



UNIVERSITY OF
OREGON

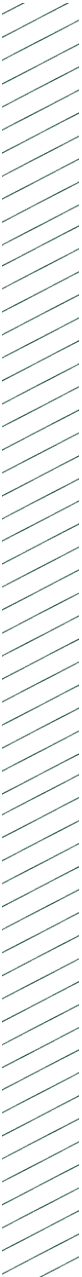


Office of the General Counsel

Annual Report 2021

July 1, 2020-June 30, 2021 (Fiscal Year 2021)

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LETTER FROM THE VICE PRESIDENT AND GENERAL COUNSEL



Kevin S. Reed
Vice President and
General Counsel

Small, but mighty. In a year marked by a global pandemic, historic wildfires, and civil unrest, the small team of attorneys in the Office of the General Counsel have played a critical role in shaping the university's response. From swiftly navigating the regulatory thicket in order to license UO's own COVID-19 testing lab (a high-functioning entity that is now providing testing services to much of the state), to advising on employee support and relief programs, to protecting free speech while promoting justice and civil rights, to supporting campus initiatives to promote diversity and combat racism, to providing telehealth services to students across state lines, I am struck by the sheer volume and breadth of novel legal questions we faced in the past year and by the team's ability to be proactive, nimble, and creative in boldly taking on these challenges.

In keeping with the university's commitment to transparency, I'm pleased to have the opportunity to share our many accomplishments in this our inaugural report. I hope that after reading it you will share my sense of pride and admiration for our team.

It is an honor to serve the University of Oregon and we look forward to what the new year will hold.

Go Ducks!

A handwritten signature in blue ink, appearing to read 'K. Reed', written over a light blue horizontal line.

Kevin S. Reed
Vice President and General Counsel

Our Mission

The Office of the General Counsel (OGC) is a team of legal professionals dedicated to public service and advancing the University of Oregon's mission. We are a service unit that empowers campus stakeholders to accomplish their goals, while successfully balancing efficiency, innovation, and risk. We accomplish this mission by:

- Promoting a climate of ethical behavior, integrity, and accountability;
- Providing timely, creative, and practical legal advice;
- Increasing awareness of higher education's complex regulatory landscapes through trainings, outreach, and accessibility;
- Representing the university's interests in litigation, administrative proceedings, and business transactions; and
- Facilitating the development and implementation of university initiatives.

Our Staff



Kevin Reed
Vice President and
General Counsel



Douglas Park
Deputy General
Counsel



Craig Ashford
Associate General
Counsel



Bryan Dearing
Associate General
Counsel



Jeslyn Everitt
Associate General
Counsel



Jessice Price
Associate General
Counsel



Julia Cohalan
Assistant Vice
President and
Chief of Staff



Brandalee Davis
Legal Assistant
and Administrative
Coordinator



Kelly Owens
Legal Assistant



Practice Areas

- Academic Affairs
- Athletics
- Civil Rights
- Constitutional Law
- Contracts
- Compliance
- Data Security
- Emergency and Risk Management
- Employment Law including Labor Relations, Benefits, and Retirement Plans
- Federal Agencies
- Governance and Policies
- Government Ethics
- Health Care
- Immigration and International Programs
- Intellectual Property
- Library and Museum Administration
- Litigation
- NCAA Compliance
- Personal Injury
- Philanthropy
- Police and Law Enforcement
- Privacy
- Procurement
- Public Finance
- Public Records and Public Meetings
- Real Estate and Land Use
- Records Retention and Preservation
- Religious Freedom
- Sponsored Research
- Student Conduct
- Subpoenas and Privacy
- Tax
- Telecommunications
- Title IX

Select Highlights

FROM WORK IN FY21



ATHLETICS

- Significant original work to advise the campus on implementation of completely novel rules allowing for student-athletes to market their names, images, and likeness. Drafted UO's policy, procedures, and related guidance
- Revised privacy and other releases to account for student-athlete rights, institutional obligations, and the protection of UO copyrights and trademarks
- Participated in training sessions and information fairs for student-athletes
- Contract work related to hosting the US Olympic Team Trials - Track & Field
- Contract work related to hosting Oregon22, the World Athletics Championships
- Handled contract dispute/enforcement issues arising from COVID-19 sports seasons/event cancellations
- Significant work with Government Relations, Athletics, and Oregon State University on interpretation of Oregon Health Authority guidance pertaining to outdoor, indoor, and hybrid team practice, venue, and event limitations
- Advised on remote training and return-to-campus issues for student-athletes



