

AGENDA

COMMITTEE OF THE WHOLE

Meeting: 9:45 a.m., Wednesday, March 21, 2018
Glenn S. Dumke Auditorium

Rebecca D. Eisen, Chair
Adam Day, Vice Chair
Silas H. Abrego
Jane W. Carney
Douglas Faigin
Debra S. Farar
Jean Picker Firstenberg
Wenda Fong
Emily Hinton
Lillian Kimbell
Jack McGrory
Thelma Meléndez de Santa Ana
Hugo N. Morales
John Nilon
Larry Norton
Jorge Reyes Salinas
Romey Sabalius
Lateefah Simon
Christopher Steinhauser
Peter Taylor

- Consent**
1. Approval of Minutes of the Meeting of September 9, 2015, *Action*
 2. Appointment of Five Members to the Committee on Committees for 2018-2019, *Action*
 3. General Counsel's Annual Litigation Report, *Information*
- Discussion**
4. The Role of Higher Education in California's Future: A Presentation by the Public Policy Institute of California, *Information*

**MINUTES OF THE MEETING OF
COMMITTEE OF THE WHOLE**

**Trustees of The California State University
Glenn S. Dumke Conference Center
401 Golden Shore
Long Beach, California**

September 9, 2015

Members Present

Lou Monville, Chair
Rebecca D. Eisen, Vice Chair
Silas Abrego
Kelsey Brewer
Douglas Faigin
Debra S. Farar
Margaret Fortune
Lupe Garcia
Lillian Kimbell
Hugo Morales
J. Lawrence Norton
Steven Stepanek
Peter Taylor
Maggie K. White

Approval of Minutes

Chair Monville, hearing no objections, approved the minutes of March 24, 2015.

Action Item

Proposed Name Change for California Maritime Academy

Chancellor Timothy P. White and California Maritime Academy President Thomas A. Cropper presented the action item proposing to change the name of California Maritime Academy to California State University Maritime Academy effective September 9, 2015. The resolution was approved (RCOW 09-15-01).

Chair Monville adjourned the meeting.

COMMITTEE OF THE WHOLE

Appointment of Five Members to the Committee on Committees for 2018-2019

Presentation By

Rebecca D. Eisen
Chair of the Board

Summary

At the January 29-31, 2018 meeting of the CSU Board of Trustees, five trustees were nominated to serve as members of the Committee on Committees for the 2018-2019 term.

The following resolution is recommended for approval:

RESOLVED, by the Board of Trustees of The California State University, that the following trustees are appointed to constitute the Board's Committee on Committees for the 2018-2019 term:

John Nilon, Chair
Jane W. Carney
Thelma Meléndez de Santa Ana
James Lawrence Norton
Jorge Reyes Salinas

COMMITTEE OF THE WHOLE

General Counsel's Annual Litigation Report

Presentation By

G. Andrew Jones
Executive Vice Chancellor and General Counsel

Summary

Attached with this item is the Office of General Counsel's (OGC) annual report on the status of significant litigation confronting the California State University (CSU), and is presented for information. "Significant" for purpose of this report is defined as litigation: (1) with the potential for a systemwide impact on the CSU; (2) that raises significant public policy issues; (3) brought by or against another public agency; or (4) which, for other reasons, has a high profile or is likely to generate widespread publicity.

The cases in this report have been selected from **106** active litigation files.

Board of Trustees Annual Litigation Report 2018

Channel Islands

Matter Name and Number	Khosh v. CSU, et al. (14-0084)		
Date Filed	01/09/2014	Matter Type	Personal Injury (Lit)
Court/Forum	Superior Court of State of California, Ventura	Case/Docket #	56-2014-00447304-CU-
Litigation Report Text	On March 16, 2013, Al Khosh, an employee of an outside electrical contractor, sustained catastrophic arc flash burn injuries while working on a construction project on the CSUCI campus. Following the accident, Khosh sued CSU, the general contractor, and the electrical subcontractor, alleging three causes of action: general negligence, product liability, and premises liability. Thus far, Khosh has already incurred nearly \$5,000,000 in medical bills. The general contractor's motion for summary judgment was granted and upheld on appeal, on the ground that it was not liable because it acted only in a general supervisory role. Contractor's insurance carrier then agreed to pay \$1,000,000 in exchange for a full release of CSU. The case has been dismissed.		

Chico

Matter Name and Number	CSU v. Pacific Gas & Electric Company (14-0156)		
Date Filed	02/04/2014	Matter Type	Environmental (Lit)
Court/Forum	Superior Court of State of California, Butte	Case/Docket #	161356
Litigation Report Text	The campus and its Research Foundation sued PG&E to recover money spent on costly remedial activities and disposal of waste discovered during the construction of an activity center on the Chico campus. The waste was created by an old manufactured gas plant. PG&E is responsible for the manufactured gas plant. The parties entered into a settlement agreement in which PG&E agreed to pay CSU \$1.65 million. A motion will be filed with the Court for an order establishing the settlement was made in good faith. The settlement will become effective when that order is granted.		

Matter Name and Number	Doe v. CSU (Chico) (17-0211)		
Date Filed	12/30/2016	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS167261

Litigation Report Text	John Doe, a student at CSU Chico, brought this writ action challenging his expulsion following a disciplinary proceeding where Doe was found to have committed sexual misconduct. Doe alleges that CSU's disciplinary procedures did not afford him due process and that CSU's decision and findings were not supported by the evidence. The case will be heard by the judge in April 2018.
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Matter Name and Number	Fayek v. CSU, et al. (13-0798)		
Date Filed	06/19/2013	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, Butte	Case/Docket #	159799
Litigation Report Text	Plaintiff Abdel-Moaty Fayek was a faculty member in the Department of Computer Science. He contends he entered into a self-funded buy out agreement with the campus where he would gain industry experience while on an approved leave. From approximately 1997 to 2006, plaintiff received his campus salary and reimbursed it to the Research Foundation as part of the alleged agreement. The campus discovered this arrangement and immediately contacted CalPERS and the State Controller's Office to correct the employee's payroll records. Plaintiff has sued the campus, the Research Foundation, three individual defendants and CalPERS to restore his service credit. The Court granted CSU Defendants' motion challenging all claims except one, and dismissing CalPERS. Plaintiff accepted CSU's offer of \$27,000 to resolve the remaining claim, and the Court entered judgment. Plaintiff appealed the Court's decision dismissing the claims against CSU and CalPERS. The appeal is fully briefed and awaiting a date for oral argument to be set.		

Dominguez Hills

Matter Name and Number	Butts v. CSU, et al. (09-0260)		
Date Filed	12/31/2008	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, Los Angeles	Case/Docket #	TC 022325
Litigation Report Text	<p>After Sheila Butts was nonretained as the Director of Alumni Relations at CSUDH, she filed a complaint alleging age, gender, and race discrimination, harassment, retaliation and violations of the Equal Pay Act. Because she had been employed as a represented employee on campus in various positions for the previous 27 years, she also sought retreat rights. In 2012, after a month-long trial, the jury returned a unanimous verdict in favor of CSU. The appellate court reversed the trial court judgment solely with regard to plaintiff's right to claim retreat rights under California Code of Regulations, Title V section 42723 as an MPP employee who had permanent status prior to January 1, 1984. The case was remanded to the trial court to determine whether plaintiff was actually entitled to retreat rights.</p> <p>On remand, plaintiff filed an amended complaint alleging both discrimination and denial of retreat rights. Plaintiff refused CSU's offer to permit her to retreat to her former classification. The court granted summary judgment to CSU on the FEHA claims and, after a bench trial on the retreat rights issue, granted judgment for CSU on all claims. Plaintiff appealed. The case is in the briefing stage.</p>		

Matter Name and Number	City of Carson v. CSUDH (18-0085)		
Date Filed	01/24/2018	Matter Type	Environmental (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS172187
Litigation Report Text	The City of Carson objects to the designation of the CSU as the lead agency for the CSUDH Master Plan. This is the second lawsuit in which the City attempts to get a court order declaring it the lead agency, and to enjoin CSU from proceeding with Master Plan activities (specifically, the University Village EIR) until all appeals of this lawsuit have been exhausted. The court denied the City's attempt to get a temporary restraining order. Carson amended the complaint to include the California Office of Planning & Research. The case is in the pleading stage.		

Matter Name and Number	City of Carson v. OPR, CSU, et al. (17-1353)		
Date Filed	10/31/2017	Matter Type	Construction (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS171386
Litigation Report Text	<p>The City of Carson, unhappy with their failure to obtain financial offset from the Chargers' use of the StubHub Center, assert that the City should be the lead agency in any development project on the CSUDH campus. This lawsuit challenges OPR's decision that CSU is the lead agency and seeks a court order declaring that Carson is the correct lead agency on the CSUDH Master Plan activities, including University Village. The City dismissed the lawsuit without prejudice following a settlement in which OPR agreed to re-open the determination to obtain more input from both parties, and to issue a revised determination letter by January 26, 2018. That letter was re-issued, reaffirming that CSU is the lead agency.</p> <p>The City has subsequently brought a lawsuit against OPR and CSU making substantially similar arguments about why the City should be lead agency.</p>		

Matter Name and Number	Tweedy v. CSU, et al. (17-1048)		
Date Filed	08/08/2017	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BC671497
Litigation Report Text	Yasmine Tweedy, a student basketball athlete, alleges personal injuries associated with excessive running at team practice and callous behavior by coaches. Early discovery indicates that the injuries athlete suffered derive from a preexisting condition. The case is in the discovery stage, and may be set for early mediation. Trial is set for February 2019.		

