

Office of the General Counsel Annual Report FY2025

EXECUTIVE SUMMARY

In this briefing, we describe several aspects of the Office of the General Counsel (OGC), including the major areas of focus over the last year, areas of increased volume and complexity related to the growth of and innovation at the university, claims and litigation rates and an overview of outside counsel engagement.

The key takeaways in this briefing are:

- 1) OGC's advisory work continues to become more extensive and complex as the university grows and innovates. In FY25, OGC focused support in areas such as athletics, research, free speech, inclusive excellence, transactions, legislative changes, compliance, public safety, and employment.
- 2) OGC's proactive efforts enable quicker, more meaningful responses to significant federal policy changes. This year, a structured plan developed in the fall in anticipation of federal policy changes created the capacity for OSU to conduct thoughtful review and response in coordination with multiple leaders, attorneys, subject matter experts and communications professionals. Analyzing and responding to the high volume and fast pace of these federal changes required very substantial focus from OGC in the second half of FY25.
- 3) OGC effectively manages legal strategy and costs by engaging outside counsel for specific litigation and special expertise, aligning with OSU's values and keeping defense litigation rates low.
- 4) OGC provides proactive legal advice and training to the OSU community and stays current on higher education legal issues through close engagement with the National Association of College and University Attorneys (NACUA) and other national and regional networks.

BACKGROUND

The vice president and general counsel provides an annual report to the president and the other Executive, Audit and Governance Committee members to assist with their governance and oversight responsibilities as outlined in the committee charter.

The Office of the General Counsel (OGC) serves as a key resource, providing legal advice on a wide array of issues facing this complex and large university. The OGC statement of philosophy and staffing details are provided in Attachment 1.

MAJOR AREAS OF FOCUS FOR FY25

Major areas of focus for the OGC in 2024-25 fell into several categories:

- *Federal and state legislative or policy changes* –As anticipated, the federal landscape shifted significantly in early 2025 and brought a high-volume of federal policy changes, most of which required OGC analysis and OSU response. Before inauguration of the new federal administration, OGC proactively built a response structure and plan so that OSU was well-situated to thoughtfully but quickly evaluate and respond to the anticipated federal landscape changes. While the actual volume and pace far

exceeded expectations, the university continued to be far better prepared than many other institutions to respond quickly and meaningfully due to this proactive work. OGC actively coordinated with other Oregon public universities, the Oregon Department of Justice (OR DOJ) and other higher education organizations to ensure OSU was also well positioned to support litigation in certain areas in a manner that served the best interests of OSU. The topics of federal policy changes ranged far and wide, taking significant (often total) focus of every attorney in the office at different times: research, immigration, diversity and inclusive excellence, procurement and contracts, employment, athletics, free speech and academic freedom, Title VI shared ancestry discrimination, transgender issues, and tariffs.

OGC also supported government relations colleagues and others during the 2025 Oregon legislative session, interpreting bills and their impact to OSU and engaging with others to strategize OSU's response. There was less than usual for OGC to respond to in terms of policy bills in the Oregon session this year, which was extremely helpful given the federal policy changes that took place at the same time.

- *Athletics* – The volume and complexity of OGC advising in this area continues to increase substantially, driven by significant changes in NCAA policy, the shifting legal landscape and high-risk profile of college athletics. This year, the new Pac-12 conference took shape and that brought a new set of legal challenges. This year, OGC continued to dedicate support as the Pac-12 conference navigated a new set of legal challenges including membership expansion agreements, media rights agreements and advising regarding the Pac-12's lawsuit against the Mountain West Conference related to impermissible “no poach” fees imposed in an earlier football scheduling agreement.

The national landscape of collegiate athletics continues to be in significant transition and under challenge in multiple agencies and courts. OGC advised on federal executive orders and NCAA policy that eliminated opportunities in sports for transgender female student athletes in intercollegiate programs. Additionally, OGC continued to advise on issues related to name/image/likeness (NIL), especially related to implementation of the game-changing *House* settlement that allows universities to pay student athletes for the use of their NIL.

OGC advised on other athletics issues such as:

- National challenges in courts/agencies seeking to have student athletes found to be employees
 - NCAA rules surrounding pay-for-play and inducement
 - Antitrust issues
 - Coach contracts and other employment-related matters
 - Student athlete conduct issues
 - Safety issues
 - Innovative ways for potentially increasing revenue
- *Free speech and academic freedom* – OGC continued to advise on situations where free speech was implicated, especially in connection with the strike in the fall by the Coalition of Graduate Employees (CGE). OGC also partnered with the Office of Institutional Diversity (OID), Faculty Affairs and the Faculty Senate to present a webinar for all faculty titled, “Academic Freedom in the Curriculum: Navigating a Shifting Political Landscape,” which led to further targeted advising in departments, schools and colleges.