COVID-19 RESPONSE

- Provided advice on COVID-related regulations and guidance, regularly tracking OSHA, CDC, FDA, DHHS, DOE, EEOC, OHA, ATF, and other agency guidance
- Support for employees:
 - Assisted with preparation of early retirement incentive program
 - Enrolled UO in state workshare program to provide employees with more flexibility and job security, while at the same time saving the institution money
 - Developed caregiver resources, including the UO Care Provider Network and the UO Shared Care Network
 - Established the employee relief fund

COVID-19 RESPONSE (continued)

- Support for students:
 - Advised on appropriate ways to provide continuity of medical care to students who had to leave the state during the pandemic
 - Advised on providing emergency financial aid to students with CARES Act funds and private funds raised through donations
 - Provided ongoing assistance to University Housing to ensure student safety, respect for student rights, and UO authority to enforce COVID-19 protocols, including regular review and revision of contracts and assistance with removing non-compliant students
 - Provided aid on all housing terminations impacted by US (CDC) and Oregon moratoria on evictions
 - Prepared streamlined contract process for students to stay in a hotel due to COVID-19 infection
- Advised on vaccine mandate, quarantine, and safety protocols
- COVID-19 Monitoring and Assessment Program (MAP) Lab:
 - Secured FDA emergency use authorization (utilizing Yale's SalivaDirect) for saliva testing at MAP COVID-19 Lab
 - Swiftly obtained federal and state regulatory clearance to provide free qPCR COVID-19 testing for all of Lane County
 - Developed Notice of Privacy Practices and informed consent forms
 - Provided other legal advice around HIPAA, telephonic reporting, document retention, rate setting, variant testing, and navigating OHA rules and guidance
 - Negotiated intergovernmental agreements around COVID-19 testing and contract tracing with Lane County Public Health
- Maintained an ongoing lease with the state of Oregon and Battelle to ensure continued PPE sterilization for the West Coast of the United States
- Assisted with countless product purchases, service agreements, negotiations of state grant agreements, contract enforcement activities, insurance disputes, FEMA grants, tax credit and benefit analysis and tracking, and unemployment insurance subsidies
- Assisted with drafting proposed federal and state legislation, ensuring continued health coverage benefits for employees on Leave Without Pay, and other matters to maintain UO's operations throughout the COVID-19 pandemic
- Provided regular advice to clients to address and remediate accessibility issues during remote work and classes
- Advised radio stations on pre-recording and/or use of automated systems to stay on air 24-7 during COVID-19 closures
- Advised on various privacy issues related to move to remote education—e.g., Zoom, exam proctoring, and Learning Management System data issues
- Evaluated numerous requests for faculty and students to travel or work abroad during pandemic (juggling labor, tax, immigration, and other legal requirements)
- Obtained an expansion of the university's license for tax-free alcohol from the Federal Bureau of Alcohol, Tobacco, and Firearms to secure UO's supply of denatured alcohol to continue producing sanitizer, and established an expedited process for Oregon's other public universities to do the same with the ATF



WILDFIRES

- Provided legal advice on Oregon government ethics for UO to authorize employee housing benefit
- Prepared streamlined student and employee housing agreements for temporary housing in residence halls
- Advised Athletics regarding health and safety air quality measures in light of changing OSHA rules and Pac-12 guidelines



POLICY DEVELOPMENT

- OGC was very active in pushing through policies for revisions, including the discrimination complaint response policy (now prohibited discrimination and retaliation policy), incorporating updates from Title IX rulemaking and changes to state law. Other policies developed this year include work on the student conduct standard operating procedures, the Information Services Acceptable Use Policy, the Proprietary Research Policy, and guidance relating to the Oregon Equal Pay Act
- Actively monitored the legislative session to ensure legal compliance with all new bills and initiatives



COMPLIANCE, INCLUDING TITLE IX

- Helped set up an alternative resolution process based on principles of restorative justice for student cases involving discriminatory misconduct
- Worked with the Office of Investigations and Civil Rights Compliance and Office of the Dean of Students to expand resources for student complainants and respondents in conduct proceedings, including access to legal advisors
- Helped compile the 2020 Clery report, including overseeing the verification of data and updating the content of the report

COMPLIANCE, INCLUDING TITLE IX (continued)

- Helped develop trainings and awareness materials for Title IX, Clery Act, and other compliance requirements
- Provided regular advice relating to compliance with the American with Disabilities Act, Title VI and VII of the Civil Rights Act, Title IV of the Higher Education Act of 1965, Title IX of the Education Amendments of 1972, family leave laws, HIPAA, FERPA, NCAA rules, financial aid regulations, federal and international data security and privacy compliance standards, human and animal research regulations, Oregon statutes, the Fair Labor Standards Act, the Occupational Safety and Health Act, and Executive Order 11246.



