



**Lane et al. v. Brown et al.**

Civil Action No. 3:12-cv-00138-ST

**2016 Report to the Court**

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Independent Reviewer**

**January 1, 2016 - December 31, 2016**

## Introduction

The Independent Reviewer issues this first annual report on Oregon’s progress in implementing the Settlement Agreement in *Lane v. Brown*. The Settlement Agreement went into effect on January 27, 2016. If the State substantially complies with its obligations, the Settlement Agreement will end no later than July 1, 2022.

This report covers the State’s implementation efforts from January 1, 2016 through December 31, 2016. Because the Settlement Agreement is still in its early stages of implementation, this report is a preliminary assessment of steps the State has begun taking in the past year. The Independent Reviewer began employment in June of 2016.

The Independent Reviewer considered various sources in preparing this report, including information the parties provided at quarterly meetings, the State’s amended October 2016 Employment First Report, state policies and administrative rules, other State documents, and information reported by the State. The Independent Reviewer has not audited or otherwise verified the State’s reported data. The Independent Reviewer also informally visited a small number of school district transition programs in one region of the State.

In 2017, the Independent Reviewer will conduct formal program and client reviews to assess the State’s implementation of the Settlement Agreement. The State will also provide additional reports and information on certain Settlement Agreement provisions. That information will provide a fuller picture of implementation and will be analyzed in the next annual report.

Based on the preliminary assessment in this report, the State is making good progress in implementing several sections of the Settlement Agreement. The report also notes areas where the State should concentrate its efforts in the upcoming year.

## Background and Overview of the Settlement Agreement

On January 25, 2012, eight individual “named plaintiffs” with intellectual or developmental disabilities (I/DD) and an organization, United Cerebral Palsy of Oregon and Southwest Washington, filed a class action Complaint on behalf of themselves and others similarly situated. The lawsuit was filed in the United States District Court for the District of Oregon. The lawsuit alleged that Oregon unnecessarily segregated individuals with I/DD in sheltered workshops, in violation of the rights of these individuals under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

- On August 6, 2012, the Court certified a class comprised of: “all individuals in Oregon with intellectual or developmental disabilities who are in, or who have been referred to, sheltered workshops” and “who are qualified for supported employment services, meaning that they must be eligible for and desire those services.” See *Lane v. Kitzhaber*, No. 3:12-cv-00138-ST, 2014 WL 2807701, at \*8 (D. Or. June 20, 2014).

- On March 27, 2013, the United States moved to intervene in the matter as plaintiff-intervenor, and the Court granted this request on May 22, 2013. The United States alleged that Oregon unnecessarily segregated individuals with I/DD in sheltered workshops and put individuals with I/DD, including transition-age youth, at risk of segregation in sheltered workshops.
- On April 10, 2013, Governor Kitzhaber issued Executive Order 13-04 to prohibit funding for sheltered workshop placements after July 1, 2015 (“closing the front door”), as well as funding for vocational assessments within sheltered workshops after July 1, 2014, and to increase the provision of employment services to achieve integrated employment. Available at [https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_13-04.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_13-04.pdf).
- On February 2, 2015, Governor Kitzhaber issued Executive Order 15-01, which superseded the previous Executive Order 13-04 and expanded some of its goals, including increasing the number of people who would receive “employment services” from 2,000 to 7,000 by 2022. Available at [https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_15\\_01.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_15_01.pdf).
- After negotiations overseen by United States Magistrate Judge John V. Acosta, the Parties reached a comprehensive Settlement Agreement, approved by the District Court on December 29, 2015. The Court entered a Final Judgment entering the Settlement Agreement as a court order on January 27, 2016. The Settlement Agreement is available at <https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/Lane%20v%20Brown%20Proposed%20Settlement.pdf>.

Under the Settlement Agreement, Oregon agreed to continue its policy of decreasing the State’s support of sheltered workshops for people with I/DD in Oregon, and expanding the availability of supported employment services that allow individuals with I/DD the opportunity to work in competitive integrated employment settings. The Settlement Agreement provides relief to two target populations – (1) adults with I/DD who are 21 years old or older and worked in a sheltered workshop on or after January 25, 2012 (sheltered workshop target population), and (2) transition-age youth with I/DD between the ages of 14 and 24 who are found eligible for services from the State’s Office of Developmental Disability Services (ODDS) (transition-age target population).

- The Settlement Agreement requires that any individual with I/DD working in a sheltered workshop who wants a job in an integrated employment setting and is eligible for ODDS services can ask in the CDP process for and receive supported employment services.
- The Settlement Agreement requires that the State substantially implement and maintain the terms and systemic improvements of Oregon’s Executive Order 15-01. Specifically, over the next seven years, the State must provide 7,000 individuals with employment services. Of this number, 4,900 will be transition-aged youth (14 to 24

years old). The Agreement requires that at least half of the transition-aged youth who receive employment services, and who apply and are found eligible for Vocational Rehabilitation Services, will receive an Individual Plan for Employment. The state will also provide supported employment and related services so that 1,115 working-age adults (at least 21 years old) who are included in the sheltered workshop target population, obtain Competitive Integrated Employment between July 1, 2014 and June 30, 2022. This is consistent with metric 11 measuring placements in Competitive Integrated Employment (CIE) in the State's July 6, 2015 Integrated Employment Plan. CIE is work where an individual is paid at least Oregon's minimum wage and not less than the customary rate paid to non-disabled individuals for the same or similar work. CIE allows people with I/DD to interact with others who do not have disabilities to the same extent that individuals without disabilities in comparable positions interact with other people, and to receive the same benefits provided to other employees.

- The Settlement Agreement requires that ODDS establish and promote a goal that all persons with I/DD who want to work in the community will be afforded an opportunity to pursue competitive employment that allows them to work the maximum number of hours consistent with their abilities and preferences. ODDS has issued guidance that the recommended standard for Supported Employment Services is the opportunity to work at least 20 hours per week, if consistent with individual choice and other factors. ODDS is continuing to work on creating financial incentives for providers to obtain Competitive Integrated Employment at the recommended standard of 20 hours per week.
- All individuals in the Executive Order 15-01's ODDS/VR Target Population II(1)(a) (the sheltered workshop target population) should have received a Career Development Plan by July 1, 2015. All transition-aged youth with I/DD in Executive Order 15-01's ODDS/VR Target Population II(1)(b) (the transition-age target population) must also receive a Career Development Plan. Using person-centered planning principles, a Career Development Plan identifies the individual's employment goals and objectives, obstacles to achieving competitive integrated employment, and the services and supports necessary to overcome those obstacles.
- The Settlement Agreement also requires the State to achieve two metrics in its July 6, 2015 Integrated Employment Plan measuring the State's decreased support of sheltered workshops. From July 1, 2016 to June 30, 2017, the State must reduce the number of individuals with I/DD working in sheltered workshops from 1,926 to 1,530. During this period, the State must also reduce the number of hours individuals spend working in sheltered workshops from 93,530 hours per month to 66,100 hours per month.
- The Settlement Agreement includes provisions covering transition services for youth with I/DD, training, system capacity to provide employment services, funding, data collection, and reporting.

The Settlement Agreement provides that a neutral Independent Reviewer will evaluate the State's compliance and issue annual written reports on implementation of the Agreement. The Court retains jurisdiction of this matter while substantial compliance is achieved. The Settlement Agreement includes a dispute resolution process and enforcement procedures by the federal court. The State may defend against an enforcement proceeding by proving an event which substantially impairs or impedes compliance and which was not initiated, created, caused, or substantially contributed to by ODDS or ODE.

The State's responsibilities under this Settlement Agreement are subject to funding by the Legislature. The State is required to make diligent efforts to obtain funding necessary to comply with the Settlement Agreement. If Oregon fails to attain funding necessary to comply with the Settlement Agreement, the Settlement Agreement may become void and litigation may resume.

## Guidelines for Meetings of the Parties

Guidelines outlining the purpose and principles of joint meetings were established to assist the independent reviewer's work with both parties. These guidelines are listed below:

### **Purpose of the Meetings of Parties in Lane v. Brown:**

- Ongoing communication;
- Status updates;
- Clarification of information;
- Dispute resolution;
- Collaboration to identify obstacles to success within the implementation plan; and
- Opportunity to brainstorm strategies to overcome obstacles.

### **Guiding Principles for the Joint Meetings in Lane v. Brown:**

- Treat others with dignity and respect.
- The primary purpose of the meetings is to review the Settlement Agreement to assure it enhances individual opportunities and systems change for employment outcomes.
- The Settlement Agreement is the result of extensive, thorough, and good faith negotiations.
- The terms of the Settlement Agreement have been voluntarily accepted.

- The court has jurisdiction over this Settlement Agreement.
- All parties will have access to the same information specific to the Settlement Agreement.
- Meeting agendas will be available two weeks in advance of the meeting to both parties. Both parties will provide input to the agenda three weeks in advance of the next meeting.
- Meetings will be quarterly in 2017 but parties may meet more frequently in 2016, if needed.
- The Independent Reviewer, in consultation with the Judge (if needed), shall determine the status of Settlement Agreement. Either party retains the right to disagree.
- Summary notes on key decision points will be maintained by the Independent Reviewer for each meeting. These will be shared with both parties with an opportunity to review, comment and request changes. Both parties retain the right to maintain their own notes.
- Disability Rights Oregon will communicate on a regular basis with named plaintiffs and solicit their input in language that they understand. If an individually named plaintiff or the organizational plaintiff wishes to provide input at a meeting of both parties, they would be welcome to do so at the beginning of the meeting.
- Both parties can suggest agenda items to the Independent Reviewer no later than three weeks before each meeting.
- Plaintiffs will request data and information from defendants no later than 30 days before each meeting. The defendants will provide the data and information no later than two weeks before each meeting. Data requests must be reasonable and follow the Settlement Agreement. The Independent Reviewer will decide if data requests are too cumbersome or outside the scope of the Settlement Agreement.

## Meetings of the Parties for 2016 and 2017

Parties have met (or will meet) to discuss the State of Oregon’s progress on meeting the terms of the Lane v. Brown Settlement Agreement on the following dates:

- June 17, 2016
- September 8 and 9, 2016

- December 5 and 6, 2016

\*The agendas can be found in the **Appendix A** of this report.

The scheduled dates for the meetings of the parties in 2017 are as follows:

- March 30 and 31, 2017
- July 11 and 12, 2017
- September 27 and 28, 2017
- December 4 and 5, 2017

## Summary of the State's Reported Data for Lane v. Brown for SFY 2016

### SA IV.1 - Sheltered Workshops

***Settlement Agreement IV.1: By July 1, 2015, Oregon will no longer purchase or fund sheltered workshop placements for: a) transition age youth with I/DD; b) adults with I/DD who are newly eligible for ODDS or VR services; and c) existing adults with I/DD using ODDS or VR services.***

#### **Status:**

On February 25, 2015 (prior to the Settlement Agreement), ODDS issued policy transmittal APD-PT-15-006 and distributed it statewide. Available at <https://www.dhs.state.or.us/policy/spd/transmit/pt/2015/pt15006.pdf>. The policy transmittal provides that “effective July 1, 2015, ODDS will no longer fund services in Sheltered Workshop settings for individuals who are newly eligible for services, or individuals already using services but not in a Sheltered Workshop setting. Only individuals already using services in Sheltered Workshop settings as of June 30, 2015, may continue to do so after July 1, 2015.” The policy is still in place today.

The State is tracking any new admissions to sheltered workshops, that any admission of a newly eligible adult requires a formal ODDS hearing, and that individuals in sheltered workshops who leave may return within one year of leaving. The State will be providing the plaintiffs and the independent reviewer with an annual report for any first-time admissions to sheltered workshops; a report if any individual class member has left the sheltered workshop for more than one year and requests readmission; and a report of any transition-age youth with I/DD who seeks admission to a sheltered workshop. In addition, the State has agreed to provide notice to plaintiffs and the independent reviewer whenever a new admission is allowed. The Independent Reviewer will review these reports to ensure that any new admissions are

consistent with the Settlement Agreement. Please see Appendix E for the Policy Transmittal by ODDS on No new services in sheltered workshop settings.

***Settlement Agreement IV.2: By June 30, 2017, the State will reduce the number of individuals with I/DD working in sheltered workshops and the number of hours that individuals with I/DD work in sheltered workshops.***

**Status:**

The State will report on this data in the upcoming year and the Independent Reviewer will determine whether the reported information meets the Settlement Agreement’s requirement. To date, the State has made progress in reducing the number of individuals with I/DD working in sheltered workshops and the number of hours that individuals with I/DD work in sheltered workshops consistent with the metrics in the State’s Integrated Employment Plan.