- *Access and inclusive excellence efforts* – OGC continued to advise in this area, focusing on OSU’s land grant mission to expanding access, opportunity and excellence without positioning the university in a way that creates undue legal risk. This area of law has become highly politicized with many legal complexities, especially with regard to the new federal administration. Through the work of OGC, OID, student affairs and others over the past few years, the university was well positioned to continue work to support diverse students in compliance with federal law. Additionally, OGC advised and supported the Task Force on Responsible Investing and the Task Force on Responsible Procurement as they considered the alignment of OSU’s investment and procurement practices with OSU’s mission and values and determined recommended policy amendments.
- *Innovation, Research and Infrastructure* – OGC advised on large, mission-critical projects, including complex research projects, innovative endeavors and business collaborations, critical infrastructure improvements, real estate acquisitions, and new buildings or operations. Our involvement as strategic thought partners included advising on options and risks/benefits of particular deals, structuring, drafting and negotiating complex contracts, resolving disputes with partners and identifying compliance obligations. Some specific examples include: the large Regional Class Research Vessels (RCRV) project; the complex PacWave wave energy project, including preparing for operations by drafting facility user agreements, securing unique operational support agreements with two national labs and negotiating novel energy generation agreements with utility companies; procurement, environmental, construction and permitting issues related to the Cascades Innovation District; procurement and construction issues related to the building phase of the Jen-Hsun Huang and Lori Mills Huang Collaborative Innovation Complex; transitioning PRAX to operations; the Administrative Modernization Project (AMP); consideration of acquisitions of existing off-campus facilities to support University Housing and Dining Services operations; regional research hub proposals; supporting OSU’s efforts in expanding Ecampus domestically and internationally; continued support of telecommunications and network initiative agreements; the acquisition by the College of Forestry of a 3,110 acre research forest in the Portland Metro area; and supported the OSU Juntos Program in further developing their program materials while protecting existing national association relationships and university intellectual property.
- *Compliance issues* – Compliance issues continued to take focus because of the increased complexity and quantity of regulations, as well as heightened agency enforcement and public focus nationally. Because compliance is difficult to tackle in large, decentralized universities with diverse compliance topic areas, OGC’s partnerships with the Office of Audit, Risk and Compliance and key compliance partners are critical. Specific areas of compliance focus included Title IX, Title VI, cybersecurity, national security, workplace safety, digital disability accessibility, hemp/cannabis/psilocybin, Native American Graves and Repatriation Act (NAGPRA), and international activities.
- *Public Safety* – OGC maintained focused advising to support OSU’s sworn law enforcement unit as it continued to grow its programs and services and to engage with OSU response/support offices and the larger OSU community, especially as the unit experienced a leadership change.

- *Labor and Employment Matters* – OGC continued to support University Human Resources (UHR) as collective bargaining agreements were being negotiated with labor unions, which included advising during the CGE strike in Fall 2024. OGC also supported UHR and others in advising on or resolving a variety of individual employment matters and agency complaints including Oregon Bureau of Labor and Industries (BOLI), Employment Relations Board (ERB), etc. Further, OGC advised in several union grievances, promotion & tenure appeals, and faculty senate grievance committee appeals. Generally, OGC has provided targeted advising to UHR as they navigate increased reductions in force or re-organizations across campus due to strategic budget re-alignment or federal grant funds being reduced or cancelled.
- *Student Government* – OGC saw a significant need for targeted focus and advising in this area due to the pace and volume of change efforts by the ASOSU Senate, as well as concerns related to the culture within ASOSU itself, which resulted in a pause in activity imposed by the administration and an independent workplace review. OGC advised and supported ASOSU and Student Affairs as they reviewed their governing documents and other operational protocols during this time. OGC anticipates the need for continued support of ASOSU and Student Affairs as they navigate implementing new governing documents and staff transition.
- *Artificial Intelligence (AI)* – OGC continued to monitor federal policy changes in this area. OGC also sat on the AI@OSU task force to advise on the myriad legal issues that are likely to present themselves as AI becomes more prevalent in every aspect of operations, both at OSU and within our partner universities, agencies, and corporate partners. Legal areas of focus resulting from the growing presence of AI include copyright, privacy, free speech, due process, ethics, transactions issues, compliance, discrimination law and more.
- *Disability Accommodations* – OGC's advising in this area has increased over the past several years as there has been an increase nationally in employee and student disability concerns and accommodation needs, as well as claims and significant new regulations. OGC provided targeted advising to Disability Access Services (DAS) in support of the complex demands for their services while they simultaneously addressed organizational challenges.

See Attachment 2 for an overview of key subject areas in addition to the high focus areas listed here.

LITIGATION AND ADMINISTRATIVE CLAIMS

OGC works with leaders of all levels to address problems early and resolve concerns before they reach the litigation stage. But, where lawsuits are filed in court against OSU, OGC manages the defense and works closely with outside litigation counsel.

A snapshot of defense litigation rates over the past five years is provided in Attachment 3.¹ OSU

¹ The defense litigation over this five-year period involved employment disputes, injuries, allegations of veterinary medical malpractice, breach of contract, breach of trust, student discrimination and retaliation claims, a research sponsor dispute, a claim of fraud related to a Department of Energy Wave Energy prize contest, a claim of violation of the Fair Credit Reporting Act, a claim related to the related to timing of an OSU Police criminal investigation of a student, and defense of a public records. In FY24, there were two small claims matters filed in court. While these are claims filed in court against OSU, they are under \$10,000 and do not permit attorney representation, so we do not include this data in

has traditionally had extremely low litigation rates compared to similarly situated national peers, but those rates have been expected to rise as OSU has grown in size, complexity and profile. As can be seen in Attachment 3, OSU's defense litigation rate over the past 5 years was the highest in FY21, although the total number of cases was still at the lower end of national peers. In that year, there was not a discernible trend or pattern to explain the increase, other than OSU experiencing litigation in areas in which it had not seen litigation previously, *i.e.*, sponsored research, COVID-19, fair credit reporting act, public records, and potential research forest acquisition. OSU's litigation rate in FY22 substantially decreased, with just one employee and one student case filed in court. That low litigation rate was not expected to continue (even based on OSU's prior history) and there have been slight fluctuations year-to-year since FY22. OSU's litigation rate remains consistent with the range over the last decade. The low number of cases continues to remain outside the norm compared to national peers.

