

United States Senate

WASHINGTON, DC 20510

September 27, 2018

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary DeVos:

We write to determine whether the U.S. Department of Education (the “Department”) is protecting students and taxpayers from the troubled InfiLaw System (“InfiLaw”), including Arizona Summit School of Law (“Arizona Summit”) and the Florida Coastal School of Law (“Florida Coastal”). We are increasingly concerned by the situation unfolding at both law schools in light of the chaotic collapse of the company’s now-defunct Charlotte School of Law (“CSL”). All three schools are owned and operated by the same parent company and its private equity owners, Sterling Partners, who have together mismanaged the programs they run and exploited the federally subsidized programs that support them. It is critical that the Department fulfill its responsibility to prevent additional taxpayer liability created by InfiLaw’s ongoing misconduct and poor performance and hold InfiLaw and Sterling Partners accountable for the harm they will likely cause students and taxpayers.

In January 2018, we joined a number of Members of Congress, state law enforcement entities, and consumer advocates in asking the Department to take immediate actions to provide debt relief to borrowers who attended CSL, after hundreds of students suffered as the school lost its eligibility for federal student aid in 2016. This loss of eligibility resulted from severe mismanagement and failure to meet its accreditors’ standards, including substantial misrepresentations regarding the compliance with those standards. CSL went through a prolonged struggle to stay open but eventually shuttered its doors on August 15, 2017, days after its state licensure lapsed. We appreciate that the Department heeded some of our concerns and recognized the exceptional circumstances CSL students experienced by extending the closed school discharge deadline for students to seek debt relief. CSL also recently agreed to pay \$2.65 million to settle a class action lawsuit brought on by former students.¹

The Department, however, failed to address the additional concerns we posed regarding InfiLaw’s remaining schools and our request to have the Department take steps to shield students and taxpayers from unnecessary risk. Specifically, we previously asked that InfiLaw and their private equity owners post a letter of credit that would cover at least 25 percent of the total federal aid their schools received in the previous fiscal year. We were disappointed

¹ Ward, Stephanie. “Some ex-students join Charlotte School of Law in limited settlement fund motion.” *ABA Journal*. September 13, 2018. http://www.abajournal.com/news/article/some_ex-students_join_charlotte_school_of_law_in_limited_settlement_fund_mo

that we received no assurances from the Department that these steps would be taken to help mitigate the potential risk the remaining InfiLaw schools pose to students and taxpayers.

We have a number of reasons to be concerned. Similar to CSL, Arizona Summit and Florida Coastal have persistently low bar passage rates. In February 2017, Florida Coastal had a bar passage rate of 25 percent, the lowest of all Florida law schools.² Only 26 percent of Arizona Summit students passed the 2017 bar exam, falling well below the state's 69 percent average.³ In fact, Arizona Summit had the nation's lowest first-time bar passage rate in 2017 and the lowest "ultimate" bar passage rate (a figure including first time and any subsequent testing within a two-year period) for 2015 graduates.⁴

Unsurprisingly, Arizona Summit students now find themselves in a similar predicament as their CSL peers. Arizona Summit has been on probation since March 2017 for failure to comply with the American Bar Association (ABA) academic standards and admissions requirements.⁵ In June, the ABA notified Arizona Summit they intended to revoke its accreditation for noncompliance with ABA standards.⁶ Two weeks before the semester was supposed to start, students found out that the school would no longer be offering fall classes.⁷ No acceptable teach-out plan was in place. Students were left to either take a leave of absence until Arizona Summit's accreditation was reinstated, scramble to transfer schools, or apply to be visiting students at nearby Arizona State Law School—with no guarantee of admission.⁸ Arizona Summit appealed the ABA's decision and is expecting a decision in mid-October.⁹

Arizona Summit students were guaranteed they could attend Florida Coastal in person or online to continue their education. However, Florida Coastal was also found to be out of compliance with ABA accreditation standards for program objectives, academic advising, and

² Warfield, Andrew. "Report: Florida Coastal School of Law for sale." *Jax Daily Record*. November 28, 2017. <https://www.jaxdailyrecord.com/article/report-florida-coastal-school-of-law-for-sale>

³ Ryman, Anne. "Arizona Summit Law School, already on probation, slips again on state Bar exam." *AZ Central*. October 17, 2017. <https://www.azcentral.com/story/news/local/arizona-education/2017/10/17/arizona-summit-law-school-slips-again-state-bar-exam/760351001/>

