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CAAL
5/1/2014
Agenda Item 4a

28 April 2014

MEMORANDUM

TO: Dr. Bettie Rose Horne, Chair, and Members of the Committee on Academic Affairs & Licensing

CC: Chairman John Finan and All Other Members of the S. C. Commission on Higher Education

FROM: MaryAnn Janosik, Ph.D., Director, Academic Affairs

Staff Recommendation
InfiLaw LLC Application for Initial License: J.D., L.L.M., InfiLaw Corporation, Change of Ownership of Charleston School of Law, Charleston, SC
1 May 2014

Introduction

This report provides an analysis of information gathered over the past nine months as part of the South Carolina Commission on Higher Education's (CHE) due investigation of InfiLaw LLC's (InfiLaw) application for initial license to offer the Juris Doctor (J.D.) degree and the Master of Legal Letters (L.L.M.) in Admiralty and Maritime Law degree at the Charleston School of Law, Charleston, SC. It includes a recommendation to CHE's Committee on Academic Affairs and Licensing (CAAL) as to whether or not InfiLaw meets the requirements established by CHE's published regulatory criteria for licensing nonpublic postsecondary educational institutions.

Information evaluated by CHE staff during its due investigation includes InfiLaw's application for initial licensure; contracts and other agreements between the applicant and the current owners of CSOL relevant to this transaction; materials submitted by interested parties before, during, or after CHE's designated period for public submission of information; information obtained during forums with current CSOL students, faculty, and staff as part of the fact-finding site visit of the American Bar Association pertaining to CSOL's application for acquiescence; the report of external consultants contracted by CHE to evaluate the application for licensure; the opinions and advice of attorneys contracted by CHE; and additional information submitted by the applicant in response to the external consultants' report and in response to CHE requests.

Information attached to this report includes CHE's preliminary staff report on the application, January 2014 (Appendix A), the External Review Team Report, February/March 2014 (Appendix B), the applicant's response to that report, April 2014 (Appendix C), and the Summary of Regulatory Criteria for Licensing of Nonpublic Postsecondary Institutions (Appendix D).

Background

The Charleston School of Law (CSOL) is a private, for-profit institution with one campus, located in Charleston, South Carolina. CHE initially licensed CSOL in 2003 for the purpose of recruiting and enrolling students; classes began in fall 2004. Contingencies to the initial operating license (2004) included three stipulations:

1) No state funding could be requested or required

2) CSOL must meet its scheduled timeline to gain American Bar Association (ABA) accreditation

3) No attempt by the school, its officers or agents, could be made to merge CSOL with the College of Charleston or any other public institution.

Violation of any of these contingencies would have resulted in revocation of the school's license. In 2007, the Commission renewed CSOL's operating license for a 5-year period. In 2012, the Commission approved the license for another five years, and also approved the Master of Laws (L.L.M.) degree in Admiralty and Maritime Law.

On 23 July 2013, three of the five founders of CSOL redeemed the shares of two of the founders. The remaining owners are currently Robert Carr, George Kosko, and Edward Westbrook. Also on 23 July 2013, CSOL entered into a Management Services Agreement (MSA) and an Asset Purchase Agreement (APA) with InfiLaw Corporation. The Management Services Agreement includes a statement that the MSA does not alter control over the academic functions of the law school, which remain under the sole control and authority of the law school. Oversight responsibility for the law school and its educational programs remained vested in the governing board of the school and its authorized officers consistent with the requirements of the ABA and CHE. The APA is conditional upon licensing approval by the Commission and accreditation by the American Bar Association (ABA).

On 20 August 2013, InfiLaw Corporation submitted to CHE a letter of intent to acquire CSOL, and followed with an application for initial licensure on 30 September 2013 to offer existing programs leading to the J.D. and L.L.M. degrees at the Charleston campus.

At its meeting on 3 October 2013, CHE suspended condition #3 from the original licensure agreement, allowing the owners and agents of CSOL to engage in conversations with officials at the College of Charleston or other public institutions,

regarding a potential sale. The Commission has not received any official notification from CSOL or a public institution that conversations have led to any negotiated plan for CSOL to become part of a public institution.

CHE has thus continued to pursue its due investigation of InfiLaw's application for initial licensure according to the following timeline:

Date	Event
20 August 2013	InfiLaw submits letter of intent to operate CSOL to CHE
30 September 2013	InfiLaw submits application for licensure to operate CSOL
30 January 2014	CHE preliminary staff report completed
12-14 February 2014	CHE External Review Team Site Visit to CSOL
26 March 2014	External Review Team Report Submitted to CHE
17-18 April 2014	ABA Site Team Visit to CSOL (CHE Director of Academic Affairs included in parts of visit)

In addition to the events listed above, CHE requested and received from InfiLaw additional documentation and information as it became necessary throughout the licensure application review. InfiLaw's institutional profile, including comparative data about its other three schools – Arizona Summit Law School (formerly, Phoenix School of Law), Charlotte School of Law, and Florida Coastal School of Law – can be found in the preliminary staff report. (Appendix A, p. 4-7)

Criteria for Licensing

Pursuant to the authority granted to the Commission on Higher Education (Chapter 58 of Title 59, SC Code of Laws, 1976 as amended), regulations for the issuing of licenses to nonpublic educational institutions and the issuing of permits to agents representing such institutions have been established. CHE Regulations (SC Code of Regulations, Chapter 62, Numbers 1-28), provide the Criteria for Licensing, which for the purposes of analysis in the Preliminary Staff Report (Appendix A), the External Review Team Report (Appendix B), and this recommendation have been arranged according to the following four categories:

I. Academics and Curriculum
II. Facilities
III. Finances
IV. Reputation and Character

More detailed definitions of each criterion, plus the specific components embedded in each one, are identified and articulated in Appendix D.

I. Academics and Curriculum

The course, program, curriculum, and instruction are of quality, content, and length as may reasonably and adequately achieve the stated objective for which the course, program, curriculum, or instruction is offered and in response to documented need. **[SC Reg. 62-6(A)]**

The components of this criterion, as further specified in CHE regulations, address issues of (A) accreditation, (B) admissions requirements, (C) curriculum, (D) chief academic officer credentials; (E-F) faculty credentials, (G) awarding of degrees, (H) student records, and (I) program evaluation.

CSOL is currently accredited by the ABA, which establishes minimum qualitative benchmarks for the school. The APA with InfiLaw is contingent upon continuation of ABA accreditation. Available evidence indicates that CSOL, under the proposed InfiLaw ownership, satisfies this component and will continue to adhere to ABA accreditation requirements. CHE's issuance of a license to InfiLaw to operate CSOL is contingent upon uninterrupted satisfaction of this requirement.

Admission to CSOL currently requires a Law School Aptitude Test (LSAT) and documentation of an earned baccalaureate degree. There is no minimum LSAT score specified in the school's published admissions criteria. Current InfiLaw schools conform to that standard.

InfiLaw prides its schools on being student-centered and inclusive, emphasizing that its graduates are "practice-ready" professionals. Students are given interim progress assessments which allows for more individualized attention and the development of pedagogical strategies that facilitate student success. InfiLaw schools publish and enforce admission requirements consistent with their mission, and have in place satisfactory course and program outlines as well as policies regarding grading (including incomplete grades), attendance, student complaints and rules of operation and conduct, as prescribed by the Commission.

In addition, InfiLaw currently uses the Alternative Admissions Model Program for Legal Education (AAMPLE®), a "conditional admit" program that is typically targeted at recruiting underperforming students. AAMPLE®'s stated purpose is "to provide a path of admission to InfiLaw schools for individuals whose academic indicators (i.e., LSAT-scores, GPA's), may not reflect their potential to succeed in law school." (Appendix A, p.13))

AAMPLE® consists of two law-related courses, *Introduction to the 4th Amendment* and *Negotiable Instruments.* Students who opt to enroll in AAMPLE® must

successfully complete both courses before receiving full admission to the J.D. program. The courses are generally taught by professors from the full-time faculty. Prospective students at CSOL are now being offered the AAMPLE® option which, if implemented as in other InfiLaw schools, would be expected to admit up to 25 students each fall semester.

InfiLaw reports that, between 2009 and 2013, the graduation rate for AAMPLE® students at its three schools averaged 80.56%, with an 87.3% employment rate for all cohorts beginning before 2010. For some students, AAMPLE® may be a more practical route to law school admittance than repeated attempts taking the LSAT.

An academic option currently unavailable at CSOL is the "clinical program," a practical hands-on experience similar to an internship that InfiLaw uses extensively in its other three schools. "Clinicals" would offer another level of experiential learning to CSOL students, preparing them to be practice-ready professionals.

InfiLaw schools retain faculty who follow traditional academic paths of research and publication (tenure-track positions) as well as those who are hired solely to teach in their field of expertise without the requirement of publication (term contracts). All InfiLaw faculty and academic administrators meet the credential requirements appropriate for appointment as law school faculty. In addition, InfiLaw has created what it calls "best practice groups" to evaluate the efficiency and effectiveness of its teaching and administration among its three consortium schools.

CSOL has developed a generally positive academic reputation within the greater Charleston community. CSOL boasts strong faculty-student relationships and community involvement (i.e., notably in job placement within the Charleston area). New owners would thus be expected to maintain and uphold the academic culture established by CSOL's original founders.

InfiLaw has stated its commitment to the "culture that has made CSOL successful since its founding," and cited fostering close relationships with the community as an attribute shared by both CSOL and InfiLaw. Adherence to a particular school or community culture, however, is not a criterion in CHE's licensing regulations and has therefore not been considered in staff evaluation of InfiLaw's application for license.

CSOL, as currently licensed, as well as under InfiLaw's proposed ownership, satisfies all of CHE's components for "Academics and Curriculum," including faculty and administrative credentials, satisfactory course and program outlines (and their evaluation and review), published and enforced admissions requirements "consistent with the purposes of the institution," and the maintenance of adequate records.

II. Facilities

There is in the institution adequate space, equipment, instructional material, and appropriately qualified instructional personnel to provide training and education of good quality. **[SC Reg. 62-6(B)]**

The components of this criterion, as further specified in CHE regulations, address issues of (A) adherence to local facilities regulations, (B) data security, (C) records retention, (D) distance education, (E) learning resources, and (F) student living quarters.

CSOL's facilities currently total 103,299 square feet of space, which houses 9 classrooms, a library, research and student space, faculty, administrative and staff offices, ancillary support, and co-curricular and student activity rooms in eight buildings. As noted by the External Review Team report, the present arrangement "does not appear to be ideal," especially since the separation of school functions "in different locations appears to present logistical challenges to students and faculty."

InfiLaw has acknowledged these logistical concerns and confirmed that "InfiLaw is committed to working with the team at CSOL to improve existing facilities and, where possible, minimize or eliminate the current logistical challenges faced by students and faculty." InfiLaw anticipates conducting a "comprehensive facility review to effectively guide future decisions on space utilization and facility management at CSOL."

InfiLaw has also asserted that it has "the capabilities, resources, and capital to help the school…upgrade classroom layouts, furnishings, acoustics and amenities to enhance and improve the learning experience" as well as to help "improve security and storage capabilities for [the library's] reserved book collections." CHE and the ABA's review of InfiLaw's financial statements support its demonstration of adequate resources in the areas identified above.

InfiLaw's has also confirmed that, if CSOL requests, it has the resources to "identify any deficiencies, ensure facilities' compliance with ADA and other laws/regulations, and maintain the buildings' envelope to promote better health conditions for occupants as well as prolong the life expectancy of the buildings over time." Further, CSOL would be able to participate in InfiLaw's "Technology Best Practices" team, which could help reduce the overall technology costs for the school by "sharing the enterprise application costs among them."

As is true of many law schools, CSOL does not offer distance education and, although InfiLaw is expected to upgrade technology so that a greater range of online and hybrid delivery is available to students, those venues would still be subject to parameters set by ABA standards (as well as to CHE's requirements set by the Nonpublic Postsecondary Institution License Act pursuant to SC Reg. 62-6.1), which limits distance education opportunities in law schools.

Although the External Review Team recommended in its report that InfiLaw "provide additional information on its plans to either use current facilities or build a new facility," including details such as "space requirements, square footage and renovation and lease costs…to ensure that classrooms, administrative offices and service areas are adequate for the educations programs and the anticipated number of faculty and students," InfiLaw has not provided such specifics, opting instead to reserve final judgment on a facilities master plan (including present leases used by CSOL), until it assumes ownership of CSOL.

The application for initial licensure includes a statement that the current facilities and equipment will remain in place under the ownership of InfiLaw. Current facility occupancy, fire and ADA compliance, and policies concerning retention and disposal of records will remain the same. All are in compliance with this criterion, and should remain so under InfiLaw ownership. CSOL does not provide living quarters for students.

III. Finances

The institution is financially sound and can fulfill its commitments for education or training. **[SC Reg. 62-6(l)]**

The components of this criterion, as further specified in CHE regulations, address issues of (A) penalties owed, (B) surety bond, (C) financial records, (D) insurance; (E) long-range financial plan, (F) centralized financial authority, and (G) schedule of tuition and fees.

With its initial application for licensure, InfiLaw provided a copy of Consolidated Financial Statements of InfiLaw Holding, LLC and Subsidiaries, for years ending 31 July 2011 and 2012. The document is marked "Privileged and Confidential" and "privacy claimed as to all pages of this document." A CHE staff member reviewed the financial statements and concluded that such statements do not indicate any concern about InfiLaw's financial stability, which the External Review Team Report also confirmed.

Regarding the components listed under this criterion, InfiLaw does not owe a penalty under Chapter 58 of Title 59, South Carolina Code of Laws, 1976 as amended. In its application for licensure, InfiLaw included a letter from Zurich American Insurance Company and/or its subsidiary, Fidelity and Deposit Company of Maryland, stating that it would provide a surety credit to InfiLaw Corporation for a bond of sufficient amount upon approval of the acquisition "by all necessary parties."

InfiLaw maintains adequate financial records and has shown proper management of financial controls and business practices. With the application for licensure, InfiLaw provided a Certificate of Liability Insurance through Aon Risk Services Northeast, Inc., where Travelers Property and Travelers Indemnity afforded coverage for commercial general liability per occurrence with appropriate limits. With the application for licensure, InfiLaw provided a Certificate of Liability Insurance through Willis of New York where Chartis Special, Starr Indemnity and Liability, and Great

American afforded coverage for directors and officers, educators' liability, and fiduciary liability. (Appendix A, p. 21)

Available evidence indicates that InfiLaw will provide the financial support necessary to sustain CSOL for the immediate future. InfiLaw meets six of Criterion III's seven components. It has not fully addressed SC Reg. 62-8(E): *Degree-granting institutions shall maintain a sound plan for long-range financial development.* Some of the assessment necessary to develop a comprehensive, long-term budget plan and enrollment strategy can only happen after InfiLaw assumes ownership, as it currently maintains resources sufficient to address any challenges that may surface after transfer of ownership. CHE staff thus concludes that InfiLaw has substantially met the regulatory requirements set forth in Criterion III.

IV. Reputation and Character

The institution's owners and directors are appropriately experienced and educated and are of good reputation and character. **[SC Reg. 62-6 (J)]**

The components of this criterion, as further specified in CHE regulations, address issues of (A-B) credentialing (C) staff evaluation; (D) refund policy; (E) advertising; and (F) school name.

At present, the applicant (InfiLaw) meets all identified criteria (as specified in SC Reg. 62-6 (J) and SC Reg. 62-6 (J)(1-6) related to reputation and character, including credentials of site directors and administrative officers, publications (catalog, bulletins or brochures), and determination that the applicant does not engage in erroneous or misleading advertising.

Criterion IV has very limited components. "Good reputation" is defined narrowly in regulation. According to regulation for this criteria, a person is considered to be of good reputation if s/he has no felony convictions relating to the operation of a school, has no convictions involving crimes of moral turpitude, has not recently (within the past ten years) been sued successfully for fraud or deceptive trade practices, or has not knowingly falsified or withheld information from representatives of the Commission. [SC Reg. 62-6 (J)(1-6)]

In terms of pending litigation, both CHE staff and the External Review team found no significant areas of concern regarding either of the two pending law suits: *Michael O'Connor and Celia Rumann v. Phoenix School of Law, LLC and InfiLaw Corporation* (original complaint dismissed December 2013); *Casey, et. al. v. Florida Coastal School of Law, Inc., et.al.* (Class action case removed from Miami Dade County to Southern District of Florida in February 2012 and is waiting to be assigned to a judge in this district). (Appendix A, p. 23-24)

InfiLaw's administrative officers possess the "credentials, experience and/or demonstrated competence" appropriate to their respective areas of responsibility. As

stated in Criterion I, all administrators and faculty are evaluated on a regular basis by peer-designed "best practice" groups that review the efficacy of all academic and administrative practices. InfiLaw publishes and maintains a refund policy in compliance with SC Reg. 62-18. InfiLaw has not been found to use erroneous or misleading advertising and provides to students before enrollment a catalog, bulletin or brochure that complies with SC Reg. 62-16.

In terms of CSOL's current status and InfiLaw's proposed ownership, all six components of Criterion IV, including administrative credentials and performance evaluations, published information that is accurate and consistent with SC Reg. 62-16, and all other standards associated with "good reputation and character," as defined in SC Reg. 62-6(J) and SC Reg. 62-6(J)(1-6) are being met. CHE staff finds InfiLaw to be in compliance with Criterion IV.

Recommendation

Based on the documents reviewed and on information gathered for its due investigation of InfiLaw's application for initial license: J.S., L.L.M., InfiLaw Corporation, Change of Ownership of Charleston School of Law, Charleston, SC, the staff recommends that the Committee on Academic Affairs and Licensing commend favorably to the Commission initial licensure to InfiLaw Corporation to offer J.D., and L.L.M. in Admiralty and Maritime Law degrees at the Charleston School of Law, Charleston, SC, with the following conditions, as allowed by SC Reg. 62-6(S):

1) Pursuant to SC Reg. 62-6(A), approval of acquiescence by the American Bar Association for transfer of ownership and continuous satisfaction of ABA accreditation standards

2) Pursuant to the "Nonpublic Postsecondary Institution License Act," (Section 58-59-50(F)), licensure be limited to a period of three years, beginning 1 May 2014 and ending 30 April 2017, with an option to renew, assuming no violation of the licensing criteria or conditions has occurred during that time (SC Reg. 62-4).

3) Pursuant to SC Reg. 62-6(B), 62-6(C), 62-6(N), and 62-8(E), development of an on-going three-year business plan submitted to CHE annually that includes the following:

- Enrollment management projections not to exceed 750 total students, no more than 10% AAMPLE® admits annually (or not to exceed 25 students per entering class), and a student-faculty ratio not to exceed a ratio of 20:1
- Planned investments in facilities and maintenance, including investments in instructional technologies and academic resources.

Annual business plans must be submitted to the Commission no later than 1 January each year, with the first report due 1 January 2015. CHE will arrange a meeting with InfiLaw leadership subsequent to the submission of these documents to discuss its review and make recommendations, where appropriate.

4) Consistent with CSOL's initial license to operate (2004), the following conditions are included:

    - No state funding can be required or requested
    - No attempt by the school, its officers or agents, may be made to merge CSOL with the College of Charleston or any other public institution.

Failure to comply with any of these conditions or any other violation of regulatory provisions governing the licensure may result in CHE revoking InfiLaw's license to operate CSOL (SC Reg. 62-28).

SC Commission on Higher Education

Nonpublic Postsecondary Institution Licensing

Staff Report Preliminary to Team Review

InfiLaw Corporation, CSOL Holdings, LLC, Application for Initial License, Charleston School of Law

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STAFF ANALYSIS PRELIMINARY TO TEAM REVIEW
InfiLaw Corporation Ownership of Charleston School of Law
January 2014

Purpose

The purpose of this report is to provide background about the Charleston School of Law (CSOL) and its history, and to compare information about its current ownership with that of its prospective new owner, InfiLaw. The information presented here is meant to be factual: to inform the members of the external review team as they consider whether InfiLaw has submitted an initial license application to operate CSOL that meets the requirements of the Commission.

Criteria for Licensing

Pursuant to the authority granted to the Commission on Higher Education (Chapter 58 of Title 9, 1976), regulations for the issuing of licenses to nonpublic educational institutions and the issuing of permits to agents representing such institutions have been established, CHE Regulations, Chapter 62, provide the criteria for licensing. The following four sections categorize the criteria from the regulations:

- Criterion One: Academics and Curriculum
- Criterion Two: Facilities
- Criterion Three: Finances
- Criterion Four: Reputation and Character

More detailed definitions of each criterion plus the specific components embedded in each one are articulated throughout this report.

The licensing of InfiLaw must be completed in concert with the American Bar Association's acquiesce of the ownership change; CHE approval is contingent upon ABA approval and vice versa. To inform the external review, this report includes some information about the standards for ABA accreditation. For example, ABA prescribes, but CHE does not, benchmarks for bar examination passage; that information is included in this report. ABA's publication, "Standards and Rules of Procedure for Approval of Law Schools," is available on its web site:

http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2013_2014_final_aba_standards_and_rules_of_procedure_for_approval_of_law_schools_body.authcheckdam.pdf

Introduction

The Charleston School of Law (CSOL) is a private, for-profit institution with one campus in Charleston. CHE licensed CSOL in September 2003 to recruit and enroll students; classes began in fall 2004. Conditions of the license were as follows:

1) No "unique cost" or other special state funding could be required or requested.
2) The institution must discontinue advertising and enrolling students into the program if it becomes apparent that it is unable to meet its timeline to gain ABA accreditation.
3) In the event that the school, or its officers or agents, should make an attempt to cause the school to become a part of the College of Charleston or any other public institution, the license granted to the school shall be null and void and immediately revoked.

Retaining the original conditions, the Commission reauthorized CSOL on July 8, 2004, approved a program leading to the Master of Laws (L.L.M.) degree in Admiralty and Maritime Law in 2012, and also renewed the license for five years.

In July 2013, three of the five founders of CSOL redeemed the shares of two of the founders; the owners are currently Robert Carr, George Kosko, and Edward Westbrook. Also in July 2013, CSOL entered into a Management Services Agreement and an Asset Purchase Agreement (APA) with InfiLaw Corporation. The Management Services Agreement (MSA) includes a statement that the Agreement does not alter control over the academic functions of the law school, which remain under the sole control and authority of the law school. Oversight responsibility for the law school and its educational programs remains vested in the governing board of the school and its authorized officers consistent with the requirements of the ABA and CHE. The APA is conditional upon licensing approval by the Commission and accreditation by the American Bar Association (ABA). The application for initial licensure included a statement that the acquiescence process is not expected to be completed before June of 2014.

On August 30, 2013, InfiLaw Corporation submitted to CHE a letter of intent to acquire CSOL and an application for initial licensure on September 30, 2013. InfiLaw applied for licensure to offer the existing programs at CSOL leading to the J.D. degree and L.L.M. degree. All instruction is offered at the Charleston campus.

At its meeting on October 4, 2013, CHE removed condition #3) from the license of CSOL: "in the event that the school, or its officers or agents, should make an attempt to cause the school to become a part of the College of Charleston or any other public institution, the license granted to the school shall be null and void and immediately revoked." Removal of the condition allowed the owners or agents of the CSOL to have conversations with officials at the College of Charleston or other public institutions regarding a potential sale. The Commission has not received any official notification from CSOL or a public institution that conversations have led to any negotiations for CSOL to become a part of a public institution.

InfiLaw Profile

InfiLaw Corporation is a consortium of three independent, for-profit, community-based law schools. They are Arizona Summit Law School (formerly Phoenix School of Law), Charlotte School of Law, and Florida Coastal School of Law. Each school has its own regional board of trustees to advise on policy. InfiLaw's National Policy Board, which includes authorities in law, education, government, and business, provides counsel on the strategic direction and long-term

plans for the InfiLaw system. The three InfiLaw schools are licensed in their home states, in good standing. Licensing officials confirmed that there are no outstanding complaints with any of the three authorizing agencies concerning the schools.

InfiLaw is backed by Sterling Partners, a private equity firm that invests growth capital in education, healthcare, and business services and is co-headquartered in Chicago and Baltimore The American Bar Association (ABA) accredits CSOL and the three InfiLaw campuses. Graduates of all of the schools are eligible to take the bar examination in all 50 states, the five U.S. territories, and the District of Columbia. Table 1 shows the authorization and accreditation dates for each of the schools.

Table 1 Authorization and Accreditation

Authorization and Accreditation				
	CSOL	Arizona	Charlotte	Florida
State authorized	2003	2005	2006	1995
ABA provisional	2006	2007	2008	1999
ABA full	2011	2010	2011	2002

Structure of Ownership of InfiLaw

With the application for initial licensure, InfiLaw included a copy of a Certificate of Formation of CSOL Acquisition, LLC, dated June 26, 2013, and a Certificate of Amendment changing the name to CSOL Holding, LLC, dated August 28, 2013, from the State of Delaware Secretary of State. The InfiLaw Corporation is the sole member of the LLC. The Limited Liability Agreement provides that the LLC was formed to conduct, promote, or attain the business purposes or activities of the LLC. InfiLaw Corporation is wholly owned by InfiLaw Holding, LLC. Sterling Partners, ABRY Partners, and Ares Capital Corporation are private equity firms that have ownership and or financial interests in InfiLaw Holding, LLC. InfiLaw also provided a copy of the Application for a Certificate of Authority by a Foreign LLC for CSOL Holding, LLC, to transact business in South Carolina. The certificate is dated September 3, 2013, and identifies Rick Inatome as the sole member and president of InfiLaw Corporation. The SC Secretary of State issued to InfiLaw a Certificate of Authorization to transact business in SC on September 9, 2013.

The application material included a privileged and confidential copy of the July 23, 2013, Asset Purchase Agreement (APA) by and among CSOL Acquisition, LLC, InfiLaw Corporation, Charleston School of Law, LLC, and members of the Charleston School of Law, LLC. The APA provides the parameters for the purchase and sale of the assets of CSOL including real property located at 431 Meeting Street. The APA also includes an “exclusivity” clause between the current owners and InfiLaw.