OGC also manages all civil rights and administrative claims to and investigated by outside agencies. These include complaints filed by employees or students in agencies such as the federal Department of Education's Office for Civil Rights (OCR), the federal Equal Employment Opportunity Commission (EEOC), the state Bureau of Labor & Industries (BOLI) and the state Employment Relations Board (ERB). Attachment 4 includes a snapshot of the numbers and types of these administrative claims over the past five years. OSU experienced a decrease in student claims in FY25 and employee claims increased slightly in FY25. The rate remains in the range of the last five years. Two of the claims this year were made to the state ERB in connection with labor union bargaining and both were resolved when the collective bargaining agreements were executed. Other than those two claims, there is no discernible trend identified in the claims.

Management of other types of pre-litigation property or personal injury claims is coordinated by OSU's third-party administrator, Berkley Risk Management, along with OSU's Office of Risk Management. OGC advises the Office of Risk Management as needed on those claims.²

WORKING WITH OUTSIDE COUNSEL

OGC engages the assistance of outside counsel in several types of situations. Even when outside counsel is engaged, OGC lawyers work closely with that counsel on strategy, communication and implementation, as well as on ensuring that the advice is tailored to and consistent with OSU's context, values and goals.

The most common situation where outside counsel is engaged is where the area of expertise is highly specialized and where it is inefficient or infeasible to build that specialized expertise in-house. Additionally, although several OGC attorneys have backgrounds as litigators, litigation matters take more time, resources and attorneys than is feasible to handle in-house at the current OGC size. The office also engages outside counsel for matters in which it is advisable or required to have an independent review or opinion. Finally, there are times that outside counsel is engaged because the work and needed timelines surpass the capacity of the office;

the defense litigation rates chart.

² The Office of Risk Management also manages OSU's insurance program. All of the former OUS institutions, with the exception of the University of Oregon, participate in the Public Universities Risk Management and Insurance Trust (PURMIT), which is a self-insurance program allowed by statute. PURMIT is a separate legal entity from OSU, with separate legal counsel. OSU's Chief Risk Officer, however, sits on the PURMIT Board of Trustees, and OSU has a number of OSU-specific insurance policies (e.g., maritime policies).

however, efforts are made to minimize this approach given the higher cost of outside counsel. Staffing numbers of in-house counsel versus outside counsel are monitored to ensure provision of the most cost-effective legal services.

It is encouraging that it remains the case that most university-wide outside counsel costs are to support OSU's proactive endeavors, rather than traditional defense-related costs (see Attachments 5 and 6).

Each year, the university's need for outside counsel fluctuates depending on its initiatives and issues. In FY25, there was an uptick in outside counsel expense that can be attributed, in part, to the growing footprint and portfolio of OSU, including intellectual property, complex transactions, bond-related advising and the development and acquisition of real property (existing facilities and a large research forest), all of which required some specialized advising.

Additionally, OGC worked with outside counsel as the unprecedented actions of the federal government had a substantial impact on the university's research enterprise due to grant funding pauses, stop work orders, and terminations. Additional expertise in the immigration area was also sought in response to federal policy changes and actions. The ever-evolving athletics challenges associated with Name, Image, and Likeness (NIL) changes and ongoing changes in Pac-12 governance prompted the need for outside counsel support this year as well.

Finally, in recent years the university has seen an increase in litigation with OSU as the plaintiff resulting in a corresponding increase to outside counsel expense in this area. As in FY24, the increase in FY25 was associated with OSU as a plaintiff on a construction claim. As the university's infrastructure continues to grow, so do the risks associated with capital construction because the claims tend to be intricate, involve multiple parties, and have substantial financial stakes.

PREVENTATIVE LAW – OUTREACH AND TRAINING

OGC attorneys engage in the practice of preventative law every day, serving as key members of OSU teams in proactive planning and pre-decision phases. This advance advising often avoids or mitigates legal action later. Additionally, serving as thought partners with leaders of all levels as they address particular issues presents opportunities to provide education on applicable laws and policies. OGC also takes opportunities to provide more formal training in a variety of arenas.

OGC Statement of Philosophy

The Office of the General Counsel (OGC) serves as a key resource to Oregon State University, as we provide legal advice on all manner of issues facing this complex and large organization.

In providing legal advice, we add value by crafting creative and pragmatic solutions, fostering critical analysis, and facilitating resolution towards common goals across a spectrum of agendas and viewpoints. Our attorneys bring a high level of knowledge, judgment and common sense to every issue on which they advise, and their advice is contextualized and specific to OSU's needs. To be effective advocates and advisors, we take a genuine interest in and ensure understanding of OSU's history, culture, current activities/challenges and goals.

In working with OGC, OSU employees can count on impeccable ethics and integrity, as well as respect, collaboration and inclusivity. Building and maintaining relationships across OSU is paramount to our ability to provide excellent service. OGC is just one part of a large and multi-faceted team at OSU, and our attorneys respect the expertise, judgment and business decisions of OSU leaders. It is imperative that we be viewed as partners, advisors, and problem-solvers.