East Bay

Matter Name and Number	City of Hayward v. CSU* LEAD CASE (09-1195)		
Date Filed	10/29/2009	Matter Type	Environmental (Lit)
Court/Forum	California Court of Appeal	Case/Docket #	RG09480852
Litigation Report Text	<p>The City of Hayward filed a CEQA challenge to the 2009 CSUEB Master Plan Environmental Impact Report, claiming the University failed to adequately analyze impacts on public services, including police, fire, and emergency services. The City demanded that the University provide funding for additional fire facilities.</p> <p>The Hayward Area Planning Association and Old Highlands Homeowners Association, two local residential homeowners' associations, filed a second CEQA challenge to the 2009 CSUEB Master Plan EIR, alleging shortcomings in nearly every aspect of the environmental findings, with an emphasis on the University's alleged failure to consider bus and other improvements to public transit access to the campus. On September 9, 2010, the trial court ruled in favor of the petitioners on nearly every issue and enjoined the University from proceeding with construction. The University appealed.</p> <p>In June 2012, the Court of Appeal ruled the CSU East Bay Master Plan EIR is adequate, except for failing to analyze impacts on local recreational facilities. The Court's ruling includes a finding that CSU's determination that new fire protection facilities will not result in significant environmental impacts was supported by substantial evidence. Importantly, the Court also held that the obligation to provide adequate fire and emergency services is the responsibility of the City of Hayward, and the need for additional fire protection services is not an environmental impact that CSU must mitigate. The City and HAPA/OHHA filed a petition for review with the California Supreme Court.</p> <p>Following the California Supreme Court's decision in the City of San Diego matter, on October 14, 2015, the Court transferred the case back to the Court of Appeal.</p> <p>After further briefing, the Court of Appeal largely reissued its original decision, reiterating that the obligation to provide adequate fire and emergency services is the responsibility of the City of Hayward, and the need for additional fire protection services is not an environmental impact that CSU must mitigate.</p> <p>In January 2016, the City filed a new Petition for Review with the Supreme Court. This petition was denied. The parties have subsequently agreed to a peremptory writ of mandate, consistent with the directives issued by the Court of Appeal.</p> <p>In accordance with the writ of mandate, CSUEB conducted an additional parklands analysis and reconsidered the sources of funding for its proportional fair share contribution. With regard to the parklands, CSUEB prepared and circulated for comment a Partial recirculated Draft EIR. With regard to the parklands analysis, CSUEB identified alternative sources of funding and a methodology for distribution of its proportional fair share contribution for traffic mitigation measures. Despite multiple meetings with the City, CSUEB was unable to come to an agreement regarding the proportional fair share mitigation payments and moved forward to comply with the writ of mandate.</p> <p>At the January 2018 Board of Trustees meeting, the Board decertified the previous EIR and findings, and adopted the new EIR and findings. CSUEB will report its compliance with the Court's writ of mandate in March 2018, after the Board approves the January minutes.</p>		

Matter Name and Number	Hayward Area Planning Assoc. v. CSU (09-1196)		
Date Filed	11/02/2009	Matter Type	Environmental (Lit)
Court/Forum	Superior Court of State of California, Alameda	Case/Docket #	RG09481095
Litigation Report Text	See report on the lead case, City of Hayward v. CSU (Matter no. 09-1195).		

Fresno

Matter Name and Number	Doe v. CSU, et al. (17-0591)		
Date Filed	01/10/2017	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS167329
Litigation Report Text	Former student "John Doe" was charged with sexual misconduct against two female students at Fresno State. He was expelled after an investigation and sanctions hearing. He then filed a petition for writ of mandate to challenge his expulsion, alleging due process violations. After receiving the petition, CSU conceded that a minor procedural error was made, and agreed to reopen Doe's underlying appeal. Subsequently CSU issued a new investigation report, and held another sanctions hearing. The final decision was again expulsion. This case is in the pleading stage.		

Fullerton

Matter Name and Number	Barrett v. Greenup, et al. (12-1374)		
Date Filed	09/21/2012	Matter Type	Other (Lit)
Court/Forum	United States District Court, Santa Ana	Case/Docket #	30-2012-00600019

Litigation Report Text	John Barrett, a CSU Fullerton student, sued another CSU Fullerton student, Nolan Greenup, a CSU Fullerton Parking Services Officer. Greenup wrote Mr. Barrett a ticket for not displaying a disabled parking placard while parked in a disabled parking space. Barrett backed out of the space as the ticket was being written, ran over Greenup's foot, and drove away. Barrett was later arrested and subjected to student discipline. Barrett sued Greenup for defamation, malicious prosecution, violation of federal civil rights and false imprisonment. CSU filed a motion to strike on Greenup's behalf, arguing that in writing his report and speaking to the police, he was supporting a criminal prosecution and immune. The court granted the motion and awarded CSU \$5,500 for its fees and costs. In a second amended complaint, Plaintiff added two new CSU defendants Jose Rosales and Peter Dupree, University police officers involved in his arrest. Plaintiff later filed a third amended complaint adding new causes of action against new non-CSU defendants, the Orange County Sheriff's Department and certain employees of the Orange County Jail. The case was then moved to federal court. In September 2014, the Orange County defendants settled with the Plaintiff. Trial started on January 6, 2015; at the end of the second day CSU successfully moved for mistrial based on Plaintiff's failure to comply with pre-trial orders of the court excluding evidence of the disposition of the criminal charges against the defendant. CSU later won a summary judgment motion. Plaintiff appealed and appellate court upheld the district court's grant of summary judgment. Plaintiff took no further appeals.		
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Matter Name and Number	Coe v. CSU et al. (15-1366)		
Date Filed	08/14/2015	Matter Type	Student (Lit)
Court/Forum	Superior Court of State of California, Los Angeles	Case/Docket #	BC591397
Litigation Report Text	John Paul Coe, a former graduate student in Electrical Engineering, is alleging breach of contract, breach of implied covenant of good faith and fair dealing, violation of Consumer Legal Remedies Act, violation of unfair competition, misleading and deceptive advertising, unjust enrichment, intentional and negligent misrepresentation, and is seeking compensation and punitive damages, on the grounds that certain courses were not offered to him in his time as a student studying for a Masters degree in Electrical Engineering. The former Dean of the College of Engineering and Computer Science is also named as a defendant. Trial is set for February 20, 2018.		

Matter Name and Number	Garcia v. ASC (17-1222)		
Date Filed	03/29/2017	Matter Type	Other (Lit)
Court/Forum	Orange County Superior Court	Case/Docket #	30-2017-00912195-CU-OE-CXC
Litigation Report Text	Plaintiff Jennifer Garcia is a former employee of the Auxiliary Services Corporation (ASC); Plaintiff worked as an adjunct instructor in the American Language Program, a program of University Extended Education. The Complaint is being brought as a class action on behalf of all the adjunct instructors who allegedly ASC failed to compensate for work related activities performed outside of scheduled instructional sessions (such as office hours and preparation time) and failed to authorize and pay for rest periods employees were entitled to be given under state law. The parties reached a settlement and its terms will be brought forward to the court for approval. The agreed upon settlement amount for the class is \$330,000.		

Humboldt

Matter Name and Number	Doe v. CSU, et al. (17-0268)		
Date Filed	02/10/2017	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS167545
Litigation Report Text	"John Doe," a former student at Humboldt State, brought this writ action challenging his year-long suspension following a disciplinary proceeding where Doe was found to have committed sexual misconduct. The case is set for trial on July 3, 2018.		

Long Beach

Matter Name and Number	Doe v. White, et al. (17-0551)		
Date Filed	04/20/2017	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS169451
Litigation Report Text	"John Doe," a graduate research assistant at CSULB, brings this writ of mandate to challenge his expulsion based on findings of sexual misconduct. He claims that he was denied a fair hearing and that the findings of sexual misconduct are unsupported by the evidence. The case is set for trial on June 26, 2018.		

Matter Name and Number	Johnson v. City of Long Beach, et al. (15-1457)		
Date Filed	08/13/2014	Matter Type	Personal Injury (Lit)
Court/Forum	Los Angeles Superior Court - South District	Case/Docket #	BC554468
Litigation Report Text	Plaintiff Summer Johnson, a minor, was struck and severely injured by a foul ball while attending a USA Baseball game at Blair Field. Blair Field is owned by the City of Long Beach, and at the time was leased to CSULB. CSULB entered into a facilities use agreement with USA Baseball allowing it to host a baseball game. The City tendered its defense to CSU, and CSU tendered both its defense and the City's defense to USA Baseball's insurance carrier, which was accepted with a reservation of rights. Defendants challenged Plaintiff's complaint based on the assumption of risk defense, which the court accepted and dismissed the lawsuit against CSU.		

Matter Name and Number	Lane, et al. v. CSU (15-0600)		
Date Filed	04/07/2015	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, Los Angeles	Case/Docket #	LC102821

Litigation Report Text	Plaintiffs and former CSULB faculty Brian Lane, Micheal Pounds, Maria Beatty, and Hamid Hefazi claim CSU incorrectly calculated and reported to CalPERS their salary, resulting in CalPERS under-calculating their respective retirement benefits. Plaintiffs claim CSU should have recorded monthly pay as what they earned each academic year (annual salary ÷ 9 months), which would have resulted in a larger monthly figure for purposes of determining Plaintiffs' retirement benefits with CalPERS. The court dismissed Plaintiff's lawsuit against CSU, but Plaintiffs appealed. The Court of Appeal sustained CSU's summary judgment against Plaintiffs. Plaintiffs did not appeal to the Supreme Court, and the time to do so has passed. The Court of Appeal has remanded the matter to the Superior Court to determine the amounts of costs CSU will recover against Plaintiffs.
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Matter Name and Number	Noriega v. CSU (16-1235)		
Date Filed	08/23/2016	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BC631458
Litigation Report Text	Plaintiff Iliana Noriega, a CSULB student with a mobility impairment, alleged disability discrimination caused by physical barriers existing on the CSULB campus. Plaintiff sought injunctive relief and damages. Plaintiff agreed to toll her claims and dismiss the litigation in order to pursue settlement discussions.		