Institutional Profiles

Table 2 includes information extracted from the ABA website on November 11, 2013, and profiles CSOL, USC Law School, and the three campuses of InfiLaw. The data included here is especially helpful in that it provides comparative data showing similarities and differences among the three InfiLaw schools, USC and CSOL.

Table 2 Institution Profiles

Institution Profiles					
	CSOL	**USC**	**Arizona**	**Charlotte**	**Florida**
Tuition Full-time	$37,874	$21,688 Resident $43,398 Non-resident	$39,533	$38,606	$39,370
Student: Faculty Ratio	16.4	15.1	19.9	19.3	20
Transfers in	5	8	4	5	7
Transfers out	24	7	77	43	114
# of applicants	2,038	1,771	2,455	4,040	4,590
# of offers	1,037	891	2,086	3,062	3,417
% offers (calculated)	50.88%	50.31%	84.97%	75.79%	74.44%
# matriculated	174	213	447	626	580
% matriculations to offers (calculated)	16.78%	23.91%	21.43%	20.44%	16.97%
75% GPA	3.43	3.58	3.30	3.32	3.33
Median GPA	3.17	3.32	2.96	2.97	3.10
25% GPA	2.94	3.01	2.55	2.65	2.83
75% LSAT	154	159	150	150	151
Median LSAT	151	157	145	146	146
25% LSAT	149	154	141	142	143
Total Enrollment	621	665	1,092	1,392	1,594
1st year attrition %	13.90%	7.00%	8.40%	26.40%	30.50%
2nd year attrition %	0.00%	4.00%	34.50%	2.90%	2.80%
Bar 1st time takers	192	227	123	98	421
% of graduates reporting scores	87.5%	72.25%	100%	92.86%	71.26%
Bar pass ave school %	73.81%	82.93%	65.85%	79.12%	76.00%
Graduates 2012	229	226	181	234	510
Placement FT/LT 2012 bar passage required	123	159	79	90	183
Placement FT/LT 2012, etc., percent (calculated)	53.71%	70.35%	43.64%	38.46%	35.88%
Total employed by law school FT/PT, LT/ST	0	1	16	40	33

While there are similarities among the five institutions, the data primarily show differences among the InfiLaw schools, CSOL, and USC in the following areas:

- InfiLaw schools offer enrollment to 25 to 30 percent more of applicants
- Total enrollment at InfiLaw schools is 43-61 percent higher than CSOL
- Combined first and second year attrition rates at InfiLaw schools average 21 percent higher than CSOL
- Placement in full-time, long-term positions for graduates of InfiLaw schools averages 13 percent less than current placement data for CSOL

Although the Commission's licensing standards do not prescribe benchmarks for retention or placement rates, Regulation 62-25.I. specifically states that institutions may not "enroll a student when it is obvious that the student is unlikely to complete successfully a program of study or is unlikely to qualify for employment in the field for which the education is designed, unless this fact is affirmatively disclosed to the student and acknowledged, in writing, by the student."

The ABA Standard 301.(a) requires that "A law school shall maintain an education program that prepare its students for admission to the bar, and effective and responsible participation in the legal profession."

The Section of Legal Education and Bar Admissions of the ABA publishes data on its web site http://www.americanbar.org/groups/legal_education/resources/statistics.html for those considering law school so that prospective students can make informed decisions about choosing a law school. The ABA also requires that accredited institutions provide on their web sites information about such things as faculty and administrators, curriculum, enrollment, transfers, tuition and fees, living expenses, GPA and LSAT scores, grants and scholarships, library resources, attrition, employment, and bar passage rates.

Need/Justification

Since its application for licensure concerns change of ownership rather than creating a new law school, CHE's required justification that "institutions offer their programs in response to documented need" may, instead, be documented as an *ongoing* programmatic need.

The following table shows recent law school graduate employment data and underscores consistency among bar exam pass rates and the ability to secure full-time employment.

Table 3 ABA Law Graduate Employment Data

Section of Legal Education and Admissions to the Bar

AMERICAN BAR ASSOCIATION

2012 LAW GRADUATE EMPLOYMENT DATA

	CLASS OF 2011	CLASS OF 2012	Change
Total Graduates	43,979	46,364	+2,385 (+5.4%)

	CLASS OF 2011		CLASS OF 2012		Change in %age point
	Total	%age of	Total	%age of	
Unemployed/Seeking	4,042	9.2%	4,929	10.6%	+1.4
Law School Funded Positions	1,973	4.5%	1,799	3.9%	-0.6
Solo Practitioners	1,170	2.7%	1,050	2.3%	-0.4
Law Firm Positions (2-500+ Lawyers)	16,743	38.1%	18,214	39.3%	+1.2
Business & Industry	6,578	15.0%	6,881	14.9%	-0.1
Government	4,324	9.8%	4,654	10.0%	+0.2
Public Interest	2,684	6.1%	2,715	5.9%	-0.2
Clerkships (Federal, State, Other)	3,394	7.7%	3,389	7.3%	-0.4
Education	1,052	2.4%	1,031	2.2%	-0.2

EMPLOYMENT STATUS, EMPLOYMENT TYPE *definitions on next page*	CLASS OF 2011		CLASS OF 2012		Change in %age point
	Total	%age of Total Grads	Total	%age of Total Grads	
Bar Passage Required	27,639	62.8%	28,873	62.3%	-0.5
Long-Term/Full-Time	24,149	54.9%	26,066	56.2%	+1.3
Long-Term/Part-Time	812	1.8%	831	1.8%	no change
Short-Term/Full-Time	1,455	3.3%	1,127	2.4%	-0.9
Short-Term/Part-Time	1,223	2.8%	849	1.8%	-1.0
JD Advantage	5,260	12.0%	5,979	12.9%	+0.9
Long-Term/Full-Time	3,556	8.1%	4,387	9.5%	+1.4
Long-Term/Part-Time	380	0.9%	515	1.1%	+0.2
Short-Term/Full-Time	612	1.4%	474	1.0%	-0.4
Short-Term/Part-Time	712	1.6%	600	1.3%	-0.3

In a March 2013 ABA *Journal* article[1], Mark Hansen notes that the 2010 class entering law school was the largest on record. As a result of the larger class size, the number of all

[1] Hansen, Mark. Barely half of all 2012 law grads have long-term, full-time legal jobs, data shows. ABA Journal. Posted Mar 29, 2013 10:50 AM CST

http://www.abajournal.com/news/article/barely_half_of_all_2012_law_grads_have_long-term_full_time_legal_jobs_data_/

graduates in the class of 2012 rose 5.4 percent to 46,364 from 43,979. Also, the absolute number of 2012 graduates employed in long-term, full-time positions where bar passage was required rose 7.6 percent to 26,066 from 24,149.

According to the U.S. Bureau of Labor Statistics, *Occupational Outlook Handbook*, employment of lawyers is expected to grow by ten percent from 2012 to 2022, approximately the same as the average for all occupations. Competition for employment of attorneys should continue to be strong because more students are graduating from law school each year than there are jobs available. As in the past, some recent law school graduates who have been unable to find permanent positions are turning to the growing number of temporary staffing firms that place attorneys in short-term jobs. This temporary placement service allows companies to hire lawyers "as-needed" and permits newly licensed lawyers to develop practical skills. Job opportunities are typically affected by cyclical swings in the economy. During recessions, demand declines for some discretionary legal services, such as planning estates, drafting wills, and handling real estate transactions. Also, corporations are less likely to litigate cases when declining sales and profits restrict their budgets. Some corporations and law firms may even cut staff to contain costs until business improves. (See Table 2, Institution Profiles, for campus-specific placement data.)

The following salary and wage information is from the www.careerinfonet.org web site, Career/OneStop, sponsored by the U.S. Department of Labor, Employment and Training Administration. In addition, the Career/OneStop web site listed 200 average annual job openings for lawyers in South Carolina due to growth and net replacement.

Table 4 LAWYERS: SOUTH CAROLINA State and National Wages

Location	Pay Period	2012				
		10%	25%	Median	75%	90%
United States	Hourly	$26.11	$36.00	$54.58	$80.77	$90.00+
	Yearly	$54,300	$74,900	$113,500	$168,000	$187,200+
South Carolina	Hourly	$21.70	$29.23	$41.93	$64.63	$90.00+
	Yearly	$45,100	$60,800	$87,200	$134,400	$187,200+

National Data Source: Bureau of Labor Statistics, Occupational Employment Statistics Survey
State Data Source: South Carolina Labor Market Information

Student Financial Aid

The following information from the U.S. Department of Education (USDE) shows student loan default rates for CSOL and the three InfiLaw schools.

Table 5 Student Loan Default Rates

Student Loan Default Rates			
School		**FY2010**	**FY2009**
CHARLESTON SCHOOL OF LAW	**Default Rate**	2%	0%
	No. in Default	3	0
	No. in Repay	145	93
Arizona Summit School of Law (formerly PHOENIX SCHOOL OF LAW)	**Default Rate**	4%	3.8%
	No. in Default	3	2
	No. in Repay	74	52
CHARLOTTE SCHOOL OF LAW	**Default Rate**	2.5%	0%
	No. in Default	2	0
	No. in Repay	80	2
FLORIDA COASTAL SCHOOL OF LAW	**Default Rate**	5.2 %	4.3%
	No. in Default	28	19
	No. in Repay	536	436

From 2001 to 2010, the average amount borrowed annually by law students for their three-year degrees increased 50 percent, according to the American Bar Association. For the 2011-12 academic year, law students borrowed an average of $68,827 for public educations and $106,249 for private educations.

The following table shows 2012 average loan debt of graduates for CSOL and the three InfiLaw schools in increasing order of debt as reported through the *US News and World Report*. [http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/grad-debt-rankings]

Table 6 Average Federal Student Loan Debt

2012 Average Federal Student Loan Debt	
Charlotte School of Law	$115,747
Charleston School of Law	$141,457
Florida Coastal School of Law	$143,111
Arizona Summit School of Law	$162,627

Student loan debt for CSOL graduates – and that of InfiLaw's three institutions – appears approximately one-third higher than in private law schools and almost twice as much as public law schools when compared to the ABA's national report.

In addition to Federal Title IV student loans, each institution offers scholarships and grants. Table 5 lists scholarship and grants data from the ABA Law School Database.

Table 7 Scholarships and Grants

Scholarships and Grants Awarded				
2012	**CSOL**	**Arizona**	**Charlotte**	**Florida**
Total # students	709	969	1,151	1,753
Full-time #	518	697	953	1,702
Total # awarded	276	489	50	940
% of total awarded	38.90%	50.50%	4.30%	53.60%
Full-time # awarded	247	375	36	834
Full-time % awarded	47.70%	53.80%	3.80%	49.00%
Award less than 1/2 tuition	274	478	42	682
Award half to full tuition	2	11	8	154
Award full tuition or more	0	0	0	22
Median award amount full-time	$6,000	$6,000	$11,750	$7,500
Median award amount part-time	$5,000	$4,500	$7,000	$6,750

The amount of institutional financial aid varies significantly among the institutions, The percent of total awarded varies from 3.8 to 60.6 percent; excluding Charlotte School of Law, the range is approximately six percent. The amount awarded varies from $6,000 to $19,384, and excluding Charlotte, the range is $1,500.

The amount of institutional financial aid varies significantly among the institutions, but with the exception of Charlotte School of law, the median amounts and percentages of total awarded to full-time students among the for-profit institutions vary by $1,500 and approximately six percent, respectively.

Criterion One. Academics and Curriculum

The course, program, curriculum, and instruction are of quality, content, and length as may reasonably and adequately achieve the stated objective for which the course, program, curriculum or instruction is offered and in response to documented need. **SC Reg. 62-6(A)** [Note: For specific program and instructor requirements by degree program, please see **SC Regs. 62-10 through 62-13**.]

A) An accrediting body recognized by the U.S. Department of Education or the Council for Higher Education Accreditation must accredit out-of-state degree-granting institutions. **SC Reg. 62-6(A)(i)**
B) The institution publishes and enforces admission requirements consistent with the purposes of the institution. **SC Reg. 62-6(N)**
C) The institution has developed satisfactory course and program outline(s) including syllabi for each course specifying goals and requirements, course content, methods of evaluation, and bibliography; attendance policy; grading policy including a policy for incomplete grades, rules of operation and conduct; and a policy for handling student complaints in compliance with Regulation 62-27. **SC Reg. 62-6(E)**
D) Chief Academic Officers (those who choose faculty) must be credentialed at the same level as required for faculty. Site directors are credentialed at the same level as the highest degree conferred at the site.
SC Reg. 62-6(J)
E) Each full-time and part-time faculty member must present documentation of academic preparation, such as official transcripts and, if appropriate for demonstrating competency, official documentation of professional and work experience, technical and performance competency, records of publications, certifications, and other qualifications. The institution must keep on file, for each full-time and part-time faculty member, documentation of academic preparation. **SC Reg. 62-6(B); see entire citation.**
F) Institutions must ensure that each faculty member employed is proficient in oral and written communication in the language in which assigned courses will be taught. **SC Reg. 62-6(B)**
G) The institution must award the student an appropriate certificate, diploma or degree showing satisfactory completion of the course, program, or degree. **SC Regs. 62-6(F) and 62-6(D)**
H) Adequate records as prescribed by the Commission are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced. **SC Reg. 62-6(G)**
I) The institution must have a clearly defined process by which the curriculum is established, reviewed, and evaluated. The institution must provide for appropriate and regular evaluation of the institution and its program and course effectiveness including assessment of student learning, retention, graduation rates, and student, graduate, faculty, and employer satisfaction. The results must be used to ensure and improve quality of instruction. **SC Reg. 62-6.2**

Admissions

CHE Regulation 62-6. N. requires that the institution "publishes and enforces admission requirements consistent with the purposes of the institution." According to officials from CSOL, enrollment targets are set by the Board in consultation with the dean. In addition, the Faculty

Committee on Admissions (FCA), in cooperation with the associate dean of Administration and Alumni Development, develops rules to govern the admission process. The rules reflect the goals and mission of the School and provide the associate dean with guidance and latitude for file review and for the selection of a well-qualified and diverse entering class. The associate dean works closely with the chair of the Committee. The dean of the law school appoints the members who serve on FCA and as well as its Committee chair.

In support of the overall efforts to enhance the diversity of the student body, the associate dean for Administration and Alumni Development, in conjunction with FCA, is responsible for reviewing each candidate's file. The associate dean evaluates all applicants with respect to their potential contributions to the diversity of the student body and the legal profession. Coupled with the examination of academic records and LSAT performance, the associate dean carefully reviews personal statements and references provided by applicants to evaluate the applicants' past achievements and other indicia of professional promise. Among the factors considered are previous professional and business experience, public service, academic and other educational involvement, age and maturity, community leadership, history of overcoming disadvantages, and ethnic and cultural background.

According to InfiLaw officials, the process used by the InfiLaw schools is "substantially similar" to CSOL's process described above, though specifics about the similarities have not been articulated by either institution. The Commission is requesting the specific processes InfiLaw uses to establish the admissions requirements for its branches. However, InfiLaw stated that the most significant change anticipated for CSOL is the implementation of the national Alternative Admissions Model Program for Legal Education (AAMPLE), a conditional admit program used at the other InfiLaw schools. The mission of AAMPLE is to provide a path of admission to InfiLaw schools for individuals whose academic indicators may not reflect their potential to succeed in law school.

As such, the AAMPLE program provides candidates for admission with a structured opportunity to demonstrate their ability to learn key skills necessary for successful completion of their legal education. If implemented at Charleston, successful participants would be eligible for admission to the J.D. program. The program consists of two law school courses, *Introduction to the 4th Amendment* and *Negotiable Instruments*. These two courses were selected from a regular law school curriculum and modified to indicate a student's potential for law school success. The courses are taught by professors from the full-time faculty. If implemented in Charleston, InfiLaw anticipates 15-20 students enrolling each fall semester through the AAMPLE program.

ABA accreditation lists factors to be considered in assessment are the rigor of the program, student performance, and bar passage rates of graduates. Other factors are whether students have opportunities to benefit from regular interaction with full-time faculty and other students, from co-curricular programs such as journals and competitive teams, and special events such as lecture series and short-time visitors.

In addition, ABA sets high standards for bar passage rates requiring each accredited institution to demonstrate a 70% passage rate, using one of two identified metrics. Bar pass rates are shown in Table 2, the Institutional Profile table included in this report.

<u>Curriculum</u>

CHE Regulation 62-6.E requires that the institution offer a program that will "prepare students to successfully meet the objectives of the program and have syllabi for each course specifying goals and requirements, course content, methods of evaluation, and bibliography; a schedule of tuition, fees, other charges and refund policy; an attendance policy; a grading policy including a policy for incomplete grades; rules of operation and conduct; and a policy for handling student complaints in compliance with Regulation 62-27."

CHE Regulation 62-13.C provides that, "A doctoral degree program normally requires satisfactory completion of three or more academic years of full-time study beyond the baccalaureate degree and evidence, usually a doctoral dissertation, of competence in independent research."

The ABA standards prescribe 130 minimum days and eight months for an academic year, the minimum 58,000 minutes of instruction time, the minimum 24 and 84 maximum months a student has after matriculation to complete the program, the maximum 20 percent of coursework in which a student may be enrolled at any time, and limits employment to 20 hours per week when a student is enrolled in more than twelve class hours. A law school must require at least 83 semester hours of credit for a program leading to the J.D.

The following 61 credit hours are required in the 88-credit hour curriculum at CSOL:

- First-Year courses: Contracts I & II; Property I & II; Torts I & II; Legal Research, Analysis and Writing I & II; and Civil Procedure I & II.
- Upper-Level courses: Business Associations; Commercial Law; Constitutional Law I & II; Criminal Law; Criminal Procedure; Evidence; Professional Responsibility; Secured Transactions; and Wills, Trusts & Estates.
- Other course requirements: Satisfactory completion of an upper-level writing course and at least one skills course, as designated in the Course Catalog or registration material for each semester.
- Students choose from a list of elective course offerings to complete the 88 credit hours required for graduation. Elective course offerings may vary from year to year.

CSOL also offers students an option to earn an M.B.A. from the College of Charleston. A CSOL student who has successfully completed two years of full-time study, which includes successful completion of Contracts I & II and Business Associations, and who is in good academic standing may apply to the College of Charleston's M.B.A. program. To earn the M.B.A., the student must successfully complete all requirements of that program. To earn the J.D. degree, the student must successfully complete all graduation requirements of the Charleston School of Law, including the number of credit hours required for graduation. Through the dual-degree program, full-time students will spend their first two years in law school. Their third year will be at the College of Charleston School of Business, as well as a Maymester at the law school. In addition, students study abroad with the M.B.A. class before returning to the Charleston School of Law to fulfill requirements of a law degree. To participate, students must apply separately to both schools.

By comparison, Arizona Summit School of Law requires 87-credit hours for its JD degree and Florida Coastal School of Law, beginning in fall 2013, launched a new 93-credit hour "JD Plus" program. According to the FCSL web site, the "JD Plus" is designed to provide "enhanced preparation for the practice of law. Students customize their legal education based on individual interests, goals, and aptitudes." Additionally, students will have opportunities for experiential learning while working collaboratively on group projects, writing exercises, and other

simulations. Graduates will have a comprehensive portfolio of work that will include contracts and trial and appellate documents.

In addition to more traditional schedules of study where students attend full-time for three years, Florida Coastal School of Law offers the JD Fast Track that allows students to complete their legal studies in two years. Students in the Fast Track program complete the same number of credit hours as traditional three-year JD students, but reduce living expenses by a third and enter the workforce sooner. The accelerated program means students have a more set schedule of classes. They also have opportunities to select from the full-range of electives, are eligible to be invited in the Coastal Law Honor's Society, and can participate in experiential learning opportunities.

Florida Coastal School of Law with Jacksonville University offers dual degree programs for students who seek to broaden their legal education into business or public policy. Students may earn the J.D. degree and a Master of Business Administration or a Master of Public Policy in four years.

Students at Charlotte School of Law may enroll in a combined JD/Master's program at UNC Charlotte where students take the first year of the JD degree, enroll at UNCC for a year for a master's degree (UNCC accepts from the law school nine credit hours in specific courses), then complete the JD program at the law school (which accepts nine credit hours in specific courses from UNCC).

Faculty

CHE Regulation 62-13.B requires that, "with rare exception, graduate faculty members hold a terminal degree, usually an earned doctorate, in the field in which they teach. Students must have sufficient access to these faculty members to provide meaningful interaction. An institution must employ faculty members whose highest earned degree presented as the credential qualifying the faculty member to teach at the institution is from an institution accredited by an accrediting body recognized by the U.S. Department of Education."

ABA requires that faculty members have qualifications and experience appropriate to the stated mission of the law school and to maintain a program of legal education that prepares its students for admission to the bar and effective and responsible participation in the legal profession. ABA also provides the ratio of the number of full-time equivalent students to the number of full-time equivalent faculty members.

With the application for initial licensure, InfiLaw confirmed that it will retain faculty who meet the requirements of CHE and ABA.

As described by the dean of CSOL, communicated to CHE on November 18, 2013, in response to a request from CHE, the current process of hiring faculty at CSOL includes both a rationale for hire as well as an organized search for well-qualified faculty candidates, including women and members of underrepresented groups. To that end, the Faculty Recruitment Committee (FRC) has identified a range of criteria, including membership on law review as well as other scholarly journals; clerkships with federal, state, and local judges; law practice in order to include seasoned attorneys in particular subject areas needed by the CSOL; significant lawyering and administrative involvement with foundations and civic and non-profit organizations; teaching experience, including non-law teaching experience at the university

level; demonstrated scholarliness or aptitude for scholarliness; as well as superior academic credentials and commitment to excellence in teaching and scholarship.

In addition, the dean of the CSOL reported that it has two procedures in place for the review of faculty productivity both before and after the granting of tenure. Tenured and tenure-track faculty members undergo a comprehensive annual performance review conducted by the dean. That performance review includes an evaluation of the contributions of each faculty member in the areas of teaching effectiveness, scholarly activity, institutional and public service, and collegiality. This review forms the basis for the individual's performance goals and recommended salary for the following year. The annual performance review is an means by which faculty members at the CSOL are held accountable for their efforts in fulfilling the mission and goals of the institution, their individual professional responsibilities, and duties.

The process of granting tenure includes additional annual reviews of untenured faculty. This culminates in an evaluation of the performance of the faculty member, as documented in a portfolio covering a period of up to five years. The tenure process includes evaluation of the faculty member's productivity by a series of evaluators, including a committee of tenured faculty and the dean, with final approval by the Board of Directors.

According to InfiLaw officials, its schools employ are tenured and tenure-track faculty and faculty on long-term contracts, among other terms and conditions. In some instances InfiLaw uses faculty "tracks," including teaching, scholarly, and skills tracks. When appointing faculty, a typical InfiLaw school would follow a process similar to that of CSOL. Each school has a Faculty Appointments Committee which builds a pool of candidates through advertisements and direct and indirect contact with potential candidates. The schools place emphasis on the recruitment of faculty with teaching experience and experience in a variety of settings with the legal profession. In addition, there is an effort to recruit, appoint, and retain a diverse faculty. For purposes of promotion and tenure, factors such as teaching, scholarship, and service, both school and community are considered. The review process involves a Faculty Retention, Promotion and Tenure Committee, which, after evaluation of the various factors for each candidate, makes recommendations to the dean. The dean, in turn, makes recommendations to the Board of Directors of the school, which has the final word.

Evaluation and Assessment

CHE Regulation 62-6.2. requires that the institution have a clearly defined process by which the curriculum is "established, reviewed, and evaluated." The institution must provide for appropriate and regular evaluation of the institution and its effectiveness including assessment of student learning, retention, graduation rates, and student, graduate, faculty, and employer satisfaction. The results must be used to ensure and improve quality of instruction.

The ABA requires that a law school demonstrate that it regularly identifies specific goals for improving the law school's program, identifies means to achieve the established goals, assesses its success in realizing the established goals and periodically re-examines and appropriately revises its established goals.

CSOL and InfiLaw schools evaluate the effectiveness of their programs through standard means and report results to ABA; ABA publishes a database that is accessible by the public. For example, the professors administer comprehensive exams at various points during academic studies; assign and evaluate legal documents, research, and reports; and evaluate skills. Externship supervisors conduct mid-term and final evaluations. CSOL externship policies,

procedures, and forms are available at http://www.charlestonlaw.edu/Academic-Affairs/Externships/Externship-Forms.aspx .

Student Records

For initial licensure, institutions typically provide prototype attendance records, progress records, transcripts, and diplomas the institution will maintain on each student and a plan for maintenance of student records. Since CSOL has been operating since 2003, the Commission did not request these documents.

Criterion Two. Facilities

There is in the institution adequate space, equipment, instructional material, and appropriately qualified instructional personnel to provide training and education of good quality. **SC Reg. 62-6(B)**

A) The institution complies with all local, county, and state regulations, such as fire, building, and sanitation codes. **SC Reg. 62-6(H)**
B) The institution must have adequate security measures to protect and back up [its] data. **SC Reg. 62-20**
C) The institution must have policies concerning retention and disposal of records and information-release policies which respect the rights of individual privacy, the confidentiality of records, and the best interests of the student and institution. **SC Reg. 62-20(A-D) for a listing of components.**
D) Programs offered by distance education must meet the licensing requirements of the Nonpublic Postsecondary Institution License Act. **SC Reg. 62-6.1**
E) The institution owns or makes available sufficient learning resources or, through formal agreements with institutional or other (where adequate) libraries to which students have access, ensures the provision of and access to adequate learning resources and services required to support the courses, programs and degrees offered. **SC Reg. 62-6(C); see complete citation for stipulations regarding formal agreement and SC Reg. 62-14 for library requirements.**
F) Any student living quarters owned, maintained, or approved by the institution are appropriate, safe and adequate. **SC Reg. 62-6(Q)**

Facilities Compliance, Safety

The application for licensure includes a statement that the current facilities and equipment will remain in place under the ownership of InfiLaw as is confirmed by the Asset Purchase Agreement. Current facility occupancy, fire, ADA compliance authorizations will remain the same. The School does not provide student living quarters for students.

