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HIGHER EDUCATION

More elite universities settle suit over alleged 'price-fixing' aid policies

Lawsuit claims schools formed a cartel that limited financial aid

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Nearly a half-dozen of the nation's top universities have agreed to pay a total of $104.5 million to resolve claims that they conspired to limit financial aid for admitted students, according to a Tuesday court filing.

The settlements, which are pending a judge's approval, arrive two years after eight former students filed a class-action lawsuit against 17 elite schools, including most members of the Ivy League. The students claim the colleges and universities used a shared methodology to calculate financial need in a way that reduces institutional dollars to students from working- and middle-class families — describing it as a "price-fixing cartel." The schools have denied the charges.

In all, eight institutions have reached settlements in the case. The schools named in the lawsuit worked together in the 568 Presidents Group, a collection of highly selective institutions that collaborated on aid formulas. The group, which formed in the late 1990s, dissolved after the lawsuit was filed.

Attorneys for the plaintiffs estimate that approximately 200,000 students have been harmed by the financial aid practice in the past 20 years.

To resolve the charges, Columbia University and Duke University have each agreed to pay $24 million, while Yale University and Emory University will pay $18.5 million each. Brown University will pay $19.5 million to settle the case, according to court documents.

The universities say they did nothing wrong and insist the lawsuit is without merit. Settling the case, they say, allows the institutions to avoid further costly litigation.

"We are pleased the litigation is behind us," Emory spokeswoman Laura Diamond said in an email. "Our focus has been and always will be to make an Emory education accessible to all talented students, regardless of their financial resources, and we look forward to continuing that mission."

The proceeds from the settlements will be pooled to provide cash payments to the entire class of affected undergraduate students, not just those who attended the universities that have settled.

The lawsuit initially named 16 defendants: Yale, Columbia, Duke, Brown, Emory, Georgetown University, the California Institute of Technology, Northwestern University, Cornell University, Dartmouth College, the University of Pennsylvania, Vanderbilt University, the Massachusetts Institute of Technology, the University of Notre Dame, Rice University and the University of Chicago. Johns Hopkins University was later added.

In August, the University of Chicago became the first defendant in the lawsuit to settle, agreeing to pay $13.5 million. The university provided information, including documents and a witness interview, that attorneys for the plaintiffs said assisted in their cases against the other schools.

A month after the first agreement was announced, Emory struck a deal, according to its year-end financial statement. Rice followed suit in October, settling for nearly $33.8 million, according to university financial records. A court filing in November showed that Vanderbilt reached an agreement in principle to settle the case, but the document did not provide monetary details.

“Though we believe the plaintiffs’ claims are without merit,” Vanderbilt officials said in the agreement, “we have reached a settlement in order to maintain our commitment to the privacy of our students and families and keep our focus on providing talented scholars from all social, cultural and economic backgrounds one of the world’s best undergraduate educations.”

Vanderbilt said it spent $366 million on financial aid last year. The school fully covers undergraduate tuition for nearly every family with an income of $150,000 or less, with a financial-aid program that meets 100 percent of every admitted student’s demonstrated need without loans.

A spokesperson for Rice declined to comment on the settlement.

“It is past time for the presidents and governing bodies of the remaining defendants to stand up and do the right thing for their students and alumni, and resolve the overcharges to middle-class and working-class students,” said Robert D. Gilbert, managing partner at Gilbert Litigators & Counselors, which is representing the former students along with the firms Freedman Normand Friedland and Berger Montague.

Nine defendants, including Georgetown and Johns Hopkins, remain. All of the schools named in the complaint have denied any wrongdoing and have tried unsuccessfully to have the case dismissed.

In July 2022, the Justice Department intervened in support of the former students and asked the judge to allow the case to continue. Court transcripts from July revealed that the Justice Department and the New York attorney general’s office have also launched an investigation, which they declined to discuss.

With the recent string of settlements, the remaining defendants could have to pay out far more money to resolve the case, said John Lopatka, a professor at Penn State Law. Parties in an antitrust conspiracy case, such as this lawsuit, face joint liability. If the remaining defendants move forward with a trial and lose, they will be on the hook for all of the damages minus the settlement amounts from the other schools, he said.

“There’s a whipsaw effect in antitrust law,” Lopatka said. “As defendants drop out and settle, there are fewer remaining defendants who potentially are going to be left holding the bag.”

James J. Rodgers, a partner at the law firm of Dilworth Paxson and chair of the firm’s antitrust practice group, said the raft of settlements could also encourage the plaintiffs to seek more money from the remaining schools.

“The plaintiff’s bar does play hardball in this area,” Rodgers said. “Unless one or more of the holdouts have some kind of particular facts that give them a mitigation, I would expect those numbers to climb.”

The class-action lawsuit stems from a 1994 federal antitrust exemption that let colleges collaborate on financial aid guidelines. The exemption applied only if schools engaged in “need-blind” admissions, accepting students without regard for their financial circumstances. Such policies are designed to increase economic and racial diversity at prestigious schools. Some colleges have boosted financial aid offerings — including promises to eliminate the need for loans — to recruit more low-income students.

But attorneys for the former students alleged in the lawsuit that at least nine universities — including Georgetown, Penn and Duke — maintained admissions policies that still favored or considered a student’s ’ ability to pay when admitting them to certain programs. All of that behavior, the plaintiffs say, violates the antitrust exemption, which expired in the fall of 2022.

The now-defunct website of the 568 Presidents Group said member institutions collaborated to maintain a financial-aid system that brought “greater clarity, simplicity, and equity to the process of assessing each family’s ability to pay for college.”

But the lawsuit claims the methodology the group contrived placed too much emphasis on an applicant’s ability to pay in calculating the net price — what students pay after taking grants, scholarships and tax credits into account. The schools that adopted the approach, the complaint argues, artificially inflated the net price of attendance for financial aid recipients for years.