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The [University of Pennsylvania](#) is part of a group of elite universities facing a lawsuit accusing them of forming a “price-fixing cartel” to avoid paying financial aid. And in a motion filed Monday, lawyers say Penn and the other schools give preference to applicants from wealthy families while claiming to be need blind.

The lawsuit accused Penn and 16 other private universities of colluding to reduce the amount of financial aid provided to students. Federal antitrust law prohibits price-fixing, but a now-expired statute exempted universities that admitted students “on a need-blind basis.”

In the new court filings, lawyers shared exhibits they argue show that the universities took wealth into account when deciding which applicants to admit.

Sara Harberson, Penn’s former associate dean of admissions, testified in an October 2023 deposition that applications of students who are connected to big donors or board members were tagged as “BSI,” bona fide special interest, and received preference.

“To get a BSI tag, you were untouchable,” Harberson said in the deposition. “You would have gotten in almost 100% of the time.”

And according to Harberson, Penn admission officers were powerless when a BSI applicant took the place of a better candidate, “even if the student was incredibly weak,” she said, according to the deposition.

Harberson was the university’s associate dean of admissions between 1999 and 2008, [according to her LinkedIn profile](#).

Penn denied the allegation that it gives preference to students who come from wealthy families, and said the lawsuit has no merit.

“The actual evidence in the case makes clear that Penn does not favor in admissions students whose families have made or pledged donations to Penn, whatever the amount,” a spokesperson for the university said in a statement. “In fact, the University takes great precaution to ensure that no such preference is given. As a result, only qualified candidates are admitted.”

The [universities named in the suit argued in court filings](#) that the need-blind requirement in the now-expired federal law meant that students shouldn’t be denied admission if they require financial aid. The lawyers who filed the lawsuit argue that any consideration wealth or income falls outside of the law’s definition for the exemption.

The proposed-class action lawsuit has been ongoing since it was [first filed in 2022 in the Northern District of Illinois](#) on behalf of graduates from selective universities. It focuses on a group formed by schools that for two decades shared formulas for determining financial aid for applicants. The lawsuit

calls the group a “cartel,” and argues that it prevented the universities from offering generous aid packages to entice applicants.

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The impact of this collusion has been a boon for the universities and the institutions got out paying \$685 million in financial aid over 20 years, according to economic analysis filed by the students’ attorneys. The lawyers also noted that at the same time period the endowment of the 17 elite-universities increased by \$165 billion to a combined \$220 billion in 2022. They singled out [former Penn President Amy Gutmann’s \\$23 million salary in 2021](#), the [final year before she resigned to serve as U.S. Ambassador in Germany](#). (More than \$20 million of the salary was deferred compensation accrued throughout her 18-year tenure.)

The evidence filed this week shows that the universities’ “illegal collusion resulted in the Defendants providing far less aid to students than would have been provided in a free market,” said Robert Gilbert, an attorney with Gilbert Litigators and Counsels, who represents the students.

The [group of universities dissolved in 2022](#), after Congress allowed the law that provided the exemption to expire.

Penn left the group two years prior. In a 2020 letter, which was filed as an exhibit in the lawsuit, Penn explains that it made the decision to provide more aid.

“It has become clear that for Penn to continue to pursue greater access and inclusion for our students we will need increased flexibility in our needs analysis,” the letter said.

Ten of the original 17 defendants — including Brown University, University of Chicago, and Yale University — [settled their part of the case in July for \\$284 million](#). The remaining defendants in, addition to Penn, are Georgetown University, Massachusetts Institute of Technology, University of Notre Dame, Cornell University, California Institute of Technology, and Johns Hopkins University.