Learning Resources

Regulation 62-6.C. requires that the institution own or make available "sufficient learning resources or, through formal agreements with institutional or other (where adequate) libraries to which students have access, ensures the provision of and access to adequate learning resources and services required to support the courses, programs and degrees offered."

The comprehensive web site of CSOL's library is accessible from the Internet. http://www.charlestonlaw.edu/Library.aspx

Having operating since 2003, the institution has on-site and online resources to support the education programs. With its application for licensure, InfiLaw confirmed its commitment to "continue to provide adequate learning resources to support the program and will retain all current holdings/resources."

The location of the CSOL offers a distinctly unique urban setting within Charleston's "Upper King Street' district. At the heart of the campus is the Sol Blatt Jr. Law Library, located in the restored Camden Railyard Depot at 81 Mary St. Listed as a National Historic Landmark,

the circa 1850 building was the original railroad depot for the Best Friend of Charleston. In addition to the library, the building also houses student study space, seminar rooms, a café and lounge area, bookshop, and administrative offices. The school also has administrative and faculty offices and five classrooms in the adjacent AT&T building at 385 Meeting Street. Administrative, adjunct faculty, and student government offices; seminar and group study rooms; and one classroom are located at 392/394 Meeting Street, with additional student government office space at 390-A Meeting Street. The historic Art Deco Chase Building located at 414 King Street houses administrative and faculty offices, a conference room, student study space, and two classrooms. 442 King Street has administrative offices and 444 King Street has administrative offices and two interview rooms. The American Theatre located at 446 King Street contains one classroom. Additionally, the Law School has access to the Charleston Museum Auditorium, the Federal courtrooms, and the Charleston Music Hall as needed.

CSOL Facilities	**Square feet**
Nine classrooms	11,890
Research and student study space	1,571
Library	25,388
Faculty offices	4,940
Co-curricular and student activity areas	800
Administrative and staff offices	9,834
Ancillary support	48,876
Total	103,299

CSOL provides an extensive collection of library resources. Students access the institution's library from the web site <http://www.charlestonlaw.edu/v.php?pg=322> for a legal research portal, catalogs, databases, research guides, and new resources. The school also maintains an on-site library in compliance with ABA-accreditation standards.

Retention and Disposal of Records

Regulation 62-20. requires that institutions "store official student academic records in a secure vault or fireproof cabinet or store duplicates in a different building or at an off-site location. If the institution uses computer generated and stored records, it must have adequate security measures to protect and back up the data. The institution must have policies concerning retention and disposal of records and information-release policies which respect the rights of individual privacy, the confidentiality of records, and the best interests of the student and institution." The ABA has in place similar requirements for records retention.

Criterion Three. **<u>Finances</u>**

The institution is financially sound and can fulfill its commitments for education or training. **SC Reg. 62-6(I)**

A) The institution does not owe a penalty under Chapter 58 of Title 59, South Carolina Code of Laws, 1976. **SC Reg. 62-6(O)**
B) Before an institution is licensed, surety bond – or other acceptable means of collateral - must be provided by the institution, the obligation of which will be that the institution, its officers, agents, and employees will faithfully perform the terms and condition of contracts for tuition and other instructional fees entered into between the institution and persons enrolling as students. **SC Reg. 62-7; see complete citation for terms governing bond requirement, including SC Reg. 62-7(F), which outlines alternative to surety bond.**
C) The institution shall maintain adequate financial records and exercise proper management, financial controls, and business practices. **SC Reg. 62-8(A)**
D) Adequate insurance shall be carried to protect the institution's financial interests. The amount of insurance shall be sufficient to maintain the solvency of the institution in case of loss by fire or other causes, to protect the institution in instances of personal and public liability, and to assure continuity of the operation of the institution. **SC Reg. 62-8(D)**
E) Degree-granting institutions shall maintain a sound plan for long-range financial development.
SC Reg. 62-8(E)
F) Degree-granting institution's business and financial management shall be centralized under a qualified and bonded business offer responsible to the chief executive officer and charged with the supervision of the budget. **SC Reg. 62-8(F)**
G) The institution must have a schedule of tuition, fees, other charges and refund policy. **(SC Reg. 62-8(E); see also SC Reg. 62-17 for a complete description of tuition policy requirements and SC Reg. 62-18 for cancellation and refund policy guidelines.**

CHE Regulation 62-8 requires evidence of financial resources sufficient to show that the institution possesses adequate liquid assets to make potential refunds to students, to pay expenses in a timely fashion, and to maintain continuity for an extended period. Such evidence typically includes financial statements. R. 62-6.I states that the institution must be "financially sound and able to fulfill its commitments for education or training."

In addition to basic documentation of an institution's financial stability and ability to fulfill its commitment to education and training, Regulation 62-8 states that "the adequacy of the financial resources of an institution is judged in relation to the basic purpose of the institution, the scope of its program(s), and the number of current or anticipated students. These resources must be sufficient to show that the institution possesses adequate liquid assets to make potential refunds to students, to pay expenses in a timely fashion, and can maintain continuity for an extended period. Evidence of adequate liquid assets for institutions applying for initial licensure may be in cash or other assets that may be readily converted into cash to buy goods and services or to satisfy obligations in an amount equal to start-up costs, expenses, and projected tuition income for the first term of enrollment." The regulation also provides parameters for financial management practices of the institution. (62-8.A-J)

With the application for initial licensure, InfiLaw provided a copy of Consolidated Financial Statements of InfiLaw Holding, LLC and Subsidiaries for years ended July 31, 2011 and 2012. The document is clearly marked "Privileged and Confidential" and "Privacy claimed as to all pages of this document." A CHE staff member reviewed the financial statements and determined that the financial statements do not indicate that either entity is not a going concern.

CHE Regulation 62-8.D requires that adequate insurance is in place to protect the institution's financial interests. The amount of insurance must be sufficient to maintain the solvency of the institution in case of loss by fire or other causes, to protect the institution in instances of personal and public liability, to protect directors and officers, and to assure continuity of the operation of the institution.

With the application for licensure, InfiLaw provided a Certificate of Liability Insurance through Aon Risk Services Northeast, Inc., where Travelers Property and Travelers Indemnity afforded coverage for commercial general liability per occurrence [redacted].

Where a practicum or internship is required, institutions must also provide evidence of professional liability insurance for the institution, instructors, and students. Degree-granting institution's business and financial management shall be centralized under a qualified and bonded business officer responsible to the chief executive officer and charged with the supervision of the budget.

With the application for licensure, InfiLaw provided a Certificate of Liability Insurance through Willis of New York where Chartis Special, Starr Indemnity and Liability, and Great American afforded coverage for directors and officers, educators' liability, and fiduciary liability [redacted].

Bond Requirement

Regulation 62-7 (A-F) provides the requirements for surety bonds. With the application for licensure, InfiLaw included a letter from Zurich American Insurance Company and/or its subsidiary, Fidelity and Deposit Company of Maryland, would provide a surety credit to InfiLaw Corporation for a bond [redacted]. The commitment is conditioned upon approval of the acquisition by all necessary parties and the Company will issue the bond after having been provided documentation of consummation of the approvals.

The obligation of the bond is that the institution, its officers, agents, and employees will faithfully perform the terms and conditions of contracts for tuition and other instructional fees entered into between the institution and persons enrolling as students. The bond is to be used for the benefit of students who suffer financial losses of tuition and fees prepaid to an institution. The losses must be as a result of the closing of the institution. The Commission may use the funds to pay refunds of unearned tuition and fees, to pay for or subsidize the cost of providing facilities and instruction for students to complete their programs, or to pay expenses to store and maintain records of these students. The required amount of the bond is ten percent of projected tuition income for the first year. In the case of CSOL, the commitment letter for would be sufficient for gross tuition income in the first year of ownership [redacted].

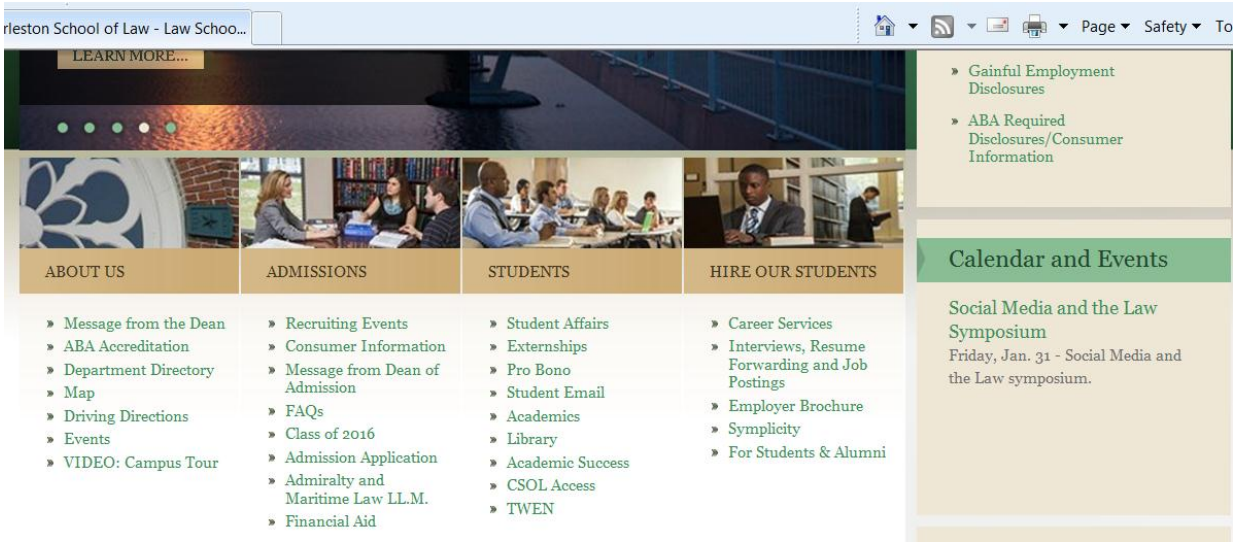
Criterion Four. **<u>Reputation and Character</u>**

The institution's owners and directors are appropriately experienced and educated and are of good reputation and character. **SC Reg. 62-6(J); see SC Reg. 62-6(J)(1-6) for specific definition of "good reputation."**

A) Site directors should be credentialed at the same level as the highest degree conferred at the site.
SC Reg. 62-6(J)
B) All administrative officers must possess credentials, experience and/or demonstrated competence appropriate to their areas of responsibility. **SC Reg. 62-6(J)**
C) The effectiveness of all administrators must be evaluated periodically. **SC Reg. 62-6(J)**
D) The institution has, maintains, and publishes in its catalog, bulletin, or brochure and in its enrollment contract the proper refund policy that complies with Regulation 62-18. **SC Reg. 62-6(K); SC Reg. 62-18; and SC Reg. 62-16 for requirements relating to information at a minimum that must be included the institution's catalog, bulletin or brochure.**
E) The institution does not use erroneous or misleading advertising by actual statement, omission, or intimation; it provides students, prospective students and other interested persons a catalog, bulletin or brochure containing the minimum items as identified in CHE Regulation 62-16.
SC Reg. 62-6(L) and SC Reg. 62-6(P)
F) The institution does not use a name that is misleading, the same as or similar to that of an existing institution. **SC Reg. 62-6(M)**

<u>Publications</u>

CHE Regulation 62-16 provides a list of items institutions must disclose to candidates for admission. The disclosures are meant to provide the key elements so that the candidates are able to make an informed decision concerning their choices of schools. The required information is



further enhanced by that which is required by the US Department of Education and the ABA previously reviewed in this report. As the following sample screen shots show, CSOL publishes comprehensive information on its web site www.charlestonlaw.edu

Pending Litigation

CHE Regulation 62-6.J. provides that "institution's owners and directors…are of good reputation and character." Further, a person is considered to be of good reputation if (subparagraph (4)) "…not a plaintiff or defendant in litigation that carries a significant risk to the ability of the institution to continue operation; and (5) …not own a school currently violating legal requirements…" With the application for initial licensure, InfiLaw provided descriptions of two cases of pending litigation.

Case 1:

> InfiLaw Corporation is a named defendant in the case of *Michael O'Connor and Celia Rumann v. Phoenix School of Law, LLC and InfiLaw Corporation,* case number CV-13-01107-PJX-SRB. Mr. O'Connor and Ms. Rumann, both former faculty members of the Phoenix School of Law, filed the lawsuit in the United States District Court for the District of Arizona on May 31, 2013, alleging that they were wrongfully dismissed from their positions in breach of their respective employment contracts and seeking unspecified monetary damages. The Phoenix School of Law and InfiLaw Corporation responded to the lawsuit with a Motion to Dismiss, which was argued on September 16, 2013, and which remains to be ruled upon [as of the date InifLaw submitted its application to CHE.] In addition, O'Connor and Rumann filed a charge of discrimination with the US Equal Employment Opportunity Commission, alleging unlawful discrimination on the basis of age, and an unfair labor practice charge with the National Labor Relations Board in Phoenix, alleging unlawful retaliation because of concerted protected activity. InfiLaw Corporation believes there is no merit to any of these allegations, and will continue to vigorously defend against them in all applicable venues.

In response to an inquiry from CHE for the current status of these actions, in a letter dated January 10, 2014, InfiLaw counsel informed the Commission that, on December 11, 2013, the US District Court for the District of Arizona issued an order granting the defendants' Motion

to Dismiss the case. On December 20, 2013, the plaintiffs filed a Motion for Leave to File Second Amended Complaint. On January 7, 2014, the court issued an order granting the plaintiffs' motion and requiring plaintiffs to file any such Second Amended Complaint within three days of the date of the order. On January 8, 2014, the plaintiffs filed the Second Amended Complaint.

In addition and in the same January 10 response to CHE, InfiLaw counsel stated that the plaintiffs (O'Connor and Rumann) previously obtained a right to sue letter from the US Equality Employment Opportunity Commission, but failed to file an action within the timeframe provided.

In addition and in the same January 10 response to CHE, InfiLaw counsel stated that the plaintiffs (O'Connor and Rumann) filed an unfair labor practice charge with the National Labor Relations Board in Phoenix but subsequently withdrew the charge.

Case 2

> *Casey, et al. vs. Florida Coastal School of Law, Inc., et. al.* Plaintiffs filed a class action complaint in the 11th Judicial Circuit in and for Miami Dade County in Florida on February 1, 2012, against Florida Coastal School of Law (FCSL) raising claims of fraud, negligent misrepresentation, and violation of the Florida Deceptive and Unfair Trade Practices Act. This suit was one of roughly a dozen or so copy-cat complaints filed against law schools around the country – all by the same New York-based attorneys. FCSL removed the case to the Southern District of Florida on February 17, 2012, under the Class Action Fairness Act (CAFA), and subsequently moved to dismiss the complaint, or in the alternative, to transfer venue to the Middle District of Florida, on March 2, 2012. While there has been some limited jurisdiction discovery, as well as procedural motions and rulings thereon, the matter sits largely dormant, awaiting to be assigned to a Judge in the Middle District of Florida. The trend in the vast majority of cases around the country bodes well for the likely dismissal of the FCSL case on the merits. The school believes there is no merit to this suit and will continue to vigorously defend against it.

In response to an inquiry from CHE for the current status of this action, in a letter dated January 10, 2014, counsel for InfiLaw provided that the case "was removed by defendants to the Southern District of Florida on February 27, 2012, under the Class Action Fairness Act (CAFA). The defendants subsequently moved to transfer venue to the Middle District of Florida, and since then, the case has been awaiting to be assigned to a judge in such District."

EXTERNAL REVIEW TEAM REPORT

Charleston School of Law
Charleston, SC

February 12-14, 2014

FOR

The South Carolina Commission on Higher Education

CONSULTANTS

Rhesa Rudolph, Assistant Executive Director, Commission for Independent Education, Tallahassee, Florida

Robert S. Wells, Executive Director, South Carolina Bar, Columbia, South Carolina

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I. NATURE OF VISIT

A. Purpose of Visit

We were retained by the Commission on Higher Education ("Commission") to consider whether the Infilaw Corporation has submitted an initial license application to operate the Charleston School of Law ("CSOL") that meets the statutory and administrative law requirements of the Commission. We confirmed with the Commission staff that we were retained as independent consultants and served without compensation and with partial reimbursement of actual expenses.

We did not undertake an exhaustive review of the proposed sale. The purpose of this report is to present the information we discovered during the on-site visit to Charleston and review of materials that were provided to us. The final determination of whether certain licensure criteria have been met is best left to the expertise of the Commission. We encourage the Commission to review the content of this report in hopes that it will assist the Commission in reaching its decision.

B. Unique Aspects or Additions to the Visit

The primary input for our review came through in-person and phone interviews of representatives of InfiLaw and leaders in the three schools overseen by InfiLaw, Arizona Summit Law School, Charlotte School of Law and Florida Coastal School of Law, often referred to as the "consortium." These interviews were conducted over a two-day period. CSOL Dean Andy Abrams was briefly interviewed to confirm whether CSOL was presently in compliance with licensure criteria. A tour of the CSOL facilities in downtown Charleston was conducted by Walter Spann.

C. Principal Documents, Materials, and Web Pages Reviewed

We received from the Commission a copy of the Application for Initial License, a staff report, comparative data, and communications from individuals who contacted the Commission during a public comment period. During the interviews, the existence of a report from students who visited two of the consortium schools was noted, and it was subsequently procured. That report includes responsive information submitted by the President of InfiLaw Management Solutions. We did not directly interview the students who traveled, and we have not drawn conclusions based upon that report.

Commission staff also provided us with a Comparison of Met Criteria table. The language in that table was used during the interviews with InfiLaw representatives and with Dean Abrams. The information and representations received during the in-person and phone interviews with InfiLaw representatives and Dean Abrams were relied upon in providing responses in this report.

We requested from Infilaw the following documents and materials: a list of all InfiLaw representatives we interviewed by phone; biographies of InfiLaw executives and National Policy Board members; budgets for the law schools' libraries; the numbers of graduates and certain demographic data for each of the consortium schools for 2011, 2012 and 2013; and the PowerPoint presentation prepared for our visit.

The format hereafter is drawn from a template provided by the Commission. We did not review the regulations beyond the text provided.

II. FULFILLMENT OF THE CRITERIA

CRITERION ONE: Academics and Curriculum

The course, program, curriculum, and instruction are of quality, content, and length as may reasonably and adequately achieve the stated objective for which the course, program, curriculum or instruction is offered and in response to documented need. **SC Reg. 62-6(A)**
[Note: For specific program and instructor requirements by degree program, please see **SC Regs. 62-10 through 62-13**.]

1A) An accrediting body recognized by the U.S. Department of Education or the Council for Higher Education Accreditation must accredit out-of-state degree-granting institutions. **SC Reg. 62-6(A)(i)**

1B) The institution publishes and enforces admission requirements consistent with the purposes of the institution. **SC Reg. 62-6(N)**

1C) The institution has developed satisfactory course and program outline(s) including syllabi for each course specifying goals and requirements, course content, methods of evaluation, and bibliography; attendance policy; grading policy including a policy for incomplete grades, rules of operation and conduct; and a policy for handling student complaints in compliance with Regulation 62-27. **SC Reg. 62-6(E)**

1D) Chief Academic Officers (those who choose faculty) must be credentialed at the same level as required for faculty. Site directors are credentialed at the same level as the highest degree conferred at the site. **SC Reg. 62-6(J)**

1E) Each full-time and part-time faculty member must present documentation of academic preparation, such as official transcripts and, if appropriate for demonstrating competency, official documentation of professional and work experience, technical and performance competency, records of publications, certifications, and other qualifications. The institution must keep on file, for each full-time and part-time faculty member, documentation of academic preparation.**SC Reg. 62-6(B); see entire citation.**

1F) Institutions must ensure that each faculty member employed is proficient in oral and written communication in the language in which assigned courses will be taught. **SC Reg. 62-6(B)**

1G) The institution must award the student an appropriate certificate, diploma or degree showing satisfactory completion of the course, program, or degree. **SC Regs. 62-6(F) and 62-6(D)**

1H) Adequate records as prescribed by the Commission are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced. **SC Reg. 62-6(G)**

1I) The institution must have a clearly defined process by which the curriculum is established, reviewed, and evaluated. The institution must provide for appropriate and regular evaluation of the institution and its program and course effectiveness including assessment of student learning, retention, graduation rates, and student, graduate, faculty, and employer satisfaction. The results must be used to ensure and improve quality of instruction. **SC Reg. 62-6.2**

Summary Statement on CRITERION ONE: Academics and Curriculum

It was represented that these criteria are being met by CSOL and will continue to be met under InfiLaw ownership. We believe that these representations were made in good faith. We hereafter provide some observations that may assist the Commission's determination on whether the criteria are being met.

InfiLaw schools are not conducted in the same manner as most law schools. The InfiLaw leadership takes pride in its mode of delivering a "student-outcome centered" legal education that is inclusive. The InfiLaw model emphasizes teaching practical skills, enhancing bar passage abilities and graduating students who are "practice ready." The teaching of practical skills has received an increased emphasis in all law schools in recent years as a result of changes in the American Bar Association (ABA) accreditation standards and the practical reality of fewer opportunities to learn those skills in early employment after law school as fewer jobs are available.

While InfiLaw schools retain faculty who follow the traditional academic route of publication, they also have faculty who are hired solely to teach without a requirement of publication. InfiLaw representatives expressed great pride in having faculty with experience in practicing law as opposed to faculty members who have been judicial clerks before entering the academic community.

InfiLaw organizes what it calls best practice groups to review the efficiency and effectiveness of its teaching and administration. Regular telephonic conferences to discuss best practices and strategies occur among the consortium faculty and administrators. Best practices groups are a technique found in the corporate world and used in private business models.

The consortium schools have clinical programs. CSOL has none at present, so enhanced opportunities for students would be expected under InfiLaw ownership. Clinical programs would benefit the Charleston community and provide additional practical training opportunities for law students.

The consortium schools have impressive investments in technology designed to enhance the skills of its students. We heard of use of real time court reporting, docket and billing systems, and courtroom settings which mimic existing courtrooms. The InfiLaw model emphasizes a technology-driven delivery of instruction to students.

Students are given interim assessments as to their progress. This permits adjustments in teaching strategy and is consistent with a business approach to instruction in contrast to the traditional academic approach which arguably places more responsibility on the student.

The student-to-faculty ratios appear to be comparable among the consortium schools, CSOL and the University of South Carolina Law School ("USC LS"), although the latter two are lower than the consortium schools. It has been asserted that the large enrollments at the consortium weigh against the ability for students and faculty to interact, but the ratios weigh against that.

As to bar examination passage rates, InfiLaw reported that the passage rate for its graduates of the CSOL from July 2009 through February 2013 matched the rate at USC LS and exceeded the pass rate at CSOL by ten percentage points. We could not independently verify the pass rate of the South Carolina bar exam as the Supreme Court of South Carolina does not publish the pass rate for individual schools other than CSOL and USC LS. Nor do we know how the number of applicants from the Charlotte school compares to the number of applicants from the in-state schools. The Commission would need to petition the Court for the data.

Deviations from the traditional delivery of a legal education have not been fully understood nor accepted by a broad spectrum in the legal community. It is unlikely that consortium schools will be ranked even in the top 100 schools as ranked by a national publication, though that ranking system is much criticized itself. There is no apparent concern among the InfiLaw leadership with the lack of ranking of its schools.

It has been asserted by persons opposed to the sale that graduates of consortium schools face greater obstacles in securing employment by virtue of the academic culture in which those students learned. Whether that is a factor is not known to us. Full time placement in 2012 for USC LS graduates was reported as 70%, for CSOL as 54% and for the Charlotte Law School (the consortium school geographically closest to South Carolina employers) as 38% (including 40 students whose employment was at least in part funded by either InfiLaw or the school).

We are aware that the median LSAT scores for consortium schools in the data provided to us ranged from 145 to 146, whereas the median LSAT for CSOL was 151 and the median for the USC LS was 157. The percentage of offers to applicants at USC LS was 50%, at CSOL was 51% and at consortium schools ranged from 74% to 85%. The median GPA of entering students at USC LS was 3.58, at CSOL was 3.43 and at consortium schools ranged from 2.96 to 3.10. Hence, it could be that prospective employers felt more confident that a prospective hire would ultimately succeed by virtue of coming from a school which maintained a stricter threshold for admission. Whether any in-state private law school should in some measure be benchmarked against USC LS, the state's public institution, would be beyond the purview of this report.

We also do not know whether the Commission interprets the regulation which requires a "program . . . in response to documented need" in a manner which takes into account the need for a second law school in the state. We decline to opine as to that need. We take note, however, of (1) a continued depressed environment for initial employment of graduates, (2) continuing advancements in technology which likely will replace part of the market demand for lawyers (including technologies available now such as contract drafting through a smart phone app and settling disputes through a web site) and (3) the inauguration of limited licensure of persons other than lawyers (e.g., Limited License Legal Technicians in Washington) and equivalent expanded authorization of persons to perform what has heretofore been considered the practice of law.

