



Statement before the US House Committee on the Judiciary, Subcommittee on the  
Administrative State, Regulatory Reform, and Antitrust  
On The Elite Universities Cartel: A History of Anticompetitive Collusion Inflating the  
Cost of Higher Education

# **Competitors or Cartel?**

The Anticompetitive Characteristics of Elite Higher Education

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Good morning, Chairman Fitzgerald, Ranking Member Nadler, and distinguished members of the Committee. Thank you for the opportunity to testify on the pricing and spending practices of Ivy League universities. My name is Preston Cooper, and I am a senior fellow focusing on the economics of higher education at the American Enterprise Institute (AEI), a nonprofit, nonpartisan public policy research organization based here in Washington, DC. My comments today are my own and do not reflect the views of AEI, which does not take institutional positions.

The eight institutions of the Ivy League show many of the hallmarks of anticompetitive behavior. Most Ivy League institutions severely limit undergraduate admissions, turning away thousands of qualified applicants. The schools charge among the highest tuition prices in the country and are less likely to provide financial aid than other private institutions. At the same time, Ivy League universities enjoy a significant surplus that funds high levels of institutional expenditures, administrative bloat, and seven-figure salaries for some college presidents. With Ivy League graduates overrepresented in the top echelons of government and business, greater scrutiny of these institutions' pricing and enrollment practices is overdue.

### **Overview of elite colleges and antitrust law**

The Sherman Act normally forbids “every contract, combination, or conspiracy in restraint of trade,” such as collusion between firms to restrict output and raise prices.<sup>i</sup> This would normally prohibit most coordination between colleges and universities to set tuition rates. However, between 1994 and 2022, some elite universities enjoyed an exemption from antitrust laws: so long as they admitted all students on a “need-blind” basis, these schools

could use “common principles of analysis” to determine financial aid packages.<sup>ii</sup> Because most private colleges engage in price discrimination through the financial aid system to set tuition rates for individual students, using such “common principles of analysis” could be viewed as coordination of tuition prices.

In 2022, a group of students filed a class-action lawsuit against 17 elite universities, including several members of the Ivy League, that had availed themselves of this exemption. The plaintiffs alleged that these elite institutions did not actually practice need-blind admissions, and therefore their coordination of financial aid methodologies was illegal.<sup>iii</sup> As former Brown University President Gordon Gee said in 2019, elite college presidents under “truth serum” would admit that donor connections can affect admissions.<sup>iv</sup> Most of the colleges named in the lawsuit, including Brown University, Columbia University, Dartmouth College, and Yale University, eventually agreed to a collective \$320 million settlement.<sup>v</sup> After the antitrust exemption expired in 2022, another lawsuit was filed alleging that 40 elite universities—including several Ivy League institutions—had continued to coordinate their pricing decisions.<sup>vi</sup>

### **The market for elite higher education**

My testimony does not take a position on whether Ivy League universities are coordinating their pricing decisions, or whether they are in violation of federal antitrust law. However, we can examine whether the market for elite higher education bears the characteristics that we would expect to see under a collusive arrangement. Under a cartel, according to economic theory, suppliers of a good or service may agree to restrict output. This enables each supplier to charge higher prices than they would in a competitive market

and results in monopoly-like profits for the cartel's members.<sup>vii</sup> These three conditions—restricted supply, high prices, and the equivalent of excessive profits—are present to some degree among the eight Ivy League schools.