PROTECTING/PROMOTING SOCIAL JUSTICE AND CIVIL RIGHTS

- UO initiated two lawsuits in FY21 that protected UO's students and the institution's values:
 - Student and Exchange Visitor Program (SEVP)/F-1 Visa Litigation – The University of Oregon, in coordination with a number of other schools, filed a Complaint and Motion for a Temporary Restraining Order and Preliminary Injunction challenging the Department of Homeland Security's ruling against issuing visas for foreign students under the Trump Administration. After filing the briefs, the rule was rescinded.
 - The university sued a former UO police officer for constitutional and civil rights violations relating to a Hispanic community member. That case remains ongoing.
- Advised on promoting diversity in admissions, scholarships, and hiring
- As mentioned above, OGC was instrumental in developing policies and practices to address discrimination and bias, including the newly revamped Prohibited Discrimination and Retaliation policy and Equal Opportunity policy
- OGC vetted a proposal for increased affinity housing opportunities for minority students



REPRESENTING UO'S INTERESTS

- Resolved a disputed trust matter by securing a \$600,000 scholarship for UO students
- Assisted with modifications to a 1950s gift agreement that enabled the UO and OSU to receive over \$2.4 million for student scholarships for needy students
- Led the coordination with the other PAC-12 schools to initiate a lawsuit to defend our trademarks

REPRESENTING UO'S INTERESTS (continued)

- Coordinated with other public Oregon universities to assess labor law, tax, and immigration compliance issues for all employees working remotely from abroad
- Oversaw outside counsel and worked with campus stakeholders to ensure the uninterrupted provision of visa filing services to campus employees
- Supervised the training and work of the new international employment specialist hired to fill permanent residency petitions

Use of Outside Counsel

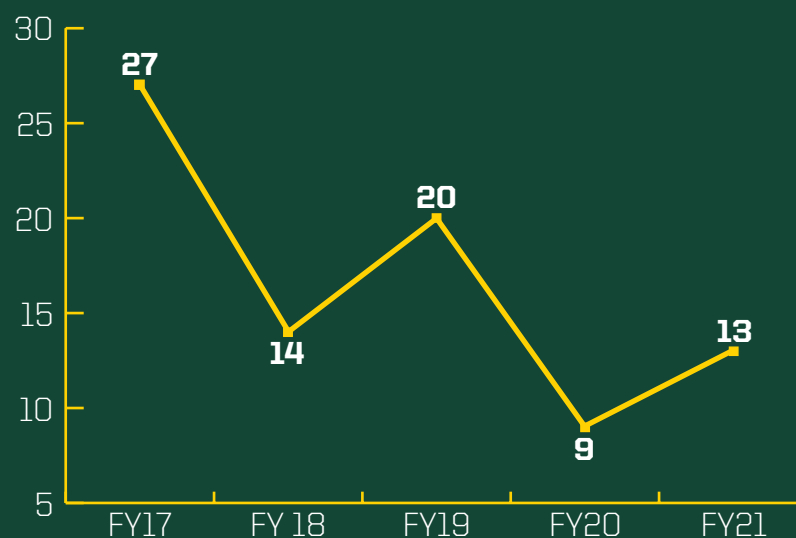
The university generally hires outside counsel for matters that we don't have the staffing to handle in-house, generally all litigation, occasionally labor arbitrations, and for very specialized legal work, including NCAA compliance, intellectual property and registrations (e.g., patents, copyrights, and trademarks), FCC work for our three radio stations, immigration, and international operations. As our spending on outside counsel attests, we are judicious in the utilization of outside counsel and have needed to rely on outside support less year over year as the expertise of our in-house counsel has expanded.

The number of litigation matters handled by outside counsel in FY21 was 13, although many of those matters have since been resolved.