Although OGC is a fast-paced and often high-pressure environment that calls for a level of professional autonomy in each employee, our attorneys, paralegals and assistants work together to provide the university with seamless service and to support and guide each other collaboratively. The principle of teamwork that is integral to the relationships with constituents outside the office is evidenced in our working relationships within OGC.

OGC Staff

The office includes seven (7) attorneys (including the vice president/general counsel), two (2) paralegals, an executive assistant and an administrative assistant. While the office is staffed leanly compared to national benchmarks, OGC provides high quality legal services in an efficient way. The university has a collaborative culture of bringing OGC in early in planning and problem-solving and the attorneys strive to practice preventative law in all arenas. OGC's success in providing efficient legal services is dependent on both of these conditions — leaders of all levels utilizing OGC in this proactive manner and a focus on preventative law. OGC also connects often with colleagues within the state and nationwide to stay ahead of the curve on best practices for efficient and cost-effective services.

DYNAMIC ADVISING ACROSS DIVERSE SUBJECT AREAS

OGC provided advice in the following key areas in 2024-25³:

Athletics issues – Coordinated with the Pac-12 GC on matters of common interest, conference membership expansion agreement, grant of media rights agreement, exploration of innovative revenue generation ideas, and litigation against the Mountain West Conference related to FY24 football scheduling agreement. OGC continued to provide support to OSU's Department of Intercollegiate Athletics regarding increasingly complex and high-profile issues. Advised on matters regarding student athlete conduct, concerns regarding student athlete criminal or student conduct history, scholarships, gender equity in athletic opportunity and facilities, coach contracts, personnel matters, antitrust and *House* implementation for NIL payments, NCAA rules, and contracts for services or other business collaborations and media agreements.

Bankruptcy/collections matters – Advised on student and corporate vendor or contractor partner insolvencies, bankruptcies and collections matters to the extent they impacted OSU.

Civil rights investigations/issues – Advised on discrimination, retaliation, sexual assault and bullying investigations, as well as disability accommodations and facilities accessibility reviews. Advised leaders across the university on civil rights and constitutional law issues.

Compliance – In addition to Title IX compliance, advised on many different regulatory compliance areas, including, for example, Clery Act timely warning/crime reporting, export control, Title VI and VII, IT security compliance, environmental health/safety regulations, HIPAA/FERPA, NCAA rules, financial aid regulations (including but not limited to borrower defense claims this year), Native American Grave Repatriation Act (NAGPRA), controlled substances, and human/animal subject research regulations.

Contracts, industry partnerships, association collaborations, real property development – Advised on variety of procurements and contracts including high value or complicated construction and goods/services agreements and transactions, as well as industry collaborations, sponsored research agreements and consortium/association agreements. Advised on land use and water rights issues involved in the development or use of OSU real property. Advised on new federal tariffs as they impacted OSU purchasing, construction or contracts. Advised on City of Corvallis collaborations and negotiations on variety of issues.

Employment issues – Advised on faculty grievances (through UAOSU CBA or faculty senate grievance committee), staff grievances (through SEIU, CGE and police union CBAs), labor arbitrations, terminations-for-cause, reductions in force, re-organizations, reassignments, agency complaints, tort claims, personnel management issues, collective bargaining, benefits and employment contract issues.

³ OGC works with many offices at the university who have primary responsibility in these areas (e.g., the Office of Human Resources and Office of Faculty Affairs for employment issues, the Office of Equal Opportunity and Access on discrimination issues, the Office of Student Conduct and Community Standards on student conduct issues, Procurement and Contract Services on transactions, OSU Advantage Intellectual Property & Licensing team on licensing). OGC is consulted when legal advice is needed, or matters are particularly complicated, high value or high profile.

Ethics/audits – Advised on government ethics issues and internal/external audits.

Extension and Engagement – Advised statewide extension programs, including 4-H, Master Gardeners and Outdoor School, on a variety of issues related to funding, religious rights, discrimination, inclusive access, volunteer, program participant, and employment issues.

Foundation – Advised OSU employees and coordinated with OSU Foundation counsel on variety of contract, gift and ethics questions.

Immigration issues - Advised on issues related to federal government immigration enforcement (such as SEVIS terminations), responses to and resources for university community members with immigration-related concerns, and OSU contributions to legal actions against the federal government brought by organizations and individuals (such as declarations or signing onto amicus briefs).

Intellectual property issues – Advised on patent, copyright and trademark issues regarding commercialization and ownership of technology, research, and course curricula, as well as intellectual property disputes.

International issues – Advised on issues related to international research endeavors, export control and heightened federal national security concerns on research/education collaborations, student study abroad and athletic/music/academic team international travel, employee travel, immigration and travel ban issues, overseas employee compliance, international transactions and federal regulations regarding foreign gift reporting. Also, OGC advised OSU regarding INTO relationship, as well as international compliance issues regarding extending Ecampus to students residing in other countries.

Legislation – Advised regarding proposed bills in the 2025 Oregon legislative session. Advised regarding high volume and significant federal actions, interpretations and policy changes.