## **SA IV.2 - Sheltered Workshops**

***Reduce sheltered workshop census and decrease hours worked in sheltered workshops.***

**Status:**

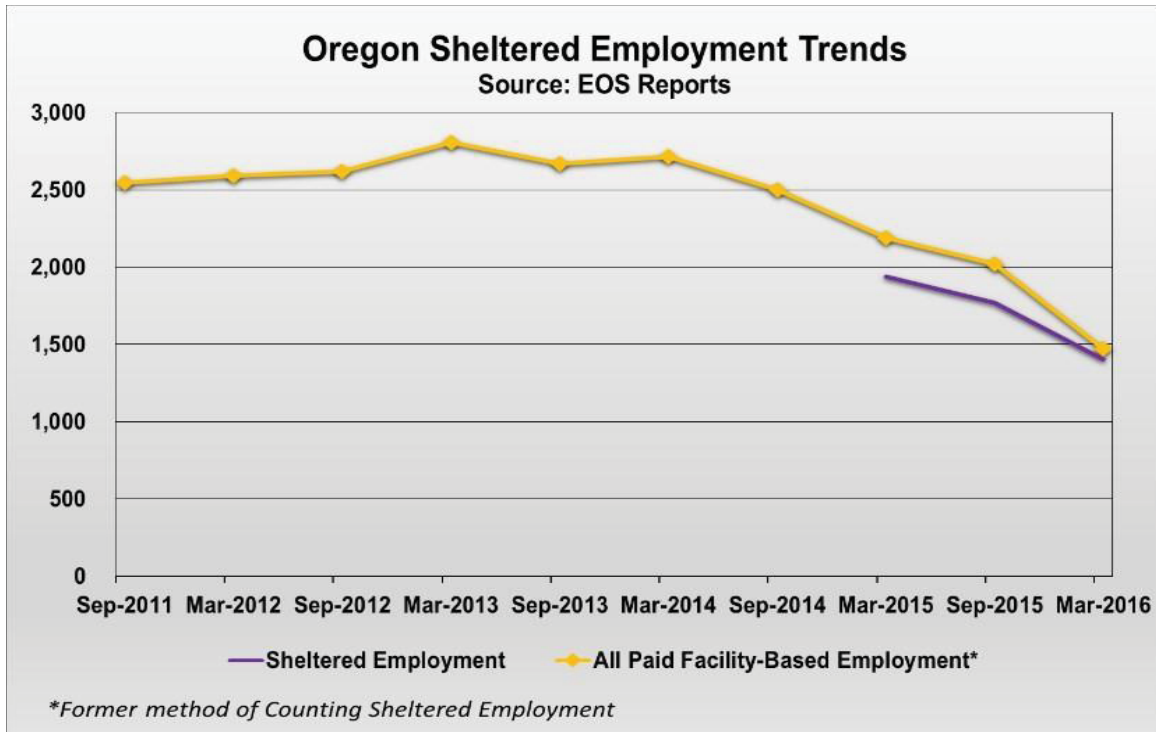
In the October 2016 Employment First Report, the State reported the following data:

**IEP Metric 9**

*For SFY 2016, the census in Oregon sheltered workshops is to decrease to no more than 1,860 persons.*

The State reports that, by March 31, 2016 (3 months prior to the end of SFY 2016), the census in Oregon’s sheltered workshops was 1,405 persons. The State’s October 2016 Employment First Report included the following chart about sheltered employment trends:





[Source: Oregon DHS Employment First Report, Amended Report, October 2016, at p. 11.]

### **IEP Metric 10**

*Decrease hours worked in sheltered workshops in SFY 16 to 80,350 in 2016.*

- The State reports that hours worked in sheltered workshops decreased to 73,019, as calculated in the March 2016 EOS Census data (3 months prior to the end of SFY 16).

Based on the State's reported data, the State has achieved IEP Metrics 9-11 for SFY 2016.

## **SA V.B - Executive Order Service Outcomes and IEP Metrics**

***Settlement Agreement V.B.1: Provide Employment Services to 2,200 individuals in the target populations by July 1, 2016 (Executive Order IV.3.c)***

### **Status:**

In its amended Employment First Report of October 2016, the State reported that, as of June 30, 2016,, 2,971 individuals in the target population received an employment service. This is a cumulative number from state fiscal years 2014 through 2016 (July 1, 2013 – June 30, 2016). The State also reported that there were 1,577 unique individuals who received at least one new employment service in SFY 2016.

The Employment First report contained the following table:

<b>Executive Order Employment Services to Target Population</b>				
<b>Employment Service</b>	<b>SFY 2014</b>	<b>SFY 2015</b>	<b>SFY 2016</b>	<b>Total</b>
VR Entered IPE	430	724	987	2,141
Completed Discovery Profiles	*	287	502	789
New Individual Integrated Employment from ODDS	143	146	266	555
New Small Group Supported Employment	223	138	163	524
Brokerage Employment Service	170	**	**	170
<b>Total Employment Services in SFY 2016 Year</b>	<b>966</b>	<b>1,295</b>	<b>1,918</b>	<b>4,179</b>
<b>Total Unique Clients Served in SFY 2016 Year</b>	<b>882</b>	<b>1,128</b>	<b>1,577</b>	<b>2,971</b>

\*Service not available in SFY 2014

\*\*Service no longer available

[Source: Source: Oregon DHS Employment First Report, Amended Report, October 2016, at p. 14.]

***Settlement Agreement V.B.1.a: Provide SES to all named plaintiffs by 6-30-16.***

**Status:**

- All eligible named plaintiffs received an employment service in SFY 2016. Two named plaintiffs are employed in competitive integrated employment. There has been some delay with scheduling employment services for others, but the services have been rendered in SFY 2016.

The State reports that the named plaintiffs received the following Supported Employment Services on or before 6/30/2016:

- Gretchen Cason: VR IPE (2/4/2016); Discovery (12/29/2015)
- Sparkle Green: VR IPE (7/22/2013); Competitive Integrated Employment (5/27/2015); Job Coaching (5/2015-6/2015)
- Angela Kehler: Discovery (4/27/2016); Supported Small Group (9/14-12/14)
- Zavier Kinville: VR IPE (1/13/2015); Competitive Integrated Employment (3/19/15); Job Coaching (6/2015-ongoing)
- Paula Lane: VR IPE (9/26/2013); Competitive Integrated Employment (9/3/15); Job Coaching (12/15-1/16)
- Andres Paniaqua: VR IPE (11/12/2013); Discovery (9/1/2015)

- Lori Robertson: VR IPE (4/28/2015)

Based on the dates that the State reports, several of the named plaintiffs have received Supported Employment Services prior to the January 2016 effective date of the Settlement Agreement. The Independent Reviewer will continue to assess what services these individuals receive since the Settlement Agreement went into effect.

#### Verification of Requirements:

In order to demonstrate that all named plaintiffs currently residing in Oregon received a Supported Employment Service, the State compiled billing data for Supported Employment Services through eXPRS Plan of Care (ODDS billing system) and service delivery through ORCA (VRs data system). One Named Plaintiff, Elizabeth Harrah, left the state, and therefore, by federal regulation can no longer receive services in Oregon.

Additionally, the State gathered the most recent progress notes and status updates the Named Plaintiff's Services Coordinator or Personal Agents and VR Counselors.

#### Named Plaintiff Updates Summary

The State reported the following updates on the named plaintiffs, which the State obtained through reviewing progress notes, ORCA notes, and interviews with VR counselors as well as e-mails from VR Counselors, Services Coordinators and Personal Agents. Disability Rights Oregon, counsel for the named plaintiffs, also provided information about the plaintiffs.

- Gretchen Cason: Gretchen's VR file was opened 1/20/16 and Gretchen was recently hired to start 10/3/16 at Portland Public Schools.
- Sparkle Green: Sparkle previously had a Competitive Integrated job from 5/27/15 – 6/25/15 which she left as she reported it as being too difficult for her. Sparkle continues in job development and recent started working with a new job developer, Community Vision. Ms. Green completed Discovery in Summer 2016 and received a job shadow at a Home Goods retail store. As a result of the job shadow, she was offered employment assisting with directing customers and to fronting store product displays and stock. Ms. Green was to start after a visit with her family over the end of year holidays. The job offer is being held open for Ms. Green at this time.
- Angela Kehler: Angela was referred to VR on 7/18/16. Intake was completed on 7/26/16 and eligibility completed 9/23, delay due to difficulty getting medical records. Discovery was completed by Dirkse pre-referral to VR. Discovery recommends job readiness class and community assessment prior to job development. VRC will be working with Angela to choose a job developer and determine if she would like to participate in a job readiness class or community

assessment. Ms. Kehler had a team meeting on November 21, 2016 where she met with two prospective providers – Abilities at Work and Eastco. She decided to work with an Abilities at Work Job Developer.

- Zavier Kinville: Zavier was hired by the YWCA in a child care position 3/19/15 and closed successfully through VR 8/21/15. Zavier is currently enrolled in on-going job coaching through ODDS. Paula Lane: Paula previously had a Competitive Integrated job from 9/3/15 until 2/3/16. Paula is currently receiving employment path community services through Edward’s Center and will have the opportunity to participate in supported small group services when they become available. She has an open file with VR and is in the process of job development through TVW. She meets with her job developer regularly. Paula started Discovery in September and completed it in December 2016. She has subsequently been assigned a new job developer and VR counselor.
- Andres Paniagua: Andres started working with a new job developer (Community Access Solutions) as of July, after meeting and choosing from three providers. This is the fourth employment services provider he has worked with. Mr. Paniagua has since job shadowed with his job developer at a tool maker shop in Hillsboro. His job would be to test tool production quality. He does not have a start date yet.

Lori Robertson: Lori has an aggravated medical condition now reported to limit her to 1 hour per day at her employment path provider, Eastco. The employment team recently decided on a new work assessment to determine appropriate work and required supports with respect to new limitations. Job developer has possible assessment sites at K-Mart and a small boutique. Her Services Coordinator is also going to continue to discuss her choice regarding employment providers and services at an upcoming meeting. Ms. Robertson had a team meeting at VR on November 28, 2016. Eastco indicated that it did not believe it could meet Ms. Robertson’s needs. Ms. Robertson indicated that she would work with a new job developer. The VRC indicated that consultation with a new job developer – Full Life – would be authorized, but that provider has since indicated that it cannot work with Ms. Robertson.

## SA VI – Supported Employment, Related Services & Competitive Employment

***Settlement Agreement VI.1: Implementation of Supported Employment Services The Settlement Agreement requires ODDS and VR to establish and implement a policy that Supported Employment Services provided under this Agreement shall be individualized,***

*evidence-based, flexible, offered in an integrated setting and available as needed and desired, but shall not be mandated as a condition of working or receiving services in an integrated employment setting.*

**Status:**

The State has issued:

- Employment Rule (Chapter 411-345-0025) - Each component of the Settlement Agreement Section VI.1 about “individualized, evidence based, integrated employment setting, and preferences” is found in the Employment Rule in section 0025.
- March 2016 ODDS and VR Memorandum of Understanding (MOU) - The ODDS/VR MOU can be found in **Appendix B**. The MOU is available online.

To date, the State has established a Supported Employment Services policy whose terms are consistent with the requirements of Settlement Agreement VI.1. The Independent Reviewer will conduct program reviews that will look at, among other things, implementation of the Supported Employment Services policy and other related policies.

***Settlement Agreement VI.3 b: Additional Individuals in Sheltered Workshops Will Obtain Competitive Integrated Employment***

The requirement is for the State to have successfully assisted 130 individuals receiving sheltered workshop services by the end of State Fiscal Year 2016 to be competitively employed in an integrated place of employment.

**Status:**

By the end of SFY 2016, the State indicated in the October 2016 Employment First Report that 143 new individuals had worked in Competitive Integrated Employment for 90 days or more.

The State’s method of determining this number may not be accurate. The Settlement Agreement requires that a person must work for 90 consecutive days to be counted as achieving Competitive Integrated Employment. The State counts someone as achieving Competitive Integrated Employment if billing data shows that an individual received at least 3 months of job coaching. However, billing data could reflect 3 months of job coaching even if the individual was not employed for a full 3 months or 90 consecutive days.

The State reports that it is reviewing whether each of the 143 individuals cited in the Employment First Report as achieving Competitive Integrated Employment has worked for 90 consecutive days. The State has confirmed that 141 new individuals worked in competitive integrated employment for 90 days or more as of March 30, 2016. The State will, if needed, revise this number for SFY 2016 when it receives and analyzes end-of-year data. Final data for

SFY 2016 will be available no later than March 2017.

Based on the State's reported data, the State has achieved the numerical outcome required in Settlement Agreement VI.3.b.

***Settlement Agreement VI.5 – Transition Age Youth Receiving Employment Services & IPE***

***By July 1, 2022, the State will ensure that at least 4,900 of the 7,000 individuals who are provided Employment Services pursuant to Executive Order IV.3 are members of the transition-age target population. At least half of those 4,900 transition-age target population members shall also receive an Individual Plan for Employment (IPE) with VR.***

**Status:**

The State reported the following cumulative numbers in the October 2016 Employment First Report that for SFY 2014-2016 (July 1, 2013 – June 30, 2016):

- 1,859 transition aged youth received at least one new employment service
- Out of the total of 1,859 individuals, 1,485-transition aged youth received an IPE.
- About 80% of the transition-age population who received an employment service also received an IPE. The Settlement Agreement requires that by July 1, 2022, at least 50% of the individuals who receive an employment service have an IPE. The State is currently on track to meet this requirement. The state has exceeded the obligation within this reporting year from SFY 2014 through SFY 2016.

***Settlement Agreement VI.6 - The State Will Encourage and Facilitate Oregon School Districts to Continue and Expand Models of Evidence-Based Transition Practices.***

**Status:**

The Oregon Department of Education (ODE) will provide an annual summary report beginning in the fall of 2017. This report will list transition programs by district and what ODE has done to encourage and expand evidence-based transition services.

The Independent Reviewer visited a very small sample of transition programs in Oregon within a three-day period from November 1-3, 2016. A member of the state staff accompanied the Independent Reviewer on these visits. During these visits, the Independent Reviewer spoke with and observed students who may be members of the transition-age target population. The Independent Reviewer will make additional site visits in 2017 and will provide observations in future reports when a larger sample is available. The sites that the Independent Reviewer visited in 2016 were: a Youth Transition Program (YTP) site at a high school in Prineville, Bend High School YTP, Sisters High School YTP, Rivers Edge High School, and Brown Education School YTP. It should be noted that YTP programs often include students with a range of disabilities,

not only intellectual and developmental disabilities covered by the Settlement Agreement. It should be noted that YTP programs often include students with a range of disabilities, not only intellectual and developmental disabilities covered by the Settlement Agreement.

A summary of the Independent Reviewer's site visits follow.

