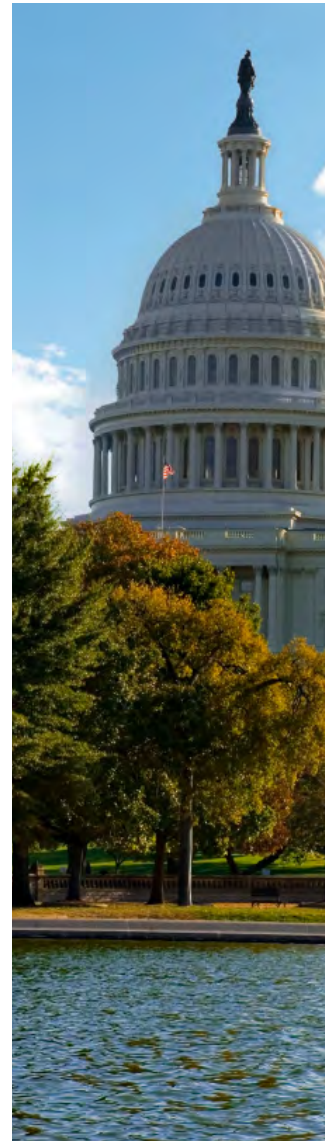
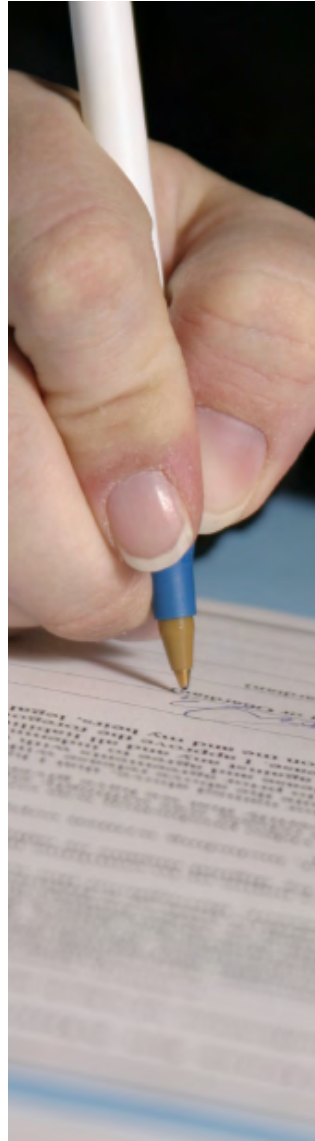


COLLEGE SCHOLARSHIP FRAUD PREVENTION ACT OF 2000 ANNUAL REPORT TO CONGRESS

JULY 2010



DEPARTMENT OF JUSTICE



DEPARTMENT OF EDUCATION



FEDERAL TRADE COMMISSION

**COLLEGE SCHOLARSHIP FRAUD PREVENTION ACT OF 2000
ANNUAL REPORT TO CONGRESS**

July 2010

**Submitted by:
Department of Justice
Department of Education
Federal Trade Commission**

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Executive Summary

Every year, millions of high school graduates seek ways to finance the costs of a college education. In the process, they sometimes fall prey to scholarship and financial aid scams. To help students and their families, on November 1, 2000, Congress passed the College Scholarship Fraud Prevention Act of 2000 (Act), Pub. L. No. 106-420, 114 Stat. 1867. This Act established stricter sentencing guidelines for criminal financial aid fraud and charged the U.S. Department of Education, working in conjunction with the Federal Trade Commission (FTC), with implementing national awareness activities, including a financial aid fraud awareness page on the Department of Education website. The Act also required that the Attorney General and the Secretary of Education, in conjunction with the FTC, submit to Congress each year a report on the previous calendar year's incidence of fraud by businesses or individuals marketing financial aid assistance services to consumers. This is the 2010 report.

The Department of Education and the FTC have continued their consumer education efforts. Using a variety of media, including websites, booklets, brochures, flyers, posters, and bookmarks, the Department of Education and the FTC are disseminating information to help consumers avoid falling prey to financial aid scams. The Department of Education materials also provide information about the major federal student aid programs. They remind students that there is no fee to submit the *Free Application for Federal Student Aid* and that free assistance is available from the Department of Education, high school counselors, and college financial aid administrators when applying for aid.

Complaints regarding financial aid fraud have remained fairly constant for over a decade with one anomalous spike in 2004 and a return to the general trend in 2005. In addition, except for 2004, financial aid-related complaints have diminished as a percentage of all complaints received by the FTC. A review of these complaints indicates that the nature of financial aid fraud has changed over time, shifting from scholarship search services to financial aid consulting services.

This year, the Department of Justice (DOJ) brought numerous actions against individuals engaged in financial aid fraud. The FTC, DOJ, and the Department of Education's Office of Inspector General continue to monitor complaints to determine if law enforcement action is necessary. Finally, the FTC and DOJ will continue to coordinate parallel civil/criminal actions in appropriate cases.

I. Introduction

Every year, families lose money to fraudulent financial aid schemes. With four-year college education costs rising faster than the rate of inflation, many parents are understandably concerned about how to pay those costs without incurring heavy debt.¹ Scam artists exploit those concerns. To help federal agencies combat financial aid scams, Congress passed the College Scholarship Fraud Prevention Act of 2000 (Act), Pub. L. No. 106-420, 114 Stat. 1867 (2000) on November 1, 2000. The Act required that the U.S. Sentencing Commission establish stronger sentencing guidelines for higher education financial assistance fraud. It also directed the Secretary of Education, working in conjunction with the Federal Trade Commission (FTC), to implement national awareness activities, including a financial aid fraud awareness site on the Department of Education's website. The Act further required that the Attorney General and the Secretary of Education, in conjunction with the FTC, submit to Congress each year a report on fraud by businesses or individuals that market and sell advice or assistance to students and parents seeking financial aid for higher education.

The Department of Justice (DOJ), the Department of Education, and the FTC prepared this Report according to the Act's directive. Building on previous Reports,² this Report provides an update of the activities of the DOJ, the Department of Education, and the FTC to combat financial aid fraud and an assessment of the nature and quantity of financial aid fraud during calendar year 2009.

