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“Varsity Blues:” Lessons To Be Learned From The Admissions Scandal

In March, federal prosecutors announced criminal charges in connection with the nation’s largest-ever college admissions prosecution. The federal investigation, called “Operation Varsity Blues,” involved 200 agents and resulted in charges against 50 people in six states. Those charged include wealthy parents, athletic directors, college coaches, and test administrators. This investigation and resulting prosecution directly calls into question the integrity of the admission processes at competitive educational institutions, in addition to raising concern about fraudulent test scores and the ability of wealthy parents to use bribes disguised as charitable contributions to secure their child’s acceptance into elite institutions.

Among the allegations are claims that parents conspired to bribe varsity coaches and administrators at elite universities to designate applicants as recruited athletes, thereby facilitating the applicants’ admission to those universities. As part of the scheme, parents assisted in creating fabricated athletic profiles that provided the basis for preferential admission. In other instances, parents worked with an outside consultant to falsify test scores to enhance students’ admission profiles.

In the wake of these criminal charges, two Stanford University students have filed a federal lawsuit in the Northern District of California seeking class-action status against some of the same universities. The students claim that the schools represented that their admission process would be based on the applicants’ merits, when, instead, they received an admissions process that was “warped and rigged by fraud.” The students seek approximately \$5 million in compensatory and punitive damages. *Olsen v. Stanford University*, et. al., 3:10-cv-01351, see page 16 (N.D. Cal. filed March 13, 2019) [<https://www.courthousenews.com/wp-content/uploads/2019/03/College-Suit.pdf>].

Moving forward, there are a number of proactive steps that colleges and independent schools should consider to safeguard against potential risks or vulnerabilities that have come to light as a result of the Varsity Blues investigation.

First, and most critically, schools should conduct an internal audit of their admissions process, with a particular focus on athletics. Because athletics was such a focus of the Varsity Blues investigation, the audit should review current policies and procedures for athletic admission preferences, and consider adopting additional safeguards such as independent verification of student athletic achievements, monitoring of team rosters, and assessments of any outside employment held by coaches or athletic department staff. In addition, schools should consider additional training for athletic staff on avoiding conflicts of interest and potential fraud in the admissions process. A knowledgeable, independent investigator can be helpful in reviewing any incidents of known or suspected fraud, and in developing applicable policies and training sessions. Beyond self-assessment, educational institutions should also review their insurance



coverage to assess whether they provide coverage for potential claims, litigation, or further investigations.

In addition, educational institutions should take this opportunity to review application materials and enrollment contracts to ensure they include language asking parents and students to verify the accuracy of the information provided through the application process. Schools may also wish to add specific language confirming that the parents and student have not made any payment, or provided any gift or favor in exchange for the admissions process.

Finally, at the secondary level, independent schools may want to take a closer look at their existing processes for granting testing and other academic accommodations. With the College Board increasingly looking to secondary schools to make determinations regarding extra time and other test accommodations, it is important for schools to have a clear and comprehensive policy outlining the process for requesting and determining test accommodations. This process should require current and appropriate documentation on file to support the need for accommodation as well as review by a multidisciplinary team capable of interpreting standardized testing. Accommodation decisions should be reviewed periodically to maintain a record of ongoing need for such accommodations and regular use of accommodations across settings to avoid claims that a testing accommodation was granted solely for purposes of securing more favorable test scores on the ACT or SAT.

In sum, the Varsity Blues admissions scandal is a reminder that schools must continue to monitor the integrity of their admission processes, as well as underlying policies related to testing, charitable donations, and admission preferences. Educational institutions should expect that this investigation will lead to increased scrutiny by prosecutors, governmental authorities, and accrediting agencies.

Questions or Assistance:

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