



## Higher One to return \$11 million to students, settling FDIC charges of unfair and deceptive practices

By **Brent Hunsberger, The Oregonian**

on August 13, 2012 at 9:20 AM, updated August 13, 2012 at 4:49 PM



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Portland State's OneCard from Higher One

A controversial college payment-card provider operating in Oregon has agreed to pay \$11 million to settle allegations by federal regulators of deceptive and unfair fee practices.

**Higher One Inc.** will pay \$11 million to up to 60,000 students under the agreement, the Federal Deposit Insurance Corp. **announced last week.** It will also pay a \$110,000 penalty while its card issuer, The Bancorp Bank, will pay \$172,000. In addition, Higher One agreed to halt misleading or deceptive marketing and improve compliance management.

Colleges contract with **Higher One** to distribute student financial aid payments. It largely distributes the money via a checking account and payment card called OneAccount, previously known as One Card.

Students who use its accounts sometimes pay fees to gain access to their financial aid money. The card has sparked protests on college campuses for its frequent 50-cent swipe fees, non-branded ATM use fees and overdraft charges.

Consumer advocacy group **U.S. PIRG** applauded the settlement. The group in May issued a report, "**The Campus Debit Card Trap**," that found banks control financial-aid disbursements to more than 9 million students via fee-laden checking accounts and prepaid cards. Higher One has card agreements with 520 campuses that enroll 4.3 million students, the study found.

"Student aid should not be a piggy bank for banks to dip into especially when their practices are unfair or deceptive," said Rich Williams, higher education advocate for US PIRG, in a press release. "We urge colleges to insist, if they partner with Higher One or any other bank or firm to disburse financial aid or provide campus services, that contracts prohibit onerous fees and other unfair practices."

Higher One said in a statement it already is complying with the FDIC's order. "We believe the relatively low civil money penalty imposed reflects how seriously we take our commitment to our customers, the degree of the issue, and our level of cooperation with the FDIC," **the company said.**

The FDIC accused Higher One of charging students multiple nonsufficient fund fees (NSF), or overdraft fees, for a single transaction. The company also allegedly allowed accounts to remain overdrawn over long periods of time to rack up higher overdraft fees. And it also collected fees from subsequent deposits intended to pay tuition and other college expenses, the FDIC alleged.

Bancorp Bank should have ensured Higher One complied with the Federal Trade Commission Act, which prohibits unfair and deceptive acts or practices, the FDIC said. Bancorp Bank, based in Delaware, has ended its relationship with Higher One.

#### College Card Fees

It's Only Money columnist Brent Hunsberger explains fees facing college students with Higher One ID and debit cards.

It's Only Money **wrote about Higher One's 'noodly fees'** in 2010 and how administrators at **Portland State** and

**Southern Oregon** renegotiated its contract with Higher One to minimize the fees. At that time, Higher One's card also doubled as the students' university ID card.

Mt. Hood Community College, Oregon Institute of Technology and Lane Community College have since contracted with Higher One to disburse financial aid payments.

Students at Western Washington University last school year staged protests against the company's card, prompting the company to waive initial 50-cent swipe fees assessed when students swipe the "debit" card as a "debit" rather than "credit" card while making purchases. A student in California has filed a **class-action lawsuit against Higher One**.

Some universities pocket a share of the fees that Higher One charges to their students. That gives them little reason to make sure students get the best deal possible, advocates say. Higher One says it has stopped signing new contracts that include revenue-sharing.

Under the FDIC order, Higher One also agreed to stop charging overdraft fees on negative balances that are more than 60 days old and can't charge more than three overdraft fees on a single day to one account.

Students eligible for restitution must have received an improper overdraft charge between July 16, 2008 and the time Higher One stopped charging questionable fees.

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## Press Releases

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### **FDIC Announces Settlements With Higher One, Inc., New Haven, Connecticut, and the Bancorp Bank, Wilmington, Delaware for Unfair and Deceptive Practices**

**FOR IMMEDIATE RELEASE  
August 8, 2012**

**Media Contact:  
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The Federal Deposit Insurance Corporation (FDIC) announced settlements with Higher One, Inc., New Haven, Connecticut, (Higher One) and The Bancorp Bank, Wilmington, Delaware, for alleged unfair and deceptive practices in violation of Section 5 of the Federal Trade Commission Act (Section 5). Higher One is an institution-affiliated party of The Bancorp Bank. Under the settlements, both Higher One and The Bancorp Bank have agreed to Consent Orders and Higher One has agreed to provide restitution of approximately \$11 million to approximately 60,000 students. In addition, the FDIC has imposed civil money penalties of \$110,000 for Higher One and \$172,000 for The Bancorp Bank.