Policies – Advised on variety of proposed university policies or policy revisions, especially partnering with the Office of Audit, Risk and Compliance and the director of policy and standards on university's long-term policy modernization effort. Advised Faculty Senate and ASOSU on their policy efforts as critical shared governance partners.

Public finance – Advised on transaction to refinance existing university debt by buying back outstanding taxable bonds and replacing them with tax-exempt bonds, resulting in the reduction of the outstanding par amount of OSU debt and aggregate debt payments; advised on suitability of bond financing for specified capital projects; and advised on reporting obligations for previously issued bonds.

Public Records and Meetings – Advised on myriad public records requests and appeals; advised on public meetings law questions.

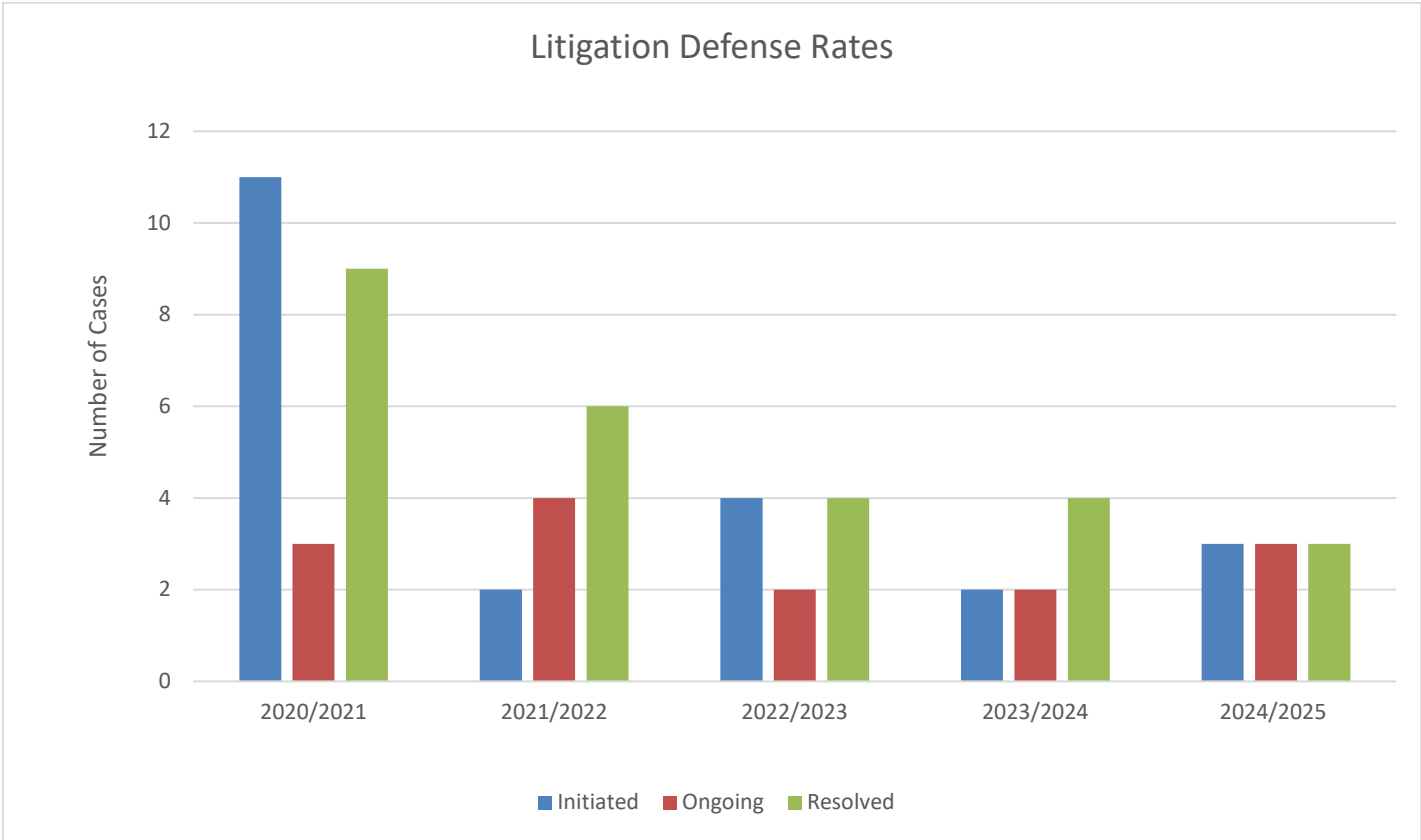
Research issues – Advised on large research projects, hemp/marijuana/psilocybin research questions, research compliance questions, questions related to conflict of interest in research, research misconduct actions, foreign influence regulations, technology transfer issues, and liability/risk issues regarding research vessels and field work. Provided significant advising (including supporting litigation and administrative appeals) related to federal administrative change – i.e., grant terminations, funding freezes, terms and conditions changes, indirect cost recovery caps and other policy changes.

Risk management – Advised on Enterprise Risk Management initiative, as well as threat assessment, emergency response plan update, hazardous waste and environmental health and safety issues, Veterinary Hospital client claims, personal injuries on university property, university property damage, infectious disease issues, travel policy, large or particularly risky events, insurance questions and other matters.