II. Implementation of the College Scholarship Fraud Prevention Act

A. Amendments to Sentencing Guidelines

As discussed in previous Reports, the U.S. Sentencing Commission amended the Sentencing Guidelines, effective November 1, 2001, to include enhanced penalties for financial aid fraud. Specifically, it amended Section 2B1.1(b)(7)(D)³ of the Sentencing Guidelines to add a provision raising the relevant "offense level" by two levels if the crime involved misrepresentation to a consumer in connection with obtaining, providing, or furnishing financial assistance for an institution of higher education. There were no cases reported in Fiscal Year 2009 (FY09) in which the sentencing enhancement was imposed.

B. National Awareness Activities

1. The Department of Education's National Awareness Activities

The Department of Education continues to provide consumer education products and engage in outreach efforts to increase awareness of financial aid fraud. The primary education products are a brochure called "Save Your Money, Save Your Identity" and a web page called "Looking for Student Aid." Both products list free resources that provide information about financial aid and warn students about financial aid scams. As discussed in more detail in prior Reports, the Department of Education also publishes booklets, fact sheets, and a video that provide fraud prevention information to consumers. Distribution of print publications and

videos with scam warnings totaled approximately 6.9 million copies in 2009. Visits to the Department of Education's www.studentaid.ed.gov website, which hosts the online versions of the publications, numbered more than 14 million in 2009. The Department of Education's Office of Inspector General also hosts a fraud awareness website with scholarship scam information. The site, found at www.ed.gov/misused, registered more than 40,000 visits in 2009.

The Department of Education's outreach activities include numerous presentations to students, parents, counselors, and college financial aid administrators. Staff members make an effort to include, at a minimum, a brief warning about financial aid fraud in each workshop.

In order to stay aware of issues concerning various audiences, Department of Education staff members monitor listservs directed to professionals (such as high school or college access counselors) involved in helping students obtain financial aid. List members sometimes post messages asking or warning about companies charging fees for aid or information about aid. In response to such messages, Department of Education staff members occasionally post reminders that students can receive free advice from college financial aid administrators and from the Department of Education (as well as from high school counselors and other college access professionals). The Department of Education's reminders are sent to a total of more than 5,000 listserv members.

2. FTC's Consumer Education and Outreach Efforts

The FTC conducts an ongoing project to prosecute and prevent scholarship fraud called Project Scholarscam. Formally initiated in 1996, it includes both law enforcement efforts and a consumer education campaign to help students, parents, educators, and financial aid administrators identify and avoid financial aid scams. The FTC's consumer education campaign includes a package of consumer education materials, a website (www.ftc.gov/scholarshipscams), as well as a series of flyers and bookmarks. The website contains comprehensive information about financial aid scams and ways consumers can avoid falling prey to fraudulent marketing schemes. The flyers and bookmarks include abbreviated information from the website and tips to help consumers avoid financial aid scams.

To reach the largest number of at-risk consumers, the FTC developed partnerships with public and private organizations, including the National Association of College Admissions Counselors. From October 1996 through December 2009, the FTC and its partners distributed over 3.6 million print publications, and the FTC had more than 1.1 million visits to its financial aid scams website. In 2009, the FTC distributed over 79,700 print publications and had more than 76,000 visits to the website.

The FTC also continued to provide print publications to students and their parents through local school districts' college and career fairs. The FTC also conducts outreach directly to high school students and their parents. Moreover, the media often are interested in financial aid scams. Accordingly, the FTC staff frequently provides, through the media, tips for consumers to avoid these scams.

Continuing the partnership between the Department of Education and the FTC, the Department of Education's 2010-11 Counselors and Mentors Handbook includes a fact sheet based on the FTC's consumer publication, "Don't get scammed on your way to college!" as well as numerous other sources of information on avoiding financial aid scams. In addition, the Department of Education's www.studentaid.ed.gov website and the FTC's financial aid scams microsite, www.ftc.gov/scholarshipscams, are cross-linked.

III. Nature and Quantity of Incidents of Financial Aid Fraud

A. Overview of Financial Aid Fraud

As discussed in previous Reports, operators of financial aid scams generally promise their services will ensure that students receive either a scholarship or more financial aid than students and parents could get on their own. Other typical claims include: (1) that millions (in some cases billions) of dollars of scholarships go unclaimed every year, with promises to get the student his or her fair share; (2) that the advertiser has extremely high success rates, including "testimonials" from satisfied customers; and (3) that the advertiser is endorsed or approved by a federal or state agency, a chamber of commerce, or a Better Business Bureau.⁴ In fact, although they charge fees ranging from \$50 to more than \$1,000, these operators provide few, if any, services to help students and their families find financial aid.

The Department of Education notes that the College Scholarship Fraud Prevention Act was enacted at a time when scholarship scams were prevalent; this Report addresses the ongoing efforts to minimize such scams. In recent years, however, other financial aid-related consumer protection issues, such as the potential impact of predatory lenders on student borrowers and the charging of fees for assistance completing the *Free Application for Federal Student Aid* (FAFSA) have increasingly become the focus of students, parents, schools, and the general public. The Department of Education, the FTC, and Congress have taken steps to attempt to combat financial aid-related abuses of individual students.

In 2008, the Department of Education and the FTC collaborated on a publication, "Student Loans: Avoiding Deceptive Offers," to alert potential borrowers to deceptive lending practices. The publication is available through the FTC's and the Department of Education's consumer protection websites.