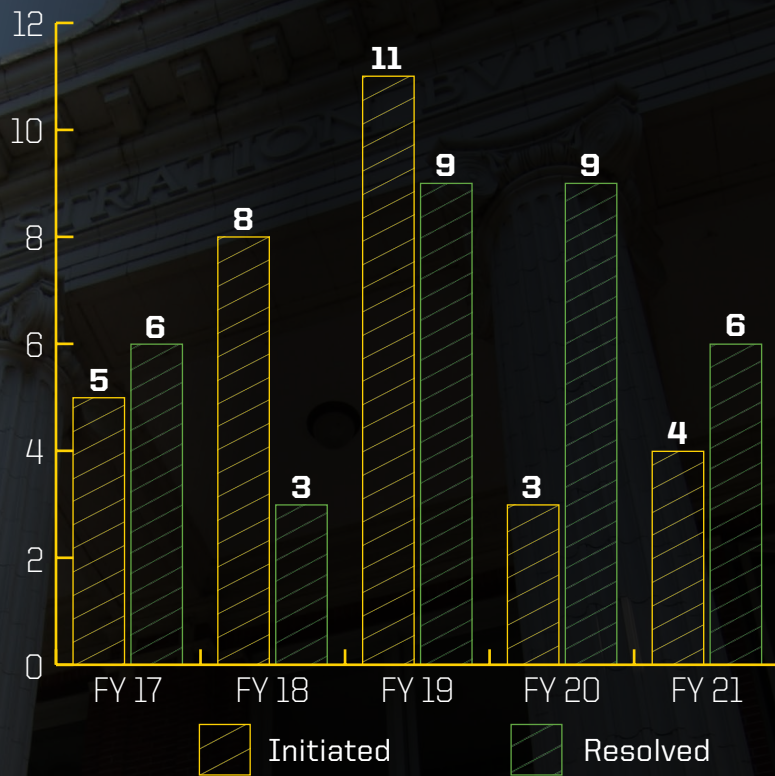
We are committed to supporting our local and state economy, and use Oregon attorneys whenever possible. In FY21, the majority of the firms we worked with were based in Oregon.

We are also deeply committed to supporting underrepresented attorneys. Of the attorneys we worked with, over half were women and minorities. Importantly, when engaging new firms, we also ensure that female attorneys are paid commensurate to their male counterparts before agreeing to hourly rates.