CRITERION TWO: Facilities

There is in the institution adequate space, equipment, instructional material, and appropriately qualified instructional personnel to provide training and education of good quality. **SC Reg. 62-6(B)**

2A) The institution complies with all local, county, and state regulations, such as fire, building, and sanitation codes. **SC Reg. 62-6(H)**

2B) The institution must have adequate security measures to protect and back up [its] data. **SC Reg. 62-20**

2C) The institution must have policies concerning retention and disposal of records and information-release policies which respect the rights of individual privacy, the confidentiality of records, and the best interests of the student and institution. **SC Reg. 62-20 (A-D) for a listing of components.**

2D) Programs offered by distance education must meet the licensing requirements of the Nonpublic Postsecondary Institution License Act. **SC Reg. 62-6.1**

2E) The institution owns or makes available sufficient learning resources or, through formal agreements with institutional or other (where adequate) libraries to which students have access, ensures the provision of and access to adequate learning resources and services required to support the courses, programs and degrees offered. **SC Reg. 62-6(C); see complete citation for stipulations regarding formal agreement and SC Reg. 62-14 for library requirements.**

2F) Any student living quarters owned, maintained, or approved by the institution are appropriate, safe and adequate. **SC Reg. 62-6(Q)**

Summary Statement on CRITERION TWO: Facilities

It was represented that these criteria are being met by CSOL and will continue to be met under InfiLaw ownership, with the exception that 2F is inapplicable. CSOL does not currently have student living quarters and we are unaware of plans by Infilaw to have them. We believe that these representations were made in good faith. We hereafter provide some observations that may assist the Commission's determination on whether the criteria are being met.

CSOL does not offer distance education. It is anticipated that InfiLaw would enhance the ability of CSOL to engage in distance education and the LLM program would be expanded to increase its revenue potential. There would be some limited ability to expand curricula across the consortium schools. There may, however, be a diminished ability to develop practical skills in distance education and limitations in place under the ABA accreditation standards.

The present use of eight buildings by CSOL for its education, administration and programs does not appear to be ideal. The building locations, all in historic Charleston, are ideally situated for access to downtown law offices, businesses and courts; however, the separation of school functions in the different locations appears to present logistical challenges to students and faculty. InfiLaw responded that it was looking at options, but no ideal scenario was presented. The three consortium schools have consolidated operations in attractive facilities in their respective locations. Arizona Summit has 197,000 square feet, Charlotte has 247,000 square feet (plus a small clinic office) and Florida Coastal has 220,000 square feet. As reported by the Commission, CSOL has 103,000 square feet. To accomplish the same effect may require relocation of CSOL from downtown Charleston, although it must be noted that the consortium schools have considerably larger student populations. InfiLaw representatives did not indicate specific enrollment projections for a Charleston location.

Security and business continuity plans are in place in the consortium schools. Those issues would likely be enhanced in CSOL by the sale based on representations by InfiLaw representatives of the security and business continuity plans in place at the other locations.

Concerns were also noted on the present leases used by CSOL. We did not explore the terms of those leases.

If state regulations authorize, it is recommended that InfiLaw provide additional information on its plans to either use current facilities or build a new facility. This information should include details, such as space requirements, square footage and renovation and lease costs, if applicable, to ensure that classrooms, administrative offices and service areas are adequate for the educational programs and the anticipated number of faculty and students.

CRITERION THREE: Finances

The institution is financially sound and can fulfill its commitments for education or training. **SC Reg. 62-6(I)**

3A) The institution does not owe a penalty under Chapter 58 of Title 59, South Carolina Code of Laws, 1976. **SC Reg. 62-6(O)**

3B) Before an institution is licensed, surety bond – or other acceptable means of collateral - must be provided by the institution, the obligation of which will be that the institution, its officers, agents, and employees will faithfully perform the terms and condition of contracts for tuition and other instructional fees entered into between the institution and persons enrolling as students. **SC Reg. 62-7; see complete citation for terms governing bond requirement, including SC Reg. 62-7(F), which outlines alternative to surety bond.**

3C) The institution shall maintain adequate financial records and exercise proper management, financial controls, and business practices. **SC Reg. 62-8(A)**

3D) Adequate insurance shall be carried to protect the institutions financial interests. The amount of insurance shall be sufficient to maintain the solvency of the institution in case of

loss by fire or other causes, to protect the institution in instances of personal and public liability, and to assure continuity of the operation of the institution. **SC Reg. 62-8(D)**

3E) Degree-granting institutions shall maintain a sound plan for long-range financial development. **SC Reg. 62-8(E)**

3F) Degree-granting institution's business and financial management shall be centralized under a qualified and bonded business offer responsible to the chief executive officer and charged with the supervision of the budget. **SC Reg. 62-8(F)**

3G) The institution must have a schedule of tuition, fees, other charges and refund policy. **SC Reg. 62-8(E); see also SC Reg. 62-17 for a complete description of tuition policy requirements and SC Reg. 62-18 for cancellation and refund policy guidelines.**

Summary Statement on CRITERION THREE: Finances

It was represented that these criteria are being met by CSOL and will continue to be met under InfiLaw ownership. We believe that these representations were made in good faith. We hereafter provide some observations that may assist the Commission's determination on whether the criteria are being met.

The records and financial controls systems would be expected to be improved through Infilaw by virtue of systems presently in use in the consortium schools.

The insurance coverages and bonds carried by InfiLaw appear adequate.

A question was raised as to the financial soundness of CSOL at present. We have no concerns about the financial assets available through InfiLaw.

Neither did we see a long term financial plan either for CSOL or for CSOL as operated by InfiLaw. It was reported to us that the individual consortium schools have one year plans and that InfiLaw has a two to three year plan. None of those was reviewed by us.

If state regulations authorize, it is recommended that a financial plan be submitted by InfiLaw that would set forth current and anticipated financial resources and would include a budget for the institution's operation for a time period determined by the Commission.

CRITERION FOUR: Reputation and Character

The institution's owners and directors are appropriately experienced and educated and are of good reputation and character. **SC Reg. 62-6(J); see SC Reg. 62-6(J)(1-6) for specific definition of "good reputation."**

4A) Site directors should be credentialed at the same level as the highest degree conferred at the site. **SC Reg. 62-6(J)**

4B) All administrative officers must possess credentials, experience and/or demonstrated competence appropriate to their areas of responsibility. **SC Reg. 62-6(J)**

4C) The effectiveness of all administrators must be evaluated periodically. **SC Reg. 62-6(J)**

4D) The institution has, maintains, and publishes in its catalog, bulletin, or brochure and in its enrollment contract the proper refund policy that complies with Regulation 62-18. **SC Reg. 62-6(K); SC Reg. 62-18; and SC Reg. 62-16 for requirements relating to information at a minimum that must be included in the institution's catalog, bulletin or brochure.**

4E) The institution does not use erroneous or misleading advertising by actual statement, omission, or intimation; it provides students, prospective students and other interested persons a catalog, bulletin or brochure containing the minimum items as identified in CHE Regulation 62-16. **SC Reg. 62-6(L) and SC Reg. 62-6(P)**

4F) The institution does not use a name that is misleading, the same as or similar to that of an existing institution. **SC Reg. 62-6(M)**

Summary Statement on CRITERION FOUR: Reputation and Character

It was represented that these criteria are being met by CSOL and will continue to be met under InfiLaw ownership. We believe that these representations were made in good faith. We hereafter provide some observations that may assist the Commission's determination on whether the criteria are being met.

InfiLaw lists among its directors several nationally prominent lawyers. We note, however, that there is no assurance that the present leadership of InfiLaw will remain for an extended period, as there is always the possibility of the assets being sold to another private entity which may put in place new leadership and goals.

We are aware of two pending law suits but do not believe either action has progressed to the point of raising a concern. InfiLaw is a business and as such is expected to respond to litigation.

Concerns have been raised about the volume of students in the consortium schools. In the data received, enrollment at Arizona Summit was 1,092, at Charlotte was 1,392 and at Florida Coastal was 1,594. By contrast, the enrollment at CSOL was 621 and at USC LS was 665. The inference is that profit motive dominates the enrollment consideration of the schools. That inference is supported by the percentage of graduates. Again from the data received from the Commission staff, the percentage of graduates to total enrollment at Arizona Summit was 17%, at Charlotte was 17%, and at Florida Coastal was 32%. By contrast, the percentage at CSOL was 37% and at USC LS was 34%. One would expect in a three year program, after night students are fully incorporated, that the percentage would be close to 33%. The percentage would be affected by transfers out of a school to another school, and the consortium schools have a greater volume of transfers out. The bulk of the difference is due to attrition, not transfers.

InfiLaw explained its philosophy of supporting increased diversity in the legal profession, which may thereby lead to a larger pool of potential graduates. The data supplied by InfiLaw demonstrates the high degree of diversity in its schools, and that data equally demonstrates a much greater diversity than is present at USC LS or in the South Carolina Bar. That data is attached. We note that the data shows a marked decrease in racial diversity between the 1L and 2L classes and again between the 2L and 3L classes. It is not within the purview of this report to weigh the merits of InfiLaw's approach to increased diversity against the collective costs to students who are impacted by the higher attrition at the consortium schools.

Concerns were also expressed about the expectation that the business model supported by InfiLaw would require an increase in enrollment. As previously noted, the present facilities would not support a substantial increase. The expected enrollment was not presented to us, but the point was made that decreasing the enrollment further would lead to financial losses.

We asked whether a business plan had been developed, anticipating that it would show expected enrollment and capital expenditures. We were advised that such a plan had not been developed. Perhaps we failed to ask the appropriate questions, as it seems inconsistent to make a business decision to purchase an ongoing concern without developing a business projection on that concern.

We were advised that it is the intention of InfiLaw to maintain the culture of the CSOL. The three consortium schools are purported to define their own "brands," and the same was expected for the CSOL. There was acknowledgment by the InfiLaw representatives that there is a disconnect at present with many in the Charleston legal community. Note also that a reason given for interest in acquiring the CSOL was that InfiLaw had been consulted at the inception of the CSOL and continues to have an interest in the success of the school.

The relationship between student loan debt and starting salaries has not been explored as it may not be an issue which the Commission takes into account. No regulations were cited by the Commission staff to us for review of the relationship.

If state regulations authorize, it is recommended that InfiLaw submit a business plan that would set forth current and anticipated financial resources and would include a budget for the institution's operation for a time period determined by the Commission.

III. CONCLUSION

In summary, it is not our intention to suggest a definitive conclusion regarding whether the licensure criteria contained in South Carolina statutes and regulations has been met in the application for initial license and change of ownership filed by InfiLaw Corporation. That determination is best left to the expertise of the Commission whose members and staff are familiar with the interpretation of state law and regulations applying to postsecondary school licensure. This report contains the findings and observations of the two individuals who served on the external review team and includes representations made by InfiLaw representatives and the CSOL dean that licensure criteria were being met and would continue to be met under InfiLaw ownership of the school.

IV. ATTACHMENTS

Attachment A: Persons Interviewed

Attachment B: Diversity in Consortium Schools (InfiLaw Grads and Demographic Info)

Attachment C: PowerPoint slide presentation

ATTACHMENT A

In Person:

Rick Inatome, InfiLaw CEO

Peter Goplerud, InfiLaw Management Solutions President

Jay Rossello, InfiLaw General Counsel

Kevin Hall, InfiLaw Outside Counsel (Womble Carlyle)

Walker Spann, Charleston School of Law Facilities (led the tour of the law school)

Via Conference Call:

