

Lane v. Brown Settlement Agreement Report

Background

In 2013, a class action lawsuit, *Lane v. Brown*, was filed, alleging that Oregon with violating the Americans with Disabilities Act by segregating individuals with disabilities in sheltered workshops where they have little to no interaction with non-disabled peers.

In 2016, the [Lane v. Brown Settlement](#) was reached and approved by the U.S. District Court.¹ This report highlights the actions of the State of Oregon, through the Oregon Department of Human Services, Office of Developmental Disabilities Services (ODDS), Vocational Rehabilitation (VR) and the Oregon Department of Education (ODE), to meet the requirements of the [Lane v. Brown Settlement Agreement](#). In the details following, each requirement will be identified by the paragraph number and subsection in the settlement agreement, or in some cases, the Governor's Executive Order 15-01 will be referenced.



Jake left the sheltered workshop in Ontario, Ore. in 2018 to work 20 hours per week in the community for Brookdale Senior Living as a server and dishwasher.

Settlement Requirements: Sheltered Workshops

IV.1: The state will no longer purchase or fund new sheltered workshop placements.

Actions: On July 1, 2015, Oregon issued [policy](#) that ODDS would no longer fund new placements in sheltered workshops. This policy was enforced by not allowing funding for this service. ODDS also launched the [Provider Transformation Project](#), awarding grants to provider agencies to help them transform their services from sheltered workshops or facility-based to community-based.

ODDS also launched the Career Development Plan, the Discovery service, along with many resources and tools to help the process of supporting people with intellectual and developmental disabilities to transition from sheltered workshops to community employment.

¹ Lane v. Brown, 166 F.Supp.3d 1180 (Dist. Court., D. Oregon, 2016)

In 2017, one new entry to a workshop was discovered and payment was disallowed. The individual was offered alternate services. No other new entries to sheltered workshops occurred and by 2020, there was a complete closure of sheltered workshop services. September 2020 marked the end of ODDS-funded sheltered workshop services in Oregon.

IV.2: Decrease the number of persons in sheltered workshops to no more than 1,530.



Actions: The chart labeled Sheltered Employment in Oregon shows the numbers of people with I/DD in sheltered workshops starting September 2016 to September 2021. In 2016, there were 1,405 people in sheltered workshops. That number is zero today.

Oregon’s efforts have resulted in the state being recognized in 2020 by the U.S. Commission on Civil Rights as a leader in eliminating subminimum wage and in transitioning to integrated employment.²



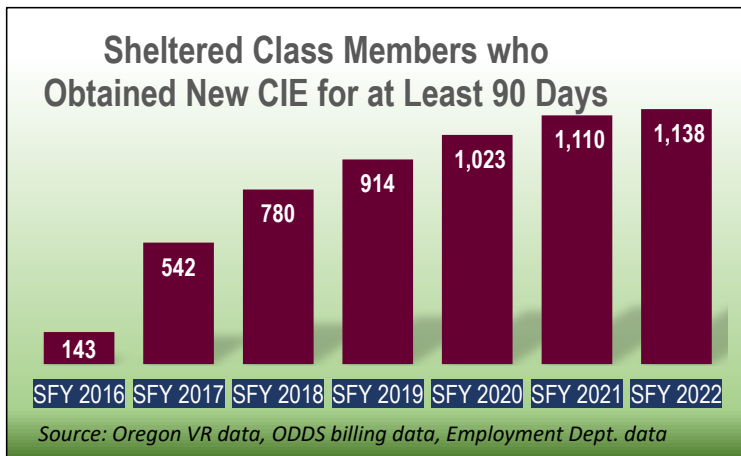
IV.2: Decrease the number of hours worked in sheltered workshops to 66,100 by June 30, 2017 with corresponding reductions in the following years.

Actions: State data shows 55,857 hours worked in 2017, meeting the goal set under the Agreement. The data continued to show significant drops in hours worked until all the workshops closed.

V.B.1VI.3: Increase the number of class members in sheltered workshops who obtain competitive integrated employment

(CIE) (also known as community employment) annually toward an overall goal of 1,115 newly obtained jobs.