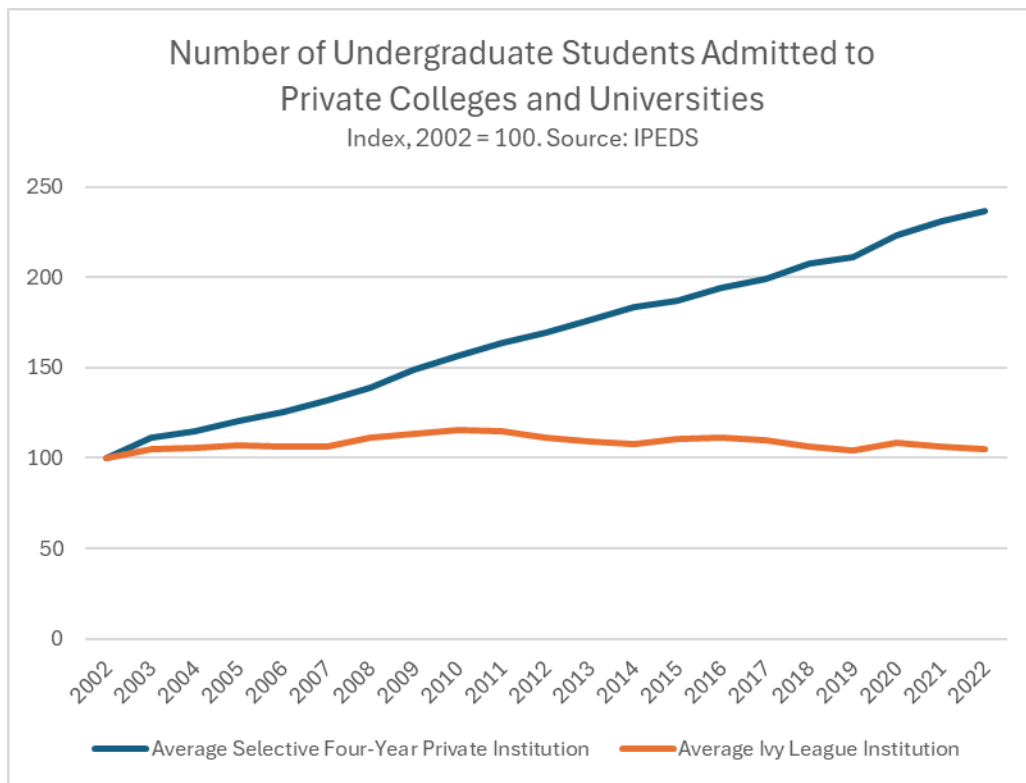
### *Restricted supply*

Harvard College admitted 2,195 students to join the Class of 1982.<sup>viii</sup> Due to population increases and higher rates of overall college attendance, one might expect that number to grow. Instead, Harvard admitted just 1,937 students to join its Class of 2028.<sup>ix</sup>

Demand for higher education has increased substantially over the past several decades. Between 1986 and 2023, undergraduate enrollment in four-year colleges grew at an average annual rate of 1.6 percent. But the eight Ivy League institutions—Brown University, Columbia University, Cornell University, Dartmouth College, Harvard University, Princeton University, the University of Pennsylvania, and Yale University—grew their undergraduate enrollments at an annual rate of just 0.7 percent, less than half the average. Some Ivy League schools, including Harvard and Penn, reduced their undergraduate enrollment across this period.<sup>x</sup>

For the most part, as demand for higher education has grown, colleges have admitted more students. The average selective private four-year college admits more than twice as many students to its incoming undergraduate class today as it did in 2002. But Ivy League institutions have not increased admissions to match rising demand, with these eight schools admitting roughly the same number of students today as they did two decades ago. Instead, the schools have opted to become more selective, with the average Ivy League admissions rate falling from 15 percent in 2002 to just 5 percent in 2022.<sup>xi</sup> This is not for