The FDIC determined that Higher One operated its student debit card account program (OneAccount) with The Bancorp Bank in violation of Section 5. Among other things, the FDIC found that Higher One and The Bancorp Bank were: charging student account holders multiple nonsufficient fund (NSF) fees from a single merchant transaction; allowing these accounts to remain in overdrawn status over long periods of time, thus allowing NSF fees to continue accruing; and collecting the fees from subsequent deposits to the students' accounts, typically funds for tuition and other college expenses. The Bancorp Bank, as issuer of the OneAccount debit card, was responsible to ensure that Higher One operated the OneAccount program in compliance with all applicable laws.

The Consent Order requires Higher One to change the manner in which it imposes NSF fees. It is required: 1) to not charge NSF fees to accounts that have been in a continuous negative balance for more than 60 days; 2) to not charge more than three NSF fees on any single day to a single account; and 3) to not charge more than one NSF fee with respect to a single automated clearing house (ACH) transaction that is returned unpaid within any 21-day period. In addition, Higher One is required not to make misleading or deceptive representations or omissions in its marketing materials or disclosures and to institute a sound compliance management system.

Higher One has agreed to make restitution to eligible OneAccount holders for certain NSF fees for a period beginning July 16, 2008, to such time as Higher One ceased charging the fees in question. Restitution is estimated at \$11 million and may be in the form of credits to current account holders and charged-off accounts, and by check where the account is closed, to the extent that the credit exceeds any charged off amount owed to Higher One.

The Consent Order requires The Bancorp Bank to increase board oversight of all compliance matters, improve its compliance management system, enhance its audit program, correct all violations, significantly increase its management of third party risk, and provide to the FDIC details relating to the termination of its relationship with Higher One. In addition, if Higher One fails to complete restitution, the FDIC may require The Bancorp Bank to establish a restitution account in the amount of restitution unpaid by Higher One.

In agreeing to the issuance of the Consent Orders, neither The Bancorp Bank nor Higher One admits or denies any liability. A copy of the FDIC's Orders issued against The Bancorp Bank and Higher One are attached.

**Attachments:**

Higher One, Inc.: [Consent Order, Restitution Order and Civil Money Penalty](#)

The Bancorp Bank: [Consent Order and Civil Money Penalty](#)

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Congress created the Federal Deposit Insurance Corporation in 1933 to restore public confidence in the nation's banking system. The FDIC insures deposits at the nation's 7,309 banks and savings associations, and it promotes the safety and soundness of these institutions by identifying, monitoring and addressing risks to which they are exposed. The FDIC receives no federal tax dollars — insured financial institutions fund its operations.

FDIC press releases and other information are available on the Internet at [www.fdic.gov](http://www.fdic.gov), by subscription electronically (go to [www.fdic.gov/about/subscriptions/index.html](http://www.fdic.gov/about/subscriptions/index.html)) and may also be obtained through the FDIC's Public Information Center (877-275-3342 or 703-562-2200). **PR-92-2012**



## Debit or credit? Higher One's 'noodly' fees irk college students

By **Brent Hunsberger, The Oregonian**

on September 04, 2010 at 6:07 AM, updated September 09, 2011 at 12:01 PM

You've heard of bank cards with hidden fees.

This is about a card fee that went away. Yet nobody seems to want you to know.

I'm focusing on the debit card embedded in **Portland State University's student ID**.

Really, though, this is a cautionary tale of how complex our financial system has become, the neediness of our public colleges and the strange lessons we end up teaching young adults.

You might recall the "**PSU One Card**." It sparked student protests six years ago when it came out.

This official student photo ID is branded with the MasterCard logo. It can double as a debit card. Students can have their financial-aid refunds -- the money leftover after the school deducts its tuition and fees -- automatically deposited into a bank account linked to the card. They can then tap the money at an ATM or wherever a merchant takes MasterCard.

### College Card Fees

It's Only Money columnist Brent Hunsberger explains fees facing college students with Higher One ID and debit cards.

The company behind these cards, **Higher One Inc.**, has integrated them across hundreds of college campuses. That includes **Southern Oregon University** in Ashland, where it's also the student ID. More recently, eight in 10 students on financial aid at **Lane Community College** in Eugene and **Mt. Hood Community College** in Portland get their money on a Higher One card.

School administrators sing the company's praises. They save the cost of processing financial-aid checks. Students get aid for books and living expenses more quickly. International and unbanked students get access to a bank account instead of having to use costly check-cashing stores. "The students love it," said Helen Garrett, Lane's executive dean of student affairs.

