

Application of Antitrust Laws to Award of Need-Based Educational Aid

15 U.S.C 1 Note

(as amended by Pub. L. 114–44)

Pub. L. 103–382, title V, § 568(a)–(d), Oct. 20, 1994, 108 Stat. 4060, 4061, as amended by Pub. L. 105–43, § 2(a), Sept. 17, 1997, 111 Stat. 1140; Pub. L. 105–244, title I, § 102(a)(3), Oct. 7, 1998, 112 Stat. 1618; Pub. L. 107–72, § 2, Nov. 20, 2001, 115 Stat. 648; Pub. L. 110–327, § 2, Sept. 30, 2008, 122 Stat. 3566; Pub. L. 114–44, § 2, Aug. 6, 2015, 129 Stat. 472, provided that:

“(a) Exemption.—It shall not be unlawful under the antitrust laws for 2 or more institutions of higher education at which all students admitted are admitted on a need-blind basis, to agree or attempt to agree—

“(1) to award such students financial aid only on the basis of demonstrated financial need for such aid;

“(2) to use common principles of analysis for determining the need of such students for financial aid if the agreement to use such principles does not restrict financial aid officers at such institutions in their exercising independent professional judgment with respect to individual applicants for such financial aid; or

“(3) to use a common aid application form for need-based financial aid for such students if the agreement to use such form does not restrict such institutions in their requesting from such students, or in their using, data in addition to the data requested on such form.

“(b) Limitations.—Subsection (a) shall not apply with respect to—

“(1) any financial aid or assistance authorized by the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) [and 42 U.S.C. 2751 et seq.]; or

“(2) any contract, combination, or conspiracy with respect to the amount or terms of any prospective financial aid award to a specific individual.

“(c) Definitions.—For purposes of this section—

“(1) the term ‘alien’ has the meaning given such term in section 101(3) [101(a)(3)] of the Immigration and Nationality Act (8 U.S.C. 1101(3) [1101(a)(3)]);

“(2) the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition;

“(3) the term ‘institution of higher education’ has the meaning given such term in section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001];

“(4) the term ‘lawfully admitted for permanent residence’ has the meaning given such term in section 101(20) [101(a)(20)] of the Immigration and Nationality Act (8 U.S.C. 1101(20) [1101(a)(20)]);

“(5) the term ‘national of the United States’ has the meaning given such term in section 101(22) [101(a)(22)] of the Immigration and Nationality Act (8 U.S.C. 1101(22) [1101(a)(22)]);

“(6) the term ‘on a need-blind basis’ means without regard to the financial circumstances of the student involved or the student’s family; and

“(7) the term ‘student’ means, with respect to an institution of higher education, a national of the United States or an alien admitted for permanent residence who is admitted to attend an undergraduate program at such institution on a full-time basis.

“(d) Expiration.— Subsection (a) shall expire on September 30, 2022.”