- The Independent Reviewer visited the high school in Prineville, Oregon, which is a YTP site. The Independent Reviewer observed a joint class with students with disabilities and ROTC students without disabilities on résumé building. Some students in the YTP program described their work experiences. For example, a student had a paid internship in a local museum. Information was provided about the summer work experiences. Some of the youth internship wages were paid by the school YTP program, and another student's salary and some internships were paid by the employer.
- The Independent Reviewer visited the Bend High School YTP site. The site reported that the February 2015 Memorandum of Understanding (MOU) between ODE/VR/ODDS, which was entered before the Settlement Agreement was negotiated, helped to bring partners to the table. The Independent Reviewer observed students in school work experiences and one in a community work experience. The Independent Reviewer observed a possible mock sheltered workshop activity in the school, special education students were collecting silverware around the school. Settlement Agreement IX.1.4 prohibits mock sheltered workshop activities, yet only students with disabilities performed this activity.

The Independent Reviewer shared her concerns with the school and ODE. The school reported that this work experience was discontinued as of December 9, 2016, approximately 5 weeks after the observation. The Transition Network Facilitator followed up with the school to offer training and technical assistance on alternate options for students.

- The Independent Reviewer visited the Sisters, Oregon high school, which is a YTP site. Elementary students were in community work experiences, in addition to middle and high school students. The program uses a model of paid student job coaches. The Independent Reviewer observed YTP students in a variety of paid jobs, such as camp employee, coffee cart, and City Hall. VR Stimulus funds were used to improve work experiences and the independent reviewer learned of a student with significant disabilities operating a Zamboni- like cleaning machine as part of a paid job within the school.
- At Rivers Edge High School, the Independent Reviewer visited the school coffee shop, which is part of a paid transition training effort. This program is not a YTP site, and unlike the YTP sites the Independent Reviewer observed, this program does not currently have students working in the community.
- The Independent Reviewer visited the Brown Education School, which is a YTP site. The

students provided the tour of their transition program. Students were gaining work experience in a community vet program and multiple community work experiences.

- The Independent Reviewer met with the Employment First team, which included high school staff, VR staff, ODDS staff, and the Transition Network Facilitator. According to the group, the new Oregon Employment policies are helping to break down silos and are having teams work closely together on the joint goal of employment for transitioning youth.

In 2017, as part of a formal program review, the Independent Reviewer will visit additional transition sites throughout Oregon that include a variety of YTP and non-YTP programs. A list of interview questions is being developed for those visits, and a draft has been shared with both parties prior to the site visits.

***Settlement Agreement VI.7 – Individuals in Sheltered Workshops Wanting Job in Integrated Employment Setting Receive Supported Employment Services and Related Employment Services***

Any individual in a sheltered workshop who states as part of the Career Development Plan (CDP) process that he or she desires a job in an Integrated Employment Setting will receive Supported Employment Services and Related Employment Services that allow the individual an opportunity to obtain a job. An opportunity is not a guarantee of employment.

**Status:**

The State has agreed to provide a Career Development Plan (CDP) Report on or before February 28, 2017. The report will contain the State’s annual analysis of CDPs and other documents of individuals currently in Sheltered Workshops. The report on CDPs will include all persons who want Competitive Integrated Employment. The state will report on services requested for a statistically significant sample, and will also look at all CDPs for individuals in a sheltered workshop and report if the plans are complete. Thereafter, the State will provide an annual report due in the fall of each year.

At this time, there is no evidence that everyone in the class had a completed CDP, as of June 30, 2016. The state has reported that they have gathered the CDPs and are in process of analyzing the results. At this time the report is not yet complete.

***Settlement Agreement VI.9 –DHS Shall Adopt a Rule Requiring CDDPs and Brokerages to Encourage Individuals in Sheltered Workshop Target Population to Choose to Leave Sheltered Workshops***



**Status:**

The Oregon Department of Human Services (DHS) adopted a rule requiring community developmental disabilities programs (CDDPs) and support services brokerages to encourage individuals in the sheltered workshop population to choose options other than sheltered workshops. This is reflected in the Case Management Rule, OAR 411-415-0070(2)(i)(G). The rule states in part: “For individuals who use employment services in sheltered workshop settings, the Career Development Plan must document that the individual has been encouraged to choose a community based employment service option and not a sheltered workshop setting option.” This provision of the Case Management Rule satisfies the Settlement Agreement’s requirement that DHS shall adopt a rule on this matter.

As part of a formal program review, in 2017 the Independent Reviewer will be scheduling site visits throughout Oregon to visit with providers, brokerages, CDDPs, and transition programs and assess the implementation of the policy above.

## **SA VII - Enhancing Employment Options.**

***Settlement Agreement VII.1.a: Establish and Promote a Goal of 20 Hours as the Standard for Planning and Implementing Employment Services for Individuals with I/DD who Want to Work in the Community and Issue Guidance.***

**Status:**

DHS has established and taken actions in 2016 to promote a goal that all persons with I/DD who want to work in the community will be afforded the opportunity to pursue Competitive Integrated Employment that allows them to work the maximum number of hours consistent with their abilities and preferences. ODDS and VR issued a Joint Action Request Transmittal APD-AR-16-040 dated June 10, 2016. Please see **Appendix C** for a copy of the Joint Action Request Transmittal.

DHS has issued guidance to VR counselors, ODDS staff, brokerages and CDDPs that the recommended standard for planning and implementing competitive integrated employment will be the opportunity to work at least 20 hours per week. This guidance recognizes that based upon individual choice, preferences and circumstances, some people may choose to work at that level and others may not.

Now that the joint policy has been distributed, the State will provide a joint ODDS and VR report of promotional and/or training strategies on the 20-hour policy. The obligations in this Settlement Agreement section are ongoing, and the Independent Reviewer will be assessing the State’s promotion of this goal.

***Settlement Agreement VII.1.b: DHS Will Develop and Seek Approval of New Rates from CMS***

***The Settlement Agreement requires DHS to develop and seek approval from the Centers for Medicare and Medicaid Services (CMS) for reimbursement rates for supported employment services for outcome payments or other financial incentives to providers for individuals with I/DD who obtain Competitive Integrated Employment at a monthly average of at least 20 hours per week.***

**Status:**

The State has submitted new rates for Competitive Integrated Employment to CMS for approval during 2016. CMS approved the amendment for Competitive Integrated Employment rates in August of 2016. This approval covers initial, ongoing and maintenance rates for Competitive Integrated Employment. The State began implementation of these new rates as of November 1, 2016.

***Settlement Agreement VII.1.c: Provider Transformation Grants and Incentive Payments***

***The Settlement Agreement requires DHS to continue to include a goal in provider transformation grants that individuals with I/DD obtain Competitive Integrated Employment and work the maximum number of hours consistent with their abilities and preferences. The grants are to continue to provide one-time incentive payments to providers for each person who obtains Competitive Integrated Employment at least 20 hours per week.***

**Status:**

DHS has continued with its sheltered workshop provider transformation grants. One goal of the grants is to increase Competitive Integrated Employment for individuals with I/DD to work the maximum hours consistent with their abilities and preferences. The State reports that there are incentive payments within the transformation grants for employment outcomes for new jobs that are for 20 hours or more of work per week, at minimum wage or better.

DHS announced a new Request for Applications (RFA) for providers to improve employment services and outcomes for individuals with developmental disabilities. More information in this RFA can be found at: <http://orpin.oregon.gov> or through the [July 22, 2016 announcement of new transformation grants \(https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/](https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/)

[RFA%20Transformation%20Message%207-22-16.pdf](https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/RFA%20Transformation%20Message%207-22-16.pdf)). As set forth in DHS's RFA, DHS is seeking service provider agencies looking to transform their business models from the delivery of facility-based employment services (sometimes known as sheltered workshops) for individuals with I/DD to community-based, integrated employment services. Interested providers will be selected via an ongoing application process. DHS will review service provider applications every six months through July 2017 (August 2016, January 2017, July 2017), or until all available

funding for transformation grants has been awarded.

The RFA provides that the selected providers will receive training and technical assistances as well as an award of up to \$150,000 in order to initiate and sustain their transformation from facility-based to community-based employment services. Providers must commit to providing community-based, integrated employment services and to ending facility-based or sheltered employment services.

The RFA states that Living Opportunities, Inc. of Medford and the Washington Initiative for Supported Employment (WISE) will provide training and technical assistance for at least 12 months to the selected providers.

The RFA affirms that investing in provider transformation is part of the DHS strategy to make continual improvements to employment services in Oregon by:

- Increasing capacity, in terms of provider numbers and skill levels, to deliver employment services in integrated employment settings;
- Increasing the opportunities for individuals with I/DD to join the general workforce by being competitively employed in workplace settings typically found in our communities;
- Reducing the use of facility-based services; and
- Assisting providers to comply with new federal rules that require Medicaid-funded services to be community-based.

***Settlement Agreement VII 1.d: DHS will issue guidance to Technical Assistance Providers to train employment professionals and job developers on 20 Hours/Week Standard***

**Status:**

DHS is under contract with two technical assistance providers, the Washington Initiative for Supported Employment (Wise) and Living Opportunities, Inc., to train employment professionals and job developers to assist individuals in finding, obtaining and keeping jobs in Competitive Integrated Employment at 20 hours per week or more, if possible. The contract amendments for these two providers were completed December 1, 2016 and will continue through June 30, 2019.

The ODDS and VR Joint Action Request Transmittal #APD-AR-16-040, issued June 10, 2016 and effective June 30, 2016, covers the requirement that technical assistance providers will train professionals and job developers with a goal of Competitive Integrated Employment with the opportunity to work 20 hours per week. See Section VII.1.a above.

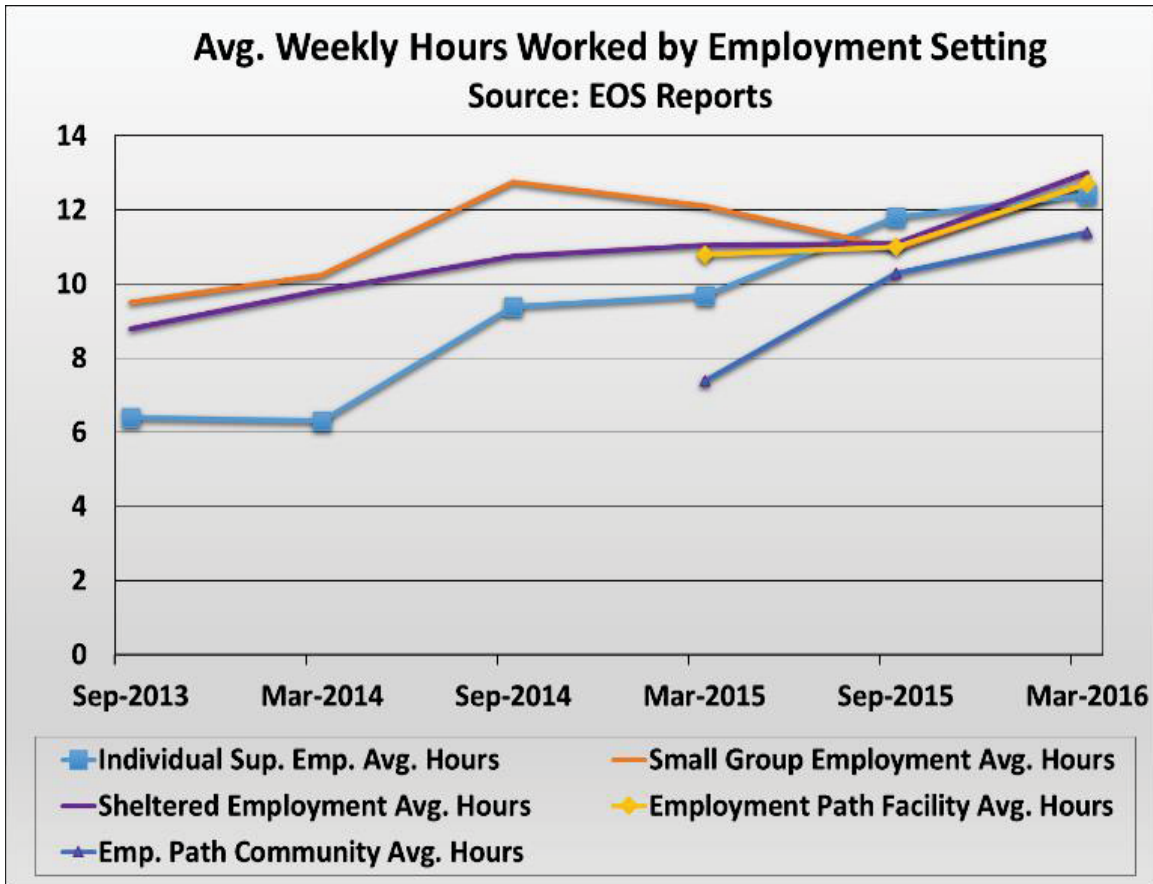
***Settlement Agreement VII.2: Report Percentage Receiving SES Working at least 20 Hours/Week in an integrated employment setting***

***As of July 1, 2016, the Settlement Agreement requires the State to collect and semi-annually report the percentage of individuals with I/DD who receive Supported Employment Services under the Settlement Agreement and who are working in an Integrated Employment Setting at least 20 hours per week. If the percentage does not increase by the percentage required by the Executive Order's Policy Group, the State and the Independent Reviewer will meet to discuss ways to enhance employment outcomes.***

**Status:**

Metric 5 of the State's Integrated Employment Plan (IEP) corresponds to the goal referenced in this Settlement Agreement section. Metric 5 sets annual goals for the State to increase the percentage of adults with developmental disabilities receiving ODDS employment services who are working in individual integrated employment settings for 20 or more hours per week. The SFY 15 baseline for Metric 5 was that 10% of adults, a total of 58 individuals, with developmental disabilities receiving ODDS employment services worked in individual integrated employment settings for at least 20 hours per week. The SFY 16 goal was to increase the percentage to 11.1% and the total number of individuals to 67. In the amended October 2016 Employment First Report, the State reported that, according to March 2016 data, this percentage increased to 21.5% and the total number of individuals increased to 181 adults. Based on the State's reported data, it achieved this outcome metric for SFY 2016.