Here's the problem. Repeatedly, at **campuses** where **the card is unveiled**, it sparks **complaints**.

Why? Because of its unusual fees. "Little, noodly fees," Garrett concedes.

For one, Higher One charges an "abandoned account" fee of up to \$19 a month. Students get this fee if they don't use their account after nine months -- a trigger point that seems to coincide with summer break. They also pay \$2.50



### "Debit" or "credit"?

Higher One Inc. and other debit-card issuers pocket higher swipe fees when consumers swipe the cards as "credit" cards and sign a receipt. It also costs merchants more. Swiping a debit card as "debit" and punching in a PIN costs much less, according to research by Fumiko



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Brent Hunsberger/The Oregonian

A Higher One ATM inside Portland State's Neuberger Hall, near the student ID office.

when they don't use a Higher One ATM, located only on college campuses.

There's even a link on each school's card web site:

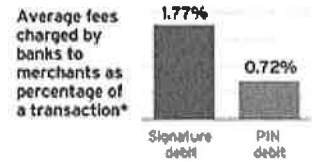
**"How to use the OneAccount for free."**

Students must then click through three pages to read the fee schedule.

The most confusing fee? The cards are stamped "debit" on front. "THIS IS NOT A CREDIT CARD!" warns **the website** for Mt. Hood Community College's "Mountain Card."

Yet students who swipe the card as a "debit" and enter their personal identification number get charged a 50-cent fee each time. To avoid that fee, they must press "credit" and sign the receipt.

Hayashi, an economist at the Federal Reserve.



\*Fees range widely by card and retailer type and do not include markup charges by merchant account and service providers

Source: U.S. Payments Journal

DAVID BARBERS/THE OREGONIAN

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What a confusing financial lesson for college freshmen.

"It doesn't make any sense," said Jessica Ventura, a PSU senior and economics major, who refused to use the card after her first week on campus. "It almost felt like they were taking advantage of the fact ... that maybe students wouldn't read their agreement."

Why does Higher One do this? The company says "credit" is safer -- backed by MasterCard's fraud protection plan. Payment experts, however, say that fraudsters don't hack PIN-debit transactions as often as signed-debit transactions.

The other reason: Higher One brings in more money when the card is run as "credit" and signed.

**Swipe fees** paid by merchants for these so-called signature debits are much higher -- an average of \$1.70 for every \$100 charged, **according to research** by Federal Reserve Board economist Fumiko Hayashi. Swipe fees on PIN-entered debit purchases average closer to 70 cents per \$100, Hayashi found.

The latter, obviously, costs less for the merchant. But it's also less money for Higher One's costs and profits. Higher One makes up the difference with the 50-cent fee.

"The PIN fee is a method for recovering some of these costs from the card holder," Higher One vice president Donald F. Smith said via e-mail.

Fortunately, administrators at PSU and Southern Oregon wised up. Last year, when their Higher One contracts came up for renewal, the schools negotiated that the 50-cent swipe fee be dropped from the card (Students at other schools with Higher One cards still risk the fee).



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Higher One's MountainOne card at Mt. Hood Community College

"That was the one thing we heard from students they didn't like, so we went after that with a vengeance," said Craig Morris, Southern Oregon's vice president for finance and administration.

You wouldn't know it, though, looking at Higher One's website for either school.

**As of Friday**, the online fee schedules said the 50-cent PIN-based fee still existed. Smith thanked me for bringing **the inaccuracies** to Higher One's attention and said he'd submit them "for internal review."

Workers at the nonprofit **Portland State Bookstore** were unaware Thursday that the fee had been dropped. "That would be huge," said store president Ken Brown, whose cashiers watch to make sure students run the ID as a credit card.

PSU spokesman Scott Gallagher said students are told of the dropped fee at mandatory orientation.

But guess what. The fee could return.

Under **the new contracts**, both universities agreed to market a "swipe-and-sign" campaign. That's right. The schools agreed to continue urging students to press "credit" instead of "debit." If Higher One finds the campaigns aren't successful, it can hit the schools with a "PIN fee elimination charge" of \$2 per student, **the contracts say**. At 29,000-student PSU, the company can also reinstate the 50-cent swipe fee.

Higher One also offers the schools incentives to push swipe-and-sign. It gives each school a cut of the higher credit swipe fee -- about 10 cents per \$100, according to the contracts. It also rewards them based on how much students deposit into Higher One's bank accounts.

These fees obviously sustain Higher One. Last year, it took in \$66 million on merchant swipe fees, ATM fees, overdraft fees and student "convenience fees," the company says. It did so well last year, the company handed out \$1 million in bonuses to employees. In June, it raised \$38 million in a public stock offering on Wall Street.