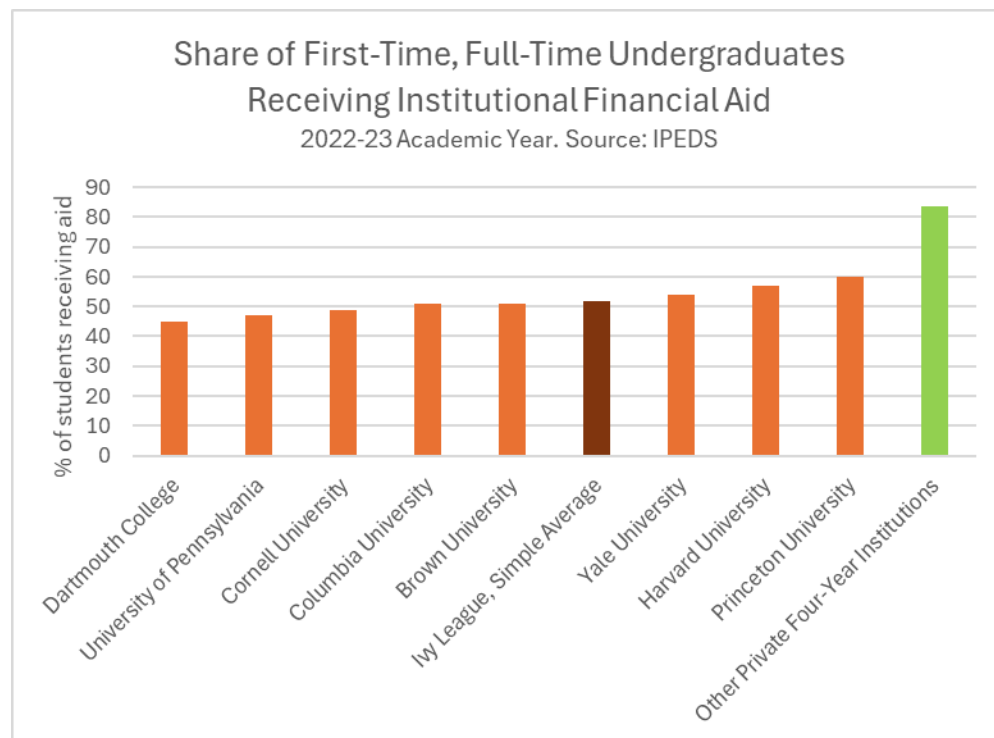
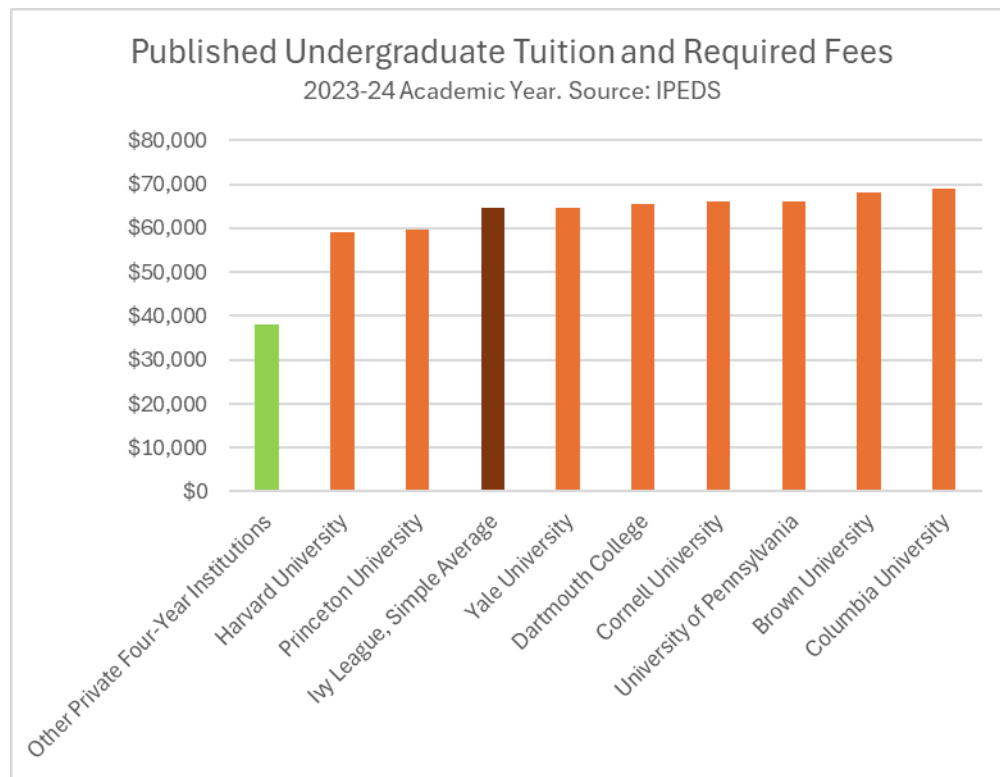
lack of qualified applicants: Ivy League institutions reject many students with strong SAT and ACT scores, especially those from middle-income families.<sup>xii</sup>