The State's amended Employment First Report of October 2016 also reported the percentage of individuals with I/DD in each target population who received Supported Employment Services and who are working in a Competitive Integrated Employment Setting at least 20 hours per week. The Employment First Report contains the following chart that describes the total number of hours worked by all individuals with intellectual and developmental disabilities served by DHS in its employment service system, and is not focused on those in the Target Populations:



[Source: Oregon DHS Employment First Report, Amended Report, October 2016, at p. 10.]

As shown in the chart above, and according to the State’s October 2016 Employment First Report and March 2016 EOS, the average weekly hours were:

- Individual Supported Employment – 12.4 hours per week;
- Small Group Employment – 12.7 hours per week;
- Sheltered Employment – 13 hours per week;
- Employment Path Facility with a wage<sup>1</sup> – 12.7 hours per week
- Employment Path Community with a wage – 11.4 hours per week; and
- Self-employment – 7.4 hours per week.

Of the 841 individuals working in Individual Supported Employment, 181 (21.5%) worked an average of 20 hours or more. This is a 212% increase from the 58 individuals who were

<sup>1</sup> Not all Service Recipients billed under Employment Path Facility or Community earn a wage.

counted in the prior year, SFY 2015.

Broken out by target population, the percentage of individuals with WI/DD who receive Supported Employment Services under the Settlement Agreement and who are working in a Competitive Integrated Employment Setting at least 20 hours per week is reflected below.

- For transition-age target population, 19.4 percent of transition-aged youth receive Supported Employment Services and are working in a Competitive Integrated Employment setting for at least 20 hours per week, and
- For individuals from the sheltered workshop target population, 5.6 percent received Supported Employment services and worked in a Competitive Integrated Employment Setting for at least 20 hours per week.

As for the average time that an individual worked in Individual Supported Employment, the State's EOS data shows that the average for all workers is 3.25 years, with transition-aged individuals working an average of 1.2 years, and current Sheltered Workers working an average of 3.92 years.

## SA VIII - Career Development Planning

### ***Settlement Agreement VIII.1***

Consistent with ODDS policy and administrative rules, all individuals in Executive Order 15-01's ODDS/VR Target Population II(1)(a) (the sheltered workshop target population) shall have a Career Development Plan (CDP) by July 15, 2015. DHS shall determine whether all such CDPs have been developed and shall utilize performance based contracting metrics to impose financial penalties on responsible entities that fail to develop a CDP for any person in the target population. Individuals in Executive Order 15-01's ODDS/VR Target Population II(1)(b) (the transition-age target population) will receive a CDP prior to their expected exit from the school district. If an individual leaves school prior to his or her expected exit, he or she will receive a CDP within one year of the unexpected exit. The provision of Employment Services will not be delayed or denied due to a lack of a CDP.

#### **Status:**

- ODDS adopted Case Management Rule 411-415-0070(2) which is a policy to address the requirement to develop a CDP. The policy included a presumption that all individuals in the ODDS/VR target populations are capable of working in an integrated employment setting.

- Not all individuals in the sheltered workshop target population had a CDP by July 15, 2015.
- The State reports that, as of July 1, 2016, all adults supported by ODDS/VR in a sheltered workshop had a CDP, but some were incomplete. The incomplete CDPs only included demographic information about the person but there was no plan.
- It is not clear how many transition-age students within the transition-age target population have a CDP at this time.

By July 1, 2017, ODDS reports that it will have new contract language with case managers and brokerages that include financial penalties for noncompliance with CDP requirements. The State will provide an annual report of which providers have a plan of correction for noncompliance. The State will change its provider contracts in State Fiscal Year 2016 to list a completed and comprehensive CDP as a required element of the contract. Financial penalties for failure to have a CDP will require federal CMS approval and may not be in place within FY 2017. This topic will be revisited in future meetings of the parties.

All students who are ODDS service eligible will have a CDP before exiting school in State Fiscal Year 2017. A review will be conducted by ODDS using a statically significant sample of students with planned and unplanned school exiting and the status of CDPs. The methodology for this sample will come back to the meeting of the parties for review in the Spring of 2017.

The State is currently behind schedule in its implementation of the deliverables for this section of the Settlement Agreement.

The Independent Reviewer will continue to monitor progress on implementation of this Settlement Agreement requirement and encourages the State to continue working to achieve these outcomes in the upcoming year.

## SA IX - Transition Planning for Youth

***Settlement Agreement IX.1: ODE shall require that the transition planning process may begin as early as age 14 but must not begin later than the start of the one year period when the student reaches age 16; the transition process shall include information about and provide opportunities to experience Supported Employment Services in Integrated Employment Settings; local educational agencies may not include sheltered workshops in the continuum of alternative placements and supplementary aids and services provided to students; and school instructional curriculum shall not include mock sheltered workshop activities.***

### **Status:**

The State has created the following policies, guidance and MOUs:

1. ODDS/VR/ODE/OCDD MOU
2. Policy Transmittal APD-PT-14-022 and OAR 407-025-0020(1): No vocational Assessments by ODDS or VR in sheltered workshop settings. Effective July 2, 2014, ODDS and VR no longer purchase or fund vocational assessments for individuals with I/DD in sheltered workshops.
3. Policy Transmittal APD-PT-15-006: No new services by ODDS in sheltered workshop settings. Effective July 1, 2015, ODDS will no longer fund sheltered work or services in a sheltered workshop setting, for individuals who are newly eligible, or individuals already using services but not in a sheltered workshop setting.
4. Policy Transmittal APD-PT-15-022 and OAR 407-025-0020(2): ODDS and VR shall no longer purchase or fund sheltered workshop placements for transition-age individuals with I/DD, any working age individual with I/DD newly eligible for ODDS or VR services, and any working age individual with I/DD already utilizing ODDS or VR services who is not already working in a sheltered workshop

OAR 581-015-2245(3) ODE: Alternative placements and supplementary Aids and Services Rule.

Mock Sheltered Workshop Guidance: Issued September 22, 2016. Available at <http://www.ode.state.or.us/news/announcements/announcement.aspx?ID=14115&TypeID=4>.

ODE Supported Employment Services Guidance: Issued December 13, 2016. Available at <http://www.ode.state.or.us/news/announcements/announcement.aspx?ID=14256&TypeID=4>. See Appendix D.

These policies and guidance are generally consistent with the Settlement Agreement.

At this early stage in implementation, the Independent Reviewer has not assessed the State's progress on this section of the Settlement Agreement. Based on the Independent Reviewer's preliminary discussions with impacted families, it is not clear that students and families understand that transition services may begin as early as age 14 for students, and that the transition process shall include information about and provide opportunities to experience supported employment services in integrated employment settings. The above policies may need to be revised and or the State may need to ensure that school personnel as well as students and families are aware of the above. The State should take proactive steps to ensure that students with disabilities and their families are aware of their rights during the transition process, including the focus on employment.

This is an area that can be improved. The obligations in this section of the Settlement Agreement are ongoing, and the Independent Reviewer will continue to assess the State's implementation of this section. The Independent Reviewer's upcoming program and client



reviews will provide additional information to help assess this area of the Settlement Agreement.

***Settlement Agreement IX.2: The state will develop a broad based professional development plan for transition services.***

**Status:**

ODE reports that it is working on a professional development plan for transition services. At this time, the report has not been shared with the independent reviewer. Therefore, the Independent Reviewer cannot assess the State's implementation of this Settlement Agreement requirement.

This is an area that can be improved.

## **SA X - Training**

***Settlement Agreement X.1: The State shall maintain a technical assistance provider to offer training on evidence-based practices to supported employment providers through June 30, 2019***

**Status:**

Oregon has two training contracts for the provider employment transformation grants. The State has contracts with Wise and Living Opportunities, Inc. that are in place through June 30, 2019. The State has made good progress in this area.

## **SA XI - Provider Capacity**

***Settlement Agreement XI.1: Subject to the availability of sufficient funding, the State will maintain provider transformation grants until at least June 30, 2019. DHS will make diligent efforts to obtain sufficient funding.***

**Status:**

The State has agreed to provide an annual report of capacity building efforts. See above.

## **SA XII - Funding**

***Settlement Agreement XII.2: The State will make diligent efforts to obtain the necessary funding to comply with the Settlement Agreement.***

**Status:**

The State has shared their preliminary budget information, as allowed by statute, on its efforts to obtain necessary funding, appropriations, and expenditure authority. The Agencies requested budgets were submitted September 1, 2016 to the Governor's Office. The Governor's proposed budget was made available December 1, 2016. Funding Allocation decisions will be made available at the end of legislative session in June/July of 2017.

This Settlement Agreement section creates an ongoing obligation, and the Independent Reviewer will continue to assess the State's efforts to obtain funding in the future.

## **SA XIII - Data Collection and Reporting**

***Settlement Agreement XIII.1.a-b: Starting January 1, 2016, the State is required to report specific data about the target populations twice a year. Starting on July 1, 2016, the State is required to report specific information about supported employment services and providers once a year.***

**Status:**

The State is providing semi-annual data reports to Plaintiffs and the Independent Reviewer. The data is reflected in this report. The following is a summary of the data most recently provided in the State's October 2016 Employment First Report that describes the total number of individuals with intellectual and developmental disabilities served by DHS who receive any type of employment services, and is not focused on those in the Target Populations:

**Office of Developmental Disabilities Services - Employment Services in March 2016:**

- 841 individuals used Individual Supported Employment;
- 591 individuals used Group Supported Employment;
- 943 individuals used Employment Path Community and earned a wage; and
- 1,452 individuals used Employment Path Facility and earned a wage.

**Vocational Rehabilitation - Employment Services to ODDS Clients in SFY 2016:**

- 1,832 applicants to VR, an annual increase of 29 percent;
- 1,474 individuals entered an Individualized Plan for Employment (IPE), an annual increase of 39 percent; and
- 563 successful closures with Competitive Integrated Employment, an annual increase of 29 percent.

**Sheltered Employment:** There were 1,405 workers in Sheltered Workshops in March 2016, which is a decrease of 532 individuals from March 2015.

**Average Hours and Wages:** For individuals working in Individual Supported Employment with ODDS employment services, average wages were \$9.69 per hour. Average hours worked per week were 12.4.

**Settlement Agreement Service Goal:** Executive Order 15-01 required at least 2,200 transition-age or sheltered workers to be given an employment service from July 1, 2013 to June 30, 2016. This number was surpassed with 2,971 individuals receiving a new employment service.

**Services for Transition-Age Individuals:** Of the 2,971-people described in the paragraph above as having received an Employment Service, 1,859 were transition-aged individuals. The Settlement Agreement also requires that at least 50% of those transition-age individuals receive an IPE. Of the 1,859 counted, there were 1,485 transition-age individuals counted as receiving an IPE, (79.9%).

The State's revised Employment First Report includes data for each Target Population in the appendices. That data indicates that for the sheltered workshop target population:

- Of the 841 individuals who used Individual Supported Employment in March 2016, 36 were members of the sheltered workshop target population. These individuals worked an average of 7.1 hours per week and earned an average hourly wage of \$9.81.
- Of the 591 individuals who used Small Group Employment in March 2016, 62 were members of the sheltered workshop target population. These individuals worked an average of 6.3 hours per week and earned an average hourly wage of \$9.29.
- Of the 943 individuals who used Employment Path Community and earned a wage in March 2016, 164 were members of the sheltered workshop target population. These individuals worked an average of 4.8 hours per week and earned an average hourly wage of \$6.73.
- Of the 1,452 individuals who used Employment Path Facility and earned a wage in March 2016, 1,405 were members of the sheltered workshop target population. These individuals worked an average of 13 hours per week and earned an average hourly wage of \$4.69.

For the transition-age target population that data indicates:

- Of the 841 individuals who used Individual Supported Employment in March 2016, 196 were members of the transition-age target population. These individuals worked an average of 12.3 hours per week and earned an average hourly wage of \$9.43.
- Of the 591 individuals who used Small Group Employment in March 2016, 79 were members of the transition-age target population. These individuals worked an average of 11.9 hours per week and earned an average hourly wage of \$9.30.
- Of the 943 individuals who used Employment Path Community and earned a wage in March 2016, 93 were members of the transition-age target population. These individuals worked an average of 13.8 hours per week and earned an average hourly wage of \$6.59.
- Of the 1,452 individuals who used Employment Path Facility and earned a wage in March 2016, 118 were members of the transition-age target population. These individuals worked an average of 11.5 hours per week and earned an average hourly wage of \$5.24.

***Settlement Agreement XIII.1.c: ODE will collect specified additional information in the Post-School Outcomes surveys and will collect information from all school leavers starting in July 2016.***

**Status:**

The State has not yet reported the Post-School Outcome survey results for the 2015-2016 school year or provided the independent reviewer with copies of the survey results.

## **Executive Order (EO) Provisions Referred to in the Settlement Agreement**

The Settlement Agreement requires the State to substantially implement and maintain Executive Order 15-01 – “Providing Employment Services to Individuals with Intellectual and Developmental Disabilities.” (Settlement Agreement V.A.1). The State’s progress on EO provisions that have not yet been addressed in this report is discussed below.

***EO VI.1: Competency-Based Training and Certification Standards***

***The EO requires ODDS and VR establish competencies for employment service providers and to establish competency-based training standards for Career Development Plans, job creation, job development, job coaching, and coordination of those services.***

**Status:**

ODDS and VR have amended their rules and policies to require documentation of staff competency based training and certification. OAR 411-435, APD-PT-14-029, and APD-AR-16-079. All employment specialists (anyone delivering an employment service) must pass core competencies and take at least one formal training and all employment providers must have at least one staff who is ASPE or ACRE certified trained staff.

