from six of the universities to bar access to records regarding the consideration of donor or legacy status in admissions.

Meanwhile, Section 568, which allowed for universities to agree on a common financial aid methodology as long as admissions were need-blind, expired in September. A month later, the 568 Presidents Group “formally dissolved,” according to the organization’s website.

If the universities are found to have conspired to fix financial aid, a court decision to halt this activity would open up the market, said Eleanor Fox, a law professor at New York University focused on antitrust law. “What happens then is that schools feel free to compete for students on the basis of financial packages,” she said.

The 17 universities, which supposedly previously had a consensus on how to compute financial aid offerings, would now be able to compete with each other in the race to attract desirable students by offering them generous financial aid packages.

This would probably lead to higher financial aid offerings from other schools who are also competing for students, said Robert Gilbert, a lead attorney for the former students suing the schools, in a statement. “When this litigation forces them to compete and reduce the net price of attendance, those price reductions will predictably have a beneficial ripple effect throughout much of higher education.”

The students are also seeking to damages from the schools. “We look forward to further developing the evidence to recover damages for the class and to prevent such damage in the future,” said Ted Normand, another lead attorney for the plaintiffs.

John Hopkins, one of the schools named in the lawsuit, denied allegations of operating outside of the law. “We are proud of our commitment to need-blind admission and intend to vigorously defend this lawsuit,” said the university in a statement.

The other schools included in the suit either declined or did not respond to requests for comment.

Update: *This story has been updated to include comments from John Hopkins.*

Filed Under: Business, Financial Aid, Dartmouth, Universities, Antitrust, Yale University, Illinois, Columbia University, Chicago

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