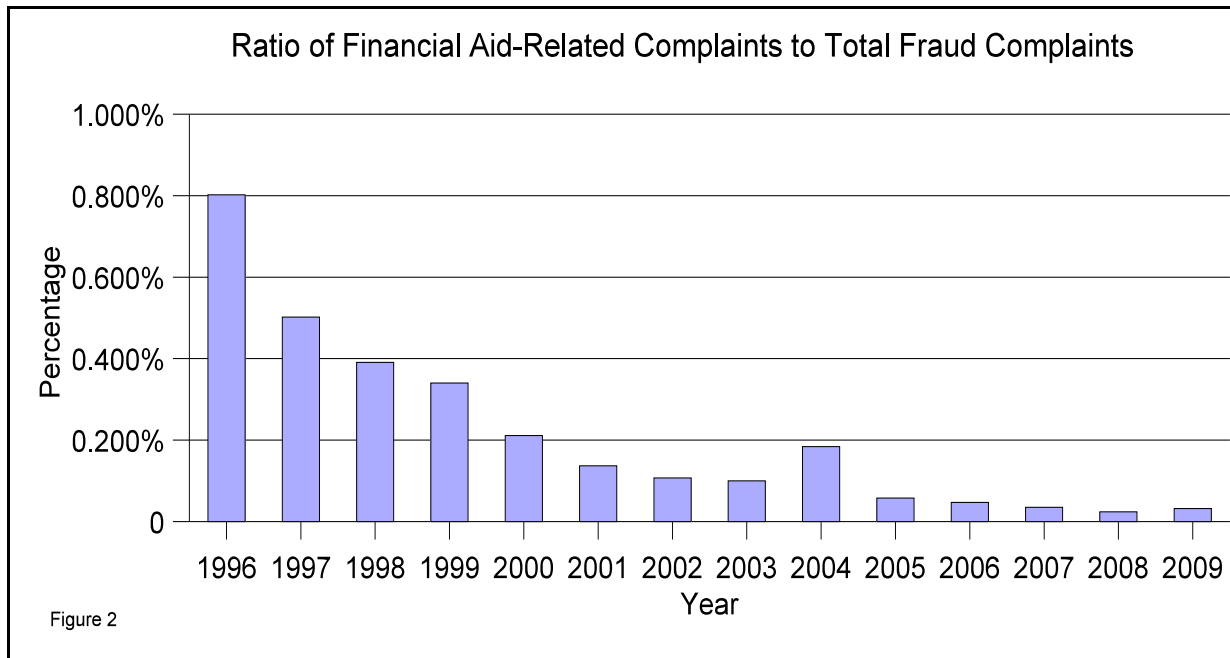
The Department of Education and the FTC will continue to work together to educate and protect students and their families. For instance, the Department of Education's Federal Student Aid compliance office can now access information about complaints against schools in the FTC's Consumer Sentinel database and use the information to better target limited program review resources. The Department of Education is also able to enter information on complaints that they receive against particular schools. In addition, the Department of Education and the FTC have been working together to clarify their guidance to business and consumers to ensure that both agencies are sending a consistent message about what constitutes a deceptive practice or a misrepresentation so that students and parents can make informed choices based on reliable information.

B. Assessment of Current Levels of Fraud

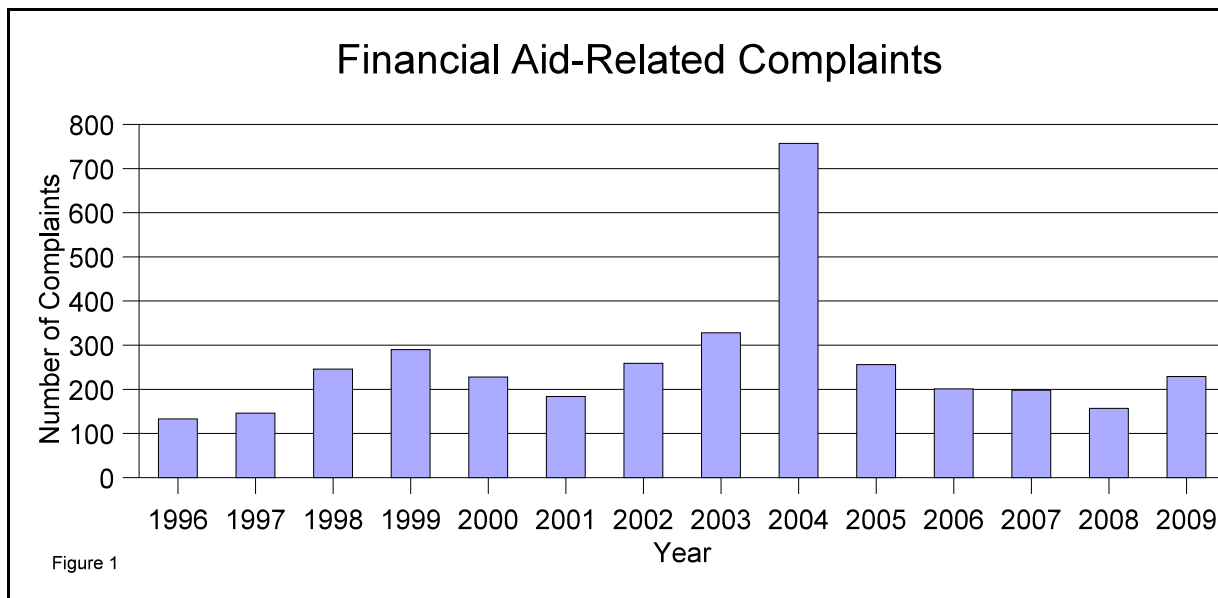
Both the FTC and the Department of Education receive financial aid-related complaints from consumers. The FTC reviewed complaints in its Consumer Sentinel⁵ database to assess the current levels of financial aid fraud, while the Department of Education reviewed complaints received by the Federal Student Aid Information Center and other call centers, its Office of Inspector General, and its Federal Student Aid Ombudsman.

1. FTC Complaint Database

The FTC has been monitoring consumer complaints related to financial aid fraud for over a decade. Figure 1 shows the number of complaints attributable to financial aid fraud in the FTC's Consumer Sentinel database between 1996 and 2009.⁶ Between 1996 and 2009, the number of financial aid-related complaints remained relatively flat, with a spike in 2004.⁷



To further evaluate the extent of financial aid fraud, it is useful to place the raw numbers of complaints in the context of all complaints received by the FTC on a yearly basis. Figure 2 shows the ratio of financial aid-related complaints to total fraud complaints.