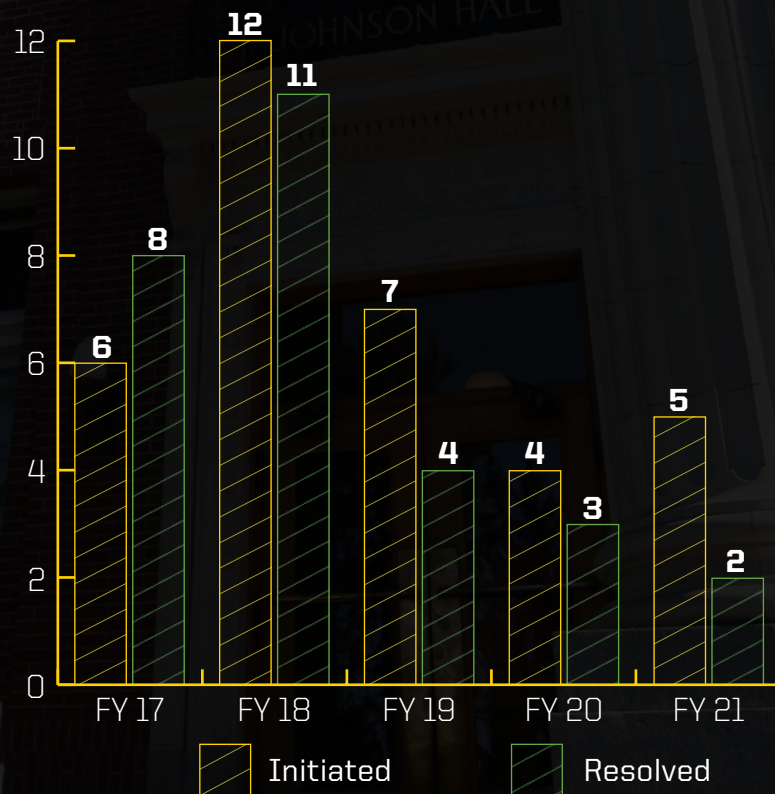
Tort Claim Notices by Year



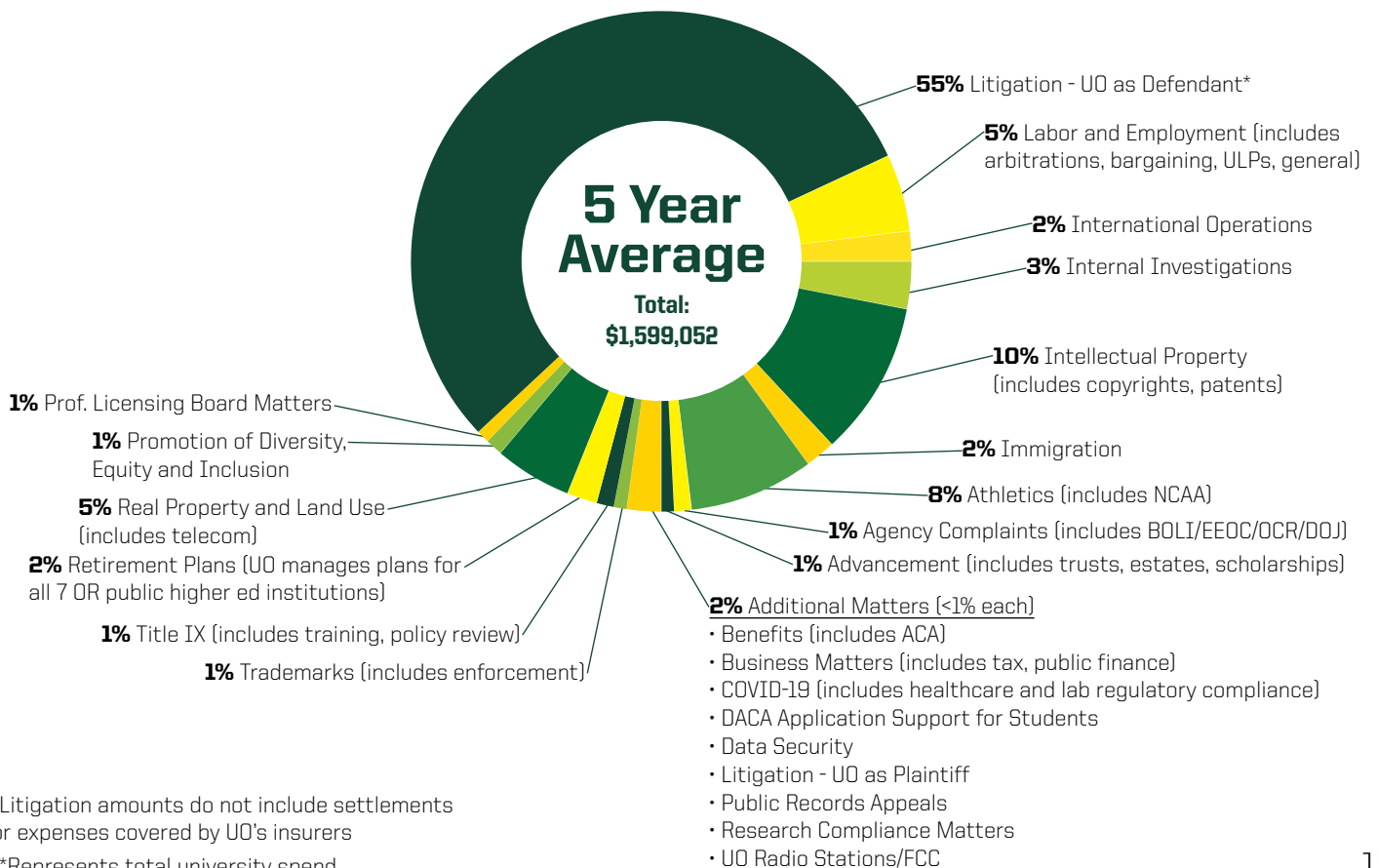