### *Higher prices*

As student demand rises, but Ivy League institutions keep admissions relatively flat, the obvious result is upward pressure on prices. In the 2023-24 academic year, the average four-year private college charged a sticker price (including tuition and required fees) of \$37,942. Published prices at Ivy League universities, meanwhile, ranged from \$59,076 to \$69,045—between 56 percent and 82 percent higher than the average.<sup>xiii</sup> Ivy League schools will insist that financial aid brings down the cost of tuition, but these institutions are far stingier with institutional financial aid than other private colleges. While 84 percent of first-time, full-time undergraduates at non-Ivy League private colleges receive a discount

off the sticker price, the share of Ivy League students receiving institutional aid is just 52 percent.<sup>xiv</sup>



Moreover, the opaque financial aid system arguably enables colleges to charge higher prices than they could in a competitive market. A billion-dollar consulting industry helps colleges determine exactly how much each student (and their family) is willing to pay, allowing the schools to calibrate financial aid packages accordingly.<sup>xv</sup> Students must typically apply—and be accepted—to a college in order to learn how much they will pay in tuition after financial aid. This leaves little room to negotiate on prices, because by the time the student receives a financial aid offer, she may have few fallback options.<sup>xvi</sup> This gives the institution considerable pricing power, which is compounded by the often-confusing nature of financial aid offer letters<sup>xvii</sup> and reductions in financial aid for upperclassmen.<sup>xviii</sup>

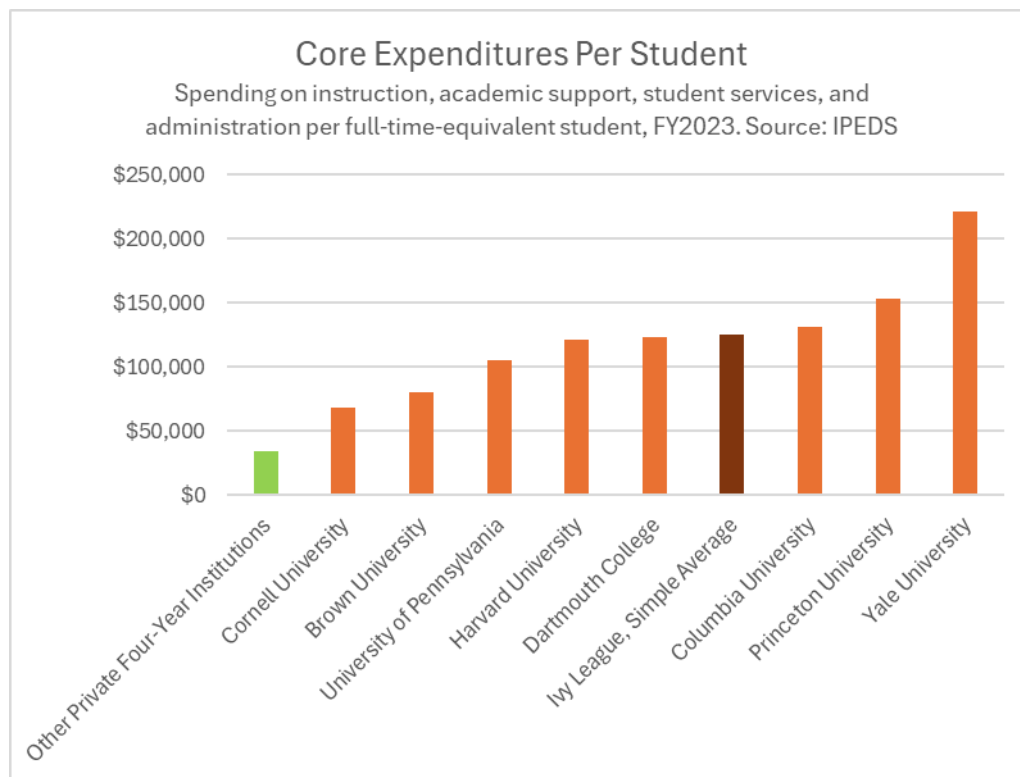
These high prices contribute to elite higher education's stratification by class. Among highly-qualified students (those with an SAT or ACT score at the 99<sup>th</sup> percentile), those who grow up in the richest 0.1 percent of households are four times as likely to attend an Ivy-caliber institution as those with comparable standardized test scores who grow up in a middle-class family.<sup>xix</sup> Five of the eight Ivy League universities enroll more students from the top 1 percent than the bottom 60 percent.<sup>xx</sup> Limiting admissions means that Ivy League institutions have their pick of the applicant pool—and it should come as no surprise that they often pick the wealthiest students.