VR verifies certification requirements for staff when they redo contracts with providers. ODDS licensure review is conducted every two years. iLearn helps to ensure that training information on core competencies is complete and tracked if a staff leaves one agency and moves to another agency. Providers can upload other training certifications such as APSE and ACRE into iLearn for tracking purposes. If a provider does not meet minimum qualifications for training, the provider is not able to provide employment services without an ODDS-approved variance. Plaintiffs requested that the independent reviewer add a question about how many staff have APSE or ACRE certification as part of her reviews with providers, etc. Direct support workers must have core competencies completed and self-reported to ODDS to provide employment services as of December, of 2016.

Personal support workers can only do job coaching and do not require certification. Licensure reviews this data by provider every two years. There is a statewide tracking document of which staff, by provider, has APSE certification and OELN Training certification.

***EO VII - Outreach and Awareness***

***The EO requires ODDS and VR to create an outreach and information program for members of the ODDS/VR target population about the benefits of employment and to encourage individuals with I/DD to seek employment services.***

**Status:**

The State issued a Communication Plan on, The Communication Plan is shared and posted online at [https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/Phase%20%20Outreach%20and%20Communications%20Plan\\_2016\\_Final.pdf](https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/Phase%20%20Outreach%20and%20Communications%20Plan_2016_Final.pdf) and <http://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/Revised%20Outreach%20Awareness%20Plan%20Final%202015-16.pdf>. It will be updated as needed. Any updates to the Communication Plan will be reviewed by the EO Policy Committee.

***EO X - Educational Provisions***

***The EO requires the State to use specific strategies to improve transition services and prepare transition-age youth with I/DD for Competitive Integrated Employment.***

**Status:**

The State has taken steps to implement the strategies set out in this EO provision, including contracting with FACT Oregon to provide outreach to families. Before signing the Settlement Agreement, the State created a Transition Technical Assistance Network (TTAN) consistent with the EO's strategies. The TTAN has employed eight full-time Transition Network Facilitators to work since July 2015 to work with school districts and adult service agencies to provide technical assistance regarding transition services. The Independent Reviewer will continue to assess the State's progress on this requirement.

According to the State, the Transition Technical Assistance Network (TTAN) team was created to support the Governor's Executive Order (No.13-04 & 15-01) to further improve Oregon's systems of designing and delivering employment services for students with disabilities. As of July 2015, the Transition Technical Assistance Network includes ODE's Secondary Transition Liaison, eight full-time Transition Network Facilitators, and one Regional Employment Coordinator and Trainer. The network is in its third year of development.

As noted in the State's description of the TTAN, the role of the Secondary Transition Liaison includes facilitation of the TTAN and specifically, the oversight of the Transition Network Facilitators. The role also includes acting as the liaison between ODE and the Department of Human Services in the work of the Governor's Executive Order and supporting their obligations under the Lane vs. Brown settlement agreement.

The State explains that the role of a Transition Network Facilitator (TNF) is to act as the primary liaison for regional school districts and adult service agencies. This work includes improving communication and collaboration between agencies, and assisting school districts in supporting the efforts of Vocational Rehabilitation in the implementation of the Workforce Innovation and Opportunity Act; specifically, the provision of Pre-Employment Transition Services (Pre-ETS). The Regional Employment Coordinator and Trainer provides work training to local education agencies regarding developing and maintaining successful community work experiences.

The State's overall vision of the TTAN is to support alliances that will improve opportunities for individuals who experience disabilities so they can live full lives integrated in Oregon communities based on choice. The goals of the Transition Technical Assistance Network include:

- Provide technical assistance to educators for students with disabilities who are of transition age.
- Develop strategies for successful team facilitation and planning.

- Continue to develop relationships with community partners such as Vocational Rehabilitation, Developmental Disabilities, County Mental Health, family advocacy programs, etc.
- Implement training and professional development for regional partners on policy and systems change.
- Provide support to districts in understanding Pre-ETS.

The State’s documents describe the Educator Institute on Networking and Transition I and II as a series of 16 full day regional trainings designed and implemented by the TTAN in June-August 2014 and June-August of 2015 specifically for middle and high school special education teachers to learn more about adult service agencies and effective strategies to assist students with disabilities in the transition process. In all over 700 teachers attended these trainings. Topic sessions at the trainings included presentations provided by adult service and parent advocacy representatives around introduction to Vocational Rehabilitation, introduction to Developmental Disability Services, Benefits Planning, Person Centered Planning, Local Employment First Groups, Family Advocacy Groups, and training opportunities for families.

Ongoing Educator Institute on Networking and Transition trainings have been customized by the TNFs for each of their regions. These trainings are tailored to the needs of each region as identified through a needs assessment done by each TNF in their region. These trainings continue to be ongoing and are supported by ODE. During the 2015-16 school year, the TNF’s completed 22 additional Educator Institute trainings and 7 are already scheduled for the 2016-2017 school year

### **ODE Transition Network**

**Region 1** (Multnomah, Washington) **Regional Employment Coordinator and Trainer** (Clatsop, Columbia)

**Region 2** (Tillamook, Yamhill, Polk, Marion)

**Region 3** (Lane, Lincoln, Linn, Benton)

**Region 4** (Douglas, Coos, Curry)

**Region 5** (Josephine, Jackson, Klamath)

**Region 6** (Clackamas, Wasco, Hood River, Sherman, Gilliam)

**Region 7** (Jefferson, Deschutes, Crook, Wheeler, Lake)

**Region 8** (Morrow, Umatilla, Union, Wallowa, Baker, Grant, Harney, Malheur)

In addition, ODE amended the contract with Oregon Parent Training Institute (PTI) which for last year was FACT. ODE will provide an annual report of the outreach provided by the Oregon PTI.

***EO XI.1: MOU with ODDS/VR/ODE***

***The EO requires the State to develop at least one MOU between ODDS, VR, and ODE addressing allocation of responsibility, funding commitments, and authority to implement the EO; collaborating to achieve the EO's employment outcomes; coordinating funding to achieve the EO's goals; and coordinating outreach to the target populations.***

**Status:**

The MOU has been recently updated.

***EO XII: Quality Assurance/Quality Improvement Plan***

***The EO directs DHS to develop and implement a quality improvement initiative to promote and evaluate the quality of Employment Services provided under the EO.***

**Status:**

The Quality Assurance/Quality Improvement Plan (QA/QI Plan) from 2014 was updated in 2016. In comparing the 2014 plan to the 2016 plan, the Independent Reviewer has several concerns. This is the second version of the plan. The 2016 version of the QA/QI plan is vaguer with fewer measures, instead of greater detail. There are fewer quality metrics in the 2016 QA/QI plan compared to the 2014 version. It is the opinion of the Independent Reviewer that the state would be better served to utilize the 2014 version of the QA/QI plan.

***EO XIV: EO Policy Group and Integrated Employment Plan***

***The EO calls for the creation of a policy group including individuals from ODE, DHS, legislators, and stakeholders to make recommendations about implementation of the EO and to recommend and monitor metrics to assess the State's performance.***

**Status:**

- The policy group meets monthly. Disability Rights Oregon is a member of the EO Policy Group.



- The Integrated Employment Plan is complete. The IEP may be revised from time to time. Reporting on its metrics are mandated for 9, 10 and 11, as well as the number of people working 20 hours or more a week.
- ODDS is working to update metrics for the Integrated Employment Plan with input from the EO Policy Group. ODE has recently recommended deleting the IEP metrics on education.

## Client Review

In 2017, the independent reviewer will be conducting client reviews with individuals in the sheltered workshop and transition-age target populations. The Independent Reviewer has a subcontract with Celia Feinstein of Temple University to serve as an expert for the collection, aggregation and interpretation of quality metrics specific to the individuals in the target populations.

### Individual Assessment for the Lane Independent Review

1. A sampling strategy will be determined, to insure a representative sample is chosen for the three groups of individuals of interest to the parties and the Independent Evaluator – those who are employed, those who are leaving sheltered workshops and those transitioning from school to adult life.
2. Use all employment/transition questions from the National Core Indicators Survey. **National Core Indicators (NCI)**<sup>™</sup> is a voluntary effort by public **developmental disabilities agencies** to measure and track their own performance. The **core indicators** are standard measures used across states to assess the outcomes of services provided to individuals and families. Indicators address key areas of concern including employment, rights, service planning, community inclusion, choice, and health and safety. The instrument possesses the statistical qualities of reliability and validity and is currently being used in 46 states.
3. Use all employment questions from the Essential Data Elements Survey, the data collection instrument that supports Independent Monitoring for Quality (IM4Q), the supplemented version of the NCI used in Pennsylvania. The EDE survey has been determined to possess reliability and validity.
4. Use the Transition Survey, developed in PA to supplement the EDE. The transition survey is typically used for individuals between the ages of 14-26, to gain perspective on the transition experience.
5. Meet with the staff at the Oregon Health Sciences University Center for Excellence (OHSU) to discuss data collection by students and staff. OHSU is currently involved in collecting all data for the National Core Indicators and would be a sensible choice for collecting data for the Lane individual reviews.
6. Present all proposed questions to all parties; once accepted, create the final individual instrument. (Feb, 2017)
7. Meet with parties to finalize instrument and process (March, 2017)
8. Begin annual data collection (May, 2018)

9. Data will be collected on an annual basis
10. Data will be analyzed on an annual basis with a report submitted by the research team to the Independent Evaluator and all parties.

## Program Review

The Independent Reviewer will conduct a series of interviews in calendar year 2017 of providers specific to this settlement agreement. The independent reviewer will travel to five to eight areas of the state to interview providers of competitive integrated employment, case management entities which includes brokerages and County Developmental Disability Programs (CDDP's), and transition programs.

The areas of the state to be covered include but are not limited to:

- Portland Area
- Marion County
- Roseburg or Medford Area
- East Oregon near Pendleton or Ontario
- Bend Area and
- The Coast.

Interview questions are being developed and a draft has been shared with both parties. The purpose of collecting this information is to review implementation of the settlement agreement at a local and regional level.

## CONCLUSION SUMMARY OF IMPLEMENTAION FOR SFY 2016 BY THE NUMBERS:

### Vocational Rehabilitation (VR) Employment Services to ODDS Clients in State FY 2016

- 1,832 applicants to VR, an annual increase of 29 percent;
- 1,474 individuals entered an Individualized Plan for Employment (IPE), an annual increase of 39 percent; and
- 563 successful closures with Competitive Integrated Employment, an annual increase of 29 percent.

**Sheltered Employment:** There were 1,405 workers in sheltered employment in March 2016, which is a decrease of 532 individuals from March 2015.

**Average Hours and Wages:** For individuals working in Individual Supported Employment with ODDS employment services, average wages were \$9.69 per hour. Average hours worked per week were 12.4.

In the first year of implementation, the State has made progress in implementing many areas of the Settlement Agreement. Highlights of that progress include the following.

The Oregon ODDS has completed and distributed policy transmittals and distributed those polices statewide. The State is tracking any new admissions to sheltered workshops. Any admission of a newly eligible adult requires a formal ODDS hearing. Class members are allowed to leave and reenter a sheltered workshop for up to one year. The State will provide to plaintiffs and the independent reviewer an annual report for any first-time admissions to sheltered workshops; a report if any individual class member has left the sheltered workshop for more than one year and requests readmission; and a report of any transition age youth with I/DD who seeks admission to a sheltered workshop. In addition, the State has agreed to provide notice to plaintiffs and the independent reviewer whenever a new admission is allowed.

DHS has established and promoted a goal that all persons with I/DD who want to work in the community will be afforded the opportunity to pursue Competitive Integrated Employment that allows them to work the maximum number of hours consistent with their abilities and preferences.

The State has submitted new rates for Competitive Integrated Employment to CMS for approval. CMS approved the amendment for employment rates in August of 2016. This approval covers initial, ongoing and maintenance rates for employment. The State began to implement the new rates as of November 1, 2016.

DHS has continued with its sheltered workshop provider transformation grants. The goal of the grants is to increase Competitive Integrated Employment for individuals with I/DD to work the maximum hours consistent with their abilities and preferences. There were 25 transformation grants funded in SFY 2015. There are 15 transformation grants funded so far in SFY 2016, but

others are expected.

DHS is under contract with two technical assistance providers to train employment professionals and job developers to assist individuals in finding, obtaining and keeping jobs in Competitive Integrated Employment at 20 hours per week or more, if possible.

The State is now collecting and reporting the percentage of individuals with I/DD who receive Competitive Integrated Employment and who are working in these settings at least 20 hours per week.

As such, the state of Oregon has made good progress in the implementation of the Lane v. Brown settlement agreement for 2016. There are a few areas that could be improved. The independent reviewer encourages the State to concentrate its efforts in 2017 on the CDP provisions of the Settlement Agreement (SA Sections VI.7 and VIII), transition planning for youth (SA Section IX), data collection and reporting, including Post School Outcome Survey data (SA Section XIII), and the Quality Assurance/Quality Improvement Plan (EO XII).

Overall, the State's progress is steadily moving forward.