Los Angeles

Matter Name and Number	Board of Trustees of the CSU, et, al. v. Sheila Hudson (17-1125)		
Date Filed	05/26/2017	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, Los Angeles, Stanley Mosk Courthouse	Case/Docket #	BC663058

Litigation Report Text	<p>Plaintiff Sheila Hudson, the Senior Associate Athletics Director, sued for violation of the Fair Employment and Housing Act, intentional infliction of emotional distress, violation of the California Equal Pay Act, violation of the California Family Leave Rights Act, and violation of Labor Code section 1102.5 (whistleblower statute). She seeks monetary damages and appointment by the court to the position of Athletic Director.</p> <p>During the course of that lawsuit, the Court ruled that Plaintiff should not have tape recorded over 5 hours of confidential employee discussions. Three taped employees and the University then sued Plaintiff for \$30,000 in damages for the taping.</p> <p>In response, Plaintiff filed a cross-complaint against the University and a campus Vice President, alleging wrongful termination, intentional infliction of emotional distress, whistleblowing, violation of equal protection, defamation, and failure to pay all her wages at separation (as full payment to her of three-months of future salary in lieu of notice, made pursuant to CSU's MPP non-retention procedures, did not take place on her last day of work).</p> <p>The University and the Vice President filed a successful motion to strike the defamation cause of action and won a motion for their attorneys fees, as she belatedly dismissed that claim in an unsuccessful attempt to thwart that outcome.</p> <p>Plaintiff also filed a motion for leave to amend the cross-complaint to add the President, the former athletic director, the current athletic director, the human resources director, and the equity and diversity officer as additional cross-defendants. After receiving the University's opposition brief, Plaintiff unexpectedly withdrew her motion for leave to amend.</p> <p>Trial is set to begin on October 15, 2018.</p>
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Matter Name and Number	Corrales v. CSU (12-1009)		
Date Filed	06/22/2012	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, Los Angeles	Case/Docket #	BC487026
Litigation Report Text	<p>Gretchen Corrales, a former cross country and track and field assistant coach at CSU Los Angeles, was not renewed in July 2010, because of several NCAA violations. Corrales alleged she was not renewed, and was falsely accused of violating NCAA rules, because she had complained both about a sexual relationship between another coach and a track and field athlete and her unequal pay. Corrales alleged discrimination, sexual favoritism, a failure to investigate or take remedial measures, and retaliation. In 2012, Corrales was killed by her husband. A guardian ad litem was appointed for Corrales' minor children, and she decided to pursue the litigation on their behalf. The parties attended a mediation and settled for \$7,500.00. Following the mediation, opposing counsel failed to complete necessary settlement documents and failed numerous times to appear in court for status conferences. Based on the failures of counsel or the guardian ad litem to finalize settlement documents or appear in court, the judge dismissed the action.</p>		

Matter Name and Number	Hicks v. CSU (16-1234)		
Date Filed	08/30/2016	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BC631669

Litigation Report Text	Student Angela Hicks sued following a student conduct hearing decision suspending her from CSU for one year after she perpetrated an attack on her roommates involving pepper spray. She claimed gender discrimination and emotional distress. CSU filed a motion for judgment on the pleadings, which the court granted. Judgment was entered in favor of CSU. After the court dismissed the case, Ms. Hicks filed a notice of appeal. The appeal is in the preliminary record-preparation stage.
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Matter Name and Number	Hudson v. CSU, et al. (16-1227)		
Date Filed	08/29/2016	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, Los Angeles, Central District of California, Stanley Mosk Courthouse	Case/Docket #	BC631894
Litigation Report Text	<p>Plaintiff Sheila Hudson, the Senior Associate Athletics Director, is suing for violation of the Fair Employment and Housing Act, intentional infliction of emotional distress, violation of the California Equal Pay Act, violation of the California Family Leave Rights Act, and violation of Labor Code section 1102.5 (whistleblower statute). She seeks monetary damages and appointment by the court to the position of Athletic Director.</p> <p>Discovery has been completed. The trial was set to begin in January, 2018, but will now be rescheduled, as the court granted Plaintiff's request that the matter be transferred to a different court and judge, one designated to handle longer trials.</p>		

Matter Name and Number	Park v. Board of Trustees (14-0855)		
Date Filed	05/27/2014	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, Los Angeles	Case/Docket #	BC546792

Litigation Report Text	<p>Dr. Sungho Park, an assistant professor of education, was denied tenure due to unsatisfactory professional achievement. He sued the University for national origin discrimination and failure to prevent discrimination. The University's special motion to strike the complaint was denied by the trial court, but then granted by the Court of Appeal. The California Supreme Court then accepted review of the case.</p> <p>The University argued that tenure hiring decisions should be treated as an important activity with free speech protection, like hospital peer review board proceedings. Since at least 2006, California law has held that, if a defendant files a special motion to strike, a plaintiff with a lawsuit challenging a hospital peer review proceeding must demonstrate a probability of prevailing, so as to not disrupt that process with frivolous litigation.</p> <p>The California Supreme Court declined to impose a requirement that Dr. Park show a probability of prevailing after he received the University's special motion to strike, concluding that tenure decisions, even though they are communicated orally or in writing, do not trigger free speech protection to warrant such a requirement.</p> <p>Although he was not ordered to show a probability of prevailing at the start of the lawsuit, Dr. Park, during the remaining course of the litigation, still has the burden of presenting admissible evidence to support his discrimination claims.</p> <p>The California Supreme Court rejected a request by the California Hospital Association to amend the opinion. The case was remanded to the trial court, and written discovery is resuming. The parties were unable to settle at a mediation held in January 2018, but settlement negotiations are continuing.</p>
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Matter Name and Number	Young America's Foundation; et al. v. Covino, et al. (16-0737)		
Date Filed	05/19/2016	Matter Type	Other (Lit)
Court/Forum	United States District Court, Central District of California	Case/Docket #	2:16-cv-03474
Litigation Report Text	<p>Young Americans for Freedom, Ben Shapiro, and two students sued four administrators and five faculty members for damages based on Section 1983 violations. They alleged that the University's employees failed to allow Shapiro to exercise his first amendment rights by making a policy regarding security fees, which were ultimately not charged, too vague; by ordering public safety not to enforce laws; and by blocking or allowing the blocking of the entrance to the auditorium. Motions to dismiss and strike were granted, with leave to amend on some causes of action. After the filing of new motions to dismiss and strike, the plaintiffs agreed to settle by dismissing the lawsuit without any payment by defendants. Each side agreed to be responsible for its own attorneys fees and costs, and the University employees agreed to abide by the campus time, place, and manner policy.</p>		

Monterey Bay

Matter Name and Number	Keep Fort Ord Wild v. County of Monterey, et al. (11-1411)		
Date Filed	11/10/2011	Matter Type	Environmental (Lit)

Court/Forum	Superior Court of State of California, Monterey	Case/Docket #	M114961
Litigation Report Text	Keep Fort Ord Wild (KFOR) filed a petition against the Fort Ord Reuse Authority (FORA) and the County of Monterey alleging they failed to comply with the California Environmental Quality Act (CEQA) in connection with a proposed roadway project. KFOR also named the CSU as a party because a portion of the roadway is on property that will be deeded to the CSUMB campus in the future by FORA. The Court entered a decision in favor of KFOR in early 2017, ordering FORA and the County of Monterey to comply with CEQA. On May 26, 2017, FORA filed a return to the Court's writ indicating they had settled with KFOR and will not pursue an appeal. The CSU was successful in achieving our goals to minimize the CSU's presence and ensure no relief was sought or obtained against CSU, while at the same time assisting FORA where possible to help further the parties' relationship. The Court discharged the writ on December 21, 2017 and the matter is now closed.		

Northridge

Matter Name and Number	Doe v. White, et al. (17-1516)		
Date Filed	11/30/2017	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS171704
Litigation Report Text	Petitioner "John Doe" is a current student at CSU Northridge who was found to have engaged in sexual misconduct that violated Executive Order 1097. A sanction of expulsion was imposed. Petitioner filed this writ action seeking to have the Executive Order 1097 violation finding reversed and vacated. The matter will be set for hearing later this year.		