Don Lively, Charlotte School of Law President

Jay Conison, Charlotte School of Law Dean

Scott Thompson, Arizona Summit Law School President

Shirley Mays, Arizona Summit Law School Dean

Dennis Stone, Florida Coastal School of Law President

Ken Randall, InfiLaw Ventures President

Ted Blankenship, InfiLaw CFO

Terry Dirr, InfiLaw VP of Technology and Administrative Services

Kathy Heldman, InfiLaw VP of Marketing

Dan Freehling, InfiLaw Director of Special Projects

Larry Pronovost, InfiLaw Director of Facilities

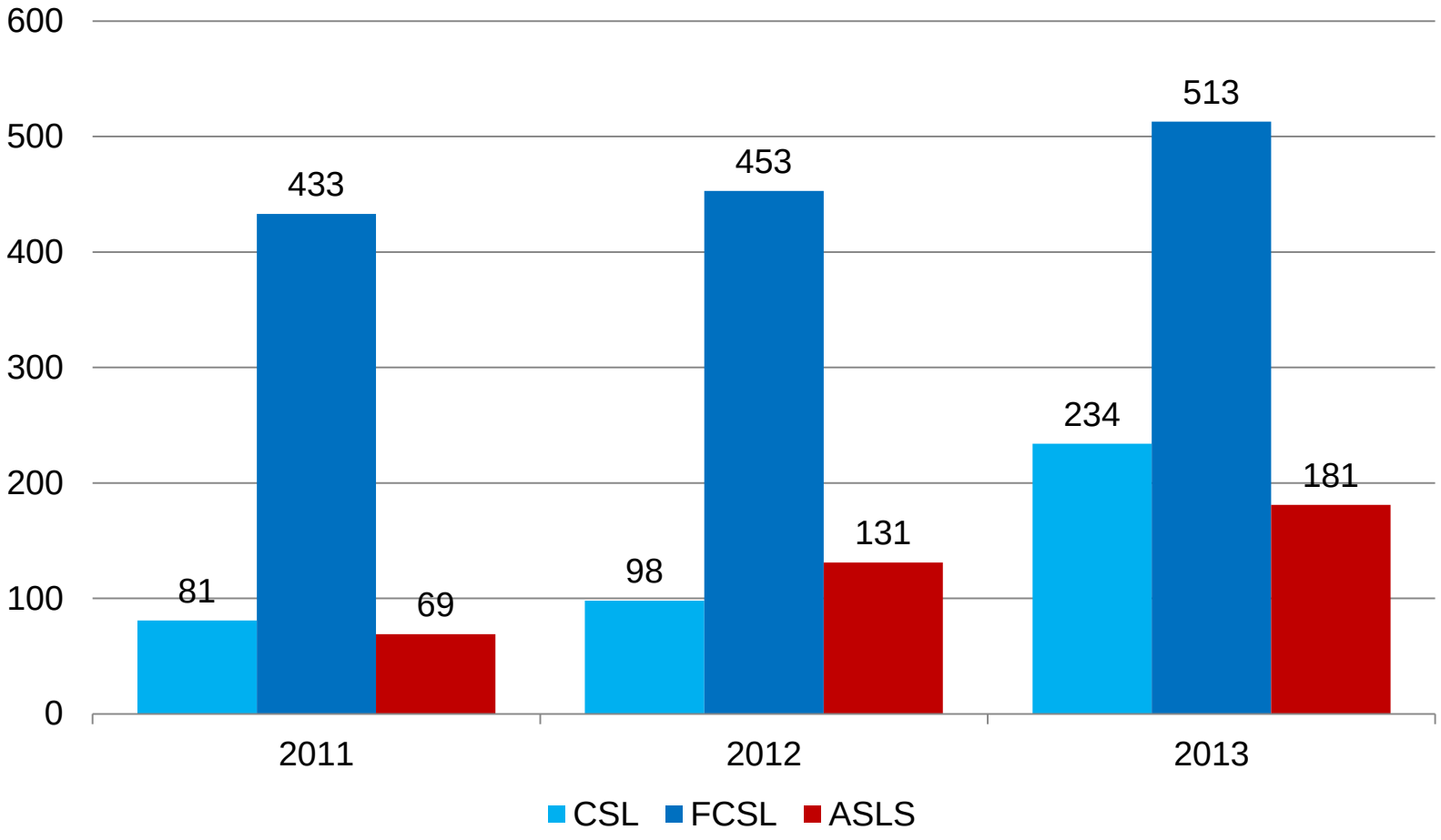
ATTACHMENT B

The InfiLaw System

InfiLaw Grads & Demographic Info

Graduates

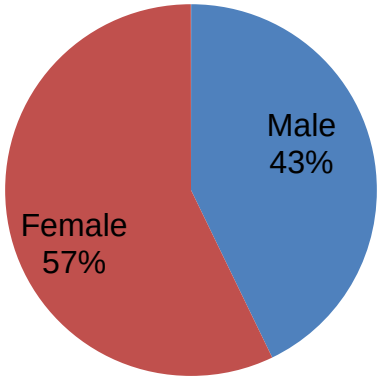
JD Degrees Awarded – InfiLaw Combined



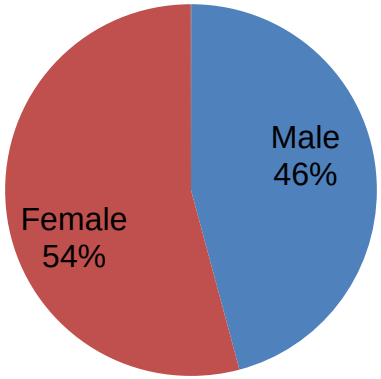
Gender

InfiLaw Combined

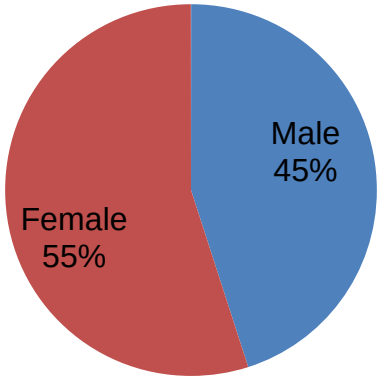
Gender – 1L



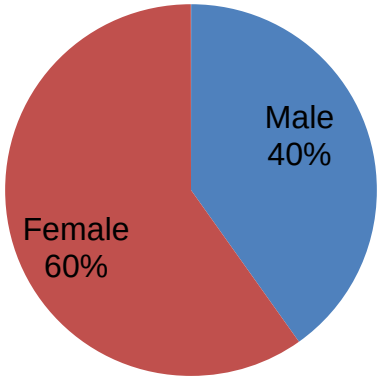
Gender – 2L



Gender – 3L

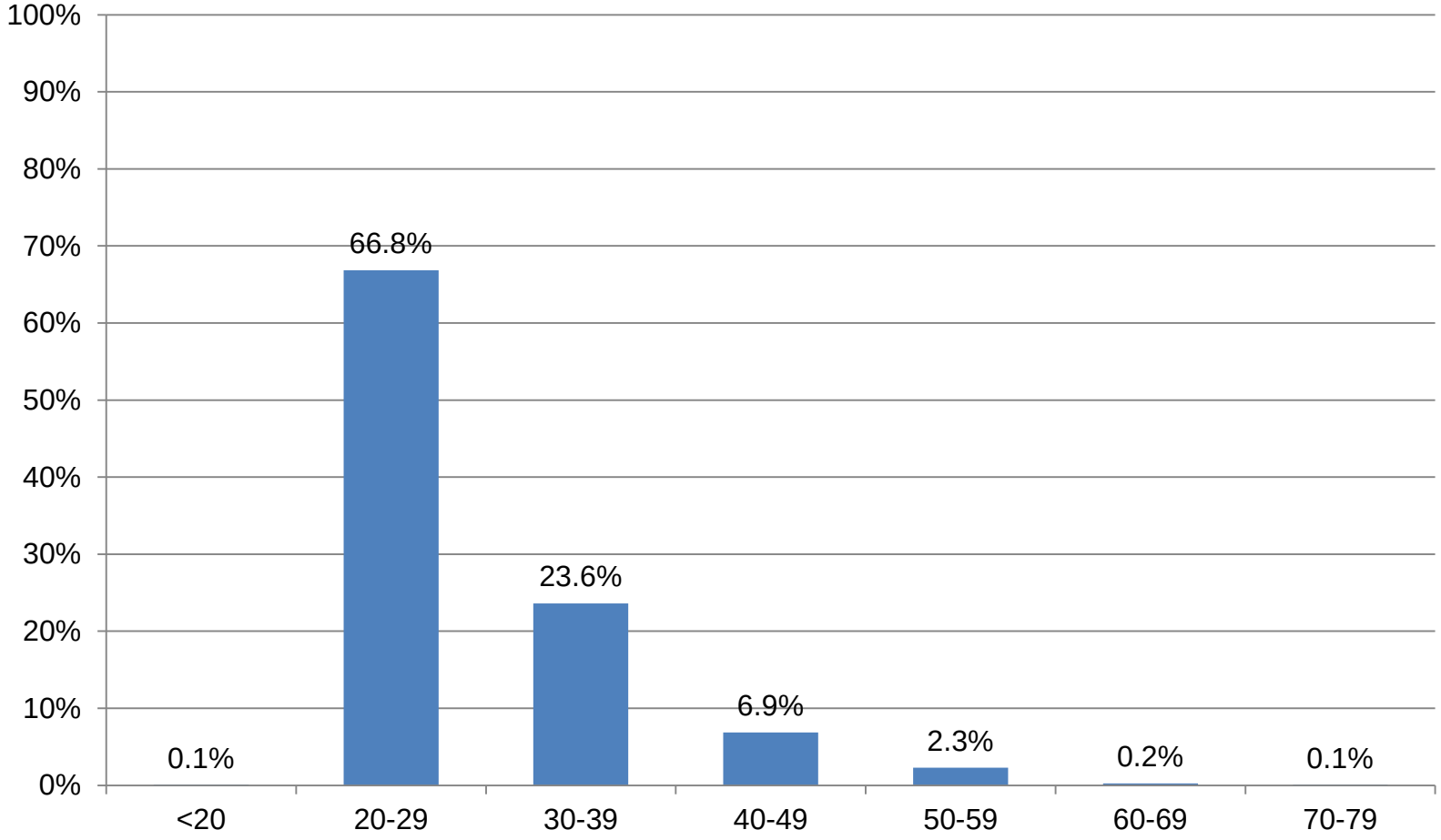


Gender – Part-Time



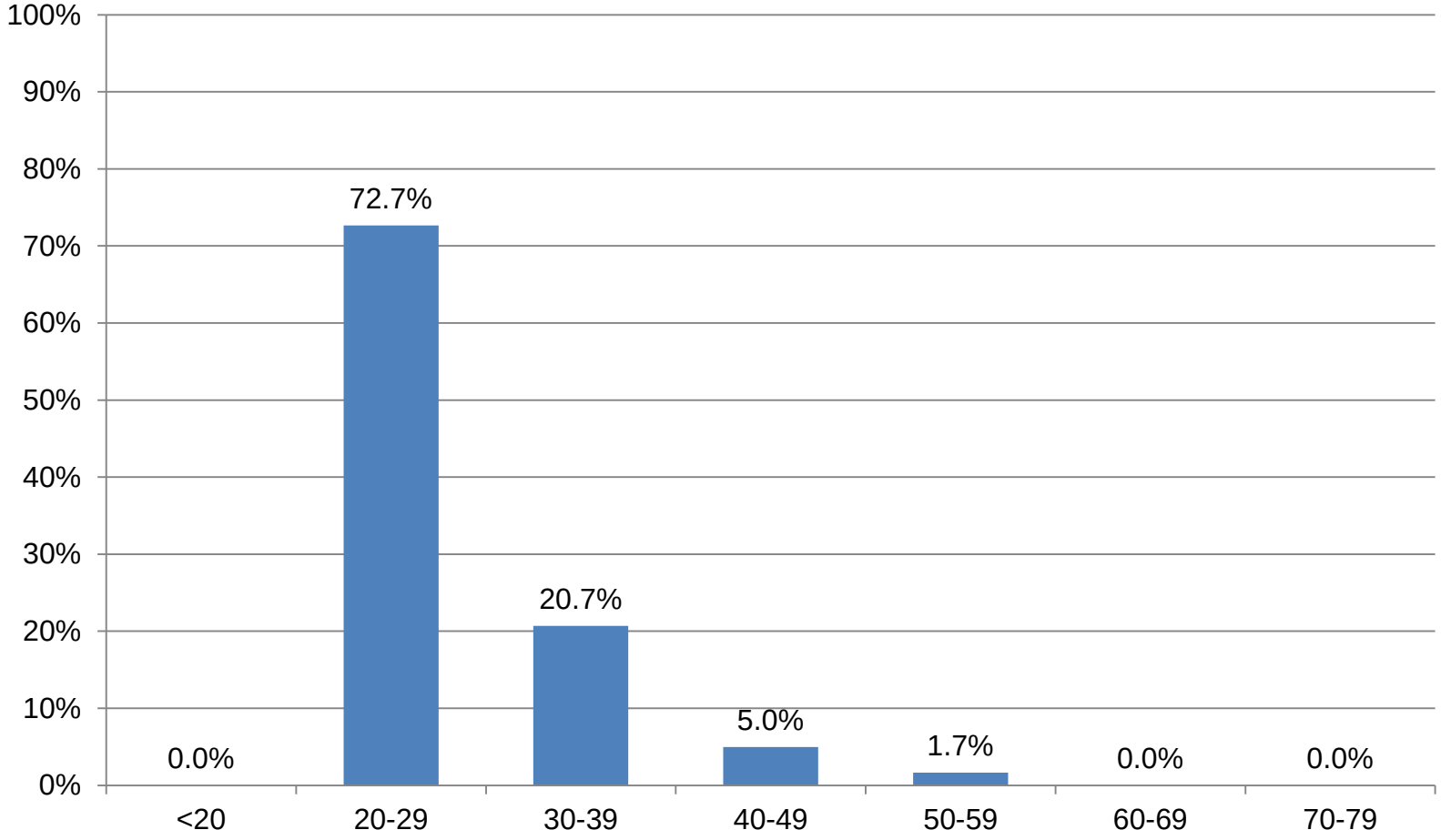
Age

1L – InfiLaw Combined



Age

2L – InfiLaw Combined



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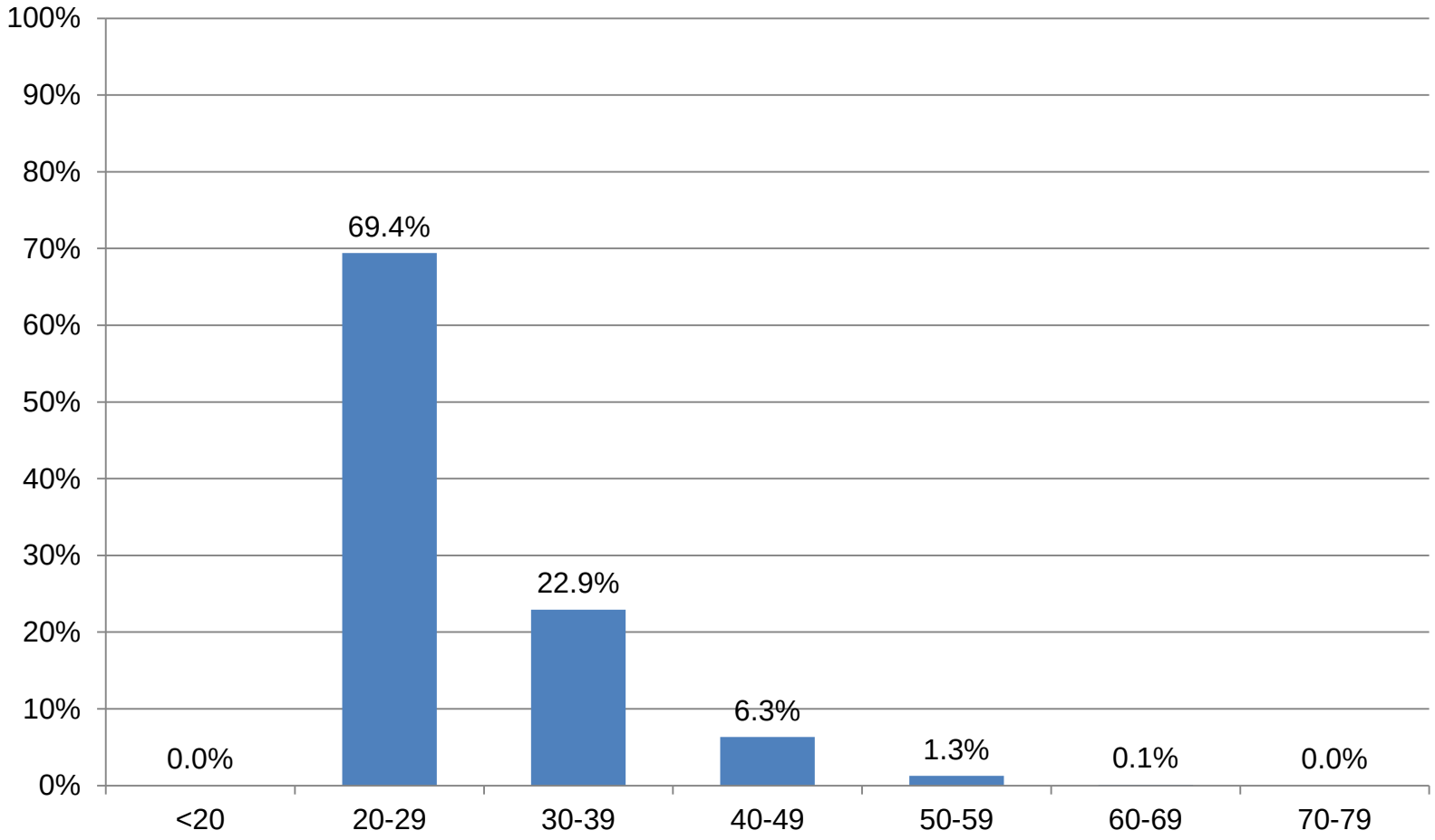
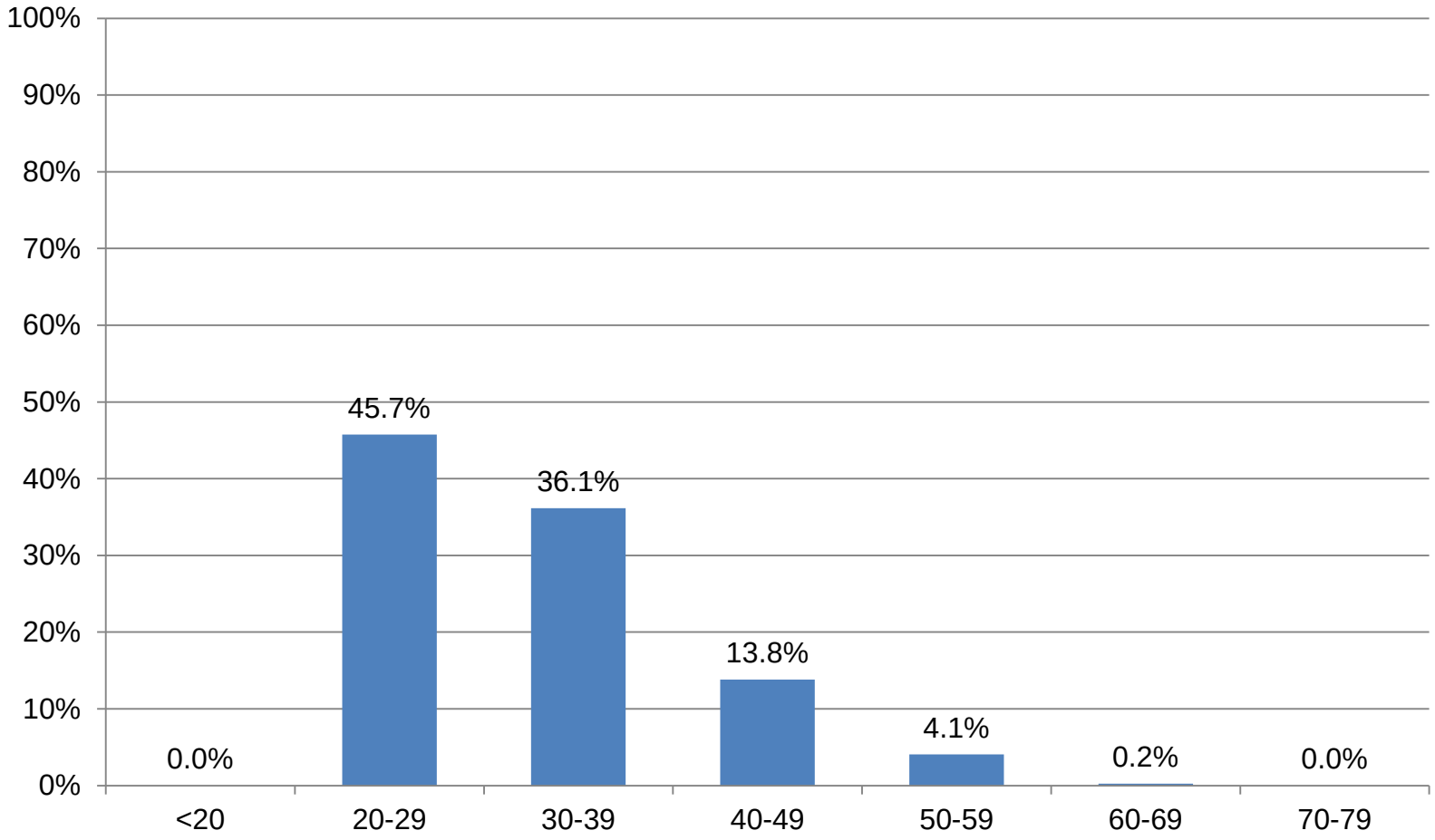
3L – InfiLaw Combined



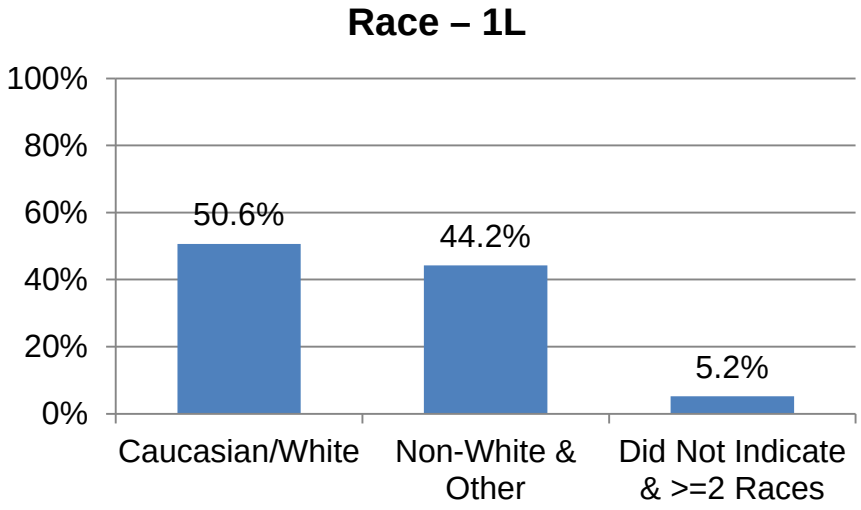
Age

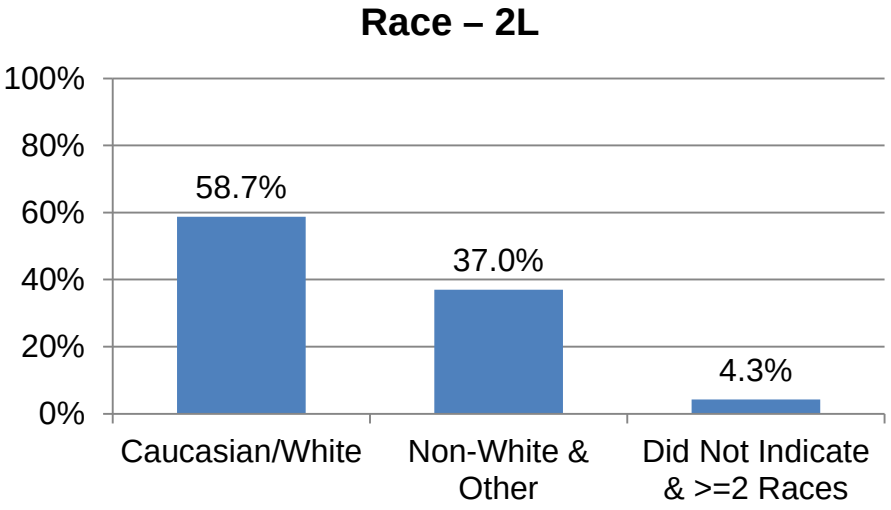
Part-Time – InfiLaw Combined

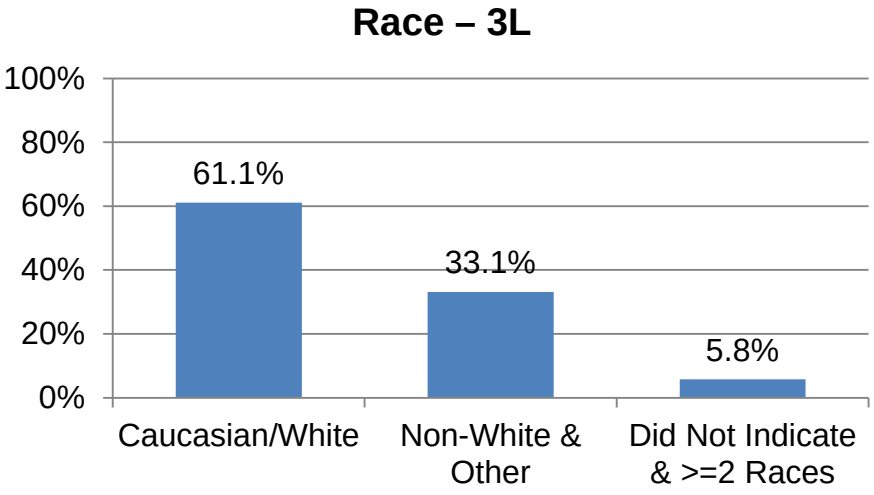


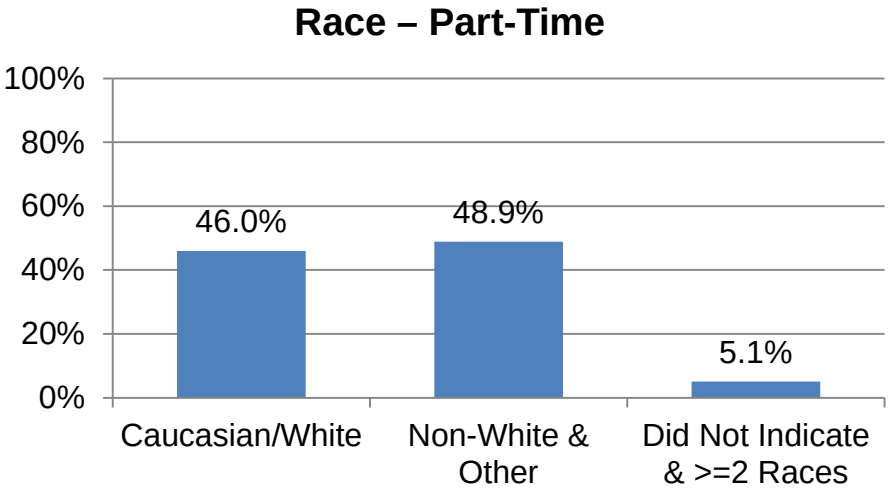
Race

White vs. Non-White – InfiLaw Combined



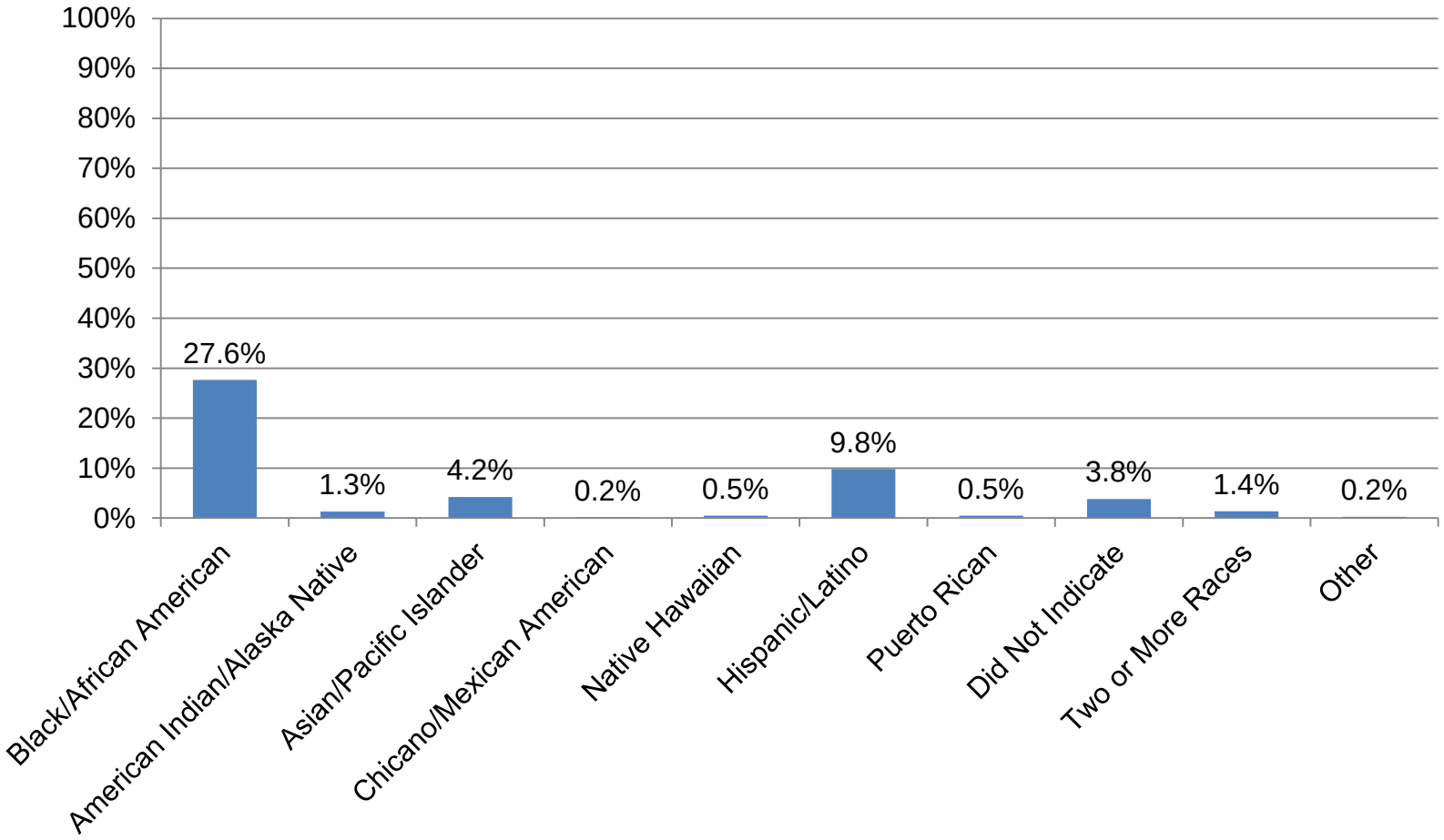






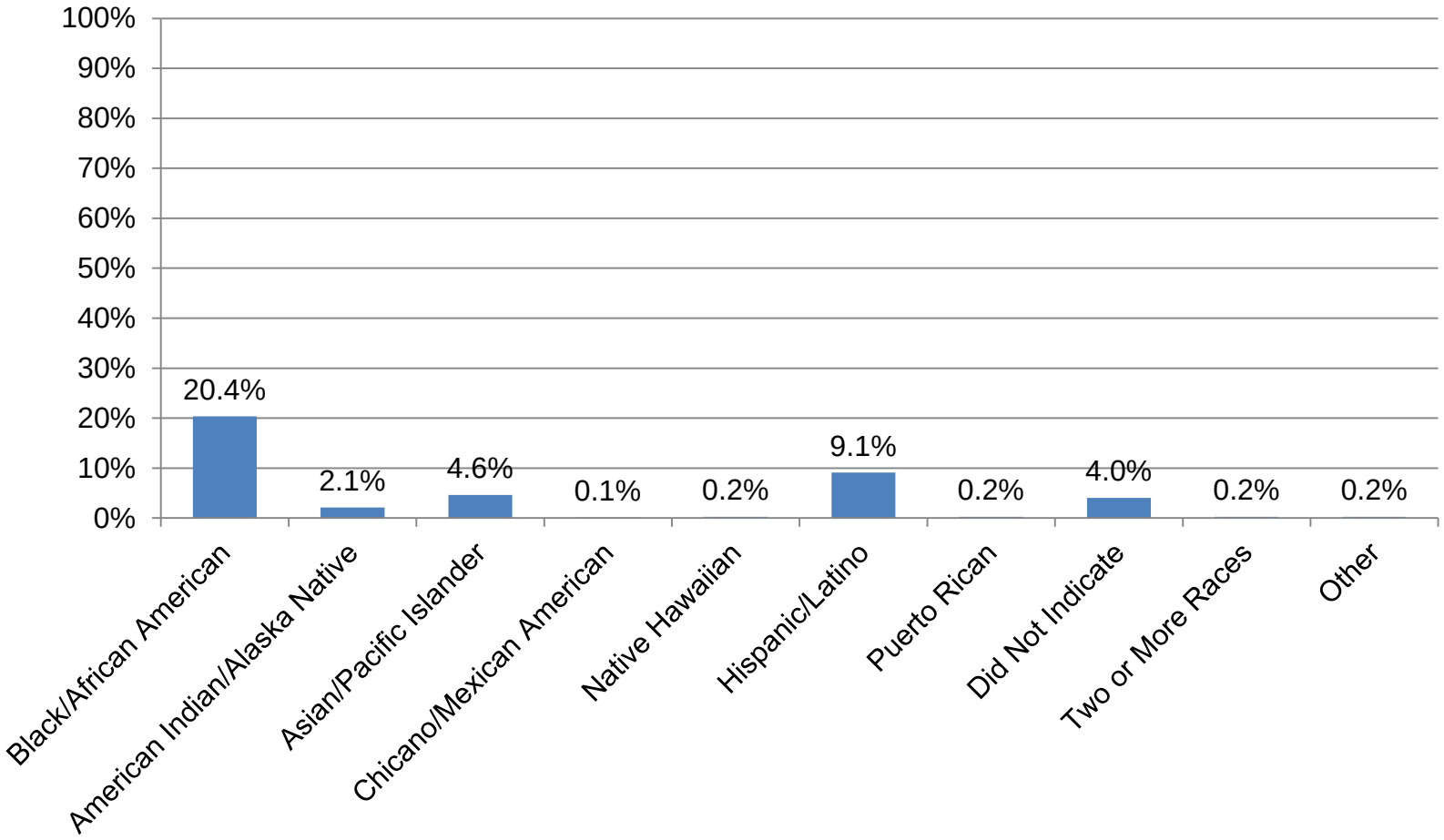
Race

1L Minority Data – InfiLaw Combined



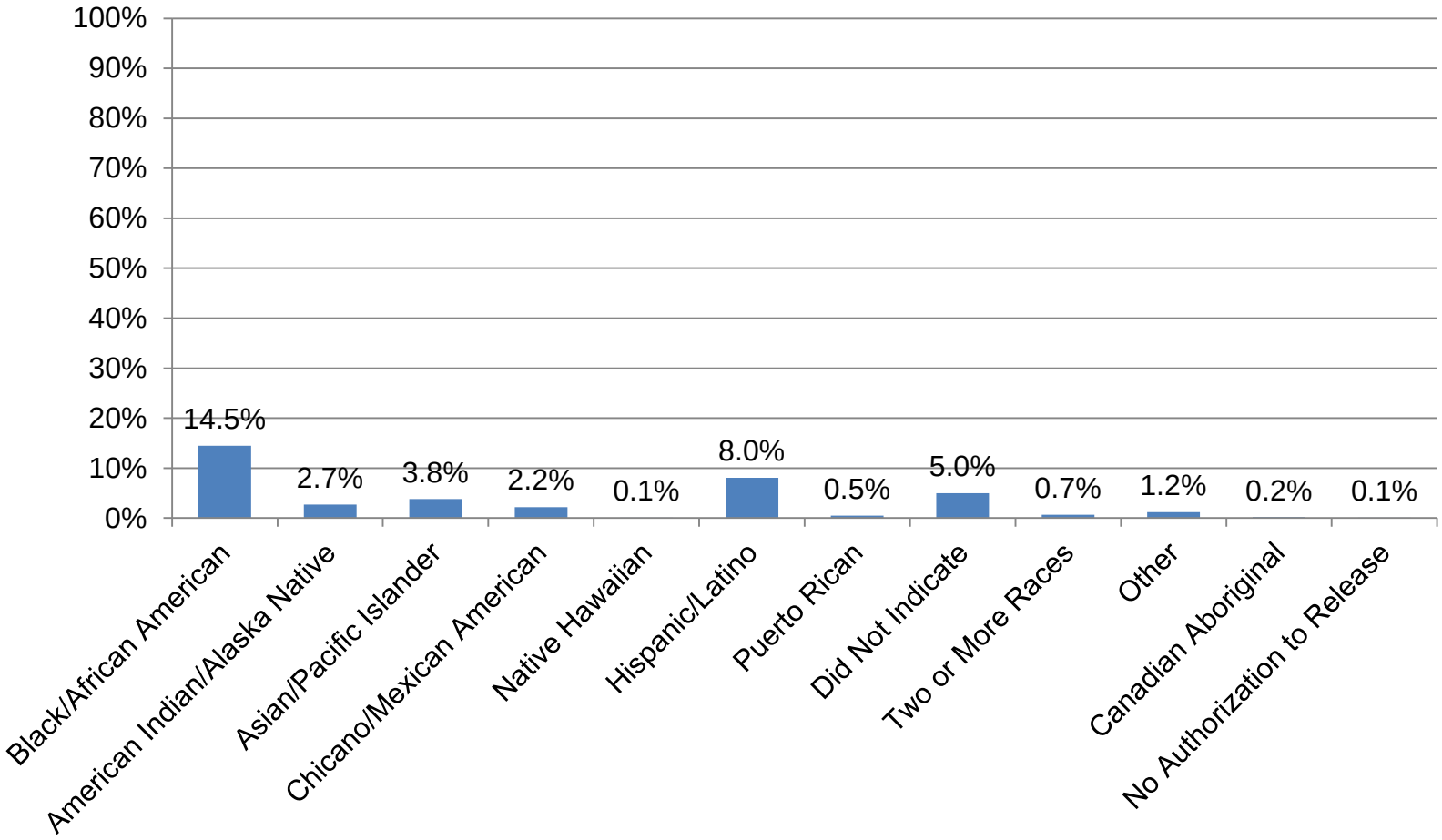
Race

2L Minority Data – InfiLaw Combined



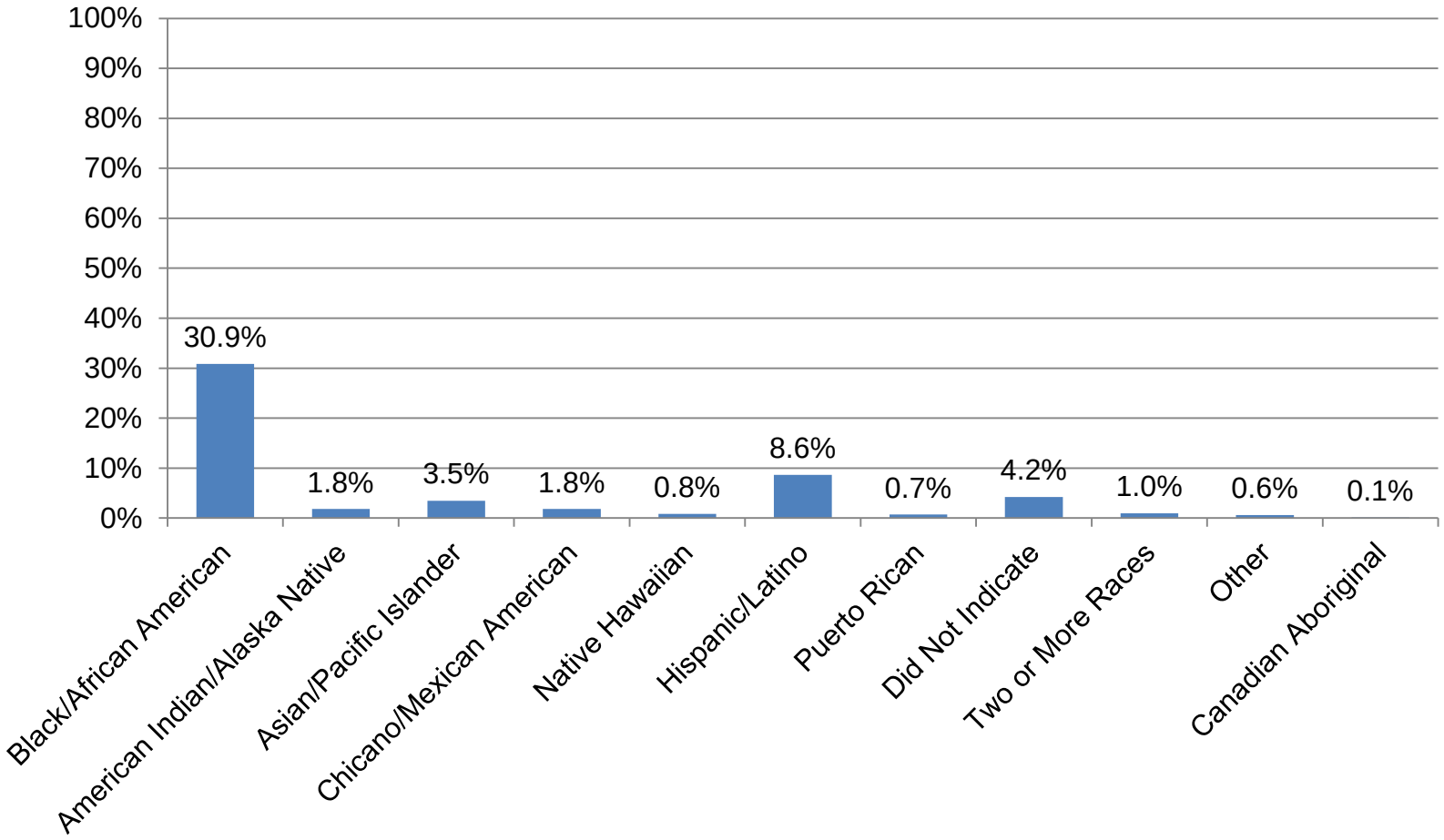
Race

3L Minority Data – InfiLaw Combined



Race

Part-Time Minority Data – InfiLaw Combined



ATTACHMENT C

The InfiLaw System

Presentation to:

February 2014

Agenda

- Site Review Team – SC CHE
  - Team Introductions
  - Meeting Objective
- InfiLaw
  - Team Introductions
  - Meeting Objective
- Presentation
  - About InfiLaw
  - FCSL Case Study
  - Vision for CSOL
  - Deal with Industry Challenges
  - The CSOL Decision
  - Appendix
- CSOL Site Inspection

Introductions

Team Introduction

The InfiLaw System

Rick Inatome - CEO

- Managing Director, Sterling Partners
- Entrepreneur of the Year, Harvard Business Club
- BA, Michigan State University

Peter Goplerud – Mng. Dir.