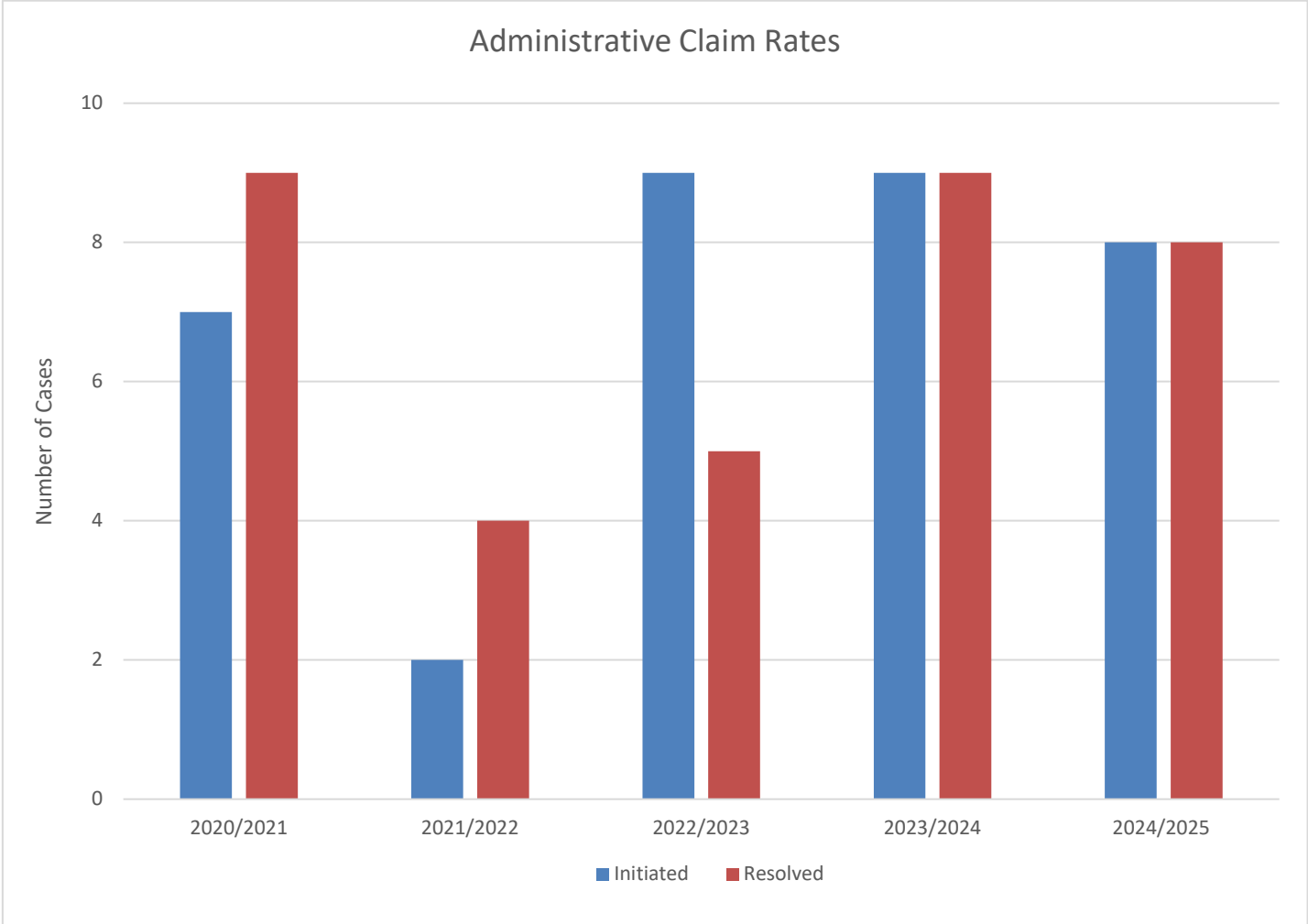
Subpoenas for records or testimony – Advised on subpoenas served on OSU for records or witness testimony.

Student issues – Advised on issues related to student conduct, student wellness, student health services (including student insurance plan issues), student government, academic appeals, academic programs, Greek life and other student organizations, housing issues, free speech, firearm rights, undocumented students, admissions policy, student injuries/fatalities and financial aid.