Matter Name and Number	SUPA, et al. v. CSU (16-0609)		
Date Filed	04/21/2016	Matter Type	Employment (Lit)
Court/Forum	Los Angeles Superior Court	Case/Docket #	BC617813

Litigation Report Text	<p>SUPA and CSUN police officers Anthony Vargas, Matthew Dunwoody & Thomas Finnerty allege that they suffered unspecified adverse employment actions (whistleblower retaliation) for having complained about purported illegal parking ticket quotas. Plaintiffs also seek declaratory relief from the court that the alleged parking citation quota system is illegal.</p> <p>In December 2016, CSU filed a motion to strike Plaintiff's First Amended Complaint due to Plaintiffs' improper attempt to add CSUN police officer Yolanda Abundiz to the complaint, as well as their failure to exhaust administrative remedies and failure to plead elements of a whistleblower retaliation cause of action. That motion was granted on February 7, 2017 without leave to amend as to Plaintiff Abundiz and with leave to amend as to Plaintiffs Finnerty, Vargas and Dunwoody. Due to Plaintiffs' failure to properly plead a cause of action as to Finnerty and Vargas, these individuals were subsequently dismissed from the case.</p> <p>The hearing on Plaintiffs' causes of action for writ of mandate and declaratory relief is scheduled for February 13, 2018.</p>
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Pomona

Matter Name and Number	Kim v. CSU, et al. (16-0824)		
Date Filed	05/20/2016	Matter Type	Personal Injury (Lit)
Court/Forum	Los Angeles Superior Court	Case/Docket #	BC621106
Litigation Report Text	<p>Ashley Kim, a current student at Cal Poly Pomona, was injured in May 2015 when she fell from her horse during a ride at the W. K. Kellogg Arabian Horse Center on campus. At the time of the incident, Kim was a member of the University's International Horse Show Association Team, and her training session on the day in question was related to her team membership and participation. Kim was injured when her horse was struck by another horse, causing her to fall and strike her head on a metal pole as she fell. IHSA team members are covered by workers' compensation for volunteers, and Kim filed for coverage shortly after the incident. In her subsequent civil lawsuit, Kim alleges causes of action for a dangerous condition and negligent supervision. On February 14, 2017, CSU's challenge to the sufficiency of the pleading was denied on technical grounds. On March 22, 2017 Kim dismissed the case with prejudice in exchange for a waiver of costs and any malicious prosecution claim.</p>		

Sacramento

Matter Name and Number	Bartley v. CSU, et al. (15-1434)		
Date Filed	09/25/2015	Matter Type	Employment (Lit)
Court/Forum	Sacramento County Superior Court	Case/Docket #	34-2015-00184739

Litigation Report Text	Robert Bartley, an Administrative Analyst/ Specialist in Human Resources at CSU Sacramento, filed complaint alleging age, gender, race and disability discrimination in violation of FEHA in addition to a claim for unpaid overtime wages. The complaint arises out of the University's alleged failure to promote the plaintiff, provide reasonable accommodation, and prevent harassment. Following several rounds of mediation, the case was settled for \$50,000 in exchange for a full release and waiver of claims.		
Matter Name and Number	CSU v. Mondo (17-0388)		
Date Filed	03/14/2017	Matter Type	Contracts (Lit)
Court/Forum	Sacramento County Superior Court	Case/Docket #	34-2017-00209335
Litigation Report Text	California State University Sacramento is suing Mondo, the manufacturer of the University's track, for breach of warranty claim. The track is considered one of the best and most expensive tracks available, and yet it has not held up to warranty standards. Soon after its installation, the track's colors began to fade. Efforts to correct the fading have not been successful and Mondo is not replacing the track as requested by the University. The parties will be submitting requests for trial dates in the near future. The case is in the pleading stage.		

San Bernardino

Matter Name and Number	Choi v. Aurora Wolfgang, et al. (14-1048)		
Date Filed	08/09/2014	Matter Type	Employment (Lit)
Court/Forum	United States District Court, Riverside	Case/Docket #	5:14-CV-01707
Litigation Report Text	This is the second of three concurrent cases filed by Plaintiff Myung Choi, a former tenure-track professor, stemming from a denial of promotion and tenure. This federal action was filed against the individuals involved in the promotion and tenure review process and asserts claims of civil rights violations for alleged race discrimination, retaliation, violation of freedom of speech, equal protection violations, and conspiracy. In light of Plaintiff's appeal of the state court's ruling in a parallel action granting CSU's special motion to strike the complaint as an impermissible attack on protected activity, Plaintiff stipulated to stay this action pending the ruling on the appeal.		

Matter Name and Number	Choi v. CSU (14-1293)		
Date Filed	10/28/2014	Matter Type	Employment (Lit)
Court/Forum	United States District Court, Los Angeles	Case/Docket #	2:14-CV-08337-MRP
Litigation Report Text	This is the third of three concurrent lawsuits filed by Plaintiff Myung Choi, a former tenure-track professor, after a denial of tenure and promotion. In this federal action, Plaintiff alleges race discrimination and retaliation. In light of Plaintiff's appeal from the court's granting of CSU's special motion to strike the complaint as protected activity under the anti-SLAPP statutes, the court stayed this action pending the ruling on the appeal in the state court action.		

Matter Name and Number	Choi v. CSU (LEAD CASE) (14-1035)		
Date Filed	08/13/2014	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, Los Angeles	Case/Docket #	BC554054
Litigation Report Text	This is first of three concurrent actions filed by Plaintiff Myung Choi, a former tenure-track professor, as a result of a denial of tenure and promotion. Plaintiff asserted claims against CSU for race discrimination and retaliation. The trial court granted CSU's special motion to strike the complaint as an impermissible attack on protected activity. Plaintiff appealed the trial court's ruling. The appellate court reversed the trial court's order in full on February 8, 2018. The case will now enter the discovery stage.		

Matter Name and Number	Nunez v. Board of Trustees of the CSU, et al. (16-1281)		
Date Filed	08/22/2016	Matter Type	Employment (Lit)
Court/Forum	San Bernardino Superior Court	Case/Docket #	CIVDS1613843
Litigation Report Text	Plaintiff is Ruben Nunez, a former Grounds and Automotive Manager for CSUSB. He sued CSU for various alleged employment violations. He claims discrimination based on age, race, and medical conditions; and retaliation based on protected reporting of employment violations. Plaintiff was employed by CSUSB from February 2004 until February 2016 when he was non-retained for performance reasons. The case is in the final stage of discovery. Trial is set for June 11, 2018.		

San Diego

Matter Name and Number	Burns v. CSU, et al. (14-0194)		
Date Filed	02/19/2014	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, San Diego	Case/Docket #	37-2014-00003408-CU-CO-CTL
Litigation Report Text	<p>Former women's basketball coach Beth Burns has sued the University for breach of contract, breach of the covenant of good faith and fair dealing, and retaliation. She contends that she was forced to resign for having demanded that women's basketball be given all of the same facilities, equipment, marketing, and staffing as the men's basketball program. She further contends that the reasons given by the University were a pretext. Following a four-week trial, the jury awarded \$3,356,250 in economic and non-economic damages. On December 5, 2016, the Court denied our motions for new trial and judgment notwithstanding the verdict. The court awarded plaintiff a portion of the attorneys' fees (\$1,918,597.50) and costs (\$104,673.97) she requested, and ordered that CSU be able to undertake periodic payments of the judgment.</p> <p>CSU appealed the judgment on the verdict and plaintiff appealed the costs award and the order granting periodic payment of the judgment. The case is currently in the briefing stage.</p>		

Matter Name and Number	Byrd v. CSU, et al. (17-0626)		
Date Filed	05/12/2017	Matter Type	Employment (Lit)
Court/Forum	San Diego Superior Court	Case/Docket #	37-2017-00007971-CU-WM-CTL
Litigation Report Text	Clare Byrd was dismissed from her employment, challenged her termination in the State Personnel Board, and we settled – or so we thought. CalPERS refused to honor some of the terms of the settlement regarding Byrd's retirement; Byrd went back to SPB to seek enforcement, but the SBP voided out the settlement based on the CalPERS ruling. Byrd then sued us for breach of contract, but dismissed that case. Byrd then sued SPB and CalPERS to reverse their decisions, and later added CSU to the case. The Court denied the writ relief sought by Smith. As a result, the SPB settlement was declared void. Byrd may appeal this decision.		

Matter Name and Number	Byrd v. SDSU, et al. (16-1489)		
Date Filed	09/22/2016	Matter Type	Employment (Lit)
Court/Forum	San Diego Superior Court	Case/Docket #	37-2016-00033305-CU-BC-CTL
Litigation Report Text	Clare Byrd is a former SDSU employee who was terminated for dishonesty in connection with the interactive dialogues regarding purported disabilities. She appealed the termination to the SPB where the parties settled the matter. CalPERS subsequently refused to honor part of the settlement. Following unsuccessful efforts to renegotiate the settlement around CalPERS' position, Byrd filed this lawsuit. She alleged rescission of the settlement agreement; breach of written contract; breach of implied covenant of good faith and fair dealing; equitable indemnity; disability/medical condition discrimination; failure to accommodate; failure to engage in the interactive process; retaliation; and wrongful termination of public policy. The case was dismissed after the parties entered into an agreement to allow Byrd to first file a legal challenge to the SPB's decision before pursuing any potential civil claims against CSU.		

Matter Name and Number	Doe v. Superior Court, et al. (San Diego) (15-1237)		
Date Filed	08/27/2015	Matter Type	Student (Lit)
Court/Forum	San Diego Superior Court	Case/Docket #	30-2015-00029558-CU-WM-CTL

Litigation Report Text	In August 2015, SDSU initiated student conduct proceedings against John Doe, alleging that he had violated the terms of a prior disciplinary probation and suspension held in abeyance when he used and offered drugs to a female student. In addition, John Doe was alleged to have sexually assaulted the female student. Doe was placed on an interim suspension during the pendency of the disciplinary process. Doe filed this petition, alleging that neither the investigatory findings nor the interim suspension are supported by the evidence and that he was denied due process. Doe filed an ex parte application seeking a temporary restraining order to end the interim suspension. The trial court denied his request, finding that Doe would not likely prevail on the merits. The trial court cited Doe's extensive disciplinary record and the thoroughness of CSU's investigation. Doe appealed the trial court's decision, but the Court of Appeal denied his appeal. Subsequent to the Court of Appeal decision, and following a hearing on the merits, the campus expelled Doe. Doe petitioned for a writ to overturn the expulsion. On February 1, 2017, the trial court ruled that Doe was not fully afforded due process rights with respect to the assault allegation but affirmed the expulsion based on the non-sexual assault allegations. The trial court has requested briefing whether CSU can hold a new discipline hearing on the sexual assault allegations if it corrects the due process concerns.
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Matter Name and Number	Johnson v. CSU, et al. (15-1454)		
Date Filed	10/02/2015	Matter Type	Employment (Lit)
Court/Forum	San Diego Superior Court	Case/Docket #	37-2015-00033527-CU-WM-CTL
Litigation Report Text	<p>On April 16, 2015, the State Personnel Board upheld the dismissal of former San Diego State Sergeant, Michael Johnson. Johnson had been dismissed for engaging in a number of actions in the course of a few months, constituting unprofessional conduct and failure or refusal to perform the normal and reasonable duties of his position as a police officer. After unsuccessfully petitioning the State Personnel Board for a rehearing, Johnson filed this writ petition, seeking to overturn the State Personnel Board's decision. Johnson claims that the Board's findings are not supported by the evidence, that San Diego State failed to provide a draft investigation report depriving Johnson of a fair Skelly hearing, that the notice of discipline failed to provide any facts supporting dishonesty, and that the campus retaliated against Johnson for union-related activity. The Court granted the writ in part, ruling that discipline was appropriate, but reversed as to the level of discipline. CSU appealed.</p> <p>SPB's findings of fact upheld by the trial court judge under substantial evidence review were not addressed on appeal; Court of Appeal reversed trial court's decision to change the discipline, finding abuse of discretion, and reversed with directions to deny the writ.</p>		