Meanwhile, some students pay Higher One's bank fees with borrowed money, often at 6.8 percent interest. That \$19 inactivity fee will cost a student with an unsubsidized Stafford loan \$37 over 10 years, according to my calculations.



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Certainly, public schools have been pushed in Higher One's direction because Oregon has slashed taxpayer financing for schools. Southern Oregon saves \$100,000 a year with Higher One, Morris estimates.

Southern Oregon University's student ID card, which can double as Higher One's SOU OneCard debit card.

But private schools have spurned this approach.

The University of Portland has rebuffed overtures by Higher One's competitors, spokesman Joe Kuffner says. Concordia University in Portland, which has for years barred credit card marketing from campus, would not implement a service like Higher One, said vice provost Glenn C. Smith, partly to help students conserve their aid money.

"We have seen that college students are not coming with the same level of coping skills that they did 10 or 15 years ago, and that includes life skills," Smith said.

Indeed. A **2008 study** by the **Jumpstart Coalition for Personal Financial Literacy** found that more than two-thirds of college-bound seniors fail the nonprofit's 31-question literacy test. College students fared better, but only among college seniors do fewer than one in three students fail.

What does this have to do with your personal finance?

If you or your child is headed to one of these schools, be aware of any card's fees. There are usually ways around them. Higher One allows cardholders to deposit their aid refunds into existing bank or savings accounts at no extra cost.

Ventura, the PSU senior, chose this option with no regrets. "To be honest, the refund process doesn't take that long ... just a few days," she says.

PSU now emphasizes this deposit alternative

**in handouts** near the student ID window. Today, only about six in 10 PSU students ever use the card to receive financial aid. And fewer than two-thirds of them deposit money in Higher One's bank account, Gallagher said.

They've learned their lesson, the fee way.

Even if you don't go to these schools, watch out for other card-fee schemes. With new credit card restrictions crimping profits, banks are expected to push more prepaid cards. These reloadable, debit-like cards often have a lot of fees, but they lack the same consumer protections that credit and debit cards have.

Lastly, support your fellow co-ed as they wade through this confusing financial world. Help them open an account at a bank or credit union near campus. Make sure they find a card's fee schedule.

Don't hide from this issue.

-- **Brent Hunsberger** does not give individual financial advice but welcomes comments or questions about his **columns** or **blog**. Call him at 503-221-8359. Read his past posts on **credit cards**.



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## Higher One faces class-action lawsuit over 'deceptive' card fees on college campuses

By **Brent Hunsberger, The Oregonian**

on June 06, 2012 at 7:00 AM, updated June 06, 2012 at 9:08 AM



Portland State's OneCard from Higher One

It's Only Money wrote nearly two years ago about **Higher One's student-ID-debit-card and its fees**. It pointed out how Portland State and Southern Oregon universities acted to limit the most onerous fee. That's the 50 cent swipe fee charged each time this so-called "debit" card is used as a PIN-based debit card and not like a signature-based credit card.

But other colleges have not done their due diligence on the card. In fact, they keep signing agreements with **Higher One** to disburse student financial aid via its card, apparently oblivious to its burdensome and questionable fees. Among those institutions in the Northwest: **Oregon Institute of Technology**, Lane Community College, **Mt. Hood Community College** and Western Washington University. They also don't know how PSU (site of student protests 8 years ago over the card) and SOU negotiated the fee out of their contracts.

Until their students complain, of course. Which they do. They did at **Lane Community College in Eugene**. They did after only a few months at Western Washington University. Students and parents **protested**. Administrators predictably **formed a committee**. Higher One has since been forced to **waive the first four 50-cent swipe fees**, install a 24-hour ATM on campus and reduce other fees.

But by the time complaints start, it's too late. Higher One has raked in revenue from the fees, and might do so for 5 years, unless students raise holy heck as they did at Western Washington.

Even after Higher One's changes at Western, political science major William Campbell **asked in a letter to The Western Front**: "'Would any rational person choose this card over another, such as from a bank?'" With these changes, the answer still remains no."

Now, one student has gone to court to address her collective classmates' concerns. In April, Ventura County (Calif.) Community College student Sherry McFall filed a **class-action lawsuit** against Higher One and its banking partner, The Bancorp Bank, in Ventura County Superior Court. It alleges violations of California consumer protection laws and the electronic funds transfer act.

Higher One automatically opens checking accounts at **The Bancorp Bank** for incoming students and send them school-branded ads before they get to school touting the ease of the card, the lawsuit alleges.