² <https://www.usccr.gov/files/2020/2020-09-17-Subminimum-Wages-Report.pdf>



Actions: The annual goals under this metric have been exceeded every year of the agreement, and meeting the overall was reached with a total of 1,138 unique individuals achieving this goal. In addition to provider transformation grants, the State provided statewide training and resources to assist providers to support people to get community jobs. Regional employment specialists provide local training and technical assistance in their communities, especially to [providers struggling with transforming away from](#)

[sheltered work](#). Statewide marketing and outreach efforts through the I Work We Succeed campaign emphasized the positive impact of community employment and helped to dispel myths that people with disabilities can't work in community jobs. VR trained counselors on the importance of Employment First and issued [policy](#) as part of the Workforce Innovation and Opportunity Act to track subminimum wages through annual reports. VR also issued a [Supported Employment Manual](#) to support the field on best practices for helping people obtain community employment.

VI.7 and VI.8: Those in sheltered workshops who state in their Career Development Plan that they want competitive integrated employment shall receive supported employment services toward that goal.

Actions: The state provides supported employment services as requested. In 2017, there were delays on the delivery of supported employment services. The State took steps to build capacity of job development and job coaching staff. VR filled multiple vacant VR counselor positions statewide and created specific VR counselor positions with "I/DD specialty focus." The goal was not met in 2018 but the state put changes in place to reduce long wait lists for VR intake. In 2019 and 2021, the State made progress on this requirement and the results are reported in the [Dec. 2020 Career Development Plan Audit Report](#). Progress in 2020 was impacted by the COVID-19 pandemic.

VI.9: Adopt a rule encouraging individuals in Sheltered Workshop Target Population to choose to leave sheltered workshops.

Actions: [Oregon Administrative Rule 407-025-0030](#), "Employment Services Provided through ODDS and VR" released Jan. 2016 and [Oregon Administrative Rules 411-345](#), "Employment Services for Individuals and Intellectual and Developmental Disabilities" released in July 2016 satisfy this requirement.

VIII.1: Members of the Sheltered Workshop target population shall receive Career Development Plan (CDP) by July 1, 2015. ODHS shall determine whether CDPs have been done.

Actions: The State issued a report in 2016 on Career Development Plans for the sheltered workshop target population and a sample of transition-age target population. All individuals in a sheltered workshop had a CDP in the 2016 review. The 2017 and 2018 sample review of 360 individuals found that they all had a CDP. Changes to the Individual Support Plan (ISP) process now ensure that the CDP is updated annually for individuals receiving ODDS services. However, not all CDPs match the needs of a person. The State found target population members who had a CDP and requested an employment service but did not receive that service. In response, the State continues to mandate training and technical assistance for case management entities that struggle with developing CDPs that are accurate. The quality of plans is being addressed as an ongoing training issue.

Settlement Requirements: Employment Services

V.B.1: ODDS and VR will provide employment services to at least 7,000 unique individuals by the end of the settlement.

Actions: The chart provided shows new employment services to the settlement target population. In State Fiscal Year 2022, the number was 7,176 people, which makes the State complete for this requirement.



V.B.1.a.: By June 30, 2016, the State must provide supported employment services to all named plaintiffs who want these services.

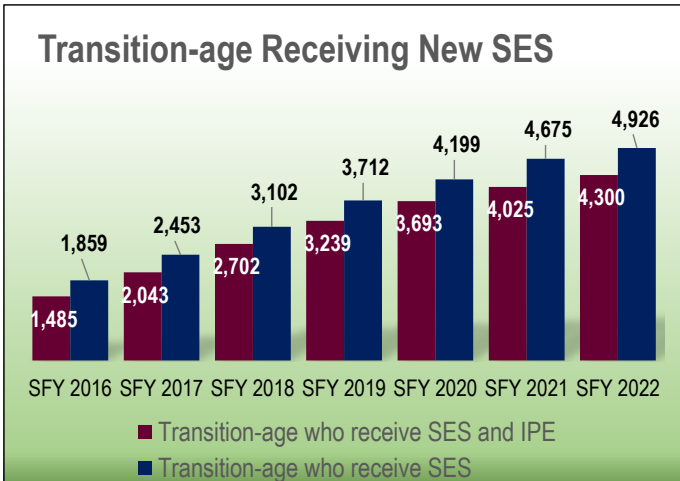
Actions: This requirement was met and is [documented in the Independent Reviewer’s Feb. 2017 report.](#)

VI.1.: The State shall issue a policy describing Supported Employment Services provided under the Settlement

Agreement.

Actions: VR issued its [Supported Employment Manual](#) in 2017, and reissued it in 2019. ODDS issued [Oregon Administrative Rules 411-345](#), “Employment Services for Individuals and Intellectual and Developmental Disabilities” in 2016 and revised in 2019.

VI.5: Ensure at least 4,900 transition-age youth are provided supported employment services (SES), and half of transition-age youth who apply and are found eligible receive an Individual Plan of Employment.