- Dean of Florida Coastal School of Law
- Dean of Drake University Law School, University of Oklahoma and Southern Illinois University School of Law
- BA and JD, University of Kansas

Ken Randall - Provost

- Dean of Alabama Law School
- ABA – Chair of Technology
- JSD, Columbia; Executive Ed at Harvard and Columbia Business School

Ted Blankenship - CFO

- CFO of Avocent Corp.
- Partner of PwC
- BA, Auburn University; AMP, Harvard Business School

Jay Rossello – GC

- Director of Legal Affairs, NCAA
- BA, Yale University; MBA, Suffolk University; JD, Georgetown University

About InfiLaw

The InfiLaw System

A Consortium of Independent ABA-Accredited Law Schools

FLORIDA COASTAL SCHOOL OF LAW

CHARLOTTE SCHOOL OF LAW
CHARLOTTE, NC

ARIZONA SUMMIT LAW SCHOOL

A Consortium of Distinguished Law Schools

The InfiLaw System

- InfiLaw is a consortium of independent law schools dedicated to training tomorrow's professionals for excellence within the 21st century legal academy.

Florida Coastal School of Law

Top 5
in
Moot Court
Competitions
Nationwide

Arizona Summit Law School

Top 20
in
Innovation
All ABA Law
Schools
Nationwide

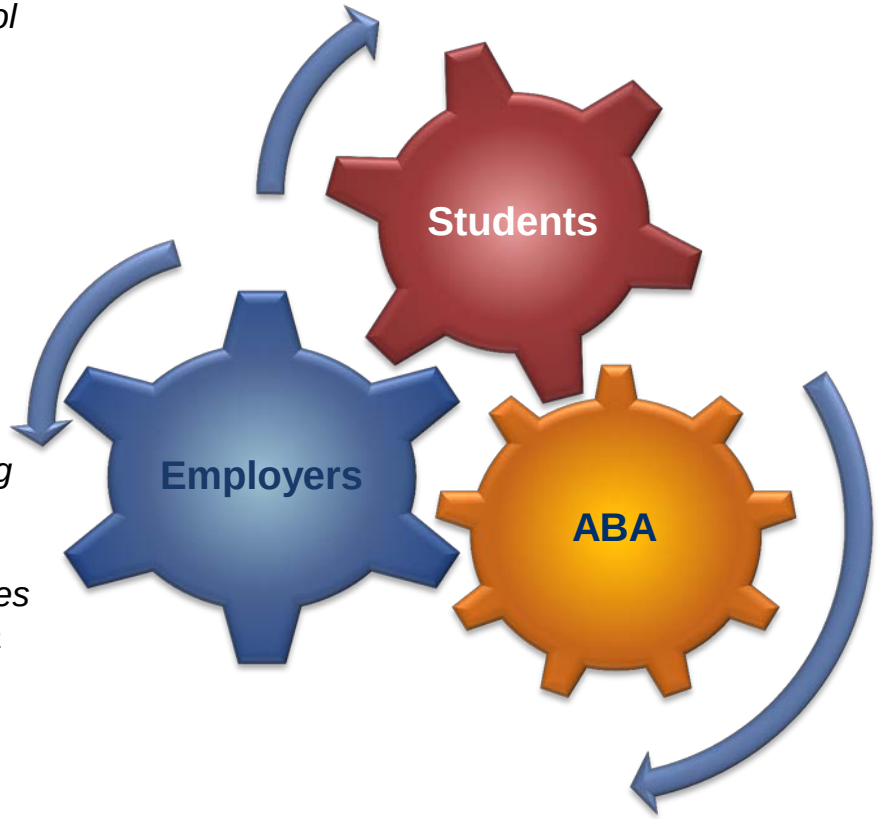
Charlotte School of Law

Top 20
in
Diversity
ABA Law
Schools
Nationwide

Strong Value Proposition to Entire Legal Academy

The InfiLaw System

- *Achievement of strong student outcomes with bar pass and career placement rates frequently above competitive peers and consistently above ABA standards, despite admission policies that accommodate many of the nearly 30% of applicants that do not get into any other law school*



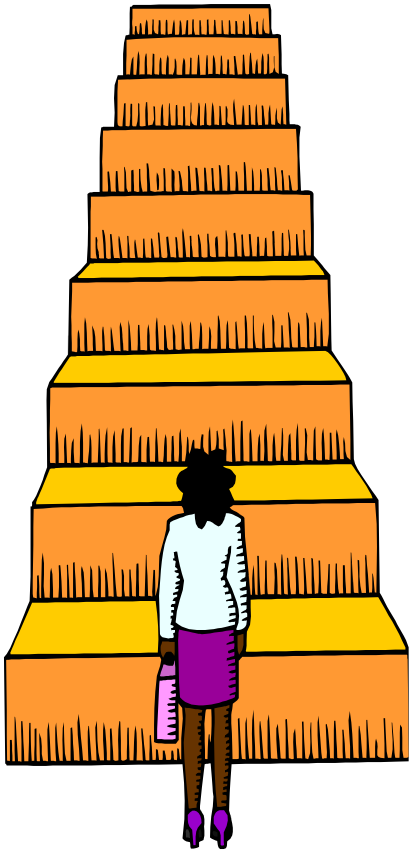
- *Career-oriented teaching approach embodies the "Practice Readiness" mission pillar and ensures that graduates receive a practical legal education and the necessary skills to succeed after graduation*
- *Through a commitment to programs that encourage the success of a broader range of students, InfiLaw has helped promote a greater level of diversity within the legal community*

The InfiLaw Model

** Jim Collins "Good to Great"*

Academic Quality Process Standards

- Focuses on the student perspective
- Embodies a standard of continuous improvement
- Tracks individual responsibility for an outcome
- Monitors overall objectives
- Supported by appropriate levels of automation
- Precursor measures are the prelude to a “perfect” metric
- Outcomes consistently exceed standards of comparable processes



10% of InfiLaw employees green or black-belt certified in Six Sigma

National Policy Board

Dennis Archer
Chairman of the Board

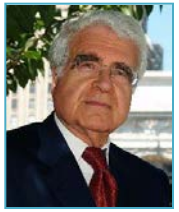
Rudy Hasl

Charles E. “Bud” Jones

Robert K. Walsh

Horst Schulze
Vice Chairman

Arthur R. Miller



Martha Walters Barnett

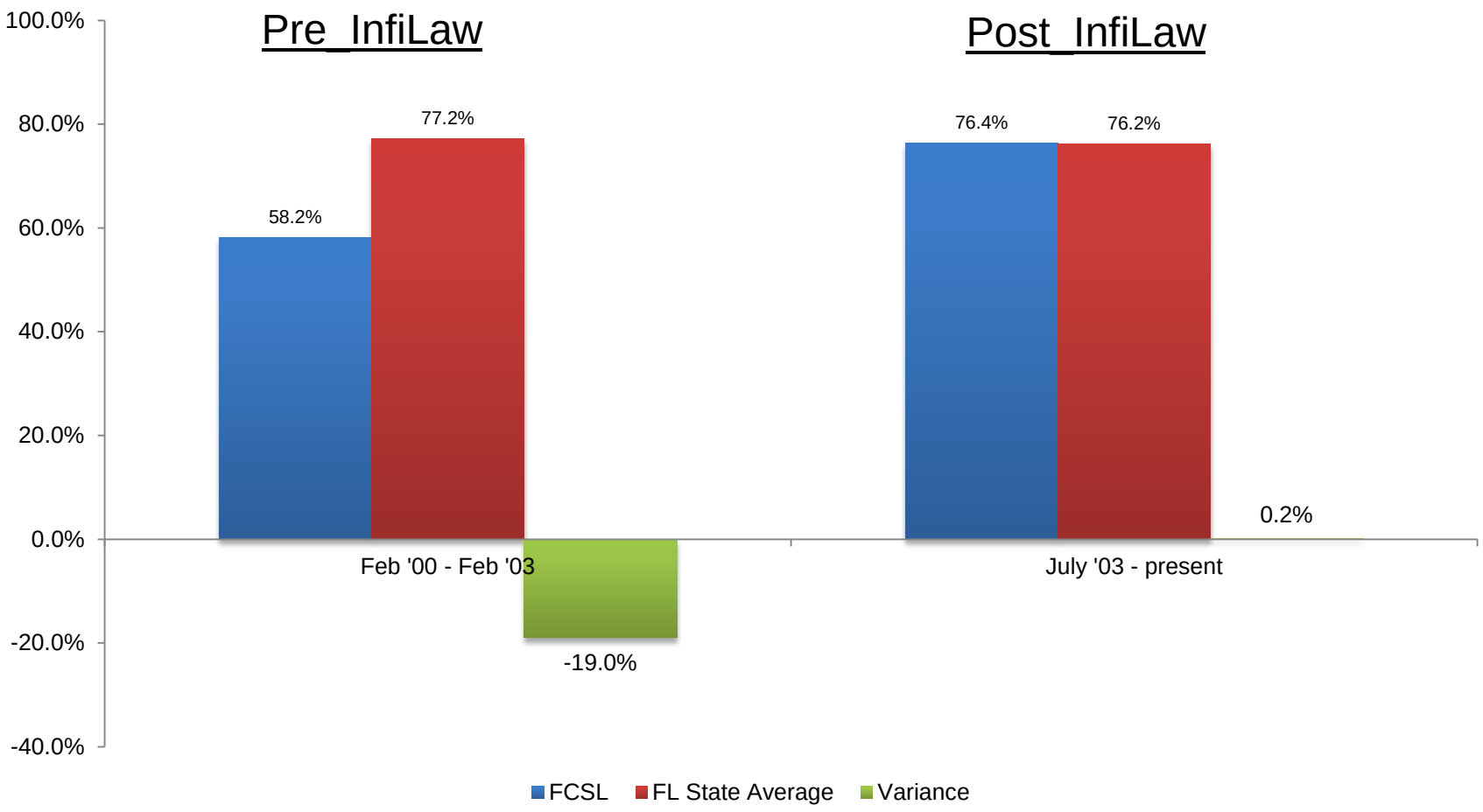
Richard T. White

FCSL Case Study

InfiLaw has Increased the Bar Pass Rates at FCSL Since 2003

Appendix B

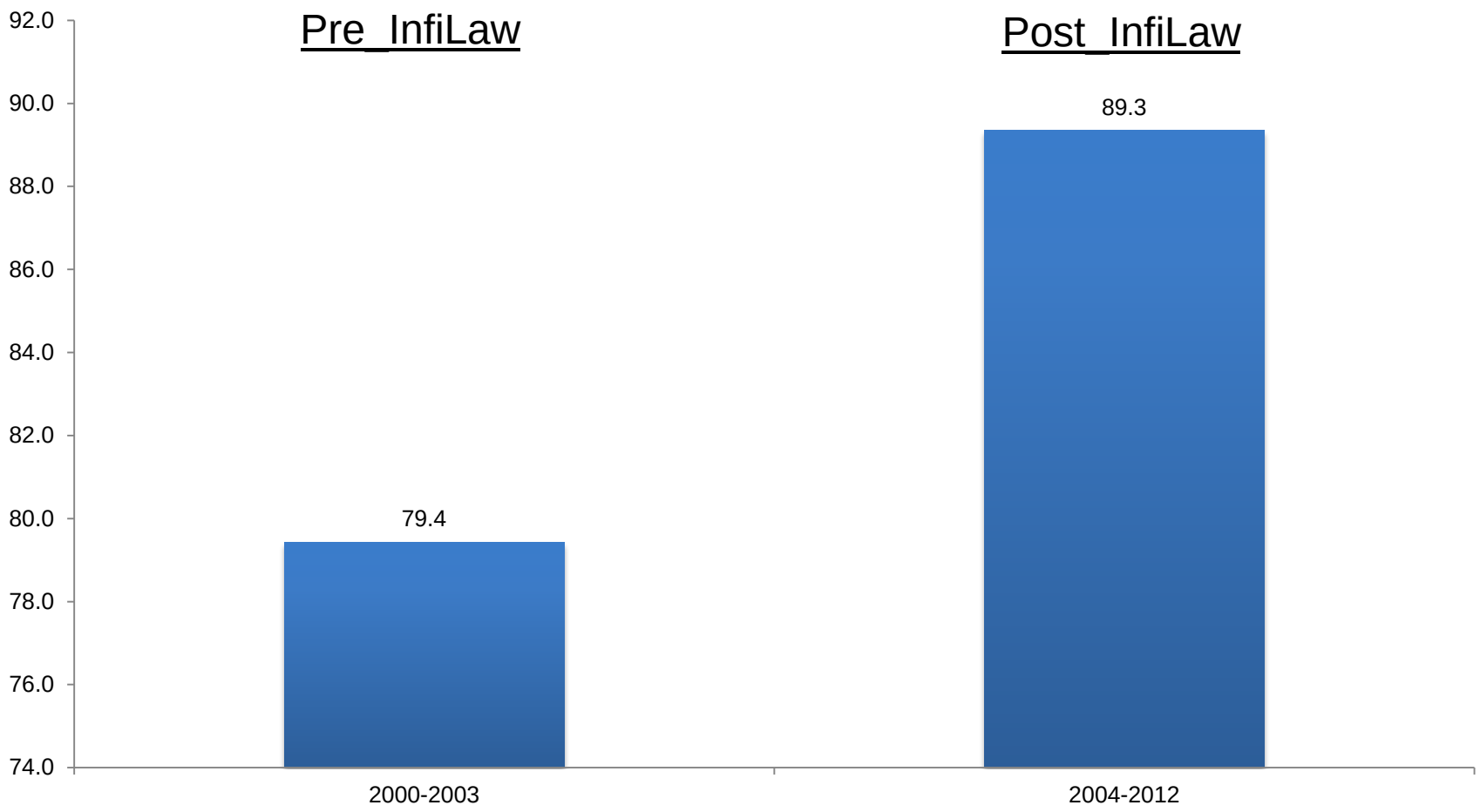
The InfiLaw System



Average NALP Placement Rates Have Also Increased

Appendix B

The InfiLaw System



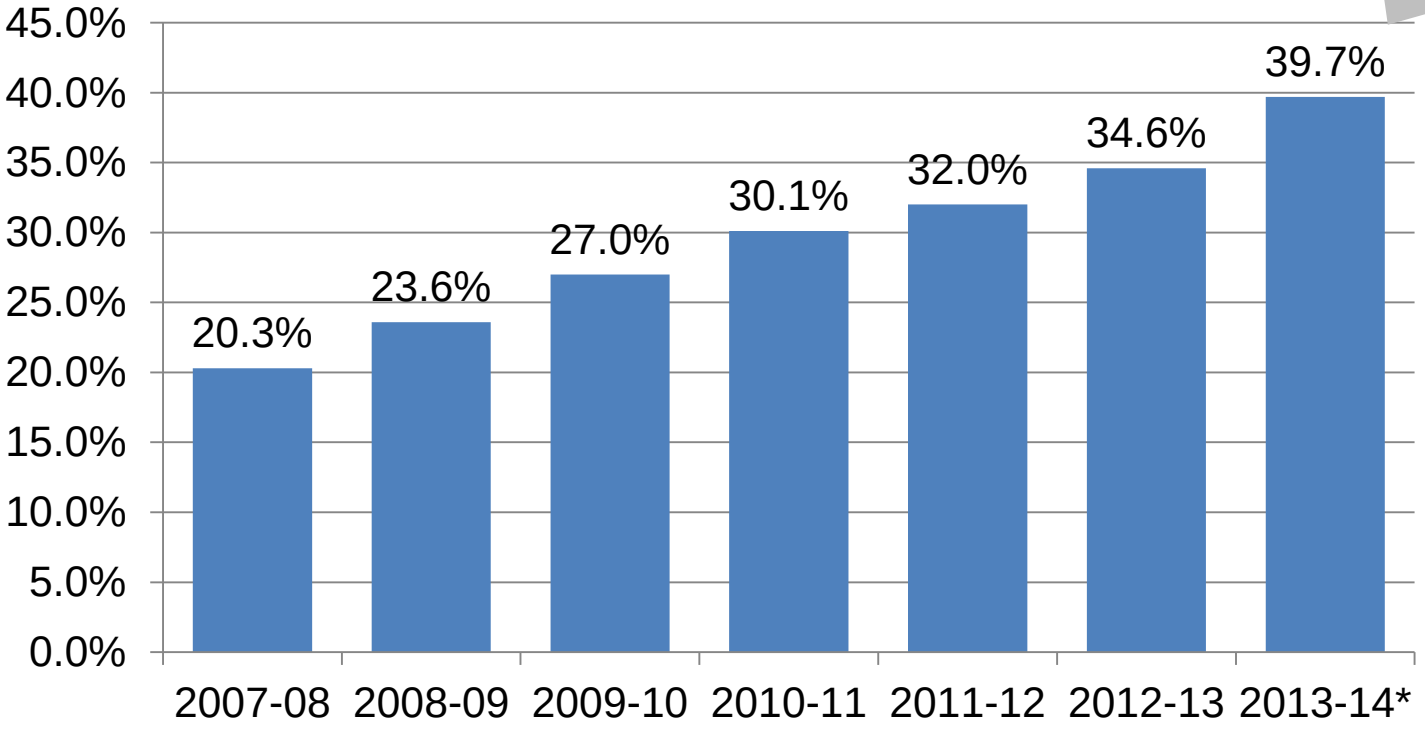
FCSL is meeting its "serving the underserved" mission by steadily increasing student diversity

Appendix B

The InfiLaw System

FCSL student diversity by year
Percent of total student enrollment

For the Fall 2013 entering class, the diversity rate is expected to be 51%



Source: FCSL registrar data

Vision for CSOL

Preserving CSOL – Same Proprietary, Independent Model

The InfiLaw System

Independent, Proprietary ABA-accredited Models Constitute InfiLaw Consortium

	CSOL Pre-Consortium	CSOL Post-Consortium	Status Change
Organizational Structure	For-Profit	For-Profit	**SAME**
Emphasis on Student/Faculty Relationships (LSSE)	Strong	Strong	**SAME**
Enriching Education Experiences	Strong	Strong	**BETTER**

Strengthening CSOL – Investing in Student Outcomes

The InfiLaw System

Where to Focus
(Select Core Operational Levers)

- ❑ Focused Enrollment
- ❑ Career Placement
- ❑ Bar Passage

How to Succeed
(Clear Outcomes; Driven Leaders)

Outcomes	Committed Areas	Leadership Team
Diversity	✓ Increasing Diverse Outreach	Core Integration Team
Job Placement Rate	✓ Mix of Job Opportunities	Core Integration Team
Bar Pass Rate	✓ Analytical Bar Prep	Core Integration Team

Facilities Upgrade

The InfiLaw System

Invest in Facilities

Facilities: Opportunity for New Investment

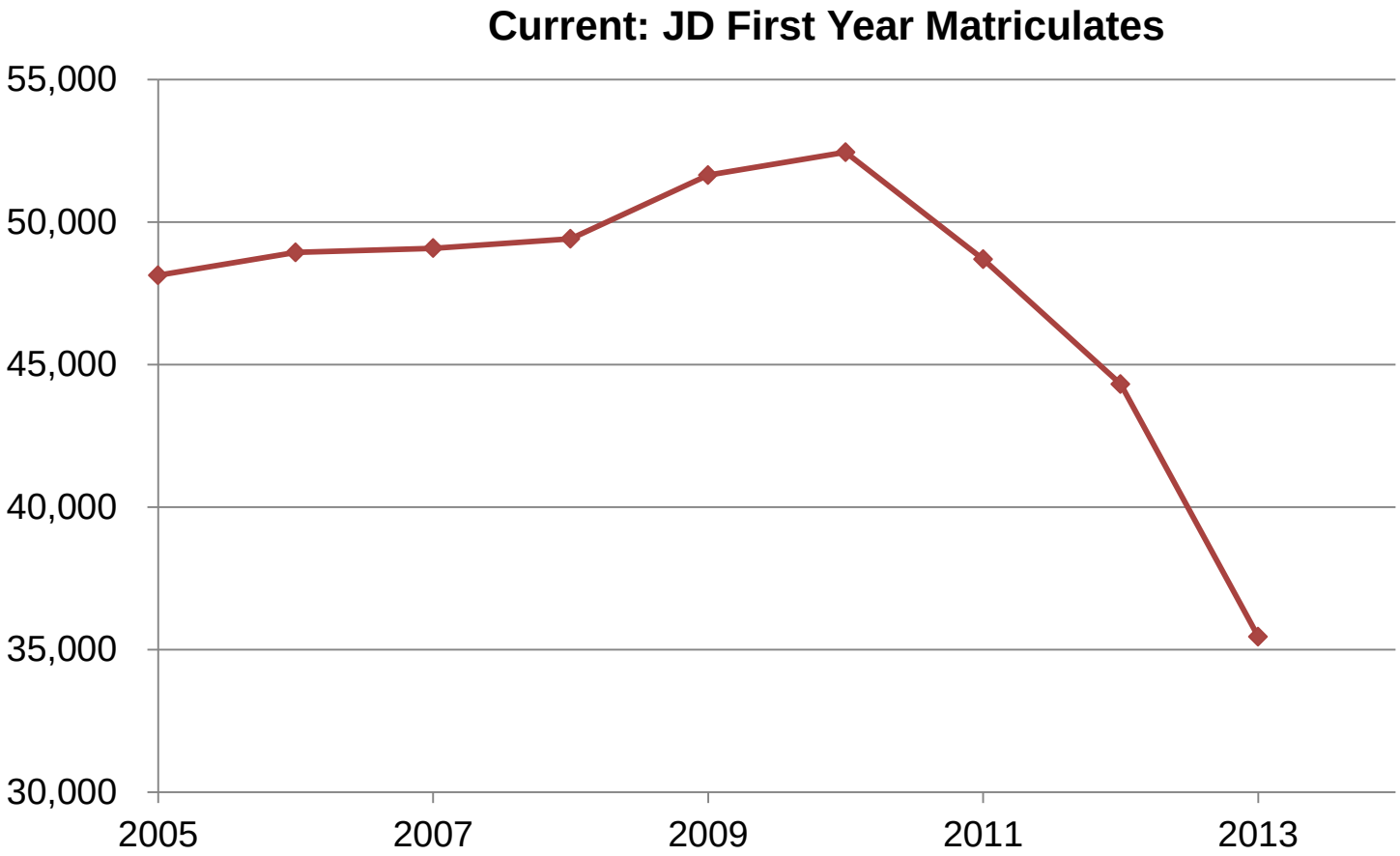
- CSOL's facilities are in need of renovation and upgrading

Facilities: Centrally -Located, Tech-Enabled Facilities Model

- The Consortium has deep expertise in negotiating cost-effective, long-term leases for our facilities
- Charlotte School of Law recently moved into tech-enabled facilities for better student engagement which is located centrally in downtown Charlotte