With the exception of the previously discussed anomaly in 2004, financial aid-related complaints have diminished as a percentage of all complaints received by the FTC since 1996. As discussed in prior Reports, however, raw complaint and inquiry numbers are an imperfect gauge of the extent of fraudulent activities. For example, certain types of fraud may be under-reported, whereas in other instances the raw numbers may over-state the extent of the fraud.⁸ Nevertheless, the FTC’s successful law enforcement and consumer education campaign (which began in 1996), as well as the Department of Education’s national awareness activities, may be contributing to the proportionally lower complaint figures.

The Consumer Sentinel complaint database is a useful tool, not only to estimate the extent of scholarship fraud, but also to assess the nature of financial aid fraud and identify possible targets for law enforcement action. A review of the complaints indicates that the nature of financial aid fraud has changed over time. A decade ago, the majority of complaints received by the FTC concerned telemarketing fraud by bogus scholarship search firms. Recent complaints, however, mainly involve financial aid consulting firms that promise customized, comprehensive financial planning to maximize the students’ financial aid eligibility. These firms often use direct mail and oral presentations to market their services.

The FTC also monitors complaints in Consumer Sentinel to identify possible targets for law enforcement action. The FTC typically investigates companies or individuals that generate a sufficient number of complaints to indicate a pattern or practice of deceptive or fraudulent conduct. The complaints filed in 2009 were against many different companies, and do not indicate a pattern or practice of fraud by any one company. The FTC will continue to monitor these and other companies, however, for possible law enforcement actions.

2. The Department of Education's Complaint Monitoring

The Department of Education also receives written and telephone complaints about financial aid fraud. However, the number of complaints the Department of Education receives is small in comparison to the number received by the FTC.

Scholarship fraud complaints are submitted via two primary avenues: the Federal Student Aid Information Center (FSAIC) and the Office of Inspector General (OIG). In 2009, the FSAIC and OIG received a total of six fraud complaints (all to the OIG) relevant to this report. This number represents a decrease from the 2008 total of 17. It is unclear whether the decline is due to increased awareness on the part of students, decreased activity by scammers, or a combination of the two.

Although the Federal Student Aid Ombudsman and other call centers cannot provide statistics on numbers of complaints about financial aid scams, they can affirm that they do receive such complaints occasionally. These call centers refer callers to the FSAIC, OIG, or FTC, as appropriate, and collaborate with external groups to promote awareness around higher education financing.

a. Complaints to the Department of Education's FSAIC

The FSAIC has two sections: the correspondence unit and the telephone hotline (1-800-4-FED-AID).

In 2009, the correspondence unit received no written complaints (down from one in 2008) regarding scholarship fraud.

The FSAIC's hotline received no calls in 2009 (down from three in 2008) from consumers who believed they had been targets of financial aid scammers.

The FSAIC also occasionally receives complaints about websites charging students a fee to submit the FAFSA.⁹ These complaints, like the scholarship fraud complaints, have declined over the years. In 2009, the FSAIC received two complaints about such websites. The HEOA allows an applicant to use a preparer for consultative or preparation services to complete a paper or electronic FAFSA. If an applicant uses a preparer for consultative or preparation services for the completion of a FAFSA for which a fee is charged, the preparer must include, at the time the FAFSA is submitted to the Department of Education, the preparer's name, address or employer's address, Social Security number or employer identification number, and organizational affiliation on the applicant's form and is subject to the same penalties as an applicant for purposely giving false or misleading information in the application. A preparer must clearly inform each individual upon initial contact, including contact through the Internet or by telephone, that the FAFSA is a free form that may be completed without professional assistance via paper or electronic versions provided by the Department of Education. The preparer must also include this information in any advertising. If the preparer advertises or provides any information or services through a website, the preparer must include on the website a link to the

Department of Education's website that provides the electronic version of the FAFSA and not produce, use, or disseminate any other form for the purpose of applying for federal student aid other than the FAFSA developed by the Department of Education.

b. Complaints to the Department of Education's Office of Inspector General

The OIG maintains a hotline (1-800-MIS-USED) and email address (oig.hotline@ed.gov) for complaints relating to fraud, waste, and abuse involving the Department of Education's funds. Complaints also may be submitted by mail, via the www.ed.gov/misused website, or directly to OIG Headquarters or field offices across the country. OIG staff reported that there were six complaints in 2009 (a decrease from 13 in 2008). Four complaints were referred to the FTC and two to the Department of Education's office of Federal Student Aid for appropriate handling.

C. Department of Education's Financial Aid Fraud Prevention Program

The Higher Education Opportunity Act (HEOA), P.L. 110-315, enacted on August 14, 2008, emphasizes consumer awareness and education. The HEOA contains strong protections for students and their families related to persons and entities providing student aid consultative or preparation services. The HEOA requires that paid preparers, in addition to disclosing their identity on the FAFSA, provide notice that the FAFSA is a free form, and that any websites used by the preparer contain a link to the Department of Education's FAFSA web page. The HEOA also restricts use of an individual's FSA PIN (a personal identification number used to sign an applicant's FAFSA), specifying that no person, commercial entity, or other entity may request, obtain, or utilize an applicant's PIN for purposes of submitting a FAFSA on behalf of the applicant.

The HEOA added a requirement to the Truth in Lending Act (TILA) (section 128(e)(3)) that before a private education lender may consummate a private education loan for a student in attendance at an institution of higher education, the private education lender must obtain a completed and signed Self-Certification form from the applicant. The Federal Reserve Board's Final Regulations published on August 14, 2009, incorporate this new requirement at 12 CFR § 226.48(e). The HEOA also added section 487(a)(28) to the Higher Education Act (HEA). Under section 487(a)(28), an institution participating in HEA Title IV programs must provide, at the request of an applicant for a private education loan, the Self-Certification form required under section 128(e)(3) of the TILA. The Department of Education's Final Regulations published on October 28, 2009, incorporate this new requirement at 34 CFR §§ 601.11(d) and 668.14(b)(29).