### *Higher “profits”*

In a traditional cartel, restricted supply and higher prices enable monopoly profits. While nonprofit universities don't earn “profits” in the traditional sense, they still enjoy surplus revenues. As economist Howard Bowen first posited decades ago, colleges and

universities seek to maximize revenues—and increase their expenditures to soak up whatever revenues they are able to raise.<sup>xxi</sup>

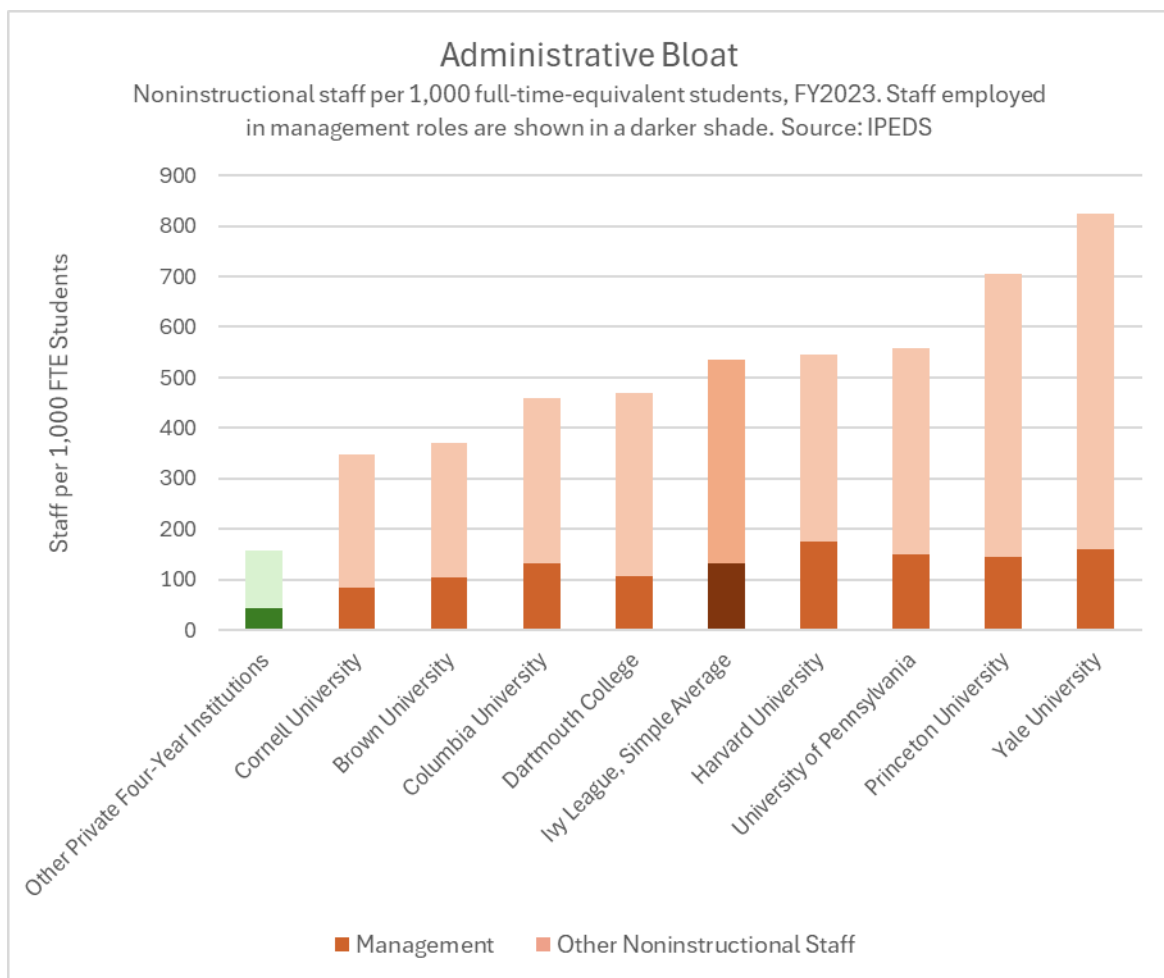
Ivy League institutions have far higher expenditures per student than other private colleges. Even if we limit our analysis to core expenditures—spending on instruction, student services, and administration (excluding noneducational enterprises such as research, dormitories, dining halls, and hospitals)—Ivy League spending is off the charts. While the typical private institution has core expenditures of \$35,000 per student, core expenditures at Ivy League universities average \$126,000 per student.<sup>xxii</sup>