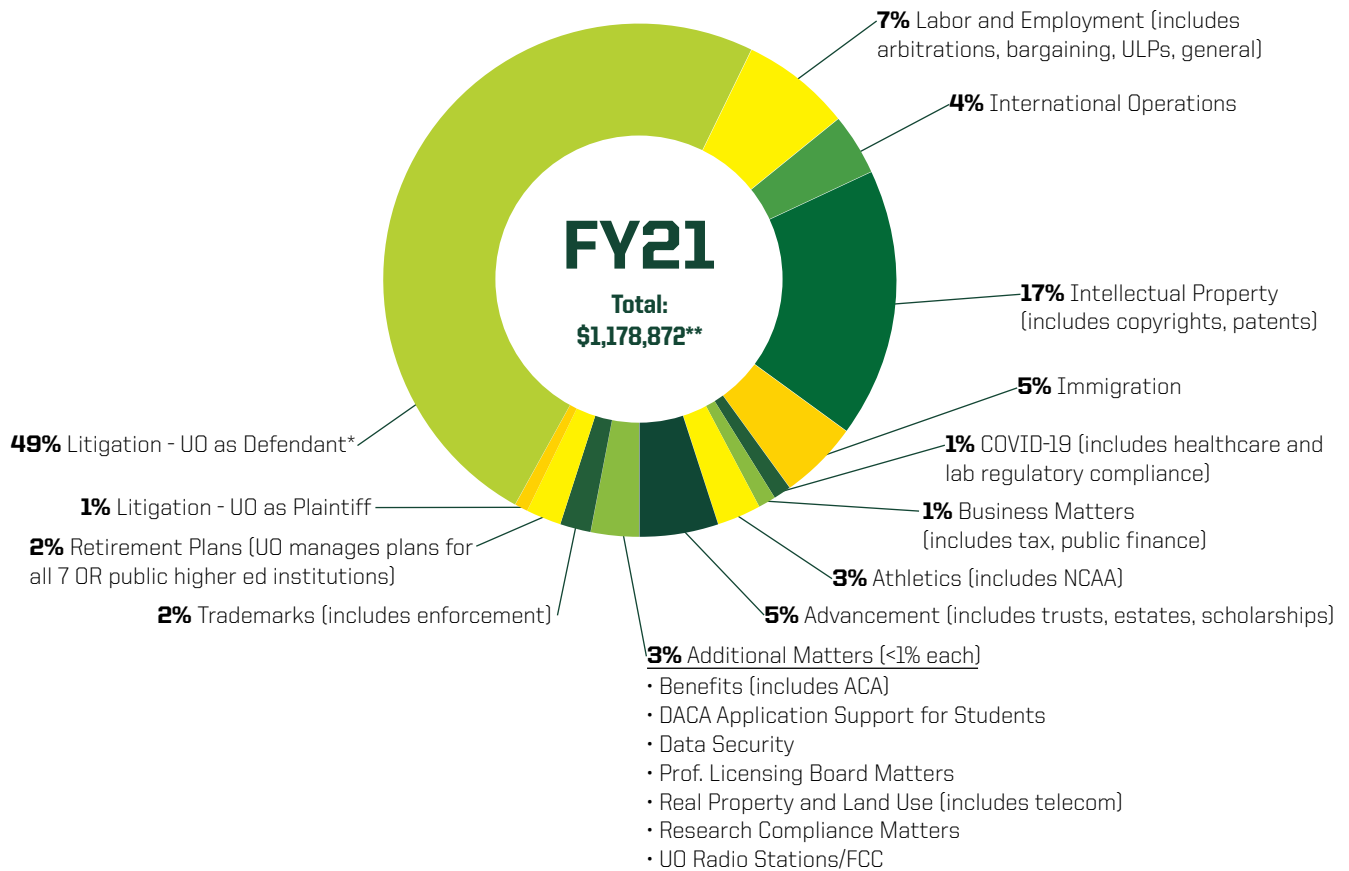
Lawsuits Initiated and Resolved by Year