At the request of an enrolled or admitted student applicant for a private education loan (or to a loan applicant who is a parent of an enrolled or admitted student), an institution must provide the Self-Certification form to the applicant with the information requested in Section 2 of the form, to the extent that the institution possesses the information. Section 2 of the Self-Certification form requests the following information: the student's Cost of Attendance (COA)

for the period of enrollment covered by the loan; any Estimated Financial Assistance (EFA) for the period of enrollment covered by the loan; and the difference between the COA and EFA.

Since February 14, 2010, institutions have been required to provide the Self-Certification form and the information needed to complete the form to an enrolled or admitted applicant (or to an applicant who is a parent of an enrolled or admitted student) upon the applicant's request for a private education loan Self-Certification form. An institution may post an exact copy in Portable Document Format (PDF) of the Self-Certification form on its website for applicants to download or it may provide a paper copy of the Self-Certification form directly to an applicant through its financial aid or other designated office.

Alternatively, the applicant may obtain a copy of the Self-Certification form from the private education lender and submit it to the institution for completion or confirmation. An institution may also, at its option, provide the information needed to complete the form directly to a private education lender. An institution is not required to track the status of the private education loan after providing the Self-Certification form to the applicant or to the private lender. In accordance with 34 CFR § 668.14(b)(29)(ii), an institution must, upon the request of the applicant, discuss the availability of federal, state, and institutional financial aid.

The HEOA also imposed new requirements on preferred lender disclosures, codified at 34 CFR § 600.10, and a code of conduct, codified at 34 CFR § 600.21.¹⁰ In terms of preferred lender arrangement disclosures, an institution of higher education or an affiliated organization that participates in a preferred lender arrangement must disclose on its website and in all informational materials that describe or discuss private education loans, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 128 of TILA for each type of private education loan offered pursuant to a preferred lender arrangement of the institution to students of the institution or the families of students. If an institution compiles, maintains, and makes available a preferred lender list, the institution must clearly and fully disclose why the institution participates in a preferred lender arrangement with each lender on the list, particularly with respect to terms and conditions or provisions favorable to the borrower and that the students attending the institution, or the families of such students, do not have to borrow from a lender on the preferred lender list. If the institution recommends, promotes, or endorses private education loans, there must be at least two lenders of private education loans that are not affiliates of each other included on an institution's preferred lender list. The preferred lender list must:

- indicate, for each listed lender, whether the lender is or is not an affiliate of each other lender on the list and describe the details of any such affiliation;
- disclose the method and criteria used by the institution in selecting lenders with which to participate in preferred lender arrangements to ensure that such lenders are selected on the basis of the best interests of the borrowers, including—
 - Payment of origination or other fees on behalf of the borrower;

- Highly competitive interest rates, or other terms and conditions or provisions of HEA Title IV program loans or private education loans;
- High-quality servicing for such loans; or
- Additional benefits beyond the standard terms and conditions or provisions for such loans.

An institution of higher education that participates in a preferred lender arrangement must develop a code of conduct with regard to private education loans with which the institution's agents must comply. The code of conduct must:

- prohibit a conflict of interest with the responsibilities of an agent of an institution with respect to private education loans;
- be published prominently on the institution's website; and
- be administered and enforced by the institution by, at a minimum, requiring that all of the institution's agents with responsibilities with respect to private education loans be annually informed of the provisions of the code of conduct.

An institution's code of conduct must prohibit revenue-sharing arrangements with any lender and must prohibit employees of the financial aid office from receiving gifts from a lender, a guarantor, or a loan servicer. Agents who are employed in the financial aid office of the institution or who otherwise have responsibilities with respect to private education loans, must not solicit or accept any gift from a lender, guarantor, or servicer of private education loans. A gift includes any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a *de minimus* amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. An agent who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to private education loans must not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit (including the opportunity to purchase stock) as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to private education loans.

Under the code of conduct, an institution may not direct borrowers to particular lenders or delay loan certifications. The institution must not assign, through award packaging or other methods, a first time borrower's loan to a particular lender or refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender. Finally, an institution must not request or accept from any lender any offer of funds to be used for private education loans, including funds for an opportunity pool loan, to students in exchange for the institution providing concessions or promises regarding providing the lender with a specified number of private education loans; a specified loan volume of such loans; or a preferred lender arrangement for such loans.

In addition, the Department of Education began working to strengthen a number of regulatory provisions related to program integrity in the federal student aid programs. The regulatory provisions proposed for consideration were based, in large part, on advice and recommendations submitted by individuals and organizations as testimony to the Department of Education in a series of three public hearings.

In addition, the Department of Education accepted written comments on possible regulatory provisions submitted directly to the Department of Education by interested parties and organizations. A summary of all comments received orally and in writing is posted to the Department of Education's website at:

www2.ed.gov/policy/highered/reg/hearulemaking/2009/negreg-summerfall.html#ph.
Department of Education staff also identified issues for discussion and negotiation.

On September 9, 2009, the Department of Education published a notice in the *Federal Register* (74 FR 46399) announcing the intent to establish two negotiated rulemaking committees to prepare proposed regulations. One committee would develop proposed regulations governing foreign schools, including the implementation of the changes made to the HEA by the HEOA that affect foreign schools. A second committee would develop proposed regulations to maintain or improve program integrity in the HEA Title IV programs. The notice requested nominations of individuals for membership on the committees who could represent the interests of key stakeholder constituencies on each committee, and the Program Integrity Issues Team began work in November 2009.

The Program Integrity Committee met to develop proposed regulations during the months of November 2009 through January 2010. The protocols under which the negotiating committee conducted its business provided that, unless agreed to otherwise, consensus on all of the amendments in the proposed regulations had to be achieved for consensus to be reached on the entire notice of proposed rulemaking (NPRM). Consensus means that there must be no dissent by any member.

During the negotiations, the Program Integrity Committee reviewed and discussed drafts of proposed regulations. At the final meeting in January 2010, the committee did not reach consensus on the proposed regulations. This leaves the Secretary of Education free to regulate as he believes appropriate to protect the interests of students and taxpayers. The Department of Education will publish an NPRM for public comment to strengthen program integrity. The link to the web site on negotiated rulemaking is www2.ed.gov/policy/highered/reg/hearulemaking/2009/integrity.html.