Actions: The chart included shows the numbers of supported employment services (SES) for transition-age youth from 2016 through 2022. This requirement has been met for every year of the settlement.

VI.6: State to encourage schools to continue and expand evidence-based transition practices to achieve competitive integrated employment.

Actions: Oregon continues to encourage schools to continue and expand evidence-based practices to achieve community employment for students.

VR partners with the Oregon Department of

Education on many programs, including the Transition Technical Assistance Network, or TTAN. During the years of the Settlement, the State expanded the size and activities of the TTAN. TTAN also provides a significant number of services that go beyond the services counted under the services counted in Requirement VI.5, such as Pre-Employment Transition Services. TTAN just developed a new website with many resources for transition-age youth, including information about Pre-Employment Transition Services, educator resources, and much more. The website is: <https://sites.google.com/lblesd.k12.or.us/pre-etseducatorresources/home>.



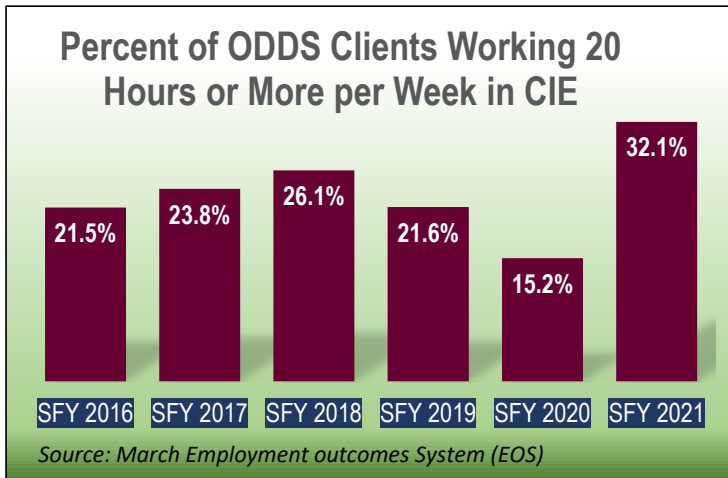
Karen worked for Salem Keizer Public Schools in Library Media Support Services as part of their summer work experience program in 2019.

Transition Network Facilitators and Pre-ETS Support staff work across the VR and Education systems and are embedded in regional Education Service Districts (ESDs). This team is working to improve Oregon’s systems of designing and delivering employment services for students with disabilities.

Oregon also has the [Youth Transition Program](#) (YTP), which serves more than 1,850 students with disabilities (not just those who experience I/DD) in 120 school districts in Oregon. YTP helps prepare students for a community job after school, or for college or another technical program. VR, ODDS and ODE have collaborated since 2018 on Summer Work Experience programs. The three agencies leveraged funds and recruited community-based organizations to run these work-based learning experiences across the state.

VII.1.a. and VII.2: Adopt and promote a goal of working at least 20 hours a week.

Actions: [ODDS and VR both adopted rules](#) regarding the 20-hour goal in 2016 and [reissued the policy in 2019](#).



The goal has been promoted in many ways. For example, ODDS created a [Powtoon animated video](#) on maximizing hours and also released a [worker guide](#) detailing how to plan for employment services to help people reach their employment goals and hours. A targeted outreach and communication plan focused on showcasing people with I/DD working 20 or more hours also was successful, with [success stories regularly promoted](#) and shared. ODDS and VR also hosted webinars with examples of people

working 20 or more hours during National Disability Employment Month in 2020 and 2021. The data demonstrates that the percentage of persons working 20 hours or more a week increased in 2017-2019. The number of people working 20 or more hours declined down to 15.2 percent in 2020, most likely due to the onset of the COVID-19 pandemic but [started rising again in 2021](#) (as workers either started new jobs or were able to get more hours at current jobs.)



Rachel got a job working 20 hours per week at Cadence Academy Preschool in Feb. 2021.

VII.1.b: Seek approval from Centers for Medicaid and Medicare Services (CMS) for rates that incentivize supported employment services to obtain jobs for persons who obtain competitive integrated employment of at least 20 hours per week.

Actions: From 2017-2019, the State sought approval for the new rates from CMS, and finally got approval for new rates starting Jan. 2021. The new rate model was highlighted as a best practice by CMS and subject matter expert Lisa Mills at the HCBS Conference.

VII.1.c: State to issue transformation grants to encourage goal of working the maximum number of hours consistent with abilities and preferences, with performance-based payments to providers for individuals who meet the 20-hour goal.

