

Practice Update

Desperate Housewives – More Like Desperate Parents?

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Proactive Steps for Higher Education Institutions as Admissions Scandal Intensifies

On Tuesday, March 12, 2019, Felicity Huffman, best known for playing Lynette Scavo on the popular television series *Desperate Housewives*, was arrested and charged with felony conspiracy to commit mail fraud and honest services mail fraud, according to court paperwork filed Monday in federal court in Massachusetts. The charges stem from what has been characterized as the largest college admissions cheating scandal in U.S. history. Numerous other celebrities and wealthy parents, including *Full House* star Lori Loughlin, have been charged or implicated in the scheme.

Even more troubling, however, are the number of college athletic coaches and college prep executives that have been accused of carrying out a nationwide fraud to place students at prestigious universities, according to the federal indictment.

The scheme had two main parts. First, wealthy parents allegedly paid a college prep organization to take placement tests on behalf of students or to correct their answers. Second, the organization allegedly bribed college coaches to help admit the students into college as recruited athletes, regardless of their athletic abilities. Federal court documents

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also allege that some defendants created fake athletic profiles for students to make them appear to be successful athletes.

In all, 50 people were charged in the criminal investigation, including two SAT/ACT administrators, one exam proctor, nine coaches at elite schools, one college administrator, and 33 parents. The fallout was swift Tuesday as several college coaches and one administrator were either fired or placed on administrative leave. At least one school launched an internal investigation. According to the FBI, the parents spent anywhere from \$200,000 to \$6.5 million to guarantee admissions for their children. The criminal accusations stretch from 2011 to 2019.

Sensationalism aside, this story is really about a breakdown in the university admissions and college athletics recruiting processes. How did such elite institutions become vulnerable to such widespread fraud and corruption? Colleges and universities – together with their administrators and athletics departments – should use this opportunity to review the processes they have in place to recruit and place students and student athletes. Transparency with respect to an institution's admissions policies and processes will serve as a proactive tool in assuring students, alumni, donors, and the public at large that colleges and universities are holding themselves accountable to fairness and equity standards in recruiting and admitting new classes of students.

A review of your current compliance program or the development of a compliance program inclusive of both academic and athletic policies is key. Questions to consider include:

- Does your institution update its compliance policies for coaching staff and corporate partners?
- What is your policy surrounding student-athlete recruiting and compliance and how is that policy monitored regularly?
- What are your admission policies?

- How often are those policies reviewed and monitored?
- Who trains your employees on their obligations and responsibilities in this space?
- How is your policy revised as the regulations change?
- When are reports due and how often are reports required?

Being prepared is crucial. However, assuming that preparedness alone will protect your institution is not sufficient. It is important to have a working command of your institution's policies and how changes in the law or regulations impact those policies. Prior to each academic year and recruiting season, you should start with training or some form of reinforcement of existing policies that your admission and athletic staff abides by. Policies must be flexible and they must adapt rapidly.

Institutions should plan ahead. A thorough review of your institution's admission and recruitment policies can identify any vulnerabilities. A well-crafted and effective compliance program can make all of the difference. Finally, a well-versed and experienced litigation team is imperative in navigating potential litigation of these matters. As of today, students have already filed suit against various universities, claiming that their college degrees were devalued by this admissions scandal and similar suits will likely follow.

Akerman's Higher Education and Collegiate Athletics team will continue to monitor this situation as it evolves and provide guidance on proactive and remedial measures that colleges and universities can enact in response to the recent charges, and to avoid future charges.

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