D. FTC's Financial Aid Fraud Prevention Program

As mentioned above, the FTC's Project Scholarscam combines law enforcement¹¹ with consumer education to stop fraudulent purveyors of so-called scholarship or financial aid services. As a result of the FTC's lawsuits, a total of 13 companies and 34 individuals are subject to federal court orders prohibiting future misrepresentations. Most of the orders

permanently ban the defendants from marketing scholarship or financial aid-related services. Many of the orders also require the defendants to post performance bonds before engaging in telemarketing.¹² The FTC has refunded to consumers or disgorged to the U.S. Treasury more than \$2.1 million in funds related to scholarship or financial aid-related cases.¹³

E. DOJ's Financial Aid Fraud Prevention Program

Since last year's Report, there have been numerous cases in which individuals charged with fraud in the offering or obtaining of higher education financial aid, were prosecuted, convicted, or sentenced. A sampling of case summaries from FY 2009 follows, representing a broad spectrum of higher education financial aid fraud cases prosecuted by DOJ. These cases include instances where fraudulent representations were made in the offering of higher education financial aid, where the identities of unknowing victims or co-conspirators were submitted on financial assistance applications to fraudulently obtain financial aid, and where defendants fraudulently obtained substantial amounts of higher education financial assistance. In preparing this report, the DOJ Executive Office for United States Attorneys (EOUSA) surveyed the 94 United States Attorneys' Offices, but did not identify any instances where the two-level sentencing enhancement, Section 2B1.1(b)(8)(D) of the Sentencing Guidelines, was requested or imposed, in FY 2009. Case developments within FY 2009 are included in the case summary. If there were developments in selected cases after September 30, 2009, *i.e.* in FY 2010, they are described in endnotes.

- *United States v. Labine Shundra Stephens*, Case No. 4:08-cr-00205-JMM (E.D. Ark.)

In May 2008, defendant Stephens was charged in a 15-count indictment arising out of an identity theft scheme in which he applied for federally insured student loan benefits using the fraudulent identities of innocent third parties. In March 2009, the defendant pleaded guilty to a felony violation of 20 U.S.C. § 1097(a), and in September 2009 was sentenced to a term of imprisonment of 28 months, followed by three years' supervised release, a special assessment of \$100, and restitution in the amount of \$66,374. This case was investigated by the Department of Education's Office of Inspector General.

- *United States v. Trena Lynne Halton, et al.*, Case No. 2:09-cr-737-MHB (D. Ariz.)

Defendant Halton and 64 others were indicted in June 2009 on various offenses related to a conspiracy to defraud the United States of more than \$500,000 in student loan funds. The indictment charged that between July 2006 and October 2007, Halton, and four other defendants who worked with Halton, recruited individuals to act as "straw" students to apply for federal financial aid in the form of Stafford Loans and Pell Grants in order to attend Rio Salgado Community College, even though they were neither active students nor intending to become active students. The remaining 60 defendants acted as "straw" students at the behest of Halton. This case was investigated by the U.S. Postal Inspection Service and the Department of

Education's Office of Inspector General, with assistance from the Surprise, Arizona, Police Department.

- *United States v. Henry Robert Jean Leger*, Case No. 1:02-cr-20886-JAL (S.D. Fla.)

Defendant Leger was indicted in October 2002 on various offenses related to Pell Grant fraud. The indictment charged that Leger, while acting as an admissions representative at the Miami Technical Institute, directed students to falsify financial information to qualify the students for Pell Grant funds in an amount exceeding \$160,000. Leger was not apprehended until August 2008 and was subsequently found guilty, after trial, of conspiracy, wire fraud, and Pell Grant fraud in July 2009, in violation of 18 U.S.C. § 371, 18 U.S.C. §§ 2 and 1343, and 20 U.S.C. § 1097(a). Leger was sentenced in September 2009 to a term of imprisonment of 14 months, followed by three years' supervised release, a special assessment of \$600, and restitution in the amount of \$46,175. This case was investigated by the Department of Education's Office of Inspector General.

- *United States v. Anthony Juan Walker and Obialunamma Agubuzu*, Case No. 2:09-cr-00152-CJB-ALC (E.D. La.)

Defendants Walker and Agubuzu were indicted in May 2009 and charged with submitting fraudulent application materials for admission to the L.S.U. Health Sciences Centers New Orleans School of Dentistry, by which both obtained admission to the School of Dentistry and federal financial assistance in the amounts of \$40,072 and \$35,572, respectively. Agubuzu pleaded guilty in June 2009 to one count of financial aid fraud, and Walker pleaded guilty in July 2009 to one count of financial aid fraud.¹⁴ This case was investigated by the Department of Education's Office of Inspector General and the Federal Bureau of Investigation.

- *United States v. Carlos Brando Zepeda*, Case No. 3:08-cr-30028-MAP (D. Mass.)

In May 2008, defendant Zepeda was indicted and charged with federal student financial assistance fraud, misuse of a Social Security number, making false statements, and wire fraud, arising from his use of a fraudulently obtained Social Security number to apply for and receive federal student financial assistance under a false identity. Zepeda pleaded guilty to the four-count indictment in April 2009 and was sentenced in July 2009 to a term of imprisonment of six months, followed by three years' supervised release, a special assessment of \$400, and restitution in the amount of \$96,114. This case was investigated by the Offices of Inspector General of the Department of Education and the Social Security Administration, the U.S. Postal Inspection Service, and the University of Massachusetts Amherst Police Department.

- *United States v. Lorenzo Pierson*, Case No. 1:09-cr-20090-TLL- CEB (E.D. Mich.)

In March 2009, defendant Pierson waived indictment and pleaded guilty to a two-count information charging him with federal student financial assistance fraud and wire fraud, in connection with his submission of false and fraudulent applications for federal student financial assistance, private student financial aid, and a residential mortgage. In his guilty plea, Pierson admitted to fraudulently obtaining over \$366,000 in federal and private student financial assistance over eight years (without ever completing a college degree). This case was investigated by the Department of Education's Office of Inspector General and the Federal Bureau of Investigation.¹⁵

- *United States v. Kevin Earl Woods, Dominic L. Campbell and Dale Odei Marbell*, Case No. 4:098-cr-00049-GAF (W.D. Mo.)