Agency Complaints Initiated and Resolved by Year



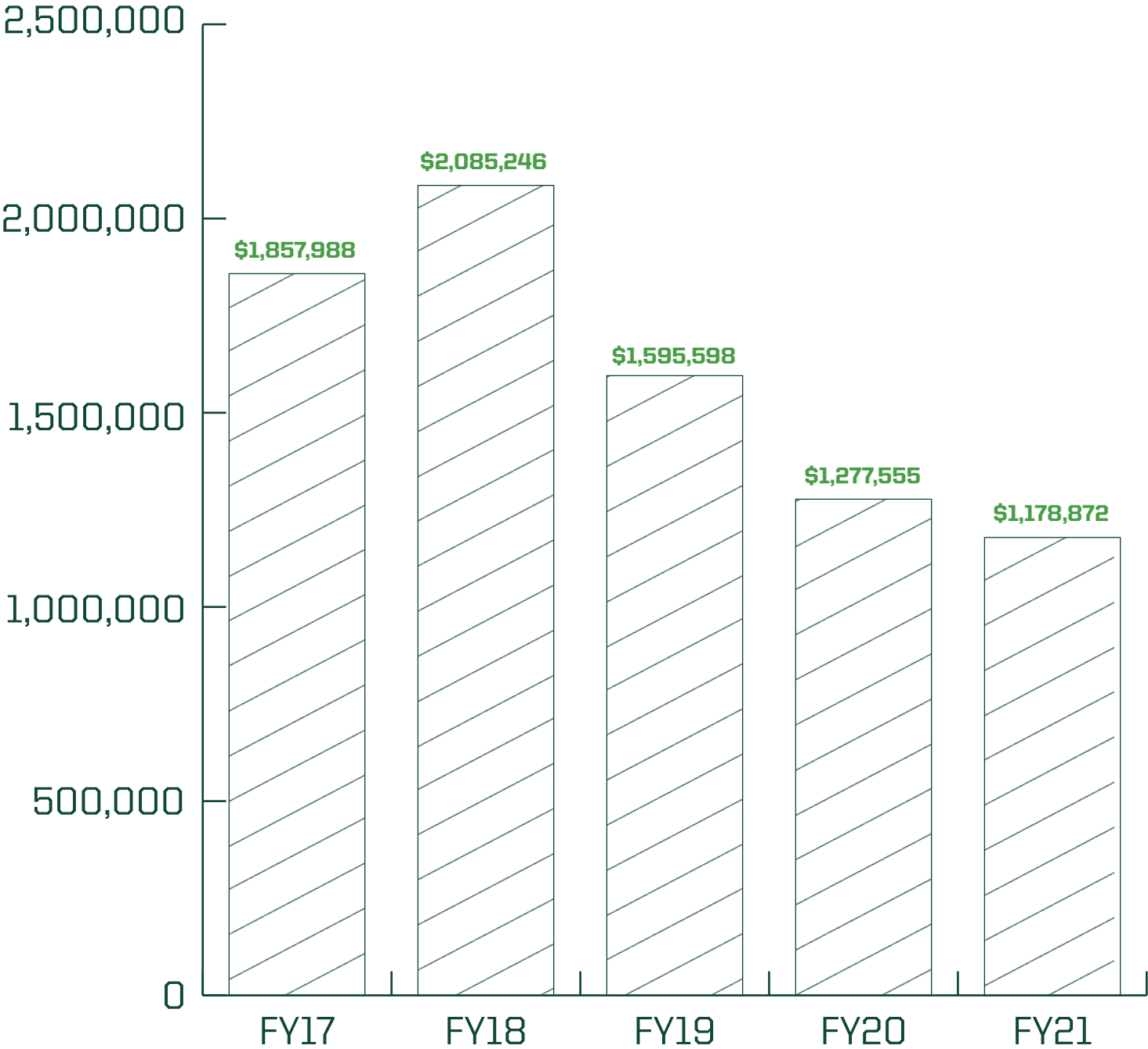
SPEND BY MATTER TYPE



*Litigation amounts do not include settlements or expenses covered by UO's insurers

**Represents total university spend

TOTAL INSTITUTIONAL OUTSIDE COUNSEL EXPENSES OVER TIME



OGC Gives Back

PROFESSIONAL AND COMMUNITY SERVICE

Kevin S. Reed, Vice President and General Counsel

- Volunteer firefighter of the year for service fighting the wildfires in Oregon
- Board chair, Green Dot Public Schools
- Board member, ExEd
- Member, UO College of Education Advisory Council
- Attorney Mentor for the Oregon State Bar

Douglas Park, Deputy General Counsel

- Member of Jordan Schnitzer Museum of Art (JSMA) Advisory Board, including service on the JSMA Board's executive committee, long-range planning committee, and chair of the nominating committee
- Currently the longest serving board member on the Eugene Education Foundation (EEF) Board, including service on EEF's Literacy Committee
- Volunteered at the law school to help train students on professionalism and judge moot-court and mediation competitions
- Presenter/panelist for the following programs:
 - Political Activity on Campus and in Classrooms – National Association of College and University Attorneys (NACUA)
 - Election and Political Activity on Campus – Association of American Universities (AAU)
 - Staying in the Game (interviewing and cover letters) - UO law school/Oregon Asian Pacific American Bar Association (OAPABA)
 - Guest lecturer for MBA Business and Law Ethics Class
 - Hate Crimes and Campus Resources – OAPABA and Minority Lawyers Association
 - Equality and Inequality from Past to Present – Oregon Department of Justice