*Cathy Ficker Terrill*

Independent Reviewer 2016

# **APPENDIX A**

## **Meeting Agendas**

## Lane Implementation Meeting

### Agenda June 17, 2016

1. Welcome and Introductions
2. Review Guiding Principles
3. Open Meetings Act Not Applicable to these meetings
4. Start date for Lane v Brown settlement agreement
5. Obligations and deadlines in the Settlement Agreement, including requirements of the executive order
6. ODDS  
Policy and Regulatory Changes on the 20-hour policy;  
Employment Rule and Case Management Rule
7. Employment First  
Employment First data and report  
Training WISE  
Provider transformation grants update  
Status of the Integrated Employment Plan  
EO Policy Group: role and documents
8. VR  
Policy and Regulatory Changes on the 20-hour policy and other proposed rule changes that impact Lane v Brown  
Youth Transition Projects as it relates to Lane V Brown  
WIOA implementation for class members as it relates to Lane V Brown
9. ODE  
Policy Directives on Mock sheltered workshops for the school year starting August, 2016  
Baseline to track target populations  
Transition pilots update, Project Search as it related to Lane v Brown  
Regulatory changes specific to transition services related to Lane v Brown
10. Federal CMS  
Waiver amendments updates including any changes to rates
11. Documents  
Base line for data collection  
Plaintiffs' January 14, 2016 list and defendants' chart/response  
New document requests
12. Meeting Dates for 2016

**Lane Implementation Meeting**  
**Agenda**  
**September 8-9, 2016**  
**9 am until 5 pm**  
**Location in Portland to be determined**

I. Settlement Agreement Obligations and Deadlines:

What is to be measured? What date is expected? How often will the state report? What is the measure of success?

- A. Sheltered Workshops (SA IV)
  - 1. Status: No longer purchasing or funding new SW placements (SA IV.1)
- B. Settlement Agreement, Executive Order Outcomes & IEP Metrics (SA V.B)
  - 1. Status: Provide Employment Services to 2,200 individuals (SA V.B.1/EO IV.3.c) report annually
  - 2. Status: Decrease census of SWs to 1,860 or 1,530 in SFY 16 (SA IV.2; IEP Metric 9, p. 76) report annually
  - 3. Status: Decrease hours worked in SWs to 80,350 or 66,100 in SFY 16 (SA IV.2; IEP Metric 10, p. 77) report annually
  - 4. Status: Increase adults in SWs who obtain CIE to 130 in SFY 16 (IEP Metric 11, p. 77) report annually
  - 5. Status: provide SES to all named plaintiffs by 6/30/16 (SA V.B.1.a)
- C. Competitive Integrated Employment (SA VI)
  - 1. Implementation of Supported Employment Services policies (SA VI.1-2)
  - 2. Status: 130 additional individuals in SWs obtain CIE by 6/30/16 (VI.3.b)

2017	160
2018	170
2019	170
2020	150
2021	130
2022	100
  - 3. Number of transition age youth who have received employment services & how many have received IPE (SA VI.5)
  - 4. Expansion of evidence-based transition services (SA VI.6)
    - a. Seamless Transition Model
    - b. Project Search
    - c. YTP
  - 5. Individuals who want SES (SA VI.7)
  - 6. Rule encouraging individuals in SW Target Population to choose to leave SWs (SA VI.9)
    - a. Status: rule
    - b. integrated day services



- C. Enhancing Employment Outcomes (SA VII)
  - 1. Establish goal of 20 hours and issue guidance by 6/30/16 (SA VII.1.a)
    - a. Implementation of ODDS Guidance
    - b. Implementation of VR Guidance
  - 2. Status: Seek approval of new rates from CMS by 6/30/16 (SA VII.1.b)
  - 3. Continue Provider transformation grants by 6/30/16 (SA VII.1.c)
    - a. Outcomes of incentive payments for new jobs > 20 hours
    - b. Update on which providers applied by 8/26/16 and who has been selected
  - 4. Guidance to TA providers on 20 hours per week standard by 6/30/16 (SA VII.1.d)
  - 5. Starting 7/1/15, State will semi-annually collect and report percentage of individuals with I/DD receiving SES under SA and who are working at least 20 hours per week in integrated employment (SA VII.2) semiannually reporting
- D. Career Development Plans (SA VIII)
  - 1. Status: all persons in SW have a CDP & all transition age youth receive CDPs prior to exiting school
    - a. tracking process for adults in SWs and youth
    - b. outcomes and quality review process
- E. Transition Planning (SA IX)
  - 1. Outreach that State has done to make parents aware of SA provisions on transition
  - 2. Status: transition planning for youth ages 14 and higher (SA IX.1)
  - 3. Mock Sheltered Workshops – revised guidance (SA IX.1)
  - 4. Status: professional development plan (SA IX.2)
- F. Training (SA X)
  - 1. Status of current training year
  - 2. Changes to the contract for next FY
- G. Provider Capacity (SA XI)
  - 1. Status of current grantees
    - a. Expected outcomes
    - b. Actual outcomes
  - 2. Status: provider expansion grants
- H. Status: Data Collection (SA XIII)
  - 1. Client data
  - 2. Provider data
  - 3. Post-school outcome data

- I. Executive Order Provisions not covered in Settlement Agreement (SA V.A)
    1. Competency-based training & certification (EO VI.1)
      - a. Tracking of SES staff training and competency
      - b. Tracking of certification
    2. Outreach and Awareness (EO VII)
      - a. education program for persons in ODDS/VR Target Population
      - b. Outreach and Communication Plan
    3. Provider capacity (EO VIII)
    4. Education Provisions (EO X)
      - a. transition technical assistance
      - b. ODE contract for outreach
      - c. ODE staff specialists
      - d. Statewide Transitional Assistance Network
    5. MOU between ODDS, VR, and ODE covering all points in EO XI.1
    6. QA Plan (EO XII)
    7. EO Policy Group (EO XIV)
  - III. Integrated Employment Plan
  - IV. ODDS
    - A. Implementation of Employment Rule (Chapter 411, Division 345)
    - B. Implementation of Case Management Rule (Chapter 411, Division 415)
  - V. VR
    - A. VR SE Rule Revisions
    - B. WIOA
  - VI. CMS/OHA
    - A. Waiver amendments
  - VII. Next Meeting Date: Dec. 5 and 6; March 7 and 8, 2017
- Appendix B

**Lane Implementation Meeting  
Agenda**

**December 5 1 pm until 5 pm**

**December 6, 2016 9 am until 5 pm**

**Larkins and Vacura Offices 121 SW Morrison Street Portland, Oregon**

- I. PI's and DOJ's 10-3-16 memo, state's response on implementation issues
- II. PI's and DOJ's 10-6-16 memo, state's response on policy/rule issues
- III. Independent Reviewer's Revised Chart of settlement agreement obligations
- IV. Review of revised October data report on Employment First Data
- V. Revised Competitive Integrated Employment data
- VI. ODE's SES Guidance
- VII. Update on tracking credentialed employment staff in provider agencies
- VIII. Report of independent reviewers visit to observe students in transition in central Oregon
- IX. Status of report on people leaving sheltered workshops due after Jan. 2017
- X. Update on named plaintiff's status
- XI. Status of the EO Policy Meetings on the IEP metrics
- XII. Update on client review by the court monitor
- XIII. Update on status of Career Development Plans
- XIV. Implementation of Mock Sheltered Workshop Guidance
- XV. New Business
- XVI. Next Meeting March 7 and 8, 2017
- XVII. Meeting Dates for 2017

## **ODE Guidance: Avoiding Mock Sheltered Workshop (MSW) activities in schools – What they are and how this requirement impacts planning for appropriate vocational instructional activities.**

### Overview

This guidance document is provided for special education directors, secondary special education teachers, administrators and transition specialists. The Settlement Agreement for the Lane vs. Brown case was approved in December 2015, and relates to persons with intellectual and developmental disabilities (I/DD) who worked in or were referred to sheltered workshops. There has been some confusion regarding the definition of Mock Sheltered Workshop (MSW) activities contained in the Settlement Agreement and their prohibition within public schools. Clarification is needed around pre-vocational activities, similar to those that might occur in a sheltered workshop.

### Mock Sheltered Workshop - Inappropriate Activities

The Settlement Agreement defines MSW activities as:

*"Mock sheltered workshop activities" are prevocational training activities (for example, folding, sorting, shredding, packaging, and labeling activities) that are:*

- a. Conducted during the school day;*
- b. Performed only by students with disabilities;*
- c. Closely resemble the vocational work tasks performed by adults with I/DD in Sheltered Workshops, including by being activities:
  - 1. designed to fulfill the demands of a contractor, business, charitable organization, school or school district, retail store, or other entity; and*
  - 2. performed by individuals without compensation or in exchange for subminimum wages; **and****
- d. Not part of an instructional sequence, such as teaching generalization of skills. Instructional sequence does not include instruction that consists solely of the activities described in all of (a), (b), and (c) above. (Section II.6).*

It is important to become familiar with the definition, language and scenarios of MSWs in order to help make determinations about appropriate activities in your district.

Appropriate pre-vocational activities/transition services must be included in a student's program as a part of a vocational instructional sequence and be aligned to a student's measurable post-secondary goals that are based upon the student's preferences, interests, needs and strengths (PINS). Appropriate and measurable post-secondary goals for students with disabilities, including intellectual and developmental disabilities, are competitive, integrated employment opportunities.

### What Is An 'Instructional Sequence'?

An instructional sequence is the effective ordering of content in such a way as to help the student learn a skill. It is the task analysis of a skill, whereby the task is broken down into its component parts for the purpose of systematic instruction.

A vocational instructional sequence should be related to the student's post-secondary goal of integrated employment. The vocational instructional sequence should also be tied to the student's transition services focusing on interests and needs. Periodic reviews of student progress should be conducted so that a student does not continue with a vocational instructional sequence after the

skill has been mastered and generalized. When skills are achieved, the student, parent and IEP team should identify and implement new vocational goals that support successful work experiences.

#### Examples of Mock Sheltered Workshop Activities that ODE Does Not Allow

- ❖ A sheltered workshop contracts with a school district to provide labeling of packages at a district high school. The school district arranges for students with intellectual disabilities to do the labelling work – nondisabled students are not involved. The school sees some benefits for students with disabilities, but the labeling is not part of an instructional sequence. The students are paid a subminimum wage.
- ❖ A school district program operates its own coffee cart. The only students working with the cart are students with disabilities, though peers without disabilities may sometimes assist in mentoring. The program benefits from the proceeds of the coffee cart to support its continued availability. Students learn how to make coffee drinks, serve patrons and order needed materials. They also gain some good work habits, but this is not part of an instructional sequence related to individual student's IEP goals or transition program.
- ❖ Students with intellectual disabilities are assigned by a school to help shred papers. Some staffs believe the tasks will benefit the students, but the tasks are not part of an instructional sequence. Students without disabilities do not participate in this activity, which is unpaid and meets a need of the school.

Each of these pre-vocational/transition activities are inappropriate and are considered MSW activities because the school activity:

- 1) is conducted during the school day
- 2) is performed only by students with disabilities
- 3) is similar to work tasks performed in sheltered workshops and designed to fulfill the demands of a business or school without compensation; and
- 4) is not part of an instructional sequence, such as teaching generalization of skills.

#### Examples of Appropriate Pre-vocational Activities/Transition Services (That Are **Not** Mock Sheltered Workshop Activities)

- ❖ A high school is engaged in a fundraiser to support its students and programs. A special education classroom at the school consists of students with intellectual disabilities. Students with and without disabilities stuff envelopes together with letters to parents asking them to help with the fundraiser. Students in the special education classroom participate. This is not a mock sheltered workshop activity, because the activity is not performed only by students with disabilities.
- ❖ A school has a voluntary recycling program, in which students are asked to help out by sorting cans and bottles. Proceeds from the program help pay for school activities. The IEPs for some students with intellectual disabilities provide that students should spend a limited time in sorting activities, including the sorting of recycling materials, as part of an instructional sequence related to the student's measurable post-secondary goals, to be followed as appropriate by other instructional activities in the sequence. Students with and without disabilities participate together in the program during the school day. Students are not paid for this activity. This is not a mock sheltered workshop activity, because the work is part of a vocational instructional sequence for students, related to their post-secondary

goals, including teaching generalization of skills. In addition, both students with and without disabilities work in the recycling program.

- ❖ A school has a deli store on site, where students with and without disabilities work side-by-side. All students are paid at minimum wage. Students with disabilities that work in the deli have specific IEP goals related to pre-vocational skill acquisition. The work includes a full-range of work-related tasks and skills, such as preparing and serving food, running a cash register and ordering weekly supplies. This is not a mock sheltered workshop activity 1) because all students are paid at minimum wage, 2) because the activity is not limited to students with developmental disabilities, and 3) because students with disabilities participate based on targeted vocational skill development identified in their individual transition plans, as part of a vocational instructional sequence.

These activities are appropriate and are not considered a MSW activity because the school activity:

- 1) is not performed only by students with disabilities
- 2) is not similar to activities performed by adults with I/DD in a sheltered workshop solely designed to fulfill the needs of a business or school
- 3) pays students at minimum wage, or
- 4) is part of a vocational instructional sequence, such as teaching generalization of skills.

#### Other Considerations Related to Expectations and Student Progress

Students with intellectual disabilities can achieve competitive, integrated employment, and Oregon public schools will prepare these students to successfully transition to integrated work opportunities. *The IEP development for each student should be individualized to address unique post-secondary goals based on needs, interests and areas of strength, through age-appropriate transition assessments.* The instructional sequence should include periodic progress reports so that early achievement of skills can be recognized and new goals developed, as the student gains proficiency. Continuation of the same IEP goals from year to year, without review and revision, is not best practice; IEP goal development should challenge the student to gain additional skills and experiences leading to the post-secondary outcome of competitive, integrated employment.

For more information or for specific questions regarding a program, please contact Heather Lindsey, Secondary Transition Liaison, ([heather.lindsey@state.or.us](mailto:heather.lindsey@state.or.us)) at 503-947-5791 or your Regional Transition Network Facilitator.