Actions: Amended contracts with training and technical assistance providers, WISE and Living Opportunities, to include 20-hour goal in transformation grant assistance.

VII.1.d.: Issue guidance to Technical Assistance providers to train providers on the 20 hours per week standard

Actions: Policies and guidance issued in 2016. ODDS regional employment specialists, along with Transition Network Facilitators from ODE and VR counselors, hold annual trainings with the field on 20-hour policy and provide technical assistance on the subject.



Leadership from ODDS, VR and ODE met with the actors from Oregon Shakespeare Festival’s production of Hairspray and their parents in June 2019. A unique collaboration between education, DD and VR services allowed the students, ranging in age from 14 to 17, to receive paid supports for their work in the professional production.

IX.1: ODE shall require transition planning may begin as early as age 14 and no later than 16; shall include information and opportunities to experience supported employment services. There shall be no referrals to sheltered workshops or use of mock sheltered workshops among transition-age youth.

Actions: ODE issued polices regarding [transition practices](#) and [prohibiting mock sheltered workshops](#) in 2016 (including a [mock sheltered workshop flowchart](#)). Surveys in 2016 by the Independent Reviewer indicate that the range of transition activities could be improved, and more training is needed. In 2017, ODE offered training on beginning transition as early as 14 but not later than age 16. ODE and the Transition Network Facilitators continue to conduct training to eliminate the use of mock sheltered workshops in schools. ODE updated its [rule](#) in 2021 to state that planning should begin

no later than age 16 but can begin as early as 14.

IX.2: ODE shall develop a professional development plan for transition services.

Actions: ODE used National Technical Assistance Center on Transition (NTACT) to [develop a plan from 2015-2020](#) which has stated goals. ODE, VR and ODDS worked collaboratively in the implementation of the professional development plan and report to the parties on their progress. The State is currently working with NTACT on a new plan for 2021.

X: Maintain training and technical assistance through June 30, 2019.

Actions: Oregon funded training and technical assistance contracts from 2015 through 2019. The State continues to receive technical assistance through NTACT, SELN and Cornell University.

XI.1: Maintain provider transformation grants through June 30, 2019.

Actions: Transformation grants started in 2015 and continued through Dec. 2019. The State issued a provider capacity report in 2016. Grants ended in 2020 with the end of funding for sheltered workshops in Oregon.

XII.2: State to make diligent effort to obtain and maintain funding to comply with Settlement Agreement.

Actions: Met 2016-2021. In 2020, even with financial issues related to COVID-19 pandemic, ODDS maintained the employment rate and issued contingency funding to help employment providers. In 2021, ODDS issued \$5 million in grants from the American Rescue Plan Act (ARPA) funding to assist employment and day support activity providers.

XIII.1.a: Semi-annual data reporting required.

Actions: Issued semi-annual reports since 2016. Reports are all [posted online](#).

XIII.1.b: Starting July 1, 2016, VR and ODDS are responsible for annually reporting on the measurable progress made on the outcomes required under this Agreement to the Supported Employment Coordinator, as well as: The number of supported employment providers and the number of clients served by each provider; the number of providers providing employment services, including job coaches, job developers, employment specialists and benefits counselors; and the number of vocational rehabilitation counselors who assess and assist persons with I/DD for supported employment services.

Actions: This data is reported annually in the [September Lane data report](#).

XIII.1.c: Post School Outcome survey to be conducted starting July 2016 and each year thereafter. Create a report with specified elements.

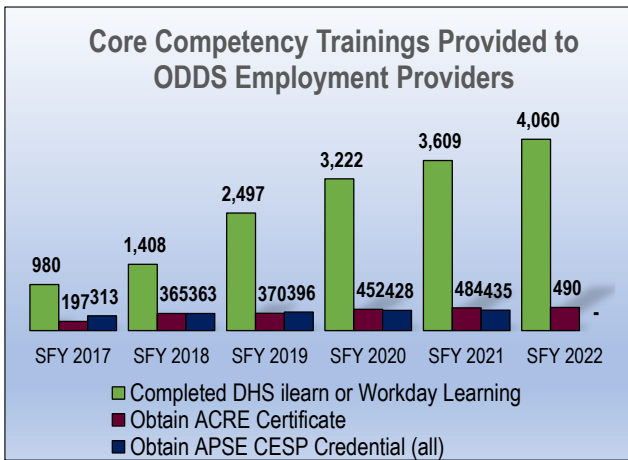
Actions: The Post-School Outcomes Report was published in [2017](#), [2018](#) and [2019](#). The 2021 report is in process.