Craig Ashford, Associate General Counsel

- Moot Court coach
- Member of Public Employees Retirement System (PERS) OAR development working group
- Member of Oregon Department of Revenue OAR development working group
- Member of national Tax Issues Consortium for public universities
- Law school admissions office representative at law school fairs
- Author of article providing guidance for public universities on federal excise tax issues
- Regular contributor to the development of Oregon and federal legislation regarding employee benefits, taxation, and public finance
- Contributor to the law school business law clinic, volunteer for law school career services center, and presenter to law school mentor program participants

Craig Ashford, Associate General Counsel (continued)

- Service on UO committees:
 - Campus Planning Committee
 - Real Property Transactions Team
 - Oregon22 Planning Committee
 - Retirement Plans Committee
 - Law School Alumni Awards Committee

Bryan Dearing, Associate General Counsel

- Pro tem instructor at the law school – taught Lawyering Skills and Bar Fundamentals that resulted in a historic 90% bar passage rate, compared to the state average of 84%
- Board member on Executive Slate for the Oregon Federal Bar Association (FBA)
- One of two attorney ambassadors that help run the FBA's Free Federal Law Clinic
- Selected as co-chair of the Ninth Circuit Lawyer Representatives for the District of Oregon
- Member of Lawyer Representatives Coordinating Committee for the Ninth Circuit Court of Appeals
- Co-chair of the Haggerty Scholars Committee
- Member of Association of Threat Assessment Professionals (ATAP)
- Service on the advisory board for the Journal of University and College Law
- Service on UO committees:
 - Information and Communications Technology Accessibility Committee
 - Data Security and Incident Response Team
 - Information Security Governance Committee
 - University Records Management Committee
 - Behavioral Evaluation and Threat Assessment Team
- Delivered training/presentations:
 - UOPD new officer orientation
 - “Privacy, Access, and Disclosure Law” at annual Financial Stewardship Institute
 - Government Ethics/Conflict of Interest
 - FERPA
 - Data Security

Jeslyn Everitt, Associate General Counsel

- Pro tem instructor at the law school – taught Mediation to students at the law school and with the Conflict and Dispute Resolution (CRES) Master's Program
- Lane County Bar Association mentor to first-year law students
- Board member for the Fulbright Association, Oregon Chapter
- Volunteer coach with law school alternative dispute resolution competition teams
- Service on UO committees:
 - Human Resources Policy Work Group
 - Behavioral Evaluation and Threat Assessment Team

Jeslyn Everitt, Associate General Counsel (continued)

- Service on UO committees (continued):
 - Clery Compliance Workgroup
 - SERMC Reporting Systems and Responsibilities Work Group
 - UOPD Complaint Review Committee (ex officio)
 - COVID-19 Case Management Team
 - MAP Leadership Team
- Delivered training/presentations at:
 - Title IX designated reporter (responsible employee) training
 - Clery Act campus security authority training
 - Confidential employee training
 - Guest lecturer at the law school and business school on Title IX issues

Jessica Price, Associate General Counsel

- Pro tem instructor at the law school – taught Introduction to Criminal Investigations
- Leads OGC's extern program in partnership with the law school, mentoring the next generation of attorneys
- Commissioner for the Oregon Commission on Black Affairs
- Service on the Eugene Education Foundation Board, including the Grants Committee
- Volunteered at the law school to help train students on professionalism and judge moot-court competitions and mock interviews
- Service on the board of directors of Oregon Women Lawyers
- Leadership of the UO Women in Leadership Group
- Member of the UO Black Strategies Group and the LatinX Strategies Group
- Service on UO committees:
 - National Security and Research Committee
 - Information and Communications Technology Accessibility Committee
 - Conflict of Interest in Research Committee
 - Tech Transfer Task Force
 - Travel Advisory Group
 - Proprietary Research Policy Committee
 - Institutional Review Board (ex officio)
- Delivered training/presentations at:
 - National Association of College and University Attorneys (NACUA) on discrimination and ethics
 - Government Ethics/Conflict of Interest
 - Navigating Free Speech and Title IX
 - Hot topics in foreign influence
 - Conoce tu Comunidad on the work of OGC
 - Regular training and support for UO Dreamer Allies