



Early Decision Admissions Anti-Trust Case Scheduled for Oral Argument

Blogs

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The United States District Court for the District of Massachusetts has scheduled oral arguments for May 1, 2026, in *D'Amico v. Consortium of Financing Higher Education*, a proposed class action lawsuit alleging that more than 30 colleges and universities colluded not to offer admission to students accepted by other institutions through Early Decision.

The plaintiffs, four current and former college students from Wesleyan, Washington University in St. Louis, and Vassar, allege that the defendant schools and others agreed not to compete for students after those students are admitted to another school through Early Decision. They characterize this conduct as a per se unlawful customer allocation or group boycott under Section 1 of the Sherman Act. The plaintiffs do not allege a conspiracy to adopt Early Decision itself, nor any agreements restricting competition before students make Early Decision commitments. Instead, the complaint focuses on post-Early Decision admission non-solicitation, contending that application platforms and associations helped “enforce” the agreement by limiting multiple Early Decision applications, requiring withdrawal of other applications upon Early Decision admission (subject to financial aid), sharing information through the co-defendant Consortium of Financing Higher Education and non-defendant National Association for College Admission Counseling, and recognizing Early Decision commitments. The plaintiffs also allege that some schools historically shared lists of Early Decision admits and that schools removed Early Decision admits from their own processes.

The plaintiffs assert that the alleged agreement harms competition in the market for undergraduate education at selective private national universities and liberal arts colleges consistently ranked highly, or alternatively, under a rule-of-reason framework. They claim two principal injuries: increased tuition because schools can fill substantial portions of classes with “price-insensitive” Early Decision students, and reduced need- or merit-based aid for Early Decision admits due to the absence of competing offers.

The complaint seeks monetary damages as well as a permanent injunction enjoining the defendants “from continuing to conspire regarding their early application policies and practices.”

The defendant schools filed a joint motion to dismiss, arguing that the complaint fails to plausibly allege any horizontal agreement among the schools. They offer neither direct “smoking gun” evidence nor circumstantial “parallel conduct plus factors.” Instead, the defendants claim their conduct is independent, rational, and lawful, consistent with Early Decision and resource allocation. They emphasize that their alleged practices mirror those of non-defendant schools, including Harvard, Yale, and MIT, which also refrain from recruiting Early Decision admits, providing an “obvious alternative explanation” that defeats any inference of conspiracy.

The defendants further argue that the plaintiffs improperly rely on lawful vertical agreements with students and application platforms, which cannot establish a horizontal conspiracy, and that trade association affiliations or dated information-sharing anecdotes do not plausibly show a “rim” connecting the defendants. Additionally, the defendants argue that any alleged restraint is subject to the rule of reason, as Early Decision has facially procompetitive benefits. They also contend that higher education presents a distinctive nonprofit context and that the plaintiffs fail the rule of reason by not plausibly alleging a coherent relevant market, market power, or actual anticompetitive effects.

The defendants argue that the plaintiffs lack antitrust standing because they do not trace their alleged injuries to the challenged restraint. The plaintiffs’ theories attribute harms to Early Decision itself rather than to any agreement not to recruit Early Decision admits. The defendants further argue that Early Decision applicants voluntarily chose a binding path, which does not constitute antitrust injury.

Of particular interest at the oral argument will be whether the court considers Early Decision admissions to be binding. The plaintiffs allege that admissions experts and school officials have acknowledged that the Early Decision agreement is not an enforceable contract. They argue this benefits schools because they can withdraw an offer if the admitted student’s grades fall before high school graduation or if the student engages in conduct that does not meet university standards. The defendant schools, on the other hand, argue that prospective students “apply to their first-choice school and commit to attend if admitted, as long as they receive sufficient financial aid.” They also note that applicants need not withdraw other applications until reviewing the aid offer and are “not obligated to accept an Early Decision offer if attendance would present financial hardship.”

The May 1 argument will either result in a dismissal of some or all of the plaintiffs’ claims, or it will send the case into the discovery phase. Many institutions, well beyond the defendant schools, will be watching closely.

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