⁴ Ryman, Anne. "Arizona Summit Law School has nation's lowest bar passage rate for '15 graduates." *AZ Central* May 17, 2018. <https://www.azcentral.com/story/news/local/arizona-education/2018/03/23/arizona-summit-law-school-second-lowest-bar-passage-rates-country/450085002/>

⁵ Ward, Stephanie. "Arizona Summit loses accreditation approval, which may be a first for an operating law school." *ABA Journal*. June 11, 2018.

http://www.abajournal.com/news/article/arizona_summit_loses_accreditation_approval_which_may_be_a_first_for_operat

⁶ *Ibid.*

⁷ Ryman, Anne. "Arizona Summit Law School won't offer classes this fall; students told to transfer." *AZ Central*. August 14, 2018. <https://www.azcentral.com/story/news/local/arizona-education/2018/08/14/arizona-summit-law-school-wont-offer-classes-fall-2018/988268002/>

⁸ *Ibid.*

⁹ Ryman, Anne. "Arizona Summit Law School locked out of its Phoenix offices for not paying rent." *AZ Central*. August 23, 2018. <https://www.azcentral.com/story/news/local/arizona-education/2018/08/23/arizona-summit-law-school-locked-out-downtown-phoenix-offices/1075702002/>

admissions policies.¹⁰ Florida Coastal has appealed that ruling and has outstanding litigation with the ABA regarding these deficiencies.

Arizona Summit's struggles were entirely foreseeable, and the Department could and should have taken appropriate steps to hold the school, and by extension InfiLaw and their private equity owners, accountable for any risk to taxpayers and students. Both Florida Coastal and Arizona Summit are on Heightened Cash Monitoring with the Department,¹¹ but there has been no indication that InfiLaw or Sterling Partners have had to post a letter of credit. If there is no such letter of credit for the InfiLaw schools, the Department has placed taxpayers at risk of bailing out yet another high-cost poorly managed for-profit law school. The Department must do more to prevent such harms to students and taxpayers in the future.

In order to ensure the Department is working to protect students of InfiLaw's Arizona Summit and Florida Coastal Law Schools, we request answers to the following questions October 11, 2018.

1. Has the Department requested a letter of credit from InfiLaw?
 - a. If so, when was the letter of credit requested and posted?
 - b. If so, for how much was the letter of credit?
 - c. If no letter of credit was requested, please indicate why not.
2. Should Arizona Summit close in January, will students enrolled in Arizona Summit on June 11, 2018, be eligible for closed school discharge?
3. Will students enrolled in Arizona Summit as of August 14, 2018, be eligible for closed school discharge?
4. What steps, if any, has the Department taken to recoup the taxpayer costs of discharges from CSL, InfiLaw, or Sterling Partners?
5. According to information provided to Congress, as of August 9, 2018, the Department reported receiving 196 applications for closed-school loan discharge from borrowers who attended CSL, and 45 of those applications have been approved for discharge. What is the status of each of the remaining 151 applications? How many applications have been denied? Of the 45 approved for discharge, how many have been officially

¹⁰ Ward, Stephanie. "Florida Coastal, which has 47.7% bar pass rate, out of compliance with ABA accreditation standards." *ABA Journal*. October 30, 2017.

http://www.abajournal.com/news/article/florida_coastal_which_has_47.7_bar_pass_rate_out_of_compliance_wit_h_aba_acc

¹¹ "List of Institutions on HBCM as of June 1, 2018." *U.S. Department of Education*. <https://studentaid.ed.gov/sa/about/data-center/school/hcm>

discharged? Of the 45 applications approved, how much total debt has the Department formally discharged?

6. How many applications for borrower defense to repayment have been received for borrowers who attended InfiLaw schools, disaggregated by each school?

Sincerely,

Sherrod Brown
United States Senator

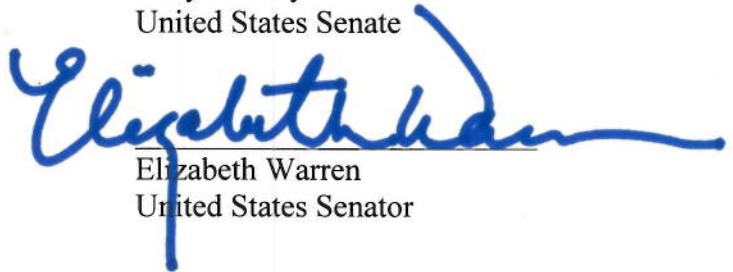


Richard Blumenthal
United States Senator



Richard J. Durbin
United States Senator

Patty Murray
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Elizabeth Warren
United States Senator