Deal With Industry Challenges

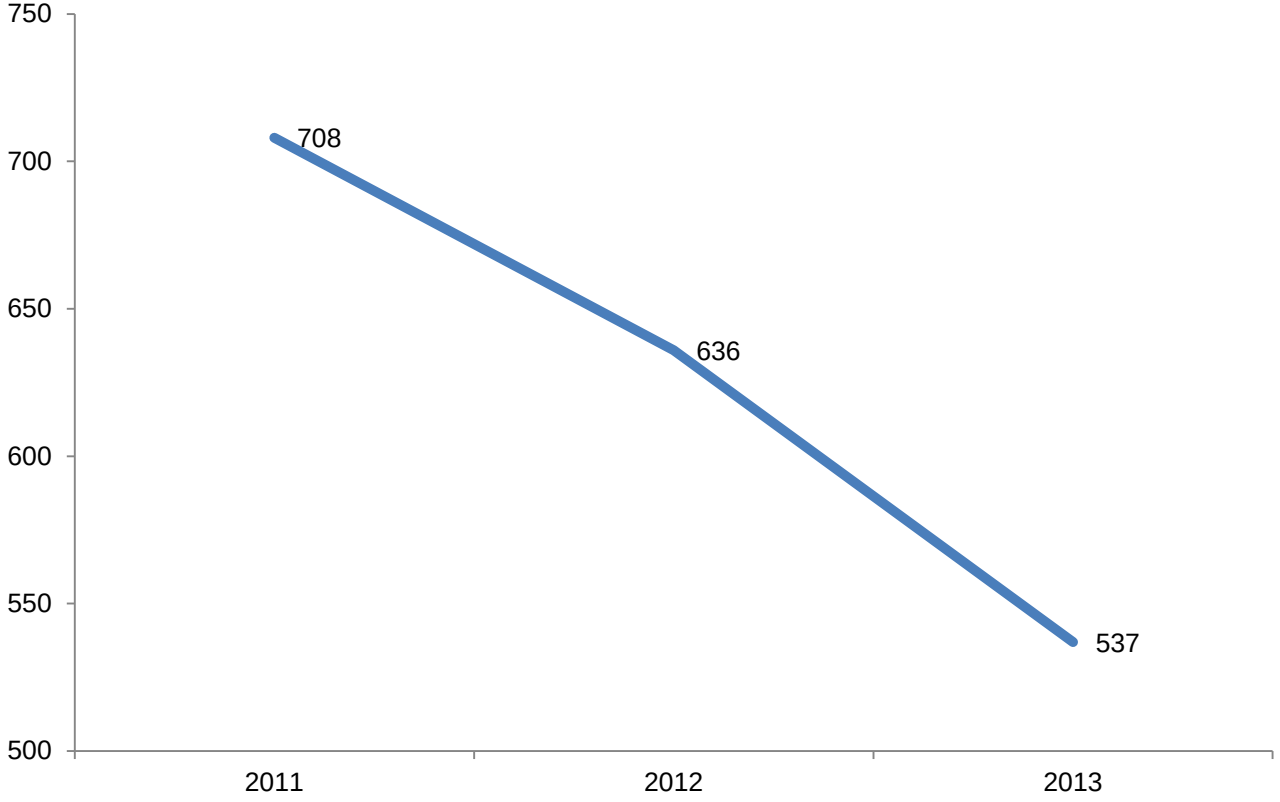
Unprecedented 40% Decline Over the Past 3 Years



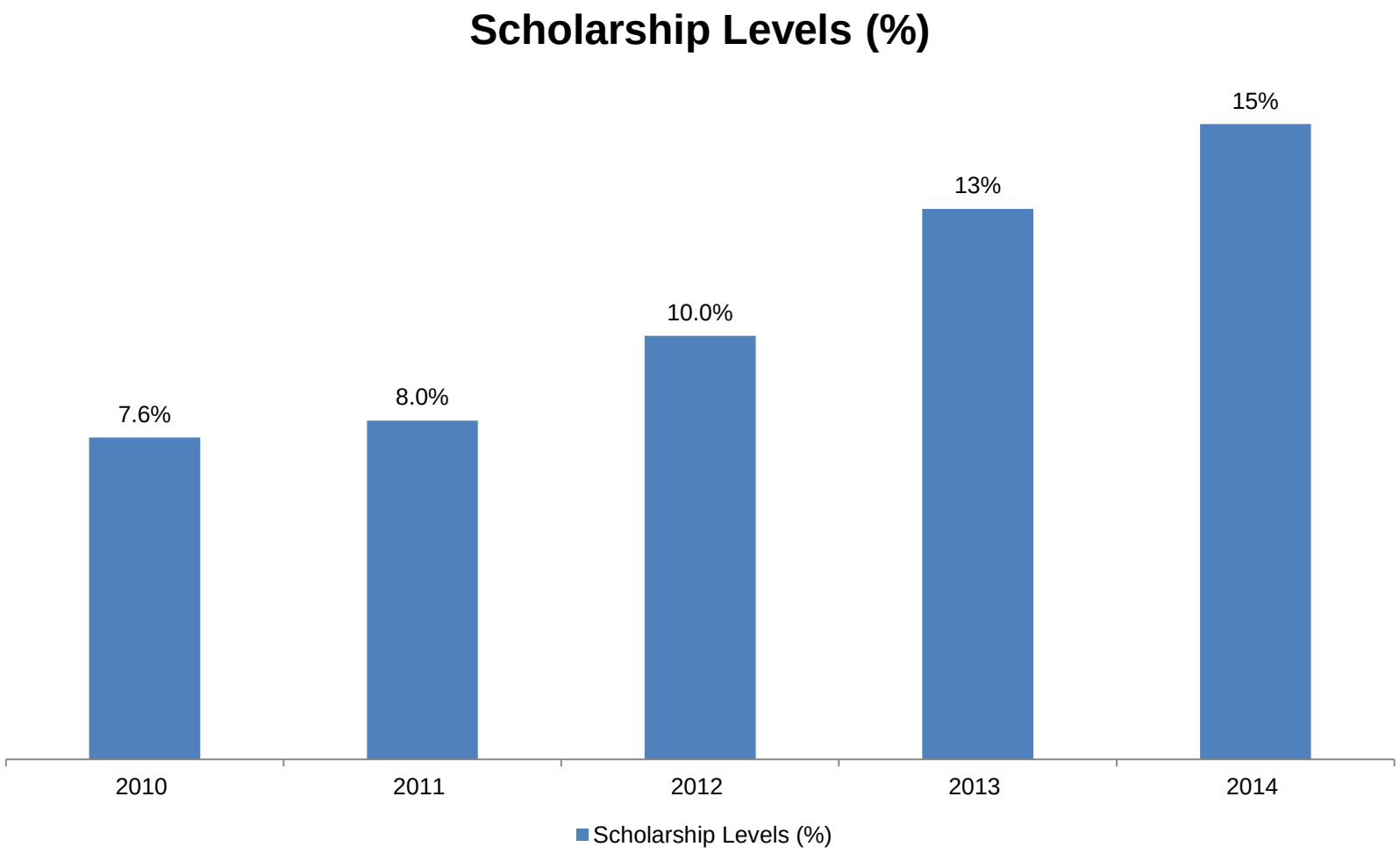
CSOL's Enrollment Has Been Impacted by Market Downturn

The InfiLaw System

24.2% Decline in Total Enrollment Since 2011

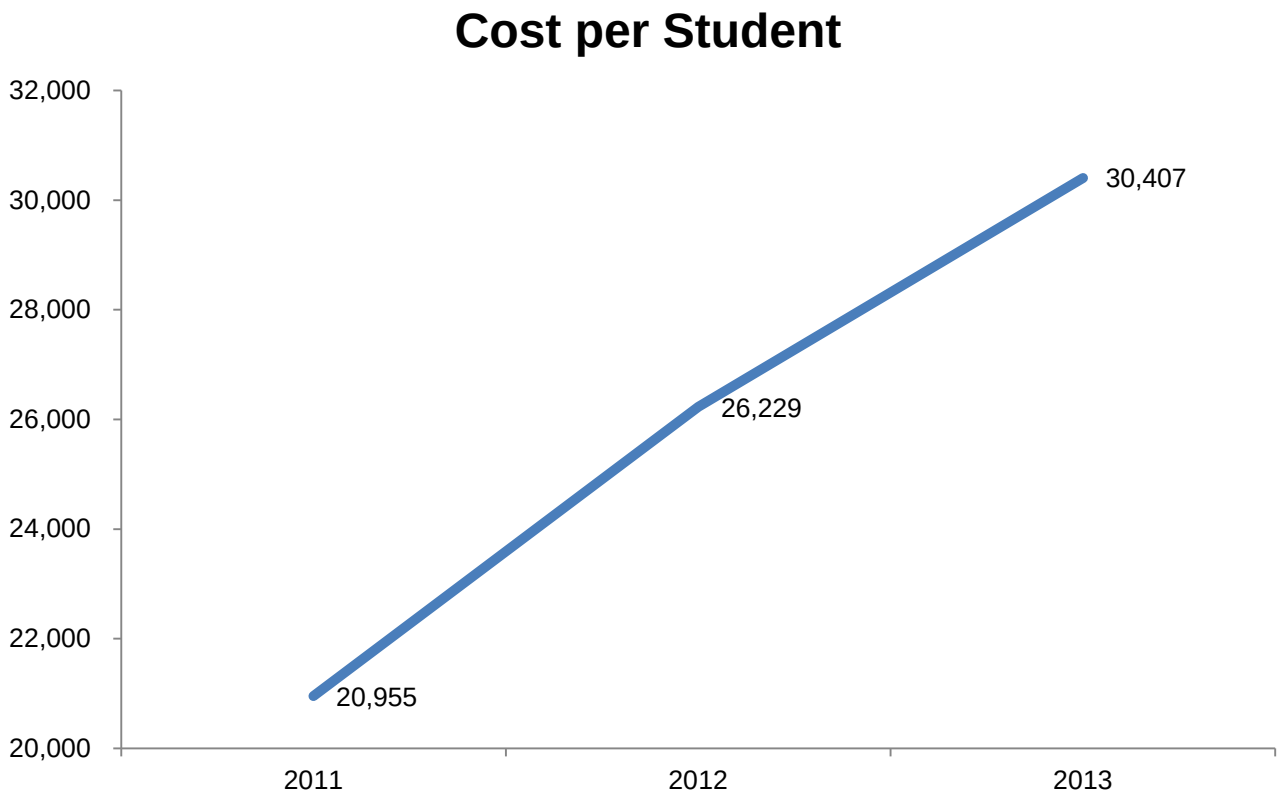


CSOL's Scholarship Levels are Rising



Costs per Student Have Increased as Enrollment Has Declined

45.1% Increase in Cost per Student Since 2011



Bar Pass Challenges

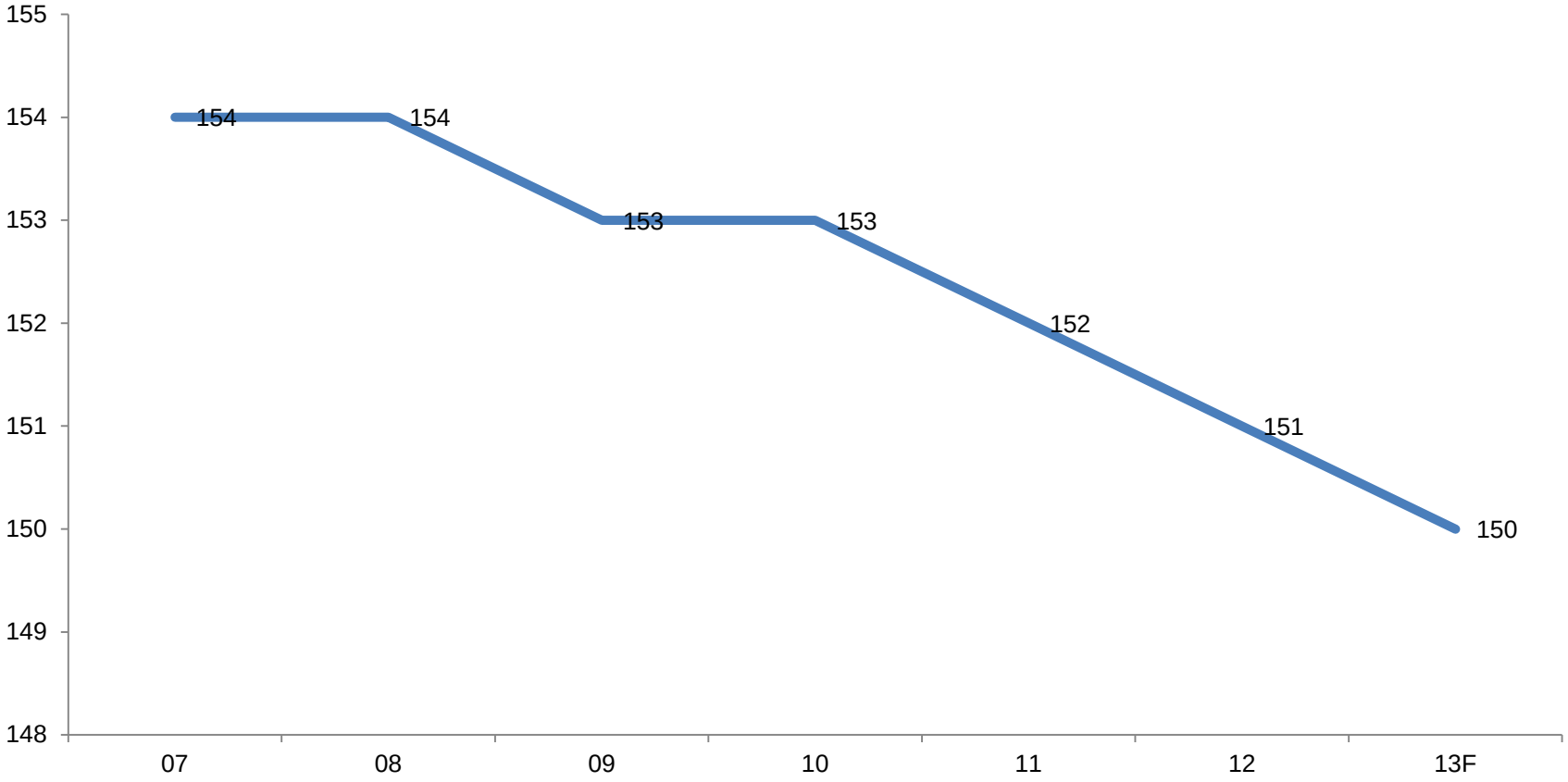
The InfiLaw System

Bar Pass Challenges

Charleston School of Law's Median LSAT Has Declined Since the Downturn

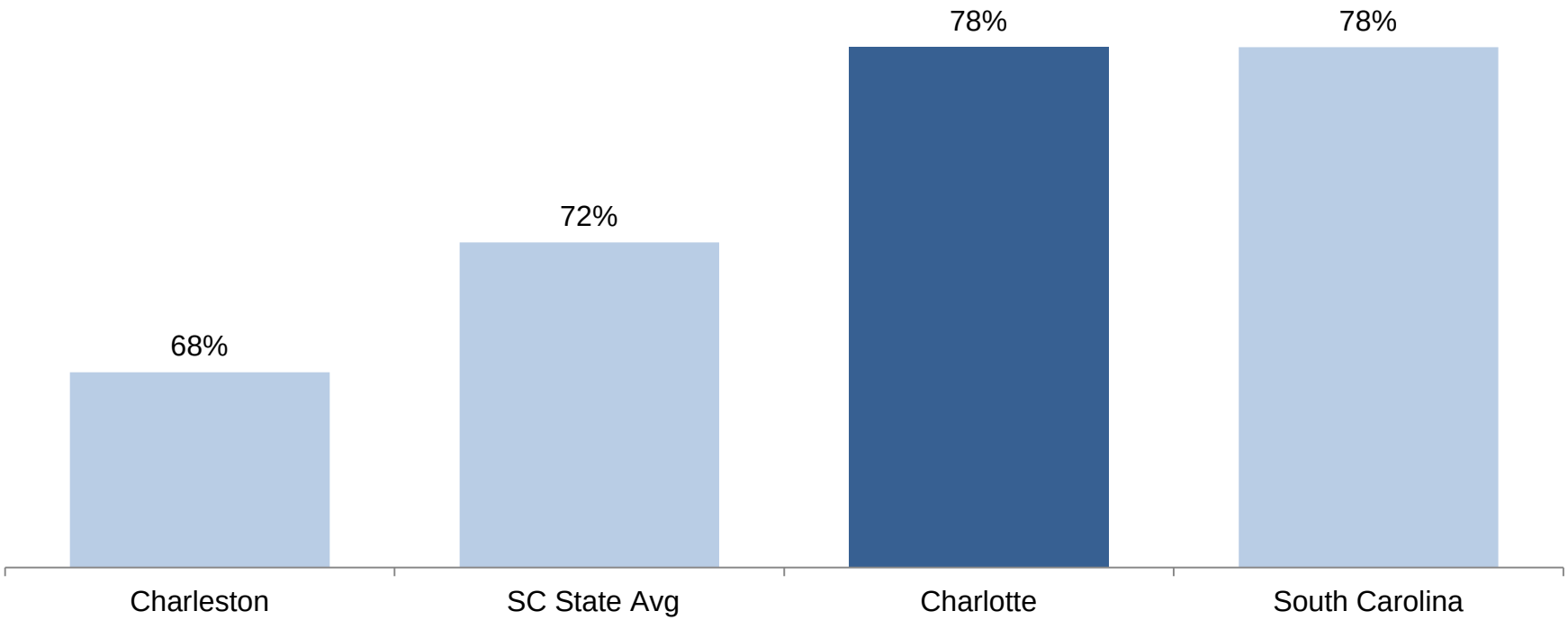
Appendix B

The InfiLaw System



SC Bar Pass Rates

Bar pass rates for SC bar exam takers (1st time and repeaters) from July 2010 – July 2013

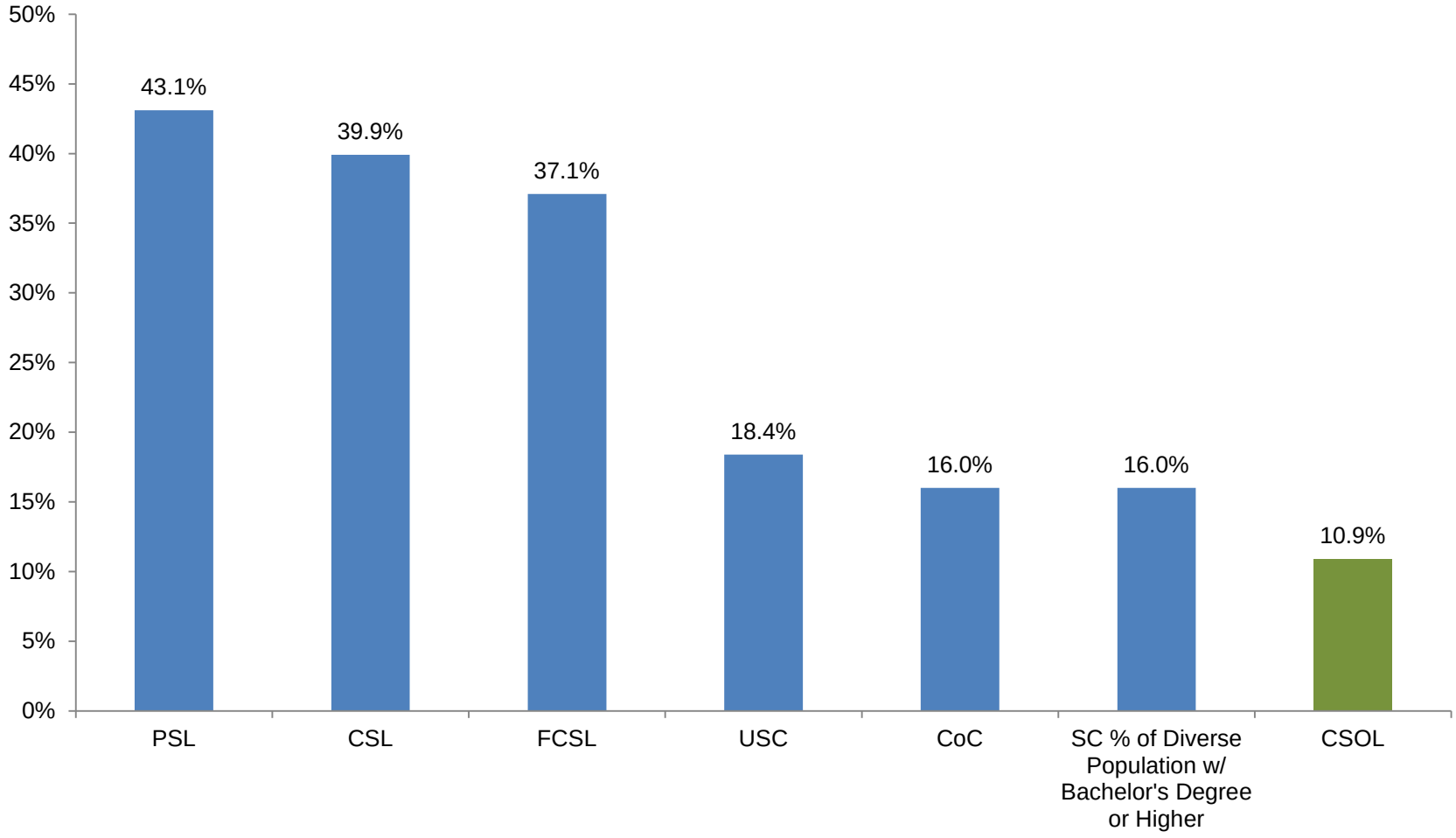


	Charleston	SC State Avg	Charlotte	South Carolina
Median LSAT	151		**146**	157

Diversity Challenges

Diversity Challenge

CSOL Has Low Diversity Rates



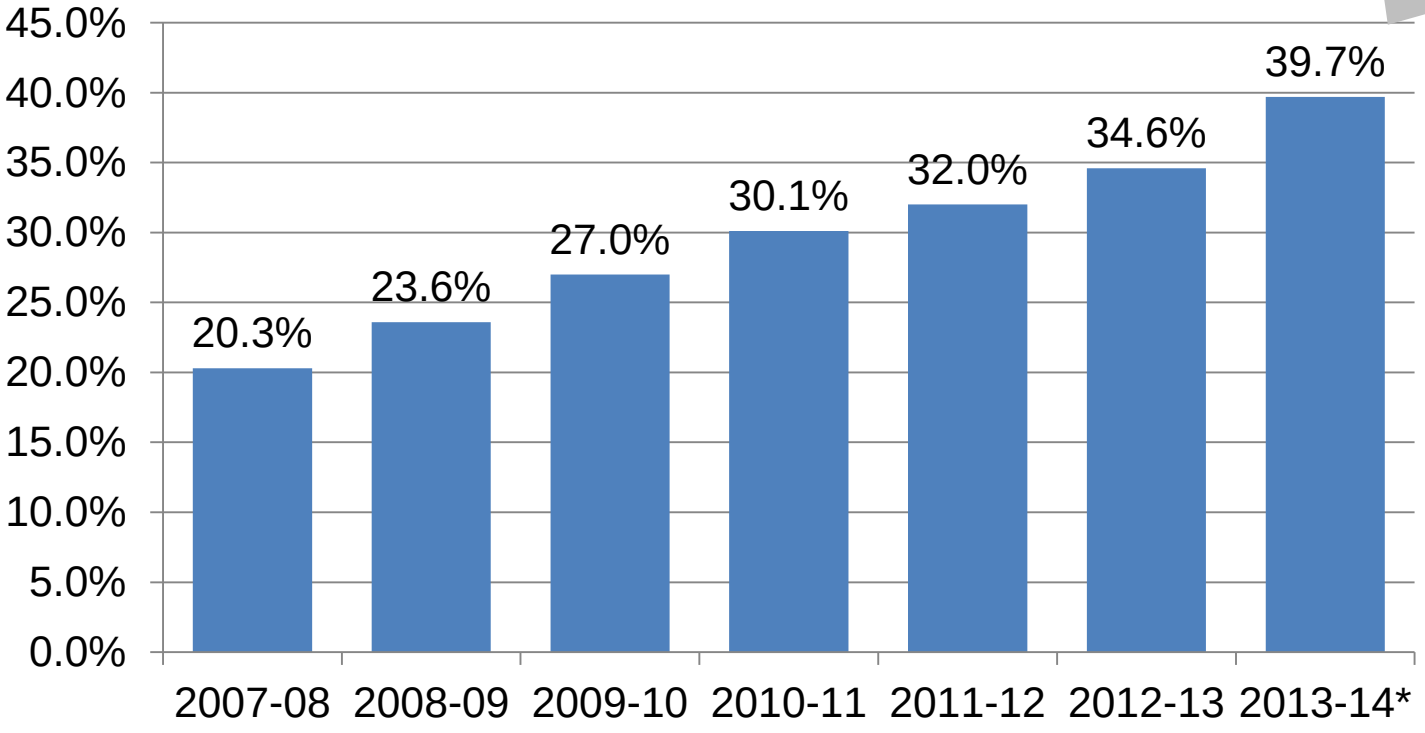
InfiLaw has a track record "serving the underserved" and building a diverse student body