Defendants Woods, Campbell, and Marbell were indicted in February 2009 on charges of conspiracy and federal student financial assistance fraud. Defendants worked as admissions representatives of Vatterott College, at its Kansas City, Missouri, campus at various times between 2003 and 2006. Defendants directed students without high school diplomas and who did not intend on completing a General Equivalency Degree certificate, to enroll at Vatterott and fraudulently apply for federal student financial assistance to which they were not entitled because they had not graduated from high school. As a result of this conspiracy, funds totaling more than \$344,881 were disbursed to ineligible students.¹⁶ Marbell pleaded guilty to the conspiracy charge in August 2009 and Campbell pleaded guilty to the conspiracy charge in September 2009.¹⁷ This case was investigated by the Department of Education's Office of Inspector General.

- *United States v. Prudence Carmen Jeffers*, Case No. 1:06-cr-00848-ARR (E.D.N.Y.)

Defendant Jeffers was sentenced in February 2009 on his convictions on eight counts of Social Security fraud and one count of student loan fraud in violation of 20 U.S.C. § 1097(a). Jeffers was sentenced to a term of imprisonment of time served, followed by three years' supervised release, a special assessment of \$900, and restitution in the amount of \$114,016. This case was investigated by the Offices of Inspector General of the Department of Education and the Social Security Administration.

- *United States v. Jennifer L. Sherman*, Case No. 1:07-cr-00611-KMO (N.D. Ohio.)

Defendant Sherman was sentenced in March 2009 after pleading guilty in March 2008 to a two-count indictment charging that she obtained federal student financial assistance in violation of 20 U.S.C. § 1097(a) and submitted a false statement to obtain a loan discharge, in violation of 18 U.S.C. § 1001. Sherman was sentenced to a term of imprisonment of 18 months, followed by three years' supervised release, a special assessment of \$200, and restitution in the

amount of \$108,995. This case was investigated by the Department of Education's Office of Inspector General.

- *United States v. Reinaldo Ortiz-Rosario*, Case No. 3:08-cr-00112-FAB-JA (D.P.R.)

Defendant Ortiz-Rosario was sentenced in August 2009, after pleading guilty in March 2009 to an 11-count indictment charging him with one count of federal student financial assistance fraud in violation of 20 U.S.C. § 1097(a), nine counts of wire fraud in violation of 18 U.S.C. § 1343, and one count of obstructing a federal audit in violation of 18 U.S.C. § 1516. Ortiz-Rosario, in his capacity as president and owner of the Instituto Tecnológico Empressarial, submitted false statements on behalf of 38 enrolled students certifying they had received a GED certificate, in order to qualify for federal student financial assistance. Subsequently, during a Department of Education review of the loans, Ortiz-Rosario fraudulently represented the students as qualified for the federal assistance. Ortiz-Rosario was sentenced to a term of imprisonment of 24 months, followed by three years' supervised release, a special assessment of \$1,100, and restitution in the amount of \$86,072, plus \$950 of admissions fees to each of the 38 students. This case was investigated by the Department of Education's Office of Inspector General and the Federal Bureau of Investigation.

- *United States v. Esther Elizabeth Reed*, Case No. 6:07-cr-01110-HMH-1 (D.S.C.)

Defendant Reed was sentenced in February 2009, after pleading guilty to four counts of a superseding indictment, including one count charging the use of fraudulently obtained Social Security numbers. Reed used the identities of other individuals to fraudulently apply for and receive federal student financial assistance in violation of 20 U.S.C. § 1097(a). Reed was sentenced to 27 months' imprisonment (for counts 1, 2 and 5) followed by 24 months' imprisonment (for count 4) to be served consecutively, three years' supervised release, a \$400 special assessment, and was ordered to pay restitution in the amount of \$125,916.87, including \$58,242 to Sallie Mae. This case was investigated by the Offices of Inspector General of the Department of Education, the Department of Homeland Security, and the Social Security Administration.

IV. Conclusion

As described above, the FTC, the Department of Education, and DOJ have implemented the directives of the College Scholarship Fraud Prevention Act of 2000. Together, the agencies are continuing to work cooperatively to prosecute and prevent financial aid fraud.

Endnotes

1. According to the 2009 edition of The College Board's *Trends in College Pricing* (available at http://www.trends-collegeboard.com/college_pricing/pdf/2009_Trends_College_Pricing.pdf), the average total costs, including tuition, room, and board, for in-state students at public four-year colleges and universities in 2009-10 rose 5.9% from 2008-09. The average total costs for out-of-state students at public institutions rose 6.0%. The average total costs for private institutions rose 4.3%. Analyzing long-term trends, The College Board reports that over the past decade, published tuition and fees at public four-year institutions have risen at an average rate of 4.9% per year after inflation, while published tuition and fees at private institutions have risen at an average rate of 2.6% per year after inflation.
2. The inaugural Report can be found at <http://www.ftc.gov/opa/2002/05/scholarshipfraud.htm>. The second Report can be found at <http://www.ftc.gov/opa/2003/05/scholarshipfraud.htm>. The third Report can be found at <http://www.ftc.gov/opa/2004/05/scholarshipfraudrpt.htm>. The fourth Report can be found at <http://www.ftc.gov/opa/2005/05/scholarship.htm>. The fifth Report can be found at <http://www.ftc.gov/opa/2006/05/scholarshipfraud.htm>. The sixth Report can be found at <http://www.ftc.gov/opa/2007/05/collegescholarshipfraudrpt.shtm>. The seventh Report can be found at <http://www.ftc.gov/os/2008/05/collegescholarshipfraudpreventionrpt.pdf>. The eighth Report can be found at <http://www.ftc.gov/os/2009/06/P094803scholarshipfraud.pdf>.
3. On November 1, 2004, this provision was re-designated as U.S.S.G. § 2B1.1(b)(8)(D).
4. *Solving the Problem of Scholarship Scams: Hearings on S. 1455, The College Scholarship Fraud Prevention Act of 1999 Before the S. Comm. on the Judiciary, 106th Cong.* (1999) (statement of Mark Kantrowitz, publisher of the www.finaid.org website).
5. Consumer Sentinel is a secure, password-protected complaint database designed to allow law enforcers to share data about fraud. Consumer Sentinel now contains over 7.2 million fraud and identity theft complaints and is accessible to more than 1,700 law enforcement agencies – including every state attorney general in the U.S. and consumer protection agencies in 23 nations. In addition to consumer complaints, Consumer Sentinel offers its law enforcement members a variety of tools to facilitate investigations and prosecutions, including: law enforcement alerts about companies currently under investigation; information to help agencies coordinate effective joint action; an index of telemarketing sales pitches; and data analysis to determine trends in fraud. Consumer Sentinel collects complaints from the FTC and over 125 other organizations. More information on Consumer Sentinel can be found in *Consumer Sentinel Network Data Book for January-December 2009*, issued by the FTC in February 2010 and available online at www.ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2009.pdf.
6. As discussed in the 2006 Report, the Consumer Sentinel category “scholarship/educational grants” previously included both financial aid-related complaints and non-educational grants complaints, and the ratio between the two groups remained relatively constant through 2003. Due to a significant increase in the number of non-educational grants complaints in 2004 and