Executive Order Provisions Included in Lane Settlement Agreement under

V. 1

“Oregon shall substantially implement and maintain the terms and systemic improvements of Executive Order 15-01 (the “Executive Order”). Oregon shall have reasonable discretion and flexibility in devising and modifying the means to accomplish these systemic improvements.”

Executive Order paragraphs not incorporated in the Settlement Agreement are referenced by their Executive Order paragraph below.

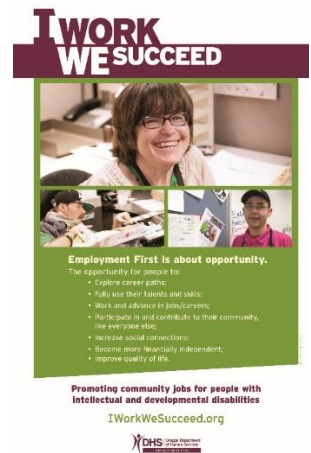


VI.1.: Establish competencies for employment service providers.

Actions: [Core competency standards](#) for employment providers were established in 2016. The State created online core competency trainings in 2017. The chart included in this report shows the core competency trainings completed by ODDS providers from 2017 through 2022.

VII: Create outreach and awareness program for members of target population.

Actions: The Outreach plan was published in 2015, followed by the launch of the [statewide marketing and advertising campaign, I Work We Succeed](#). The statewide campaign included radio, billboards, transit advertising, print and digital media ads, as well as ongoing success stories and webinars. The first phase of I Work We Succeed continued until 2017, when the second phase aimed at employers, businesses and families launched. In 2019, Employment First expanded its outreach efforts to include a [monthly podcast](#). And in 2020, Employment First and ODDS launched the Impact Oregon website for jobs in the disabilities’ field and an accompanying marketing and outreach campaign.



I Work We Succeed promotional poster, sent to every case management and VR office.

VIII: Provider capacity – the State must make good faith efforts within budget to ensure there are sufficient providers.

Actions: In addition to the transformation grants mentioned earlier in this report, the State also offered [innovation grants in 2017](#) to develop best practices for employment providers and start-up grants to help expand capacity. In 2020, ODDS issued [contingency and retainer funding](#) to help employment providers during the COVID-19 pandemic. The State also allowed for [flexible billing](#) to support providers to conduct remote services and continue to bill for services. In 2021, ODDS issued another [\\$5 million in grants](#) to employment providers due to the COVID-19 pandemic and workforce crisis.

X.4: Use strategies to improve transition services for transition age youth to get CIE

Actions: Trainings are offered to providers and educators statewide. The State funded a [Seamless Transition Pilot](#) from 2013-2019. In 2017, the Oregon Association of Vocational Support Needs Personnel (OAVSNP) partnered with ODE, VR and the Oregon Youth Transition Program (YTP) in development of the first Oregon Statewide Transition Conference. That annual conference which brings together educators, providers, VR

counselors and many others in the field, continues to the present day. In 2021, there were 652 registrations for the online conference.

Transition Network Facilitators in [eight regions of the state](#) provide ongoing outreach, technical assistance, and training opportunities for educators, individuals and families, and collaborate with VR counselors, providers and DD case management entities. ODE launched a [podcast](#) in 2019 providing information and resources to educators, individuals and families.

XI: Develop Memorandums of Understanding (MOUs) with ODDS, VR and ODE.

Actions: MOU was completed in [2016](#) and [updated in 2018](#). In 2021, a revised MOU is in process.

XII: Develop and implement Quality Assurance (QA) plan.

Actions: An Employment First [Quality Assurance and Quality Improvement Plan](#) was published in 2016, and an [update report](#) with data was published the same year. The State continues to report out on QA activities and has shifted reporting into the annual capacity report. Capacity reports were published in [2017](#), [2018](#), and [2019](#).

Conclusion

When Oregon adopted the Employment First policy in 2008, the goal was set that every person with I/DD – regardless of the severity of their disability – can work in the community and will have access to the appropriate supports.

Since then, through executive orders in 2013 and 2015, and the the agreements made in Lane v. Brown, the entire statewide system pulled together as providers transformed their business model from one focused on large facilities to one where job developers and job coaches support people in community workplaces. Services Coordinators, Personal Agents and VR counselors worked closely with people with I/DD and their families to identify good job matches. In five years, the number of people with I/DD working in community employment has tripled. We have also seen a culture shift – as people who were sometimes once written off as “unemployable” have shown the tremendous value they have to the workforce if they are given a chance. It shows that when we work together, we can achieve major changes.