This additional spending often fuels administrative bloat. The average Ivy League institution employs one noninstructional staff member for every two students, and one administrator (a noninstructional staffer employed in a management role) for every eight students. On average, other private colleges have about one-third as many administrators



and noninstructional staff per student, demonstrating that it's possible to run a university with far less bureaucracy.<sup>xxiii</sup> Some elite college administrators pull in seven-figure salaries: the president of Columbia University enjoyed a \$5 million pay and benefits package in 2022.<sup>xxiv</sup>



## Why it matters

While Ivy League institutions enroll less than one percent of the college-going population, they have an outsized impact on the future of America. A recent study in *Nature* examined a group of 26,000 “extraordinary achievers”—including Fortune 500 CEOs, billionaires, Nobel and Pulitzer Prize winners, federal judges, bestselling authors, New York Times and Wall Street Journal writers, and members of Congress. This is a group that has

enormous influence in business, politics, and media. The authors of the *Nature* study found that one-third of this group holds a degree from one of the eight Ivy League institutions.<sup>xxv</sup>

Ivy League schools have the demonstrated ability to set their students on meteoric career trajectories. For this reason, their admissions and pricing decisions have an importance that far exceeds their small sizes. A group of institutions which limits enrollment and charges excessive prices denies opportunity to thousands of students, particularly middle-class students with strong academic qualifications. The surplus revenues that Ivy League institutions enjoy currently fuel administrative bloat, but they could be used instead to create more seats for qualified applicants. The market for elite education bears many of the telltale signs of anticompetitive behavior. Whether it meets the legal definition of a cartel is an open question, but it unambiguously leaves students and society worse off.

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<sup>i</sup> Federal Trade Commission, "The Antitrust Laws," <https://www.ftc.gov/advice-guidance/competition-guidance/guide-antitrust-laws/antitrust-laws>.

<sup>ii</sup> National Association of Independent Colleges and Universities, "SEC. 568 – Application of the Anti-Trust Laws to Awarding of Need-Based Educational Aid," <https://www.naicu.edu/media/uqdjby0s/sec-568-antitrust-legislation.pdf>.

<sup>iii</sup> Henry et al. v. Brown University et al., No. 1:22-cv-00125 (N.D. Ill. filed Jan. 9, 2022). <https://llz8rh0l.cdn.imgeng.in/wp-content/uploads/DE-001-2022.01.09-Complaint-1-1.pdf>

<sup>iv</sup> Jack Stripling, "It's an Aristocracy: What the Admissions-Bribery Scandal Has Exposed About Class on Campus," *The Chronicle of Higher Education*, April 17, 2019, <https://www.chronicle.com/article/its-an-aristocracy-what-the-admissions-bribery-scandal-has-exposed-about-class-on-campus/>.

<sup>v</sup> Mark J. Drozdowski, "How to Get Your Money From the '568 Cartel' Lawsuit," *BestColleges*, April 4, 2025, <https://www.bestcolleges.com/news/how-to-get-your-money-in-568-cartel-case/>.

<sup>vi</sup> Mike Scarcella, "Top US Colleges Hit With New Antitrust Lawsuit Over Financial Aid," *Reuters*, October 8, 2024, <https://www.reuters.com/legal/litigation/top-us-colleges-hit-with-new-antitrust-lawsuit-over-financial-aid-2024-10-08/>.

<sup>vii</sup> The Editors of *Encyclopaedia Britannica*, "Cartel," *Britannica Money*, <https://www.britannica.com/money/cartel>.