Appendix B

The InfiLaw System

FCSL student diversity by year
Percent of total student enrollment

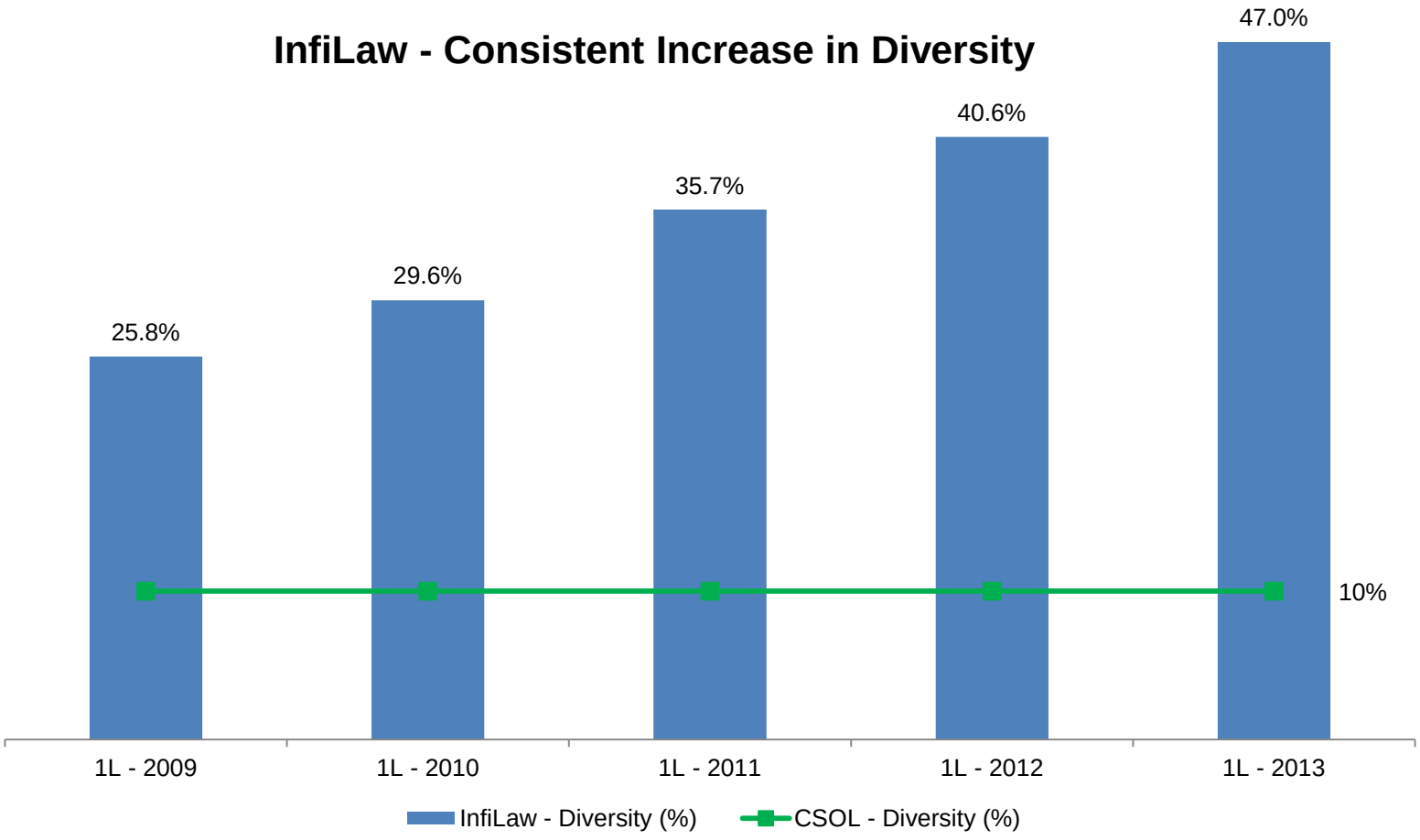
For the Fall 2013 entering class, the diversity rate is expected to be 51%



Source: FCSL registrar data

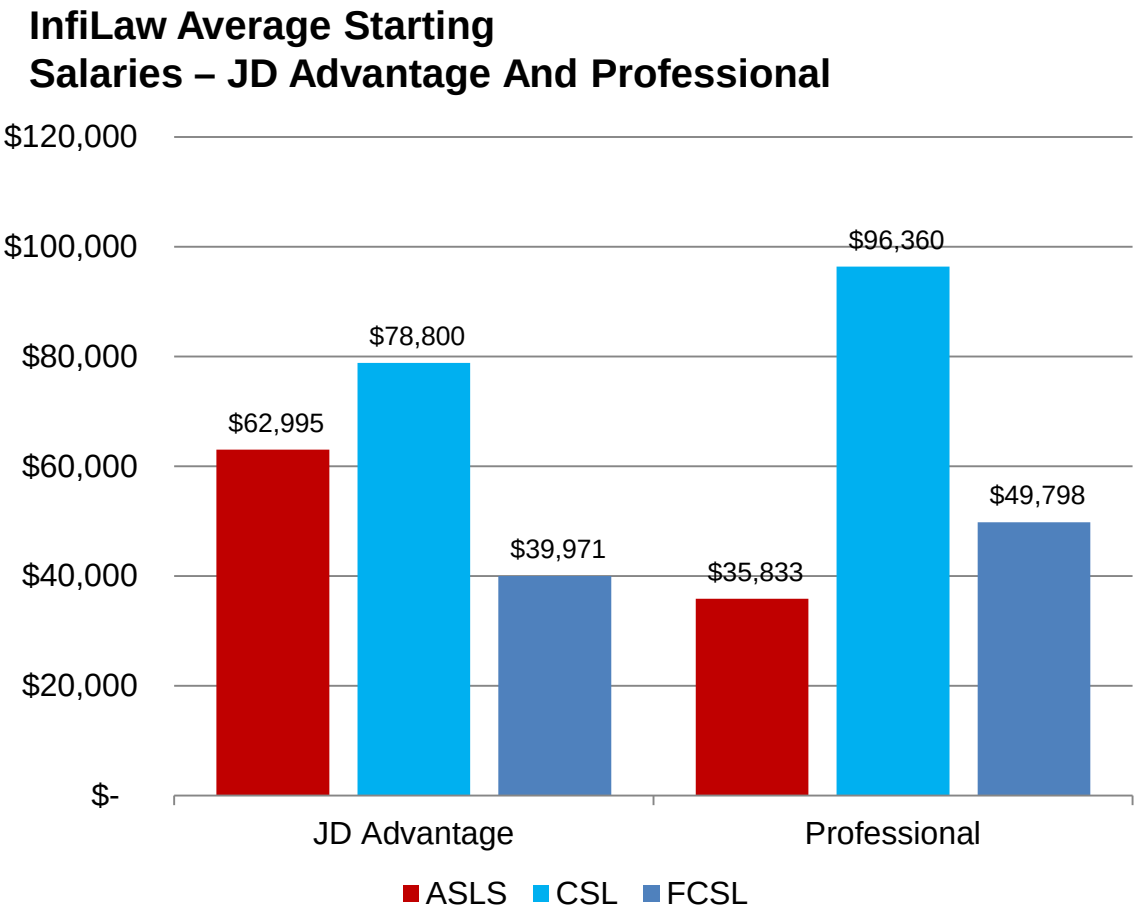
Diversity - Increasing Education Equality in S. C.

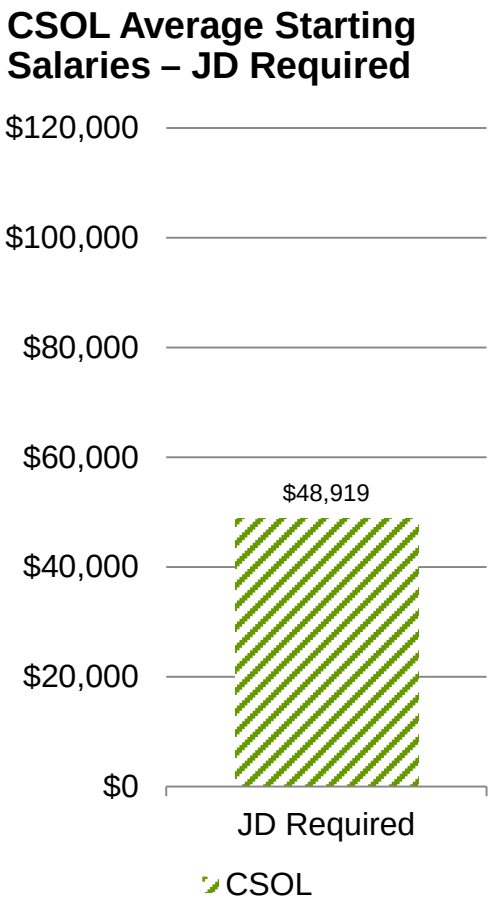
- AAMPLE - a cost-effective bridge program - provides prospective law students, including diverse students, a way of evaluating whether they are prepared to succeed in law school prior to attending and incurring tuition charges



Career Placement – Increasing Starting Salaries

Class of 2012 – Average Starting Salary by Type





Note: The percentage of Class 2012 in any one job type varies significantly.

The CSOL Decision

CSOL's Challenging Succession Plan

- Since its founding, CSOL has periodically sought the advice of the fellow ABA-accredited law schools of InfiLaw
- Facing declining market conditions and deteriorating health of two of its founders, CSOL prioritized its succession plan

Challenges

- Declining health and advanced age of most CSOL founders prompt succession planning
- 40% Decline in Applications
- Legacy CSOL Institutional Design
- Commoditization of legal services and rise of information technology
- Diversity of student body and faculty is an objective of ABA

Consortium Support

- Access to deep professional management, legal academy governance and growth capital
- Marketing & Admissions Expertise
- Proprietary Bar Prep Resources to enhance chances of success
- Legal Ed 2.0 innovative, practice-ready curriculum
- Diversity – serving the underserved; InfiLaw schools have an average of 40% diverse student population

InfiLaw's Response to External Review Team Report

Note: *The following information is a word-for-word transcribed excerpt from a letter sent on April 11, 2014, from Jay Rossello, General Counsel, InfiLaw Corporation to Richard Sutton, Executive Director, S.C. Commission on Higher Education. The information relays InfiLaw's response to the External Review Team Report, finalized on March 24, 2014, which it believes contained several factual inaccuracies that required clarification and/or correction.*

External Review Team Report

As previously indicated, we noticed several factual inaccuracies in the External Review Team Report, and we appreciate the opportunity to clarify and/or correct these inaccuracies. We have noted below the most significant inaccuracies, along with the necessary correction and/or clarification.

1. **Career Placement.** The External Review Team Report inaccurately states that "[f]ull time placement in 2012 for USC LS graduates was reported as 70%, for CSOL as 54% and for the Charlotte Law School (the consortium school geographically closest to South Carolina employers) as 38% (including 40 students whose employment was at least in part funded by either InfiLaw or the school)." (Report at p. 5) These numbers are inaccurate because they exclude positions where a JD degree is an advantage and other professional jobs.

As indicated in the chart below, full-time placement, including JD advantaged and professional jobs, in 2012 for USC Law School graduates was reported as 85%, for CSOL as 66% and for Charlotte School of Law as 71%. (ABA Employment Summary Reports; available at http://employmentsummary.abaquestionnaire.org/). Only six of these jobs for Charlotte School of Law students, not 40 as indicated in the Report, were funded by the law school.[1]

Full Time Placement Rate	2012	2013	Average
USC	85.0%	N/A	85.0%
CSOL	65.5%	72.0%	68.8%
Charlotte School of Law	70.6%	65.4%	68.0%

Consistent with the methodology relied upon by the National Association for Law Placement (NALP) to calculate total employment, Charlotte School of Law's total employment rate (total employed or seeking graduate degree divided by number of known graduates) also exceeded

[1] The National Association for Law Placement ("NALP") conducted its second survey of law school bridge-to-practice programs in Fall 2013. NALP defines bridge-to-practice programs as those "designed to provide recent law school graduates with an opportunity to develop and enhance their practical legal skills as they transition into the practice of law, generally by providing funding of some sort for a period of post-graduate work **performed for a third-party** (e.g., public interest organization, government agency, member of the judiciary, or private employer). *Bridge-to-Practice Program Survey Findings for Class of 2012* (emphasis in original). According to NALP's survey, 48% of those schools responding reported having a bridge-to-practice program. According to a recent analysis by Law school Transparency, a non-profit legal education policy organization, many of the nation's top-tier law schools operate bridge–to-practice programs and place significant percentages of their 2013 graduates in their bridge-to-practice programs: Emory University (23.3%); UVA (16.2%); George Washington University (14.8%); Georgetown University (12.9%); University of California-Berkeley (9.6%) (data available at http://www.lstscorereports.com/national/jobs/2013/).

that of CSOL in 2012. As the chart below indicates, the Charlotte School of Law achieved a total employment rate of 85%in 2012 and 90% in 2013. During the same periods, CSOL achieved slightly lower employment rates of 78% for 2012 and 87% for 2013. Therefore, on average, the Charlotte School of Law has slightly outperformed CSOL in total employment rate.

Total Employment Rate	2012	2013	Average
USC	90.9%	N/A	90.9%
CSOL	78.2%	87.1%	82.6%
Charlotte School of Law	84.7%	90.2%	87.4%

It also is important to note that both CSOL and the Charlotte School of Law have extremely low cohort default rates, as measured by the Department of Education: 2% for CSOL in FY10, the most recent year available, and 2.5% for Charlotte School of Law. For FY09, CSOL and Charlotte School of Law both had 0% default rates, indicating that the vast majority of students are in compliance with the repayment terms of their student loans.

Additionally, calendar year 2012 earnings for alumni of InfiLaw schools graduating in 2007-2008 and 2008-2009, as published by the Department of Education from Social Security Information Data are, on average, 6.9% higher than those of CSOL graduates as indicated in the chart below.[2]
(https://www2.ed.gov/policy/highered/reg/hearulemaking/2012/gainfulemployment.html)

School	Annual Earnings
Florida Coastal	$46,750
Arizona Summit	$58,801
InfiLaw Average	$52,776
CSOL	$49,385

2. **Student Retention.** In its discussion of student retention and attrition rates, the External Review Team's Report contains serious methodological flaws. The Report claims as follows:

> Again from the data received from the Commission staff, the percentage of graduates to total enrollment at Arizona Summit was 17%, at Charlotte was 17%, and at Florida Coastal was 32%. By contrast, the percentage at CSOL was 37% and at USC LS was 34%. One would expect in a three year program, after night students are fully incorporated, that the percentage would be close to 33%. The percentage would be affected by transfers out of a school to another school, and the consortium schools have a greater volume of transfers out. The bulk of the difference is due to attrition, not transfers.

(Report at p. 9)

The Review Team's methodology in calculating attrition is seriously flawed because it does not take into account the growth in enrollment at Arizona Summit Law School and Charlotte School

[2] Data for Charlotte School of Law was not published.

of Law over the past three years. In other words, if a school increased enrollment in the most recent two years, as has been the case at both Arizona Summit and Charlotte, the school would show a relatively low ratio of graduates to total enrollment. By way of example, assume that law school matriculated 100 full time students in Year 1 and 200 in Years 2 and 3. If the school had no attrition whatsoever (academic, transfer or otherwise) and all the students starting in Year 1 graduated in Year 3, the percentage of graduates to total enrollment would be 20% (100 divided by 500), significantly less than the hypothetical 33% mentioned in the report.

The clearest and most reliable source for attrition data and trend analysis is published by the American Bar Association on an annual basis. According to the ABA data included in the chart below, the 1L academic attrition rates of InfiLaw schools are not high, inasmuch as they are consistent with the overall averages of similarly situated law schools that are not ranked in the *US News and World Report* rankings.

School	AY 10-11	AY 11-12	AY 12-13	Averages
Florida Coastal	11.0%	12.4%	9.9%	11.1%
Arizona Summit	4.6%	4.0%	6.7%	5.1%
Charlotte	9.5%	13.6%	8.3%	10.5%
InfiLaw Average	8.4%	10.0%	8.3%	8.9%
Peer School Average	7.9%	8.1%	8.1%	8.0%

3. **Interim Assessments.** As the Report notes, students are provided interim assessments as to their academic progress during the course of the semester, rather than relying on their final examination grade as the only source of academic feedback. The Report states "[t]his permits adjustments in teaching strategy and is consistent with a business approach to instruction in contrast to the traditional academic approach which arguably places more responsibility on the student." (Report at p. 4) InfiLaw disagrees with this statement to the extent it suggests that provision of periodic academic feedback somehow lessens student responsibility. Student accountability is a key component of the InfiLaw teaching method, and interim feedback empowers students to understand and address academic challenges in a timely fashion. Rather than decreasing student responsibility, the provision of periodic academic feedback increases student responsibility and accountability by providing students an opportunity to adjust their class preparation and study habits during the course of the semester.

4. **Law School Rankings.** The Report states "[i]t is unlikely that consortium schools will be ranked even in the top 100 schools as ranked by a national publication, though that ranking system is much criticized itself. There is no apparent concern among the InfiLaw leadership with the lack of ranking of its schools." (Report at p.5) The Report's inclusion of a reference to national rankings suggests that these rankings are somehow relevant to the prescribed licensing criteria or are otherwise reliable indicators of educational outcome or educational quality. They are not.

The licensing criteria prescribed by statute and regulation in South Carolina contain no reference to national ranking systems for law schools, nor should they. According to the Final Report of the ABA's Task Force on the Future of Legal Education, "[s]ome ranking systems (in

particular *U.S. News*) purport to supply objective consumer information. However, little of the information used in ranking formulas relates to educational outcomes or conventional measures of programmatic quality or value. To that extent, rankings may provide misleading information to students as consumers." (ABA Task Force Report on the Future of Legal Education, 2004)

5. **So-called "Need."** The Report includes a reference to the "need for a second law school in the state" and "decline[s] to opine as to that need." (Report at p.5) As communicated in previous correspondence, the Commission is not authorized to evaluate the level of so-called "need" for legal education in South Carolina. The Attorney General has explained that whether the Commission believes South Carolina "needs" a school proposed by an applicant is not a criterion that the Commission can lawfully consider. Op. S.C. Att'y Gen. (July 12, 1984). Further, as a practical matter, any concerns with regard to the "need" for two law schools in South Carolina was answered almost a decade ago when CSOL received its initial license. Since 2004, CSOL and the University of South Carolina School of Law have contributed to the betterment of legal education in South Carolina and have ably served both the bench and the Bar.

6. **Acceptance Rates.** The Report inaccurately states that the "percentage of offers to applicants at USC LS was 50%, at CSOL was 51% and at consortium schools ranged from 74% to 85%." First, the InfiLaw consortium acceptance rate is incorrect. As demonstrated by the ABA Standard 509 reports, consortium schools had acceptance rates in 2013 ranging from 70% to 75%, not the higher percentages stated in the Report. It is important to note, for context, that the average acceptance rate for unranked law schools in the United States in 2013 was 69%.

Second, the 51% acceptance rate attributed to CSOL also is inaccurate. The data relied upon to calculate the CSOL acceptance rate includes 192 duplicated applicants-i.e., 192 applicants who applied to both the full-time and part-time program. Using the unduplicated number, CSOL's acceptance rate was 68%, just slightly below those of InfiLaw consortium schools, which do not include duplicated applicants.

South Carolina
Commission on Higher Education

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January 22, 2014

Summary of Regulatory Criteria for Licensing of Nonpublic Postsecondary Institutions
South Carolina Commission on Higher Education

Pursuant to the authority granted to the Commission on Higher Education (CHE) by Chapter 58, Title 59 of the SC Code of Laws, as amended, regulations for the issuance of licenses to non-public post-secondary educational institutions and the issuance of permits to agents representing such institutions have been established and are covered by regulations in Article 1 of Chapter 62 of the State Regulations.

In an effort to assist institutions and others in understanding and interpreting those regulations, CHE has prepared the following summary that organizes many of the stated criteria into a more accessible, user-friendly format. This summary is intended as a guide to the enacted regulations and does not in any way replace, supplant, or pre-empt the regulations as stated in SC Regulations 62-1 through 62-100.

Per SC Regulations 62-1 through 62-100, the Commission may license an institution after due investigation has revealed that the institution and its programs have met stated criteria.

Criterion One: Academics and Curriculum

The course, program, curriculum, and instruction are of quality, content, and length as may reasonably and adequately achieve the stated objective for which the course, program, curriculum or instruction is offered and in response to documented need. **SC Reg. 62-6(A)** [Note: For specific program and instructor requirements by degree program, please see **SC Regs. 62-10 through 62-13**.]

A) An accrediting body recognized by the U.S. Department of Education or the Council for Higher Education Accreditation must accredit out-of-state degree-granting institutions. **SC Reg. 62-6(A)(i)**
B) The institution publishes and enforces admission requirements consistent with the purposes of the institution. **SC Reg. 62-6(N)**
C) The institution has developed satisfactory course and program outline(s) including syllabi for each course specifying goals and requirements, course content, methods of evaluation, and bibliography; attendance policy; grading policy including a policy for incomplete grades, rules of operation and conduct; and a policy for handling student complaints in compliance with Regulation 62-27. **SC Reg. 62-6(E)**
D) Chief Academic Officers (those who choose faculty) must be credentialed at the same level as required for faculty. Site directors are credentialed at the same level as the highest degree conferred at the site. **SC Reg. 62-6(J)**
E) Each full-time and part-time faculty member must present documentation of academic preparation, such as official transcripts and, if appropriate for demonstrating competency, official documentation of professional and work experience, technical and performance competency, records of publications, certifications, and other qualifications. The institution must keep on file, for each full-time and part-time faculty member, documentation of academic preparation. **SC Reg. 62-6(B); see entire citation.**
F) Institutions must ensure that each faculty member employed is proficient in oral and written communication in the language in which assigned courses will be taught. **SC Reg. 62-6(B)**

G) The institution must award the student an appropriate certificate, diploma or degree showing satisfactory completion of the course, program, or degree. **SC Regs. 62-6(F) and 62-6(D)**
H) Adequate records as prescribed by the Commission are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced. **SC Reg. 62-6(G)**
I) The institution must have a clearly defined process by which the curriculum is established, reviewed, and evaluated. The institution must provide for appropriate and regular evaluation of the institution and its program and course effectiveness including assessment of student learning, retention, graduation rates, and student, graduate, faculty, and employer satisfaction. The results must be used to ensure and improve quality of instruction. **SC Reg. 62-6.2**

Criterion Two: Facilities

There is in the institution adequate space, equipment, instructional material, and appropriately qualified instructional personnel to provide training and education of good quality. **SC Reg. 62-6(B)**

A) The institution complies with all local, county, and state regulations, such as fire, building, and sanitation codes. **SC Reg. 62-6(H)**
B) The institution must have adequate security measures to protect and back up [its] data. **SC Reg. 62-20**
C) The institution must have policies concerning retention and disposal of records and information-release policies which respect the rights of individual privacy, the confidentiality of records, and the best interests of the student and institution. **SC Reg. 62-20(A-D) for a listing of components.**
D) Programs offered by distance education must meet the licensing requirements of the Nonpublic Postsecondary Institution License Act. **SC Reg. 62-6.1**
E) The institution owns or makes available sufficient learning resources or, through formal agreements with institutional or other (where adequate) libraries to which students have access, ensures the provision of and access to adequate learning resources and services required to support the courses, programs and degrees offered. **SC Reg.62-6(C); see complete citation for stipulations regarding formal agreement and SC Reg. 62-14 for library requirements.**
F) Any student living quarters owned, maintained, or approved by the institution are appropriate, safe and adequate. **SC Reg 62-6(Q)**

Criterion Three: Finances

The institution is financially sound and can fulfill its commitments for education or training. **SC Reg. 62-6(I)**

A) The institution does not owe a penalty under Chapter 58 of Title 59, South Carolina Code of Laws, 1976. **SC Reg. 62-6(O)**
B) Before an institution is licensed, surety bond – or other acceptable means of collateral - must be provided by the institution, the obligation of which will be that the institution, its officers, agents, and employees will faithfully perform the terms and condition of contracts for tuition and other instructional fees entered into between the institution and persons enrolling as students. **SC Reg. 62-7; see complete citation for terms governing bond requirement, including SC Reg. 62-7(F), which outlines alternative to surety bond.**
C) The institution shall maintain adequate financial records and exercise proper management, financial controls, and business practices. **SC Reg. 62-8(A)**
D) Adequate insurance shall be carried to protect the institution's financial interests. The amount of insurance shall be sufficient to maintain the solvency of the institution in case of loss by fire or other causes, to protect the institution in instances of personal and public liability, and to assure continuity of the operation of the institution. **SC Reg. 62-8(D)**
E) Degree-granting institutions shall maintain a sound plan for long-range financial development. **SC Reg. 62-8(E)**

F) Degree-granting institution's business and financial management shall be centralized under a qualified and bonded business offer responsible to the chief executive officer and charged with the supervision of the budget. **SC Reg. 62-8(F)**
G) The institution must have a schedule of tuition, fees, other charges and refund policy. **(SC Reg. 62-8(E); see also SC Reg. 62-17 for a complete description of tuition policy requirements and SC Reg. 62-18 for cancellation and refund policy guidelines.**

Criterion Four: Reputation and Character

The institution's owners and directors are appropriately experienced and educated and are of good reputation and character. **SC Reg. 62-6(J); see SC Reg. 62-6(J)(1-6) for specific definition of "good reputation."**

A) Site directors should be credentialed at the same level as the highest degree conferred at the site. **SC Reg. 62-6(J)**
B) All administrative officers must possess credentials, experience and/or demonstrated competence appropriate to their areas of responsibility. **SC Reg. 62-6(J)**
C) The effectiveness of all administrators must be evaluated periodically. **SC Reg. 62-6(J)**
D) The institution has, maintains, and publishes in its catalog, bulletin, or brochure and in its enrollment contract the proper refund policy that complies with Regulation 62-18. **SC Reg. 62-6(K); SC Reg. 62-18; and SC Reg. 62-16 for requirements relating to information at a minimum that must be included the institution's catalog, bulletin or brochure.**
E) The institution does not use erroneous or misleading advertising by actual statement, omission, or intimation; it provides students, prospective students and other interested persons a catalog, bulletin or brochure containing the minimum items as identified in CHE Regulation 62-16. **SC Reg. 62-6(L) and SC Reg. 62-6(P)**
F) The institution does not use a name that is misleading, the same as or similar to that of an existing institution. **SC Reg. 62-6(M)**