Matter Name and Number	Kyle v. CSU, et al. (17-1485)		
Date Filed	11/29/2017	Matter Type	Student (Lit)
Court/Forum	San Diego Superior Court	Case/Docket #	37-2017-00045406-CU-MC-CTL

Litigation Report Text	Petitioner Taryn Kyle is a current student at San Diego State. Ms. Kyle was previously classified as a nonresident for tuition purposes. She subsequently filed an application to be reclassified as a resident for tuition purposes. The campus denied her application. Ms. Kyle appealed the decision. The decision was confirmed on appeal. Ms. Kyle brought this Writ action seeking to reverse that decision and be classified as a resident. The matter is in the pleading stage.		
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Matter Name and Number	Ozatarlar v. CSU (17-1528)		
Date Filed	12/01/2017	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS171706
Litigation Report Text	Petitioner Cameron Ozatarlar is a current student at San Diego State. Mr. Ozatarlar was previously classified as a nonresident for tuition purposes. He subsequently filed an application to be reclassified as a resident for tuition purposes. The campus denied his application. Mr. Ozatarlar appealed the decision. The decision was confirmed on appeal. Mr. Ozatarlar brought this Writ action asking that the decision be reversed and that he be classified as a resident. The matter is in the pleading stage.		

Matter Name and Number	San Diegans For Open Government v. SDSU, et al. (15-0615)		
Date Filed	04/09/2015	Matter Type	Other (Lit)
Court/Forum	Superior Court of State of California, San Diego	Case/Docket #	37-2015-00011951-CU-MC-CTL
Litigation Report Text	<p>Plaintiff filed this action seeking to set aside lease agreements between CSU and Investigative Newsource, a company that provides investigative reporting for KPBS, a station operated at San Diego State by the San Diego State University Research Foundation. Investigative Newsource provides news reports to KPBS, which KPBS pays for with providing leased space. The complaint alleges that the lease agreements constitute gifts of public funds and misappropriate the campus' intellectual property. CSU filed a motion to strike the complaint on the grounds that it is a strategic lawsuit against public participation (SLAPP) in that it challenges agreements entered to provide services protected by the First Amendment and plaintiff cannot show it has a reasonable likelihood of prevailing. On September 8, 2015, the Court granted CSU's motion to strike the complaint. SanDOG appealed.</p> <p>On May 3, 2017, the Court of Appeal affirmed the dismissal of the case; on June 1, 2017 the Court denied SanDOG's petition for rehearing and issued a modified opinion.</p> <p>SanDOG petitioned for review in the California Supreme Court. The Supreme Court granted the petition but held it pending the outcome in another pending anti-SLAPP case (Wilson v. Cable News), which is currently fully briefed and awaiting argument.</p>		

San Francisco

Matter Name and Number	City and County of San Francisco v. Regents of the University of (14-0065)		
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Date Filed	01/14/2014	Matter Type	Other (Lit)
Court/Forum	Superior Court of State of California, San Francisco	Case/Docket #	CPF-14-513434
Litigation Report Text	The City and County of San Francisco filed a lawsuit against the CSU, the University of California, and U.C. Hastings College of Law attempting to compel the Defendants to collect and remit to the City a 25% parking tax on all university parking spaces. Defendants asserted a sovereign immunity defense. The court ruled in favor of the Defendants and denied Plaintiff's petition. The City appealed the ruling. Oral argument took place in the Court of Appeal on March 1, 2017, and the Court of Appeal affirmed the judgment in favor of the UC Hastings, and the CSU. Plaintiff sought review by the California Supreme Court, which accepted the case for review. The matter is in the briefing stage.		

Matter Name and Number	Gupta v. SFSU (15-0327)		
Date Filed	02/10/2015	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, San Francisco	Case/Docket #	CGC-15-544050
Litigation Report Text	<p>Dr. Rashmi Gupta was a probationary faculty member in the Department of Social Work. SFSU denied her request for tenure and promotion in 2011. Following a hearing held under the faculty grievance procedure, an arbitrator awarded her an additional year of employment and permitted her to apply for tenure again. In 2012, SFSU again denied her tenure request and her employment at the university ended. In this case, Dr. Gupta claimed the university's decision was discriminatory, retaliatory, and based on age, gender, national origin and ancestry rather than legitimate academic reasons. The case went to trial in August 2016, and the jury returned a verdict for plaintiff in the amount of \$378,461. Plaintiff filed a motion for reinstatement into a tenured faculty position and the court denied the motion with certain conditions that would subject the university to court monitoring and reporting for five years. The CSU opposed the court's conditions. On March 24, 2017, the court entered judgment against the CSU in the amount of \$378,461. The CSU filed an appeal of the judgment with the First District Court of Appeal. On July 31, 2017, the court issued an award of attorney's fees and costs in favor of Plaintiff in the amount of \$587,160.75. The CSU appealed that order on September 25, 2017, and that appeal has now been consolidated with the appeal of the judgment in the Court of Appeal. The Court of Appeal has not yet set a briefing schedule and may not render a final decision on the merits until 2019.</p> <p>Following entry of judgment and filing of the appeal, the trial court issued a number of orders attempting to enforce its non-reinstatement conditions and reporting requirements and threatening to sanction the CSU for non-compliance. In October 2017, the CSU filed a Petition of Writ of Supersedeas requesting an immediate stay of all lower court proceedings, but the petition was ultimately denied. The parties continue to report to the trial court on a regular basis regarding the reinstatement conditions and, per the judge's orders, are participating in a Mandatory Settlement Conference which continues on February 20, 2018.</p>		

Matter Name and Number	Hofmann v. CSU (16-0075)		
Date Filed	01/12/2016	Matter Type	Employment (Lit)
Court/Forum	San Francisco Superior Court	Case/Docket #	CGC-16-549831

Litigation Report Text	Plaintiff Mig Hoffman, a former information security officer at SFSU, claims the university terminated her in retaliation for reporting a Trojan virus and notifying outside government agencies of a potential data breach on campus. She alleges claims of whistleblower retaliation and wrongful termination. Trial was scheduled to begin on May 1, 2017, and the case settled on the morning of the first day of trial. The CSU agreed to pay Plaintiff \$450,000 in exchange for a full release of all claims.
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Matter Name and Number	Mandel, et al. v. CSU, et al. (17-0814)		
Date Filed	06/19/2017	Matter Type	Student (Lit)
Court/Forum	United States District Court - North District of California (Oakland)	Case/Docket #	3:17-cv-03511-WHO
Litigation Report Text	Plaintiffs, including SFSU students, former students, and Jewish community members, claim that their First and Fourteenth Amendment rights were violated by SFSU. The Complaint focuses on two events: (1) the April 2016 appearance by Jerusalem Mayor Nir Barkat at SFSU that drew loud protests and ended prematurely due to the opposition, and (2) the February 2017 "Know Your Rights" fair that the student group SF Hillel was allegedly excluded from due to their religious beliefs and the content of their speech. The complaint names the CSU and SFSU as defendants, along with eleven current or former employees. On November 8, 2017, the court granted the CSU's motion to dismiss with leave to amend. Plaintiffs have not filed an amended complaint, but as noted in the Volk summary, two of the plaintiffs filed a related action in state court.		

Matter Name and Number	Monteiro v. CSU, et al. (17-1102)		
Date Filed	08/23/2017	Matter Type	Employment (Lit)
Court/Forum	San Francisco Superior Court	Case/Docket #	CGC-17-560897
Litigation Report Text	Plaintiff Ken Monteiro, the Dean of the College of Ethnic Studies (CES), filed this lawsuit against the CSU, President Leslie Wong, former Provost Sue Rosser, and current Provost Jennifer Summit. The Complaint alleges causes of action for discrimination, harassment, retaliation, and defamation. Plaintiff alleges that budget cuts at SFSU disproportionately impacted the CES and that the defendants have falsely accused him of overspending. He also alleges that defendants' refusal to properly fund CES was motivated by discrimination against the Dean due to his race, age, and sexual orientation. This case is in the discovery stage.		

Matter Name and Number	Volk, et al. v. CSU (18-0123)		
Date Filed	01/09/2018	Matter Type	Student (Lit)
Court/Forum	San Francisco Superior Court	Case/Docket #	CGC-18-563970
Litigation Report Text	This state-court lawsuit was filed on January 30, 2018, by two of the six plaintiffs from the Mandel case, both of whom allege they are current SFSU students, against the Board of Trustees. No individual defendants are named. Plaintiffs allege that SFSU has discriminated against them based on their "race, religion, ancestry, and perceived skin color" in violation of California's Unruh Civil Rights Act. The case is in the pleading stage.		

