

For-Profit Education and the False Claims Act

Written by Nick Sanders

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The United States government has intervened in a *qui tam* suit brought under the False Claims Act against ATI Enterprises, Inc. (which does business as ATI Technical Training Center, ATI Career Training Center and ATI Career Training) and which “operates career college campuses in Texas, Florida, Oklahoma and New Mexico,” according to

[this announcement](#)

by the Department of Justice.

The complaint against ATI alleged that—

ATI Enterprises knowingly misrepresented its job placement statistics to the Texas Workforce Commission in order to maintain its state licensure, and therefore its eligibility for federal financial aid under Title IV of the Higher Education Act of 1965, as amended. On Aug. 9, 2011, the Texas Workforce Commission revoked licenses for several of ATI’s programs at the three campuses after a third party audit of ATI’s reported placement statistics.

The DOJ press release provided some more details. It reported—

... ATI employees at the three campuses knowingly enrolled students who were ineligible because they did not have high school diplomas or recognized equivalents; falsified high school diplomas, including five Dallas Independent School District diplomas for students who later defaulted on their federal student loans; fraudulently kept students enrolled even though they should have been dropped because they had poor grades or attendance; and made knowing misrepresentations to students about their future employability. [Allegedly.] The alleged misrepresentations included telling students that a criminal record would not prevent them from getting jobs in their fields of study, quoting higher salaries than the students would be likely to earn and reporting inflated job placement statistics both to the students and the

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Texas Workforce Commission. The complaint alleges that the executive directors at each campus, as well as various ATI corporate officers, including the chief operating officer, chief executive officer, executive vice president of operations, national director of career services, regional director of education, regional director of career placements and vice president of recruitment were aware of and in some cases encouraged the alleged conduct.

The complaint further alleges that ATI engaged in these practices in order to induce students to enroll and thereby increase the school's receipt of federal dollars at the expense of students, who incurred long-term debt, and the taxpayers.

This is not the first time that DOJ has initiated a False Claims Act suit against a for-profit educational entity. For instance, in December, 2009, the DOJ [announced](#) that the University of Phoenix had settled a False Claims Act suit for \$67.5 million. In that *qui tam*

action, two former University of Phoenix employees alleged that "the university accepted federal student financial aid while in violation of statutory and regulatory provisions prohibiting post-secondary schools from paying admissions counselors certain forms of incentive-based compensation tied to the number of students recruited." Notably, the U.S. Government did not intervene in that suit, yet the two whistleblowers ended-up splitting some \$19 million (before attorney fees).

This Crowell & Moring [list of FCA settlements](#) indicates that ATI and the University of Phoenix are not alone in feeling the wrath of the Federal government in the past decade. We saw the Oakland City University, Westwood College, Alta Colleges, Grand Canyon Education, and the Maine Department of Education all listed as making settlements pursuant to the FCA. Another company, [Nelnet, Inc](#) ., settled a case for \$57.5 million.

Our point is this: while Health Care fraud and Procurement-related fraud certainly comprise the largest pieces of the FCA settlement pie, settlements related to for-profit and other educational institutions are far from unknown.