2005, the ratio changed dramatically, making it difficult to compare increases or decreases in the “scholarship/educational grant” category accurately. Accordingly, the FTC performed an analysis to estimate the number of financial aid-related complaints in 2005 and prior years. To avoid that problem in the future, the FTC introduced a new Consumer Sentinel complaint category in 2006, “non-educational grants,” so that the two groups of complaints could be collected and maintained separately. The number of financial aid-related complaints and total fraud complaints per year are set forth in the following table.

FTC’s Consumer Sentinel Complaints

Year	Financial Aid-Related Complaints	Total Fraud Complaints	Percentage of Financial Aid Complaints to Total Fraud Complaints
1996	133	16,588	0.802%
1997	146	29,069	0.502%
1998	246	62,840	0.391%
1999	290	85,248	0.340%
2000	228	107,910	0.211%
2001	184	134,136	0.137%
2002	259	241,498	0.107%
2003	328	327,479	0.100%
2004	757	410,709	0.184%
2005	256	437,906	0.058%
2006	201	428,319	0.047%
2007	198	555,472	0.035%
2008	157	643,195	0.024%
2009	229	721,418	0.032%

7. Using the data available, the FTC cannot conclusively explain the 2004 spike. As discussed in prior years’ Reports, the influx of complaints that year may have been due, in part, to the FTC’s then-recent actions against two companies, The College Advantage and National Student Financial Aid. It is not unusual for complaints to temporarily rise after the FTC announces law enforcement actions.

8. As discussed in previous years' Reports, the number of complaints contained in the Consumer Sentinel database does not provide a complete picture of the extent of consumer injury from any particular type of fraud: (1) some consumers may complain directly to the company or to law enforcement authorities that do not forward complaints to the Consumer Sentinel database; (2) some financial aid scams on the Internet are relatively inexpensive and consumers often do not complain when the financial injury is low; (3) increases in the number of complaints may reflect an increase in the number of law enforcement and consumer protection agencies forwarding complaints to the Consumer Sentinel database; and (4) increases in the number of complaints may reflect greater consumer awareness of the fraud and how to report it.

9. To apply for federal student financial aid and many state student aid programs, students must first complete the FAFSA. The Department of Education uses information provided on a student's FAFSA to determine the student's eligibility for aid from the federal student aid programs. Many states and schools also use the FAFSA to award aid from their programs. Some states and schools may require the student to fill out additional forms.

10. These requirements apply to both Federal Family Education Loans (FFEL) and private student loans. However, the Health Care and Education Reconciliation Act of 2010 (HCERA) eliminated the FFEL program effective June 30, 2010. As a result, these requirements will only apply, as a practical matter, to private student loans.

11. Among other things, the FTC enforces Section 5 of the FTC Act, 15 U.S.C. § 45, which prohibits unfair or deceptive acts or practices in or affecting commerce. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), allows the FTC to bring, by its own attorneys, actions in federal district court to halt violations of Section 5. Remedies available to the FTC include permanent injunctions and equitable monetary relief such as restitution to consumers or disgorgement of unjust enrichment. Section 13(b) also allows the FTC to seek preliminary relief, including temporary restraining orders and preliminary injunctions. In appropriate cases, the FTC may seek preliminary relief on an *ex parte* basis.

12. Performance bonds are designed to deter defendants from engaging in misrepresentations and provide a fund to redress consumer injury should defendants violate the order.

13. Although the FTC obtained approximately \$22.8 million in judgments, the full amount of these judgments was not collected. In the case of judgments obtained through settlement, the FTC suspended some or all of the judgment amount based upon the defendants' demonstrated inability to pay the full amount. In other cases, the FTC referred unsatisfied judgment balances to the U.S. Treasury for further collection efforts.

14. Defendants Walker and Agubuzu were each sentenced in October 2009 to a term of five months' probation, a special assessment of \$100, and restitution in the amounts of \$40,072 and \$35,572, respectively.

15. Defendant Pierson was sentenced in October 2009 to a term of imprisonment of 27 months, followed by three years' supervised release, a special assessment of \$200, and restitution in the total amount of \$481,420.

16. Defendant Woods pleaded guilty in December 2009 to conspiracy to defraud the United States and fraudulently obtain federal financial student assistance on behalf of Vatterott College, in violation of 18 U.S.C. §371, and admitted to causing losses of \$344,881.

17. Defendant Marbell was sentenced in December 2009 to a term of time served, followed by three years' supervised release, a special assessment of \$100, and restitution in the amount of \$361,965. Defendant Campbell was sentenced in January 2010 to a term of probation of three years, a special assessment of \$100, and restitution in the amount of \$361,965.