Higher One and the colleges give students other options for receiving their financial aid refunds. But when it does, McFall claims, Higher One fails to adequately disclose all the fees that students will be subjected to. In

2010, New Haven, Conn.-based Higher One Holdings Inc. took in \$66 million in "convenience fees" charged these students, the lawsuit said.



U.S. PIRG

Students wait to use a Higher One ATM at a college campus, according to advocacy group U.S. PIRG.

Among them: A fee each time students use it at a non-Higher One ATM. Although Higher One operates at 520 schools, it has only 600 ATMs, **a nonprofit advocacy group says.**

I don't know about you, but given the increasing cost of college today, I can think of better ways for students to spend \$66 million. Much of that is federal financial aid, by the way: Taxpayer dollars that you and I give up to improve this nation's educational achievement.

Says the lawsuit:

"Targeting financially unsophisticated students with excessive bank fees -- and using scarce financial aid money to pay those fees -- is unethical and immoral, and makes it more difficult for students to meet legitimate educational expenses."

According to a 2008 study by the Jump\$tart Coalition for Personal Financial Literacy, more than two-thirds of college-bound seniors fail the nonprofit's 31-question literacy test, **It's Only Money** and the lawsuit point out.

They learn a difficult lesson quickly if they go to a Higher One-partnered college. McFall herself did not realize she had the option of depositing her financial aid refund in another bank, where she wouldn't incur as many fees, the lawsuit said. Writes **Time's Martha White**: "Yes, students come to college to learn, but they shouldn't have to learn the hard way that debit fees can be an expensive sinkhole."

Amazingly, once a financial aid refund gets deposited in a Higher One account, the student must pay \$25 to move it elsewhere, the lawsuit alleges.

The lawsuit seeks class-action status for all Higher One students in the United States. McFall didn't respond to a message seeking comment, and the Washington, D.C. firm representing her, **Tycko & Zavareei**, declined to make her available.

The lawsuit poses important questions to the court that our regulators and institutions of higher education have been unwilling or unable to address. Is Higher One deceiving students by depositing their financial aid

refunds into a bank account without proper notice? Is Higher One **incorrectly representing that colleges endorse its product** and fees?

Is Higher One providing an adequate way for students to avoid a 50-cent-per swipe fee when they use the "debit" card as a PIN-entered debit card instead of signing for it as if it were a credit card? Do colleges need a student's consent to send Higher One their addresses and e-mail?



Higher One's Easy Refund Card at Oregon Institute of Technology

In an e-mail, Kim Rinehart, an attorney with the **Wiggin and Dana** law firm in New Haven that represents Higher One, said McFall's lawsuit is frivolous and baseless. Its product is transparent and flexible, Rinehart said. "Higher One has built its great reputation, and an overwhelmingly satisfied customer base, by significantly reducing the time it takes for students to access their financial assistance funds, while providing ways for them to better manage their money at no cost or at reduced costs," she said.

**In a press release last week**, Higher One said: "Students working with Higher One are never charged fees to receive their tuition refund and will always have an option to have the funds distributed into a bank account of their choosing. It's that simple. Students understand their choices ..."

That statement came in response to a report last week by advocate U.S. Public Interest Research Group called "**The Campus Debit Card Trap**," which mentions Higher One on 110 occasions. The report singles out **at least one Higher One fee** as potentially violating U.S. Department of Education rules.

Meanwhile, at Western Washington, students remain upset. In April, **79 percent of student voters** approved a "Higher One Initiative," requesting more information about Higher One's fees and more involvement in future university decisions that impact their pocketbook.

Funny, why doesn't Higher One waive these fees up front at all colleges with which it does business? It appears now to be Higher One's business model. Assess fees until the students complain, book the revenue for shareholders, then reduce them.

Interestingly, Higher One's latest public relations move is **to offer "financial literacy" services** to its customers and students. "Temptations abound," Higher One's web page says. "College students receive an average of 4 phone calls and 4 mailings each month encouraging them to apply for credit cards."

Notice, this is carefully worded language doesn't mention "debit cards." Because at that point, Higher One's own cards and aggressive marketing material would fall into the "temptations" that it's highlighting. Remember, Higher One's card is a debit card, even though to avoid its key fee, students have to use it like a credit card. This from a company offering to teach students financial literacy.

Too bad there's not a comparable class for the administrators of our community colleges and universities. If there was, our highest educators might finally learn from the experiences at PSU, SOU and Western Washington.

Unless, of course, Higher One was teaching the class.

-- If you have something to say about Higher One's card, or any prepaid card, direct your comments **or complaints** to the U.S. Consumer Financial Protection Bureau. It's **seeking public opinion** about such cards.

-- Follow It's Only Money on **Facebook, Google+** or **Twitter**.

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