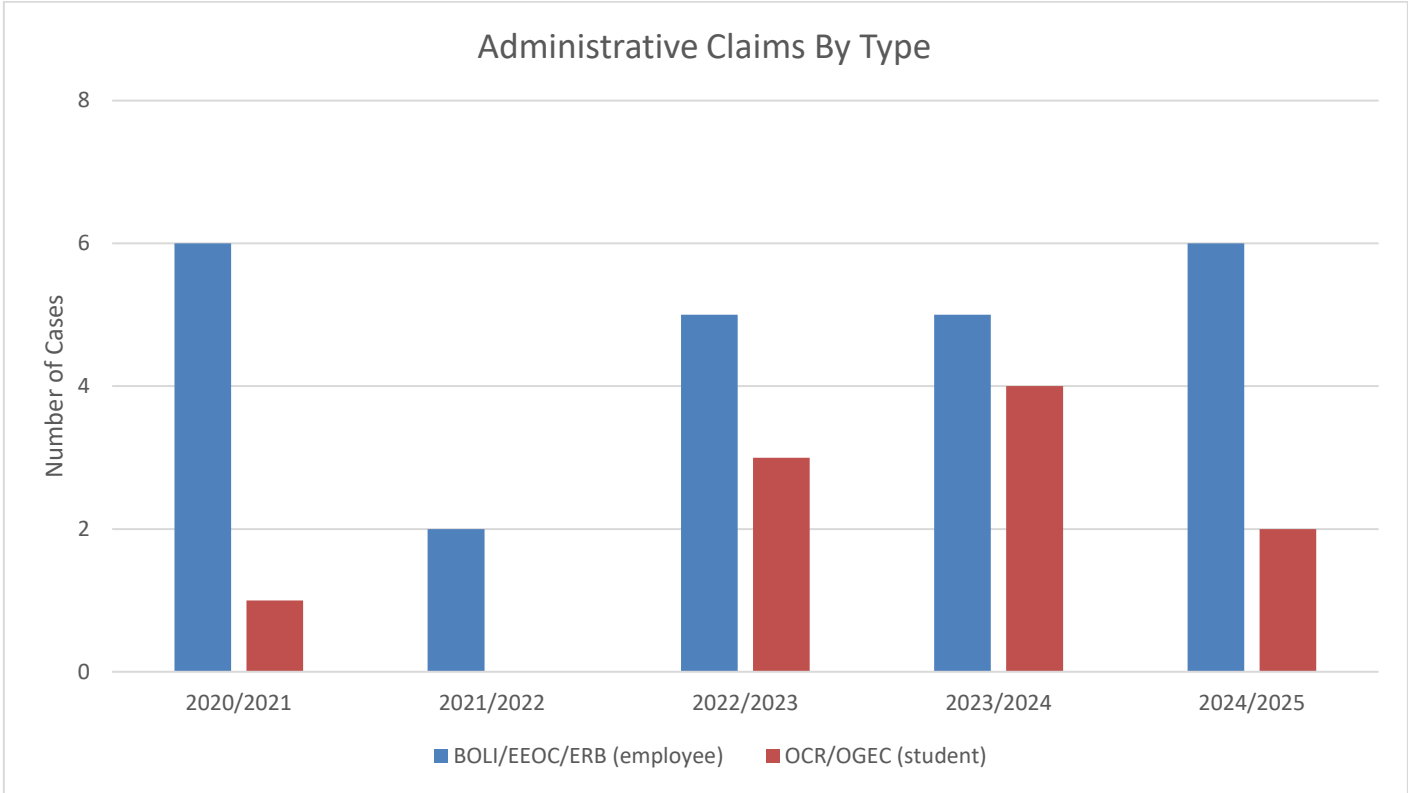
Defense Litigation Rates: Five-year snapshot showing number of court cases filed against OSU and resolved each year, as well as those carried over from previous years.



Administrative Claim Rates: Administrative claims (claims by students or employees to and investigated by outside agencies) made over the past five years. Claims are generally resolved within a one-year period but may carry over from year to year.