<sup>viii</sup> Jaleh Poorooshasb, "Congratulations, You're In," *The Harvard Crimson*, April 15, 1978, <https://www.thecrimson.com/article/1978/4/15/congratulations-youre-in-pt-jaded-harvard/>

<sup>ix</sup> Elyse C/ Goncalves and Matan H. Josephy, "Harvard Accepts 3.59% of Applicants to Class of 2028," *The Harvard Crimson*, March 29, 2024, <https://www.thecrimson.com/article/2024/3/29/harvard-class-of-2028-regular-decision/>

<sup>x</sup> U.S. Department of Education, National Center for Education Statistics, Integrated Postsecondary Education Data System (IPEDS), 1980-2023, Fall Enrollment, Gender, attendance status, and level of student, <https://nces.ed.gov/ipeds/datacenter>.

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- <sup>xi</sup> IPEDS, 2002-2023, Admissions and Test Scores, Number of applications, admissions, and enrollees.
- <sup>xii</sup> Raj Chetty, David J. Deming, and John N. Friedman, "Diversifying Society's Leaders? The Determinants and Causal Effects of Admission to Highly Selective Private Colleges," Opportunity Insights, October 2023, [https://opportunityinsights.org/wp-content/uploads/2023/07/CollegeAdmissions\\_Paper.pdf](https://opportunityinsights.org/wp-content/uploads/2023/07/CollegeAdmissions_Paper.pdf).
- <sup>xiii</sup> IPEDS, Provisional Release Data, 2023-2024, Student Charges, Cost of attendance for full-time, first-time, undergraduate students.
- <sup>xiv</sup> IPEDS, Provisional Release Data, 2023-2024, Student Financial Aid and Net Price, Student financial aid, Financial aid to full-time, first-time degree seeking/certificate-seeking undergraduate students.
- <sup>xv</sup> Ron Lieber, *The Price You Pay for College: An Entirely New Road Map for the Biggest Financial Decision Your Family Will Ever Make*, New York: Harper, 2021.
- <sup>xvi</sup> Preston Cooper, "Why College Is Too Expensive—And How Competition Can Fix It," Foundation for Research on Equal Opportunity, March 5, 2021, <https://freopp.org/whitepapers/why-college-is-too-expensive-and-how-competition-can-fix-it/>.
- <sup>xvii</sup> U.S. Government Accountability Office, "Financial Aid Offers: Action Needed to Improve Information on College Costs and Student Aid," GAO-23-104708, November 1, 2022, <https://www.gao.gov/products/gao-23-104708>.
- <sup>xviii</sup> Mark Kantrowitz, "Part 3: Answer to Readers' Questions on Financial Aid," The Choice (*New York Times* blog), April 25, 2012, <https://archive.nytimes.com/thechoice.blogs.nytimes.com/2012/04/25/kantrowitz-finaid-offers-part-3/>.
- <sup>xix</sup> Chetty, Deming, and Friedman, "Diversifying Society's Leaders? The Determinants and Causal Effects of Admission to Highly Selective Private Colleges".
- <sup>xx</sup> Gregg Easterbrook and Josh Keller, "Some Colleges Have More Students From the Top 1 Percent Than the Bottom 60. Find Yours.," *The New York Times*, January 18, 2017, <https://www.nytimes.com/interactive/2017/01/18/upshot/some-colleges-have-more-students-from-the-top-1-percent-than-the-bottom-60.html>.
- <sup>xxi</sup> Howard R. Bowen, "The Costs of Higher Education: How Much Do Colleges and Universities Spend per Student and How Much Should They Spend?" Carnegie Council on Policy Studies in Higher Education, 1980, <https://eric.ed.gov/?id=ED207368>.
- <sup>xxii</sup> IPEDS, 2022-2023, Finance, Private not-for-profit institutions or Public institutions using FASB, Expenses and salaries and wages by function and total expenses by natural classification: Fiscal years 2016 to current year.
- <sup>xxiii</sup> IPEDS, 2022-2023, Human Resources, Number of full- and part-time staff and graduate assistants, by primary occupational category.
- <sup>xxiv</sup> *The Chronicle of Higher Education*, "How Much Are Private-College Presidents Paid?" February 15, 2024, <https://www.chronicle.com/article/president-pay-private-colleges>.
- <sup>xxv</sup> Jonathan Wai, Sheree M. Anderson, Kaja Perina, and Heiner Rindermann, "The most successful and influential Americans come from a surprisingly narrow range of 'elite' educational backgrounds," *Humanities and Social Sciences Communications* 11, article 1129 (2024), <https://www.nature.com/articles/s41599-024-03547-8>.