San Jose

Matter Name and Number	CSU v. Perkins & Will (16-0702)		
Date Filed	04/29/2016	Matter Type	Construction (Lit)
Court/Forum	Santa Clara Superior Court	Case/Docket #	16CV294532
Litigation Report Text	<p>CSU is suing the architect on the SJSU Student Union expansion and renovation project, Perkins & Will, on the basis that it failed to adequately and timely perform its services, failed to meet the standard of care, and failed to manage its sub-consultants or adequately staff the project. As a result of P&W's failures, the project experienced millions of dollars in cost overruns. Perkins & Will filed cross-claims against the contractor, construction manager and five other entities involved with the project, adding them as defendants to the lawsuit.</p> <p>The court granted contractor Lathrop's request to be dismissed from the lawsuit (and a request for sanctions against Perkins & Will). Discovery continues as to all remaining parties, and the court has encouraged the parties to mediate the dispute. Mediation is set in March.</p>		

Matter Name and Number	J.A.L. v. Santos, et al. (15-0219)		
Date Filed	01/26/2015	Matter Type	Personal Injury (Lit)
Court/Forum	United States District Court, San Jose	Case/Docket #	CV 15-00355 LHK
Litigation Report Text	<p>SJSU police officers Mike Santos and Frits Van Der Hoek confronted Antonio Guzman Lopez, a homeless man holding a sharp object, on the edge of campus. After Lopez ignored their instructions and moved quickly toward Van Der Hoek, Officer Santos fired, killing Lopez. Plaintiff J.A.L. is Lopez' minor son; through his guardian ad litem, J.A.L. brought claims against Santos and Van Der Hoek, for unreasonable search and seizure, violation of due process, wrongful death and negligence. The court granted our motion for summary judgment on qualified immunity and dismissed the case, and plaintiff appealed.</p> <p>On February 6, 2018, the Court of Appeals issued its decision, agreeing that the case should be dismissed. Plaintiff could choose to seek review from the U.S. Supreme Court, but otherwise, the matter is concluded.</p>		

Matter Name and Number	Laker v. CSU, et al. (17-0424)		
Date Filed	03/15/2017	Matter Type	Employment (Lit)
Court/Forum	Santa Clara Superior Court	Case/Docket #	17CV307336

Litigation Report Text	<p>Plaintiff Jason Laker, a faculty member in the College of Education (and former Vice President of Student Affairs) served as the advisor for a graduate student who was found to have been sexually harassed by her instructor, Lewis Aptekar. In this lawsuit, Laker brings claims for defamation and retaliation against SJSU and four administrators, Provost Andrew Feinstein, then-Dean Elaine Chin, then-Associate Dean Mary McVey, and head of Human Resources Beth Pugliese. Laker alleges he was defamed when administrators suggested Laker knew of prior complaints against Aptekar that Laker failed to report. And for retaliation, Laker alleges that Feinstein and Chin caused meritless and time-barred complaints and grievances to be brought against him.</p> <p>CSU filed an anti-SLAPP motion, as to the entire case (both the defamation and retaliation causes of action). The trial court denied the motion, and CSU has appealed the denial, staying the case. Separately Chin filed her own anti-SLAPP motion, and before the court could rule, Laker agreed to dismiss her from the lawsuit. A briefing schedule for CSU's appeal has not yet been set.</p>
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Matter Name and Number	Tiggs v. CSU, et al. (15-0929)		
Date Filed	05/07/2015	Matter Type	Personal Injury (Lit)
Court/Forum	Superior Court of State of California, Santa Clara	Case/Docket #	115CV280317
Litigation Report Text	<p>Brenden Tiggs was an SJSU freshman who, in February 2014, committed suicide in his SJSU dorm room. Plaintiffs, his parents, contend SJSU was negligent in failing to monitor their son's mental and emotional health and breached its obligation to provide him a safe and secure environment. CSU's motion to dismiss the lawsuit on timeliness grounds was granted and the case was dismissed. Plaintiff appealed.</p> <p>The case is fully briefed before the Court of Appeal, but the court has not yet scheduled oral argument or issued a decision.</p>		

San Luis Obispo

Matter Name and Number	Doe v. CSU, et al. (18-0073)		
Date Filed	01/16/2018	Matter Type	Student (Lit)
Court/Forum	Superior Court of State of California, Los Angeles	Case/Docket #	BS171866
Litigation Report Text	<p>"John Doe" filed this petition for writ of mandate challenging his expulsion from Cal Poly San Luis Obispo after he was found responsible for sexual misconduct. He alleges that he was improperly disciplined following a Title IX process that was unfair, lacked due process, did not comply with the law or University policy, and where charges were not supported by the evidence. The case is in the pleading stage.</p>		

Matter Name and Number	Doe v. CSU, et al. (SLO) (17-0271)		
Date Filed	02/10/2017	Matter Type	Student (Lit)

Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS168172
Litigation Report Text	Student "John Doe" was found responsible for engaging in sexual misconduct (nonconsensual intercourse) with a complaining student, and was expelled after being afforded a disciplinary hearing pursuant to the University's student conduct process. Doe filed this writ claiming that his due process rights were violated and that he was not afforded a fair hearing. Doe also claims there was not enough evidence to warrant expulsion. Prior to a court hearing on the merits, the case settled. CSU rescinded Doe's expulsion and instead imposed a one-quarter suspension and other sanctions. CSU did not pay any money in this settlement.		

Matter Name and Number	Doe v. White, CSU, et al. (17-1003)		
Date Filed	07/17/2017	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS170221
Litigation Report Text	<p>John Doe, a former student, filed this petition challenging his expulsion from Cal Poly San Luis Obispo for sexual misconduct.</p> <p>Jane Roe, a current student, alleges that on February 26, 2016 she met John Doe at a University affiliated party where she consented to dancing with him and engaging in a brief kiss. However, Roe alleges that she did not consent to Doe's increasingly aggressive behavior of pulling her in to dance closer and engaging in an open-mouthed kiss.</p> <p>Roe further alleges that at a subsequent meeting Doe engaged in non-consensual sexual intercourse with her.</p> <p>Following the University's investigation of Roe's complaint, Doe was found to have violated campus sexual conduct policies and expelled from school.</p> <p>The Court has set a briefing schedule with trial to be held on June 8, 2018.</p>		

Matter Name and Number	Doe v. White, et al. (17-0385)		
Date Filed	03/21/2017	Matter Type	Student (Lit)
Court/Forum	Los Angeles Superior Court - Central District	Case/Docket #	BS168476
Litigation Report Text	Student "John Doe" filed this petition for writ of mandate challenging his expulsion from Cal Poly San Luis Obispo after he was found responsible for sexual misconduct. Doe alleges that he was deprived of a fair hearing and that the findings of sexual misconduct are not supported by substantial evidence. The case is set for trial on July 11, 2018.		

Matter Name and Number	Pergis, J. and Kinkel Estate, et al. v. Fuentes, CSU et al. (16-1038)		
Date Filed	04/26/2016	Matter Type	Personal Injury (Lit)
Court/Forum	San Luis Obispo Superior Court	Case/Docket #	16CVP0109

Litigation Report Text	This wrongful death action involves members of a previously recognized student organization (club) "Cal Poly Motor Car Association" who engaged in an off-campus, high speed, high risk road race in January 2016 resulting in a head on collision that caused the death of Joni Marie Kinkel, mother of plaintiff Joscelyn Pergis. The Estate and Pergis claim that the students engaged in these activities as a sanctioned organization of the University, and that the club advisor, a faculty member, was negligent in his duties to advise and supervise this off-campus activity. The case has been dismissed.
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San Marcos

Matter Name and Number	Apodaca v. Silas Abrego, et al (17-0640)		
Date Filed	05/17/2017	Matter Type	Student (Lit)
Court/Forum	United States District Court, Southern District of California	Case/Docket #	17CV1014L
Litigation Report Text	Plaintiff Nathan Apodaca, president of Students for Life ("SFL") at California State University San Marcos, filed a lawsuit arising from the denial of SFL's application for ASI Leadership Funding, which is funded by mandatory student fees, to pay a speaker to attend a SFL event. The denial was based upon ASI Leadership Funding guidelines which specifically prohibits payment of speaker fees. Plaintiff also challenges ASI's allocation of mandatory student fees to fund the Gender Equity Center and LGBTQA Pride Center, which plaintiff alleges both engage in speech he opposes. Plaintiff alleges violations of his First Amendment free speech and Fourteenth Amendment right to equal protection of the law rights. The plaintiff seeks declaratory and injunctive relief, compensatory damages, and attorneys' fees. This matter is currently in the discovery phase of litigation.		

Matter Name and Number	Doe v. CSU (San Marcos) (16-1478)		
Date Filed	10/21/2016	Matter Type	Student (Lit)
Court/Forum	San Diego Superior Court	Case/Docket #	37-2016-00036982-CU-WM-NC
Litigation Report Text	Student John Doe was placed on interim suspension after an investigation concluded he had engaged in sexual misconduct with another student. Doe subsequently filed a petition for writ of mandate in San Diego County Superior Court, alleging that "prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with CSU Executive Orders 1095, 1097 and 1098, resulting in a denial of [his] right to federal and state due process of law." This matter settled for \$7,570.00.		