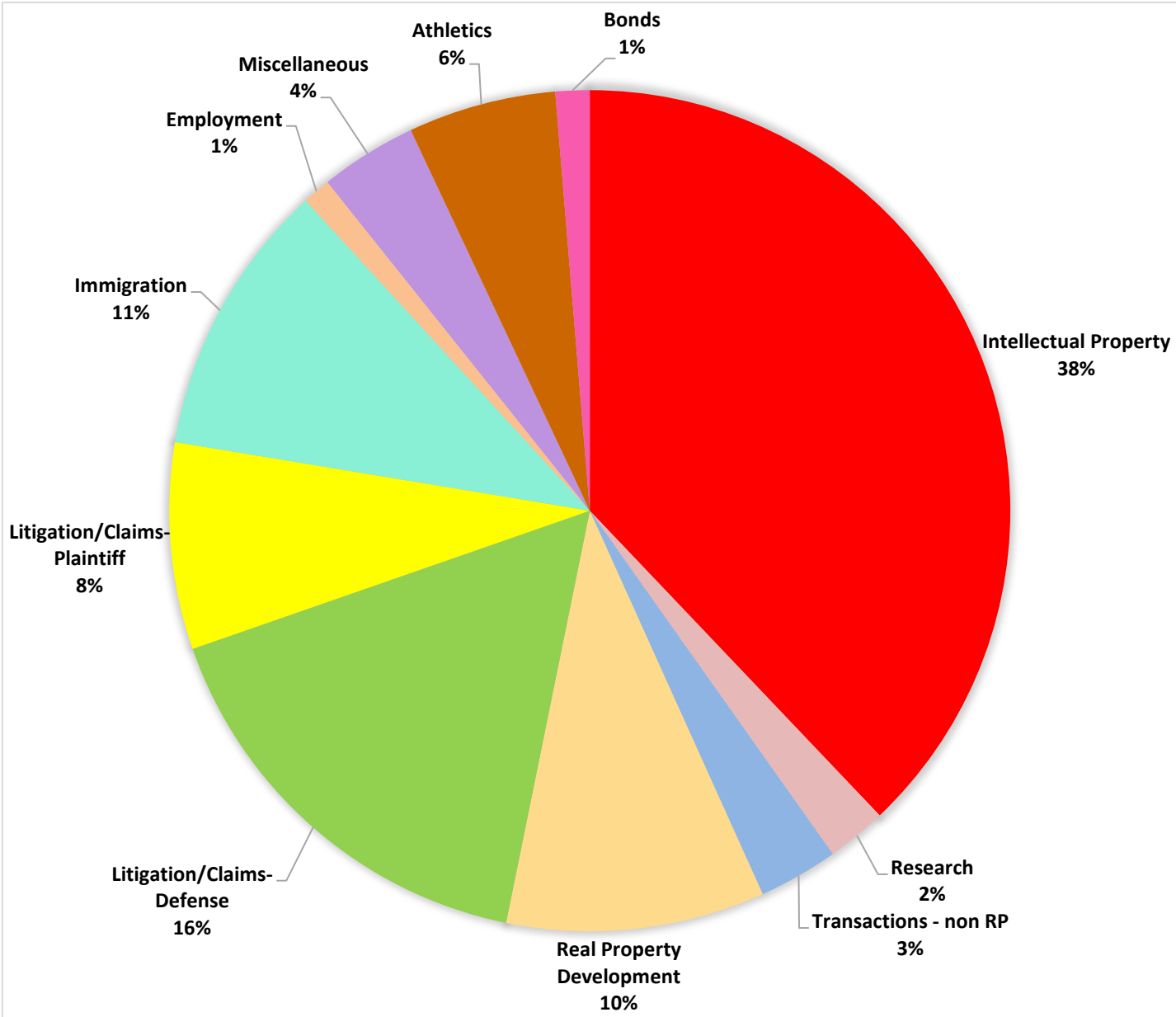


Administrative Claims by Type: Administrative claims broken out by those from students versus employees, over the past five years.

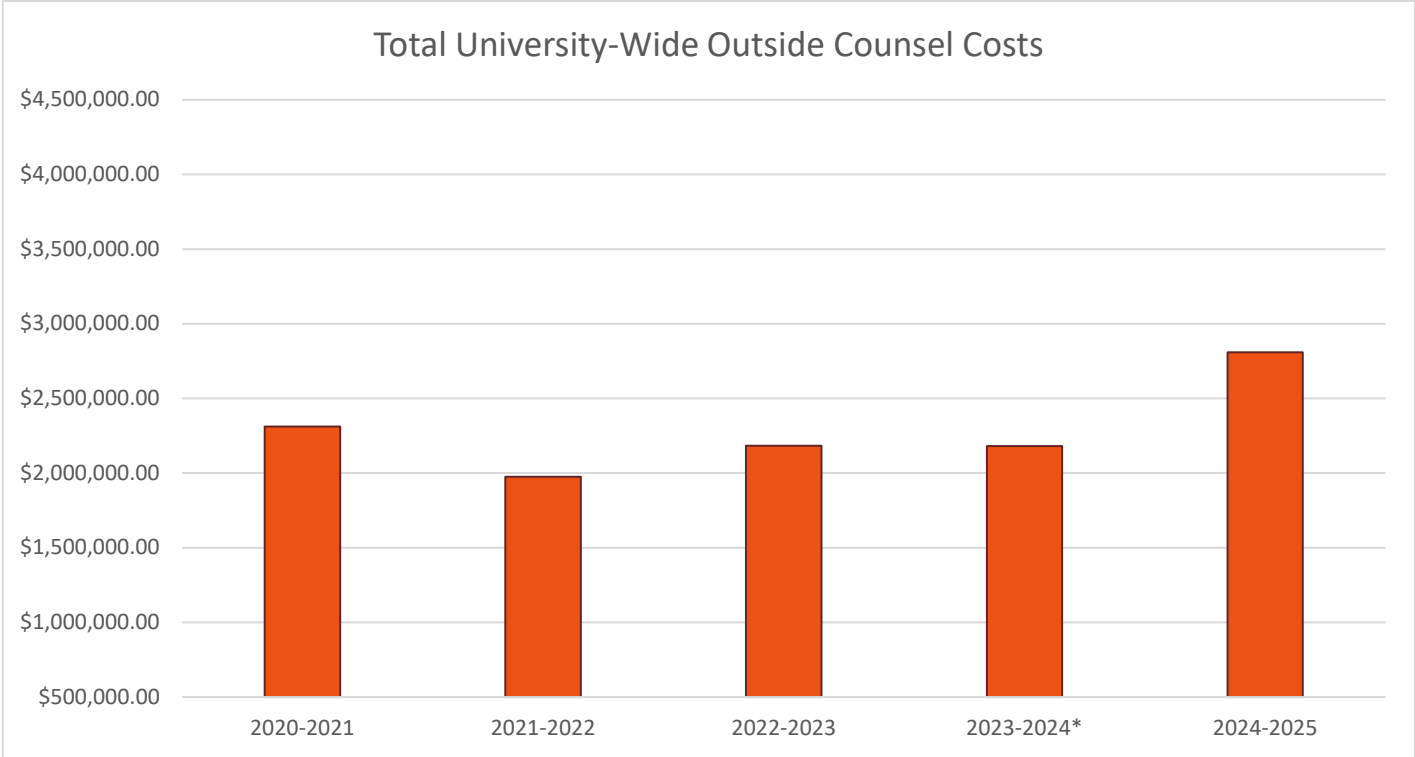


University-wide outside counsel expenses broken out by type.

TOTAL OUTSIDE COUNSEL EXPENSE BY TYPE FY25



University-wide outside counsel expenses annually over the past five years.⁴



⁴ For purposes of this chart, the 2023-2024 costs associated with the Pac-12 litigation that totaled \$2,154,837 was removed as a significant outlier. Please refer to the FY24 OGC Annual Report for additional details.