## **APPENDIX B**

### **VR-ODDS Memorandum of Understanding**



Memorandum of Understanding  
Developmental Disabilities Services  
Vocational Rehabilitation

## **1 Introduction**

The Department of Human Services' Vocational Rehabilitation (VR) and Office of Developmental Disability Services (ODDS) share a common mission, philosophy and goal in increasing employment opportunities for individuals with developmental disabilities. Because of the interdependent nature of the service system, each office also shares a common strategic need to jointly and collaboratively accomplish the objectives(s). The mutual goal, objectives and strategic needs are best represented by the ODDS adoption of and VR endorsement of the "Employment First Policy" for working age adults with developmental disabilities.

## **2 Purpose, Goal and Objectives**

This memorandum of understanding (MOU) is to impact and be implemented statewide, with a target population of all working age individuals with Developmental Disabilities eligible for both VR and ODDS services. This will include school age individuals engaged in employment related transition services. The general purpose of this MOU is to support the Charter between the Department of Human Services (DHS) Child Welfare, Self Sufficiency Program and the Aging and People with Disabilities that creates the initiative entitled Improved Employment Outcomes for Individuals with Developmental Disabilities; to fully implement Executive Order 15-01; and, to fulfill mandates from the Workforce Innovation and Opportunity Act (WIOA) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society.

2.1 The specific purpose is to outline mutual goals, strategies, actions, and responsibilities that staff of the parties will endorse and conduct to accomplish the desired goal to increase the opportunities and success of working age adults with developmental disabilities to achieve and sustain competitive integrated employment, as delineated in Executive Order 15-01, Integrated Employment Plan (7/6/15), and Lane v. Brown Settlement Agreement (2015)



2.2 The objectives supporting this intent are to

- (a) Promote actions that will directly improve employment outcomes for mutual clients
- (b) Promote systems change that positively and collaboratively impacts the effective and efficient operation of each Office
- (c) Engage all applicable stakeholders in the accomplishment of desired outcomes

### **3 Parties**

Within the Department of Human Services, Vocational Rehabilitation (VR) and Office of Developmental Disability Services (ODDS) desire to enter into an intra-agency agreement in order to provide improved and collaborative employment outcomes for individuals with intellectual or developmental disabilities.

- 3.1 VR will assure that individuals exercise informed choice as it assists them to identify their strengths, resources, priorities, capabilities, concerns, and interests including vocational goals. VR will develop individualized plans of employment to address identified employment barriers. VR will also provide and purchase goods, services, aids and devices in support of individualized plans for employment (IPE)
- 3.2 ODDS provides supports and services to youth and adults with intellectual and developmental disabilities. Eligible individuals and their families can access service coordination, generic and specialized services to provide the support, including appropriate employment support, based on the individual needs of the person, to be able to live independent, productive lives integrated within their community

### **4 Mutual Responsibilities of the Parties**

VR and ODDS agree to perform the following:

- 4.1 Establish and promote a goal that all persons with Intellectual or developmental disabilities (IDD) who want to work in the community will be afforded an opportunity to pursue competitive integrated employment that allows them to work the maximum number of hours consistent with their abilities and preferences. DHS will issue guidance that the recommended standard for planning and implementing supported employment services will be the opportunity to work at least 20 hours per week (recognizing that based on individual choice, preferences, and circumstances, some may not choose to work at this level).

- 4.2 Participate in the collaborative governance structure aimed at implementing this agreement
- 4.3 Work collaboratively to design a coordinated service system that will produce positive employment outcomes and engage vocational rehabilitation, countyIDD service coordinators, brokerage personal agents, service providers (vendors) and other stakeholders at the local level
- 4.4 Determine gaps or other issues in services and implement a plan to eliminate those gaps or issues
- 4.5 Share data, within the bounds of confidentiality and as established through the Executive Order 15-01 and its implementation
- 4.6 Encourage networking and collaboration among VR and ODDS at regional and local levels

## **5 Individual Responsibilities of the Parties**

In addition to the mutual responsibilities listed in section 4, ODDS agrees to do the following:

- 5.1 Assure that the CDDP/Brokerage working with the individual who is referred to VR provide as much pertinent existing information as possible for the VR intake meeting. This information will assist in planning the individual's employment goal and developing their VR individualized plan for employment(IPE). Example documents include: work history, Individual Support Plan (ISP), Career Development Plan (CDP), Behavior Support Plan (BSP), original eligibility determination documentation and Discovery Profile if one exists. The Service Coordinator or Personal Agent will attend as many team meetings as possible to assure that information is shared and understood by the entire team
- 5.2 The individual service plan (ISP) reflects the VR plan (IPE) and is updated in a timely fashion as needed to support necessary changes in supports for the individual participant
- 5.3 For those eligible for long term support services, ODDS will provide this support once the individual reaches stabilization;
- 5.4 Refer individual for ODDS services (e.g., Discovery, Employment Path) at the individual's request and when the team agrees that it is the appropriate course of action

5.5 Share information on new services provided to the individual participant with the team including VR

In addition to the mutual responsibilities listed in section 4, VR agrees to do the following:

- 5.6 Utilize existing employment data/information to the maximum extent possible when working with a participant to set their employment goal, address barriers to employment, and create the IPE
- 5.7 Include brokerage and county staff in targeted participant's team meetings; at a minimum the intake meeting and IPE planning meeting(s)
- 5.8 The IPE reflects the ODDS plan (ISP) and other pertinent ODDS employment services and is amended as needed to reflect changes in needed services as well as changes in ODDS services for the individual participant
- 5.9 Provide job development and job coach services until job stabilization is reached. Job stabilization is determined by the individual and their VR Counselor
- 5.10 Share employment outcome data about shared individual clients, with the team, including local county or brokerage staff on an ongoing and timely basis; at a minimum, during advancement toward the employment goal; at job placement; and, at the approach and accomplishment of job stabilization

## **6 Definitions**

- 6.1 Behavior Support Plan (BSP) – a written plan for behavior support utilizing individualized positive support techniques that includes: a summary of: needs, preferences, and relationships of the individual; functions of the behavior; strategies related to the functions of the behavior; prevention strategies; early warning signals or predictors; a general crisis response plan; specific instructions for staff who provide support; and, positive behavior supports that include least intrusive intervention possible.
- 6.2 Career Development Plan (CDP) -- means the part of an ISP that identifies: the employment goals and objectives; services and supports needed to achieve those goals; people, agencies and providers assigned to assist with goal attainment; obstacles to working in an individualized job in a competitive integrated employment setting; and is based on person-centered planning principles

6.3 Discovery – is a ODDS time-limited comprehensive person-centered and community-based employment planning support service to better inform an individual seeking an individualized job in an integrated employment setting; that includes a series of work or volunteer related activities to inform about the strengths, interests, abilities, skills, experiences and support needs of the individual; and to identify the conditions and employment settings in which the individual will be successful. A Discovery Profile is the report generated about these activities

6.4. Job coach services

- For Vocational Rehabilitation -- means time limited services provided on the job to teach the participant the essential skills necessary to complete required job tasks beyond what is normally provided by the employer
- For Developmental Disabilities Services -- means support for an individual to maintain an individual job in a competitive integrated employment setting in the general workforce

6.5 Job developer services – means support for an individual to obtain an individual job in a competitive integrated employment setting in the general workforce, including customized employment

6.6 Job Stabilization -- is the point when the individual and their VR Counselor agree that the employment goal, including hours worked, in the IPE has been reached and that they and the employer agree that the individual is performing well on the job. At this point, transition to extended long-term support services funded by an agency other than Oregon Vocational Rehabilitation can begin

6.7 Team (the team) – is composed of an individual receiving services from ODD, VR or both; the legal or designated representative of the individual (as applicable); services coordinator or personal agent; VR counselor; and others chosen by the individual, such as service providers and family members

## **7 Collaborative Governance Structure and Strategies**

In implementing this MOU, assigned VR and ODDS management and program staff will check in monthly during the Employment First Policy and Innovation Workstream, and meet as needed, to plan, monitor, and evaluate the resulting activities. Assignment of management and program staff will be made by VR and ODDS Directors.

The assigned management and program staff will meet jointly with the program leadership as frequently as needed but at least every six (6) months (utilizing the Employment First Steering Committee meetings) to review progress, suggest possible changes or strategies related to implementation of the MOU.

In implementing this MOU, assigned staff will consider such principle strategies as:

- Identifying, reviewing and improving key policies and procedures that include, but not limited to such areas as program eligibility and access, individual service planning and service evaluation
- Communicating activities, key information, and updates on outcomes with VR and ODDS staff and principal internal and external stakeholders
- Implementing training and technical assistance activities.
- Improving or expanding service capacity
- Conducting case reviews in order to identify systems issues.
- Developing written materials such as practice guide and procedures
- Reviewing program and outcome data and sharing that data with VR and ODDS staff and principal internal and external stakeholders

## **8 General Provisions**

- 8.1 This agreement supersedes and replaces all previous Memoranda of Understanding between these two parties
- 8.2 The parties agree to revise this document as needed
- 8.3 The agreement will be formally reviewed every two years
- 8.4 The agreement may, at any time, be modified or extended by the written consent of both parties
- 8.5 In the event that a conflict arises between the parties, it is understood that the Administrators of the Offices will attempt to resolve the conflict through negotiation
- 8.6 Either party may terminate this agreement by giving the other party 30 days of notice. The notice will include the reasons for the request for termination. Termination of the agreement does not relieve the parties of fulfilling their responsibilities under this agreement until the termination date

Signature Page for Memorandum of Understanding between Developmental  
Disability Services and Vocational Rehabilitation

For Office of Developmental Disability Services:



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Lilia Teninty, Director

3/14/14  
Date

For Vocational Rehabilitation:



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Trina M. Lee, Director

3-10-14

Date

Reviewed/Office of Contracts and Procurement, DHS:

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Date

## **APPENDIX C**

# **VR-ODDS Joint Policy on Maximizing Client Goal Hours and Recommended Standard of 20 Hours/Week**

## Vocational Rehabilitation

## Action Request Transmittal

**Authorized signature:** Pete Karpa,  
Deputy Director

**Number:** VR-AR-16-02

**Issue date:** 5/13/16

**Topic:** Supported Employment

**Due Date:** 6/30/16

**Subject:** Maximizing client goal of hours worked and recognizing the recommended standard of 20 hours a week

**Applies to (check all that apply):**

<input checked="" type="checkbox"/>	Vocational Rehabilitation – All Staff
<input type="checkbox"/>	Vocational Rehabilitation – Executive Team
<input type="checkbox"/>	Vocational Rehabilitation - Administration
<input type="checkbox"/>	Vocational Rehabilitation – Branch Managers
<input checked="" type="checkbox"/>	Other ODDS Employment Unit Staff, for dissemination

### Rationale

Nationally, the Rehabilitation Act of 1973 as amended by the Workforce Innovations and Opportunity Act (2014), seeks to empower individuals with disabilities to maximize employment and economic self-sufficiency.

Oregon’s goal is that all persons with I/DD who want to work in the community will be afforded an opportunity to pursue competitive employment that allows them to work the maximum number of hours consistent with their abilities and preferences. The recommended standard for planning and implementing Supported Employment Services is the opportunity to work at least 20 hours per week. Based on individual choice, preferences, and circumstances, some



people may choose to work at that level while others may not. (Lane v. Brown, US District Court Case No: 3:12-cv-0038-ST: Settlement VII(1)(a)).

### Reason for Action

VR follows federal and state mandates to maximize opportunity for all participants with disabilities including I/DD to pursue competitive integrated employment at the hours they choose to work.

### Action Required

VR should invite referring staff and others chosen by the participant, to the Intake meeting (or other pre-plan meeting) when the participant's IPE employment goals, including hours worked per week, are discussed.

Benefits planning information that alleviates fear of working because of loss of benefits is needed by participants who are just beginning to seek employment so they can utilize informed choice in making decisions. The participant and their VR counselor will decide if they need to be referred for benefits planning at this time. If they are already working and want to increase their hours or if they are on the point of starting a job, then full benefits planning services is best practice and a referral should be made. Referral to and receipt of benefits planning services should be documented in case notes.

A goal of hours worked should be recorded in the first fillable box of the IPE that directs staff to, "Discuss transferable skills, individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, informed choice and other factors that were used to determine the employment goal."

When the participant chooses to change their goal of hours worked, the VR counselor and participant should agree on a plan revision to the lower or higher number of hours and inform the PA or SC. Some participants choose to

change this goal during job development; others choose to take a job with higher or lower hours than the original IPE goal. Reaching the hours worked goal in the IPE (or revised IPE) is one of the criteria for job stabilization that must be reached before transfer to DD services or natural support.

Some participants choose to increase their working hours over time, after they are employed and their VR case file is closed; with potential assistance from their long-term job coach. In that case, their IPE goal of hours worked may be lower than their long term goal and should be thought of as a final goal for the VR plan but an interim goal for the participant. The IPE goal and long range plans should be documented in case notes. Pertinent sections of the IPE should be provided to the PA or SC to inform the long-term job coach about the participant's long term plans.

Participants, who want to increase their hours after starting a part time job, may choose to develop a plan to find additional employment to supplement the original job. A participant may choose to seek supplemental employment before the VR case file is closed to meet their IPE goal. Other participants choose to seek supplemental employment after their VR file is closed, either on their own or through the use of other workforce programs.

### Training requirement

Branch Managers review this transmittal at an all-staff meeting, keep a record of the meeting notes and forward a copy of the notes to the contact person listed below.