Matter Name and Number	Doe v. CSUSM (17-0925)		
Date Filed	07/05/2017	Matter Type	Student (Lit)
Court/Forum	United States District Court, Southern District of California	Case/Docket #	N/A

Litigation Report Text	Student "John Doe" filed suit to challenge his expulsion after he was found responsible for sexual misconduct. He alleged both procedural and substantive errors in the handling of the student disciplinary process. The matter settled for non-monetary terms. CSU conferred Doe's MBA degree, and entered a record of "withdrawal in lieu of expulsion" permanently on Doe's MBA transcript. In exchange, Doe agreed to dismiss the action and not seek readmission to CSU system. CSU did not pay any money in this settlement.		
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Matter Name and Number	Mackey, et al. v. CSU, et al. (15-0596)		
Date Filed	04/06/2015	Matter Type	Student (Lit)
Court/Forum	Superior Court of State of California, San Diego	Case/Docket #	37-2015-00011529-CU-
Litigation Report Text	Students Lynette Mackey, Kianna Williams, Danielle Cooper, Sierra Smith, and Crystal Hicks, all current or former African American basketball players on the CSU San Marcos women's basketball team, filed a lawsuit alleging claims against the University and Coach Sheri Jennum for race discrimination, harassment, retaliation, and negligence. On March 3, 2017, the court granted CSU's motion for summary judgment. The plaintiffs subsequently appealed the dismissal of their lawsuit and the appeal is currently pending.		

Sonoma

Matter Name and Number	Benjamin v. CSU, et al. (16-0340)		
Date Filed	02/16/2016	Matter Type	Employment (Lit)
Court/Forum	Sonoma Superior Court	Case/Docket #	SCV-258408
Litigation Report Text	Steven Benjamin, a former electrician at SSU, alleges that he was fired shortly before the end of his probationary period after he complained of alleged unsafe working conditions and alleged violations of the Labor Code. He alleges claims for whistleblower retaliation, as well as PAGA claims regarding asbestos on campus (identical to what was alleged in the Sargent matter, but for a different time period), and regarding alleged electrical safety issues. This case is in the discovery stage.		

Matter Name and Number	Sargent v. CSU (14-0715)		
Date Filed	06/06/2014	Matter Type	Employment (Lit)
Court/Forum	Superior Court of State of California, Sonoma	Case/Docket #	SCV-255399

Litigation Report Text	<p>Plaintiff Thomas Sargent, a former facilities department employee, claimed he was retaliated against when he complained about alleged health and safety issues relating to the presence of asbestos in various buildings on campus. He also alleged various PAGA claims regarding asbestos and other health-related conditions on campus.</p> <p>After an 8-week trial, the Sonoma County jury found in his favor on the retaliation claims and awarded him \$387,895 in damages. On the PAGA claims, the jury found in favor of CSU on 9 claims and against CSU on 7 claims.</p> <p>Post-trial, the judge assessed \$2,905,200 in penalties against CSU relating to the PAGA claims. The judge also granted Sargent's request for equitable relief (reinstatement to his prior position as of July 2015, including backpay and benefits), in exchange for Sargent's agreement to forego \$271,895 of the economic damages the jury awarded, which reduces the jury's damage award to \$116,000. CSU also is required to work with CALPERS to reinstate Sargent's retirement account. In addition, the trial court awarded plaintiffs approximately \$96,000 in recoverable related costs.</p> <p>CSU has appealed; the appeal is in the briefing stage.</p> <p>In another post-trial proceeding, plaintiff requested approximately \$11.5 million in attorneys fees. CSU will appeal any award of attorney's fees.</p>
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Systemwide

Matter Name and Number	CSU v. SELF (14-1263)		
Date Filed	10/15/2014	Matter Type	Other (Lit)
Court/Forum	Superior Court of State of California, Los Angeles	Case/Docket #	BC560824
Litigation Report Text	<p>This lawsuit involves an insurance coverage dispute between CSU and School Excess Liability Fund ("SELF"). SELF is a Joint Powers Authority which provides insurance to its membership. CSU was a member of and insured by SELF. CSU alleges that SELF wrongfully and improperly refused to fully indemnify CSU in connection with five discrimination lawsuits filed against CSU while it was insured by SELF.</p> <p>The parties were required to first address the coverage dispute through non-binding arbitration. The required, but non-binding, arbitration resulted in an award of \$5.24 million to CSU. SELF did not pay the award, and CSU filed this lawsuit seeking approximately \$7.14 million in damages. SELF finally agreed to settle the dispute by paying CSU \$4.5 million.</p>		

Matter Name and Number	Donselman, et al. v. CSU (09-0874)		
Date Filed	07/31/2009	Matter Type	Student (Lit)
Court/Forum	Superior Court of State of California, San Francisco	Case/Docket #	CGC-09-490977

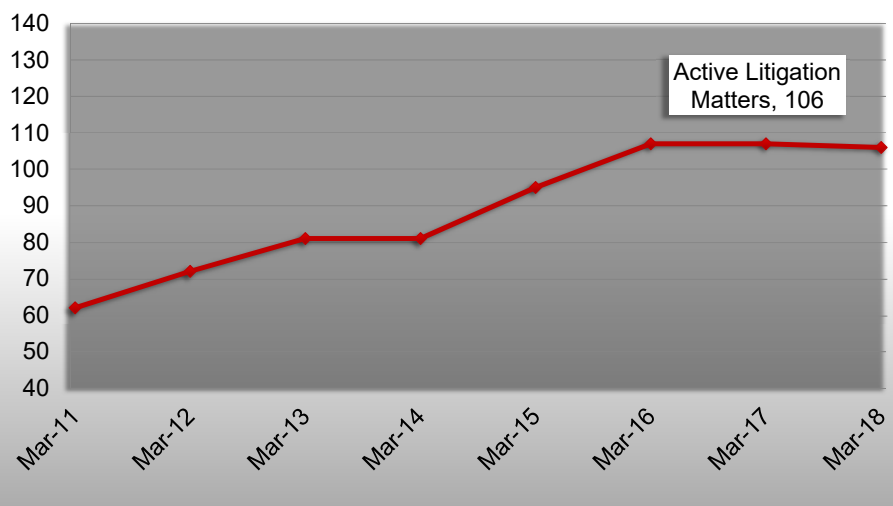
Litigation Report Text	<p>Five students brought this class action to challenge the state university fee and non-resident tuition increases, and newly implemented Graduate Business Professional fee, from Fall 2009. The court granted plaintiffs' motion to certify two subclasses that exclude four campuses where fees were posted late and/or students received financial aid to cover their increased fees. The two subclasses comprise approximately 175,000 students. CSU filed writs in the Court of Appeal and the California Supreme Court to challenge the class certification decision. Both were denied. After plaintiffs changed their legal theories to add alternative contract formation arguments, CSU filed a motion to decertify the class, but that was denied. CSU prevailed on pre-trial motions dismissing the breach of implied contract claims. CSU then successfully sought bifurcation of all claims regarding the Graduate Business Professional Fee, and they were separated from the rest of the case. The remaining claim for breach of the implied covenant of good faith and fair dealing was tried to a jury in April 2015, and CSU won a defense verdict. Plaintiffs have appealed that portion of the case. In the meantime, both sides reached an amicable settlement of \$1.4 million for all claims involving the Graduate Business Professional Fee, so the claims of that subclass are resolved.</p> <p>Plaintiffs' appeal challenges of our partial summary judgment ruling and our defense verdict at trial. We have appealed the granting of class certification and the partial denial of our summary judgment motion. The appeal has been fully briefed, and is set for oral argument on March 21, 2018.</p>
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Matter Name and Number	OnTheGo Wireless v. Cellco Partnership, et al. (15-1667)		
Date Filed	07/05/2012	Matter Type	Contracts (Lit)
Court/Forum	Sacramento County Superior Court	Case/Docket #	34-2012-00127517
Litigation Report Text	<p>This is a multi-party action to challenge how a number of wireless cell providers charged various public agencies for mobile phone services. Originally, a qui tam (whistleblower) plaintiff sued the major wireless carriers asserting various false claims violations, alleging that the carriers overbilled public agencies in violation of contractual terms that required "optimization" (i.e., shifting to lower cost plans when usage goes down). A number of public agencies, including the State of California, the Regents of the University of California, and the CSU, joined the case as intervenors. Collectively, the parties contend that the cell carriers overcharged the agencies by over \$100 million. The case is in the discovery phase. A modest settlement was reached with T-Mobile, with a small recovery to CSU. The claims against the larger carriers are still ongoing.</p>		

General Counsel's Annual Litigation Report

CSU Board of Trustees
March 19-21, 2018
G. Andrew Jones, Executive Vice Chancellor
and General Counsel

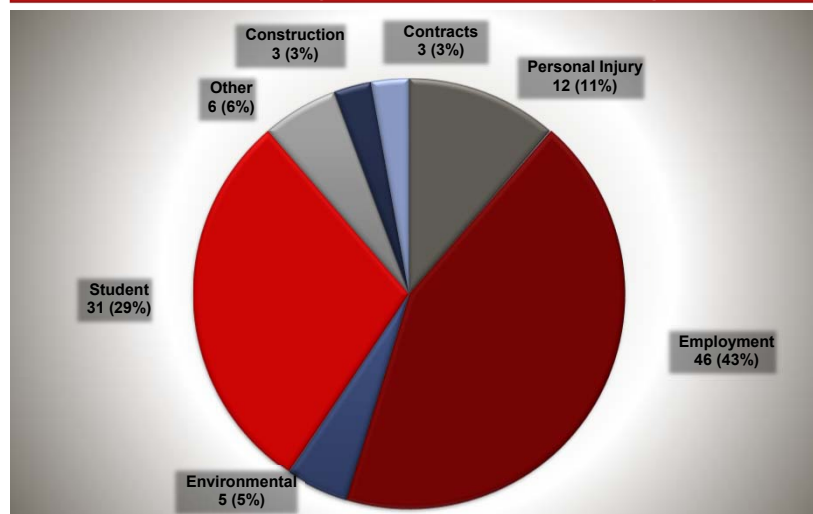
Historical Case Volume

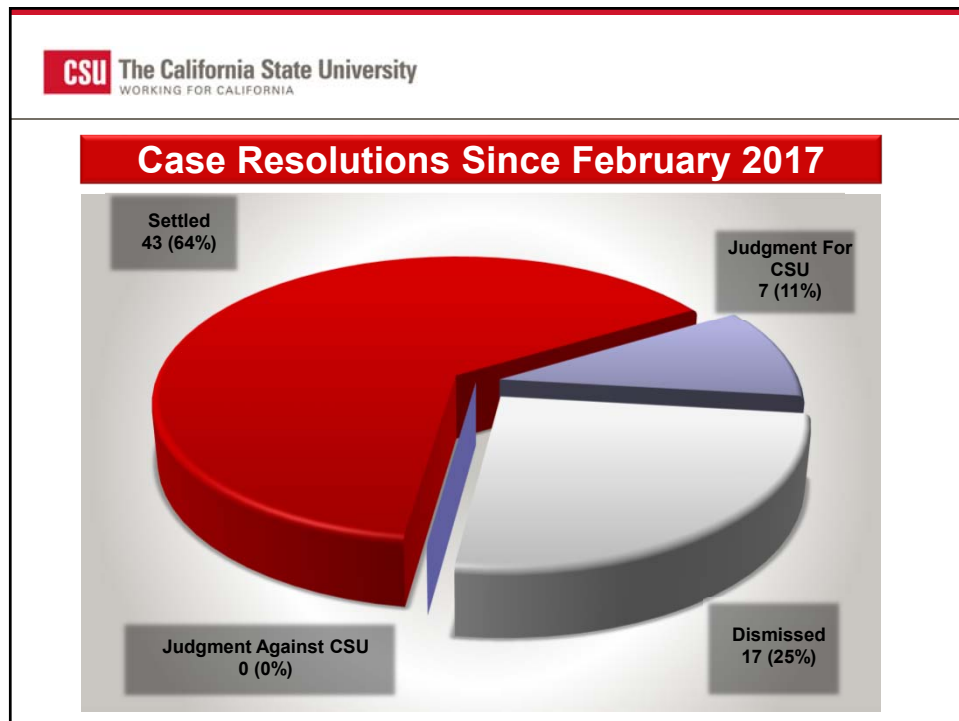
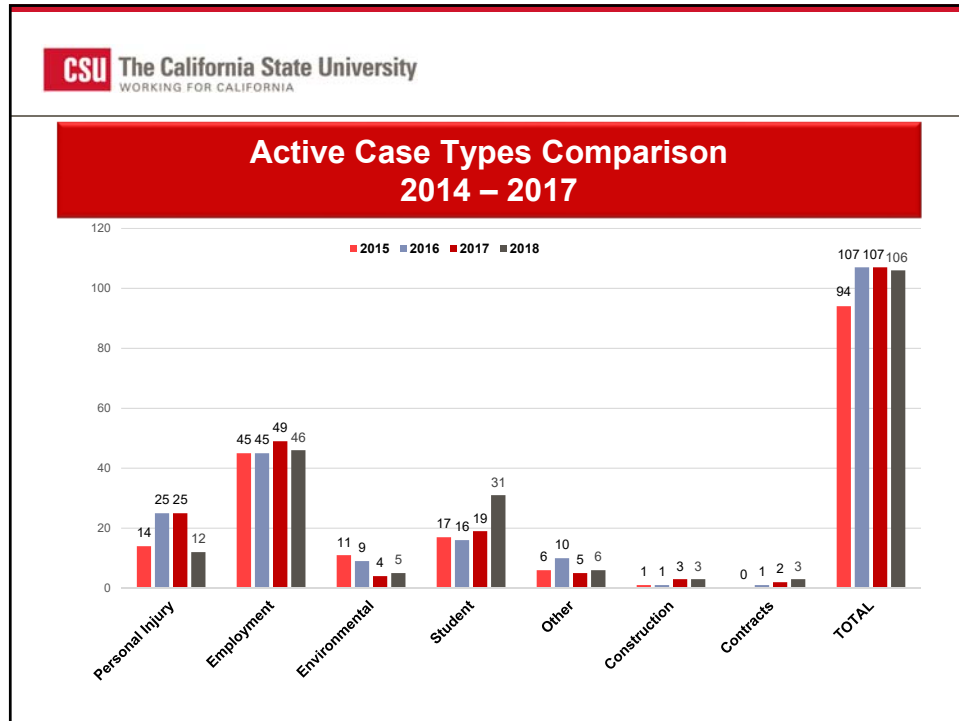


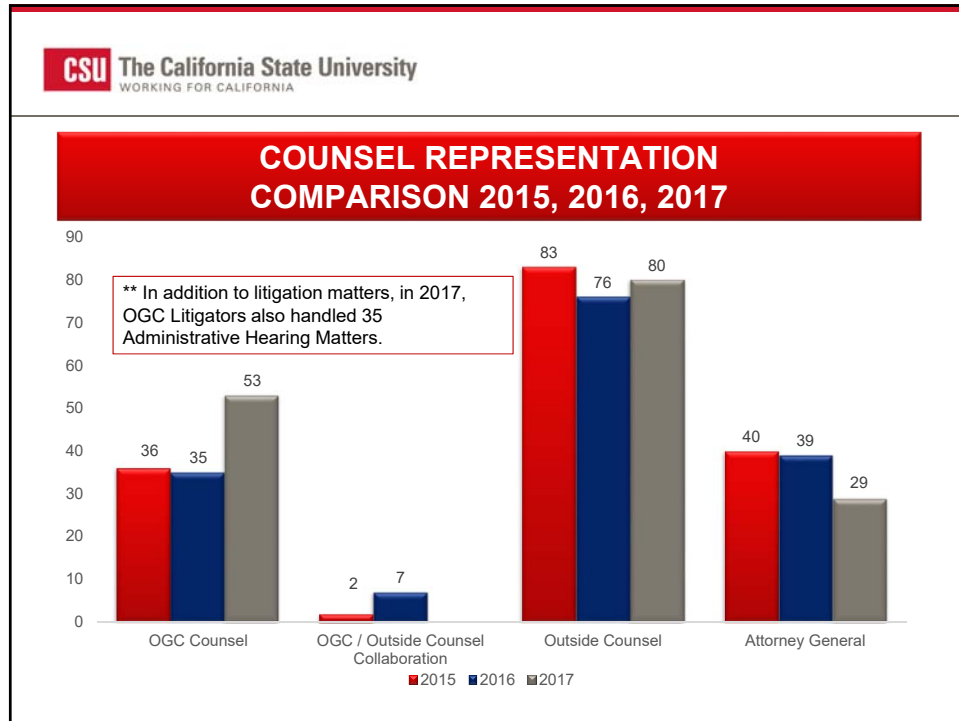
Factors Affecting Litigation Counts

- 🔨 Congested court calendars lead to delays – cases remain active longer
- 🔨 Litigation rises as economy improves
- 🔨 Employment litigation is more prevalent now than ever before
- 🔨 Student litigation regarding sexual misconduct discipline has gone up considerably

Active Case Types as of February 2018







COMMITTEE OF THE WHOLE

The Role of Higher Education in California's Future: A Presentation by the Public Policy Institute of California

Presentation By

Hans P. Johnson
Senior Policy Fellow and Higher Education Center Director
Public Policy Institute of California

Summary

Hans Johnson will present the institute's research findings on the need for college graduates in California's future economy. He will begin his presentation with a few remarks about the results of the public opinion survey.

Background

The November 2017 [PPIC Statewide Survey](#) points to the high regard most Californians have for the state's public higher education systems, including the CSU, but also shows that many Californians are questioning the value of higher education. The concern about value is almost certainly driven by the widespread perception that affordability and debt are big problems. Californians want the state to spend more money on higher education and do not support increases in tuition. In the context of the 2018 governor's race, a majority of California adults say that candidate positions on higher education are very important, but only a small share identify education as the most important issue facing California. Californians express high demand for college. The vast majority of parents want their child to earn at least a bachelor's degree.

PPIC has produced a series of research reports that shows strong economic demand for highly educated workers. The institute's report [Will California Run Out of College Graduates?](#) provides projections of the demand for and supply of workers across all levels of educational attainment to 2030. The primary finding is that California faces a shortage of highly educated workers. Specifically, economic projections to 2030 show that about two in five jobs will require at least a bachelor's degree, while demographic projections suggest only about one in three Californians will have at least a bachelor's degree. This shortfall equates to 1.1 million workers. To close the gap, all higher education systems will need to increase access and completion. As the state's leading provider of undergraduate education, the CSU plays the most important role. By increasing enrollments of both first-time freshmen and transfer students and by increasing graduation rates, the CSU alone could close over 40% of the shortfall. Graduation Initiative 2025 is a large and important step in the right direction. Improving access and success among groups historically

COW

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March 19-21, 2018

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underrepresented in higher education—including low-income students, first-generation college students, Latinos and African Americans—is essential if we are to close the degree gap. Compared to other public universities, the CSU has an impressive record in enrolling low-income and first-generation students. New initiatives, including remediation reform at the community colleges and at the CSU, have the potential to substantially improve student success rates. College preparation among the state's high school graduates has also increased, with the share of students completing the college preparatory requirements of the UC and CSU reaching an all-time high. Strong demand for the CSU is likely to continue as college preparation continues to improve and the transfer pathway is better articulated. Finding ways to accommodate all these students remains a central challenge, but one that must be met in order to ensure a better future for all Californians.