### Policy and Resources

- Workforce Incentive and Opportunities Act (WIOA), 2014
- Lane v. Brown, US District Court Case No: 3:12-cv-0038-ST: Settlement
- Oregon Policy: 3.14 Supported Employment Policy
- VR-IM-15-01 Job Stabilization

## Acronyms

- I/DD is Intellectual and/or Developmental Disability
- IPE is a VR Participant's Individualized Plan for Employment
- PA is a Personal Agent
- SC is a Services Coordinator
- VR is Vocational Rehabilitation

**If you have any questions about this information, contact:**

<b>Contact(s):</b>	Ann Balzell		
<b>Phone:</b>	503-945-6975	<b>Fax:</b>	503-947-5025
<b>Email:</b>	<a href="mailto:Ann.balzell@state.or.us">Ann.balzell@state.or.us</a>		

## **APPENDIX D**

### **ODE Policy on Supported Employment**

## **ODE Policy on Supported Employment Services**

### **Purpose of Guidance:**

This guidance document is provided for special education directors, secondary special education teachers, administrators, and transition specialists. The Settlement Agreement for the *Lane v. Brown* case was approved in December 2015. A portion of the Settlement Agreement deals with transition services, and it provides that ODE shall require that the transition planning process include information about, and provide opportunities to experience, Supported Employment Services in Integrated Employment Settings for students with intellectual and developmental disabilities (I/DD). The Office of Developmental Disability Services (ODDS) and the Office of Vocational Rehabilitation Services (VR) makes Supported Employment Services available to Oregon students who are found eligible to receive services, and ODE issues this guidance so that district IEP teams will take steps to inform themselves and others, including transition-age individuals and their families, of these services.

### **What Should Districts Do?**

School Districts shall take the following steps:

1. Provide information to IEP teams (including parents) regarding Supported Employment Services available to students with I/DD to include and coordinate with individual transition planning.
2. Communicate and coordinate with VR or ODDS funded case managers, transition-age individuals, and their families to provide opportunities for students with I/DD to experience Supported Employment Services available through DHS in integrated employment settings.
3. Strongly consider beginning the transition process as early as possible, rather than waiting for the IEP year in which a student turns 16. The adoption of the Workforce Innovation and Opportunity Act (WIOA) in 2014 places added emphasis on providing Vocational Rehabilitation services to students as young as 14. The settlement agreement in the *Lane v. Brown* lawsuit also calls for the transition planning process to begin as young as age 14, if deemed appropriate by the student's IEP team. As a

result of these developments, ODE is encouraging districts and IEP teams to consider the inclusion of transition goals in the IEP's of individual students with I/DD sooner than the required first IEP to be in effect when the child turns 16.

### **What Are Supported Employment Services Provided Through DHS?**

Supported Employment Services (SES) are individualized services that assist an individual with I/DD to obtain and maintain work in an Integrated Employment Setting. SES are provided or funded by the DHS and available to students with I/DD through (ODDS) or (VR). These services support the individual to work a maximum number of hours consistent with his/her interests and abilities. The services and supports are based on person-centered planning principles and evidence-based practices.

Supported Employment Services include post-secondary education and/or training for transition-age youth when included in a person's Individual Support Plans or Individual Plans for Employment. Services available include Discovery, job development, job-finding, job carving, job coaching, job training, job shadowing, co-worker and peer supports, and re-employment support.

### **Which Students Are Eligible to Receive Supported Employment Services Through DHS?**

Students with I/DD between 14 and 21 years of age are eligible to receive Supported Employment Services through DHS, though certain approvals are required. Support services provided by ODDS to students who are under 18 years of age require approval from ODDS, while supported employment services provided through VR to students who are under 16 years of age require approval from VR.

### **What Are Supported Employment Services Provided Through Schools**

For youth who are 14 to 18 and who are not otherwise eligible for VR services, supported employment services identified as appropriate for individual students through the IEP team process may include transitional services and supports, including instruction, community experiences, development of employment and other post school adult living objectives, school-based preparatory experiences, career preparation, and integrated work-based learning experiences (e.g., site visits, job shadowing, soft skill and job skill development, internships, part-time employment, and summer employment); youth development and leadership, including

training in self-advocacy, self-determination and conflict resolution skills, peer and adult mentoring, and, where appropriate, daily living skills; and connecting activities, including exposure to post-school educational and community services, transportation, benefits planning, and assistive technology. However, IEP teams should be aware that a number of these services may also be available through VR or ODDS, and VR and/or ODDS should be involved in planning as soon as an IEP team determines it is appropriate.

### **What is an Integrated Employment Setting?**

An Integrated Employment setting is a setting where work is paid at minimum wage or above, that is located at a place in the community where an employee with disabilities interacts with persons without disabilities (*i.e.* peer employees and customers) to the same extent that employees without disabilities do, and where employees with disabilities have the same opportunities for advancement that employees without disabilities have.

### **Are School Districts Required to Find Jobs for Students With I/DD?**

While it's true that the IDEA, and its provision of FAPE, do not require school districts to find jobs for students with I/DD or other disabilities, nevertheless, school districts should make diligent efforts to ensure that these students have opportunities to experience Supported Employment Services in Integrated Employment Settings. Districts should ensure that IEP teams are aware of and promote the opportunities that are provided through Oregon VR and ODDS for persons with intellectual and developmental disabilities to experience Supported Employment Services in Integrated Employment Settings. This is consistent with the requirement that districts ensure that a student's IEP, beginning at age 14 when deemed appropriate by the IEP team and no later than the year in which the student turns 16, includes appropriate measurable postsecondary goals based on age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills, and that transition services (including courses of study) needed to assist the student in reaching those goals are provided.

### **Questions?**

If you have questions, please contact Sally Simich, Secondary Transition Specialist at the Oregon Department of Education, (503) 947-5639, [Sally.Simich@ode.state.or.us](mailto:Sally.Simich@ode.state.or.us), or your regional Transition Network Facilitator.

## **APPENDIX E**

### **ODD Policy on No New Services in Sheltered Workshops**



**POLICY TRANSMITTAL**

**DHS Oregon Department of Human Services, Developmental Disabilities Services**

Authorized Signature                    Lilia Teninty  
Number:                                      APD-PT-15-006  
Issue date:                                 2/25/2015  
Topic:                                        Developmental Disabilities  
  
Transmitting:                                New policy  
Applies to:                                 Office of Developmental Disabilities Services(ODDS)  
    County DD Program Managers  
    Other: Employment and day service providers  
  
Policy/rule title:                            No new services in Sheltered Workshop settings (Provider)  
Effective date:                              2/25/2015

**Discussion/Interpretation:**

**POLICY:**

Oregon formally adopted its “Employment First” policy in 2008, and was one of the first states in the country to do so. Under its Employment First policy, Oregon presumes that, with the right training and support, each individual who experiences an intellectual or developmental disability (I/DD) can succeed in an individual integrated job that pays competitive wages and benefits. Recognizing the pivotal role integrated employment plays in the lives of individuals who experience intellectual or developmental disabilities, employment in fully integrated settings is the highest priority over unemployment, segregated employment, facility-based employment, or day habilitation.<sup>1</sup> As outlined below, the Employment First policy is being implemented through a number of ongoing initiatives.

In order to further Oregon’s Employment First policy, effective July 1, 2015, ODDS will no longer fund services in Sheltered Workshop settings for individuals who are newly eligible for services, or individuals already using services but not in a Sheltered Workshop setting. Only individuals already using services in Sheltered Workshop settings as of June 30, 2015, may continue to do so after July 1, 2015.

**BACKGROUND:**

Oregon’s Office of Developmental Disability Services (ODDS) and Oregon’s Department of Human Services (DHS) have implemented changes to employment and other non-residential day services to implement Oregon’s Employment First policy, to highlight opportunities available to use Medicaid-funded services administered through ODDS, and to increase integrated employment opportunities for individuals with disabilities. These measures include but are not limited to:

Previously bundled, ODDS Employment Services now include an array of discrete stand-alone community-based employment services. Services can be combined in order to meet the needs of the individual using the services. Additionally, Employment Services are now paid based on an hourly rate instead of on a daily rate. These modifications increase flexibility to meet individualized needs, and better support goals related to achieving community employment in the most integrated setting.

Community-based employment services funded through ODDS include<sup>2</sup>:

- Individual Employment Support – Job Coaching
- Discovery
- Individual Employment Support – Job Development
- Small Group Employment Support
- Employment Path Community

Other day services are also available under Oregon’s Community First Choice K Plan. Services include group based support to meet ADL/IADL needs, including but not limited to, socialization and community inclusion.

Career Development Planning is required for all individuals using ODDS services, at minimum, as part of the annual person-centered planning process, or more frequently as necessary or as requested. As part of Career Development Planning, individuals will have an opportunity to discuss all Employment Service options. Individualized approaches may be needed to ensure the person has an opportunity to make a truly informed choice about pursuing employment.

Oregon Administrative Rules governing ODDS employment services, and all related guidance, explicitly requires that the optimal and expected outcome of all ODDS and Medicaid-funded employment services is individual integrated employment that pays minimum wage or better, but no less than the same wage and level of benefits paid to individuals who do not have disabilities.<sup>3</sup> An individual who uses ODDS employment services must have an employment goal in his or her Career Development Plan (CDP).<sup>4</sup> This employment goal must support progress towards the optimal and expected outcome of employment services, which is individual integrated employment that pays competitive wages and benefits, as well as work experience leading to further career development.<sup>5</sup>

DHS has awarded contracts to Living Opportunities and Washington Initiative for Supported Employment (WISE), two organizations that will provide training and technical assistance to other provider organizations in order to increase capacity for more community-based employment supports.

DHS will also be issuing a number of grants to fund new organizations that provide individual integrated employment services, or fund existing provider organizations that will expand to provide individual integrated employment services in Oregon.

New federal regulations regarding Medicaid Home and Community Based Services (all ODDS-funded employment and day services) require that every setting in which services are provided meet the new setting requirements. As outlined under Oregon's HCBS Transition Plan to come into compliance, each setting will be assessed to measure compliance. Assessment for compliance with the new federal regulations will occur initially and on an ongoing basis.

**SHELTERED WORKSHOP SETTINGS:**

Effective July 1, 2015, ODDS will no longer fund services used in Sheltered Workshop settings for individuals who are newly eligible for services, or individuals already utilizing services who are not already working in Sheltered Workshop settings.<sup>6</sup>

To operationalize this, Oregon service coordinators and personal agents will no longer authorize ODDS and Medicaid-funded Employment Services in Sheltered Workshop settings for individuals not already using services within Sheltered Workshop settings. Only individuals who use Employment Path Facility services for support in a Sheltered Workshop setting as of June 30, 2015, can receive authorization to continue using Employment Path services in the Sheltered Workshop setting after July 1, 2015. If, after July 1, 2015, an individual discontinues using services in a Sheltered Workshop setting for one year or more, he or she will not be able to resume using ODDS services in a Sheltered Workshop setting. Individuals may temporarily suspend services for more than 30 calendar days if the suspension is due to a change in eligibility for Medicaid Home and Community Based Services that may occur, for example, due to hospitalization.

Sheltered Workshops are facilities in which individuals who experience intellectual or developmental disabilities are congregated for the purpose of using ODDS employment services and performing work tasks for pay at the facility. A Sheltered Workshop primarily employs individuals with I/DD and other disabilities, with the exception of service support staff. A Sheltered Workshop is a fixed site that is owned, operated, or controlled by a provider, where an individual has few or no opportunities to interact with people who do not have disabilities, not including paid support staff.<sup>7</sup>

**BACKGROUND FOR THIS NEW POLICY:**

As outlined under sub-regulatory federal guidance regarding ODDS employment services, "funding is not available for the provision of vocational services delivered in facility based or sheltered work settings, where individuals are supervised for the primary purpose of producing goods or services."<sup>8</sup>

ODDS services must be provided in the most integrated setting possible.

Under new federal regulations, ODDS and Medicaid-funded Home and Community Based Services must be provided in settings that meet new requirements. Settings that isolate individuals with disabilities, and provide minimal interaction with the broader community, must make adaptations to come into compliance under Oregon's Transition Plan.<sup>9</sup> These settings

must encourage interaction with the general public, facilitate access to the greater community, and provide opportunities to seek competitive integrated employment.<sup>10</sup>

All Employment Path services, including those used for support in Sheltered Workshop settings, are time limited and expected to occur over a defined period of time, with specific outcomes to be achieved.<sup>11</sup>

**Notes:**

- <sup>1</sup> See Oregon's Employment First policy codified under Oregon Revised Statutes 427.007(1)(b); see also Oregon Administrative Rule 411-345-0025(2) regulating ODDS and Medicaid-funded employment services.
- <sup>2</sup> See Oregon Administrative Rule 411-345, and policy transmittal APD-PT-14-023.
- <sup>3</sup> OAR 411-345-0025(4); see also sub-regulatory guidance from the Center for Medicare and Medicaid Services (CMS) (September 16, 2011) found here: <http://downloads.cms.gov/cmsgov/archived-downloads/CMCSBulletins/downloads/CIB-9-16-11.pdf>.
- <sup>4</sup> OAR 411-345-0160(2).
- <sup>5</sup> OAR 411-345-0025(4).
- <sup>6</sup> See Oregon's Executive Order 15-01 (which replaces and supersedes Oregon's earlier Executive Order 13-04).
- <sup>7</sup> See Oregon Administrative Rule 407-025 and Oregon's Executive Order 15-01.
- <sup>8</sup> OAR 411-345-0025(4); see also sub-regulatory guidance from the Center for Medicare and Medicaid Services (CMS) (September 16, 2011) found here: <http://downloads.cms.gov/cmsgov/archived-downloads/CMCSBulletins/downloads/CIB-9-16-11.pdf>.
- <sup>9</sup> Additional information regarding Oregon's Transition Plan can be found here: <http://www.oregon.gov/dhs/dhsnews/Pages/hcbs-transitionplan.aspx>
- <sup>10</sup> 42 CFR §441.301(c)(4)-(5).
- <sup>11</sup> See OAR 411-345-0025(9)(d)(B); see also CMS sub-regulatory guidance (September 16, 2011) referenced above.