

Lane et al. v. Brown et al.
Civil Action No. 3:12-cv-00138-ST

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

I. Purpose

The plaintiffs in a class action case, *Lane et al. v. Brown et al.*, Civ. No. 3:12-cv-00138-ST, have reached a Proposed Class Action Settlement Agreement (the “Proposed Agreement”). As a plaintiff class member, you are entitled to notice and an opportunity to object to or comment upon the Proposed Agreement. The Court has preliminarily approved the Proposed Agreement and scheduled a **hearing for December 7, 2015, at 9:30 a.m.**, to determine whether it is fair, reasonable, and in the best interests of the class.

II. Background

On January 25, 2012, eight individuals with intellectual and developmental disabilities (I/DD) and an organization, United Cerebral Palsy of Oregon and Southwest Washington, (collectively, “Plaintiffs”) filed a class action Complaint on behalf of themselves and others similarly situated. The law suit was filed in the United States District Court for the District of Oregon. The law suit alleged that Oregon unnecessarily segregates individuals with I/DD in sheltered workshops, in violation of the rights of these individuals under the Americans with Disabilities Act and 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.”

On March 27, 2013, the United States moved to intervene in the matter as Plaintiff-Intervenor, and the Court granted this request on May 20, 2013.

After negotiations overseen by United States Magistrate Judge John V. Acosta, the Parties reached the comprehensive Proposed Agreement. The Proposed Agreement will resolve the litigation and provide relief to individuals with I/DD, including the plaintiff class.

III. Provisions of the Proposed Class Action Settlement Agreement

Under the Proposed Agreement Oregon will continue to expand the availability of supported employment services that allow individuals with I/DD the opportunity to work in integrated employment settings, and it is intended to correspondingly decrease the State’s support of sheltered workshops for people with I/DD in Oregon.

- A. *State’s Executive Order*: The Proposed 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.

- B. *Competitive Integrated Employment*: The State must continue to provide supported employment and related services so that 1,115 working-age adults over 21 years old from the Sheltered Workshop Target Population obtain Competitive Integrated Employment over the eight-year period from July 1, 2014 through June 30, 2022. This is consistent with the metric measuring placements in Competitive Integrated Employment in its July 6, 2015 Integrated Employment Plan. Competitive Integrated Employment 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. Competitive integrated employment allows persons with I/DD to interact with other persons who are not individuals with disabilities and who are in comparable positions, and to receive the same benefits provided to other employees.
- C. *Transition-Aged Youth*: Of the 7,000 individuals who will receive employment services under the Executive Order, 4,900 will be transition-aged youth who are at least 14 years old and not older than 24 years old. The Proposed 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.
- D. *Accessing supported employment in a sheltered workshop*: Any individual working in a sheltered workshop who wants a job in an integrated employment setting can ask for and receive supported employment services, as provided in the Proposed Agreement.
- E. *Goal of 20 hours of work per week*: The Proposed Agreement requires that Oregon DHS 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. DHS will issue 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. DHS will take additional actions to create financial incentives for providers to obtain Competitive Integrated Employment at the recommended standard of 20 hours per week, as provided in the Proposed Agreement.
- F. *Career Development Plan*: All individuals in sheltered workshops and all transition aged youth with I/DD must receive a Career Development Plan, as provided in the Proposed Agreement. 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.
- G. *Sheltered Workshops*: The State must also achieve two metrics in its July 6, 2015 Integrated Employment Plan measuring the State's decreased support of sheltered workshops. Over the next two years, 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.

- H. *Other provisions for employment services system:* The Proposed Agreement includes provisions covering training, system capacity to provide employment services, funding, data collection, and reporting.

The Proposed Agreement further provides that an Independent Reviewer will evaluate the State's compliance and issue public reports on implementation of the Agreement. The Court will retain jurisdiction of this matter until substantial compliance is achieved. The Proposed 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 DHS or ODE.

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

IV. Approval Process

This notice is only a summary. The terms of the Proposed Agreement control over any description in this notice. You can obtain a copy of the full Proposed Agreement from Kathy Wilde at Disability Rights Oregon at kwilde@droregon.org or (503) 243-2081 or (800) 452-1694. Kathy Wilde will also answer any questions you have about the Proposed Agreement. The Proposed Agreement is also available at the DHS Employment First website, <http://workwesucced.org> and on the Office of Developmental Disability Services' website, <http://www.oregon.gov/dhs/DD/pages/index.aspx>.

The Court has scheduled a full hearing to determine whether the Proposed Agreement is fair, reasonable, and in the best interests of the class. Any class member who wants to object to or comment on this Proposed Agreement must file a written objection or comments on or before **October 29, 2015** with Kathy Wilde at Disability Rights Oregon, 610 SW Broadway, Suite 200, Portland, OR 97205, at kwilde@droregon.org.

The Court has scheduled a fairness hearing for December 7, 2015, at 9:30 a.m., before Magistrate Judge Janice M. Stewart. This hearing will be held at the United States District Court for the District of Oregon at 1107 United States Courthouse, 1000 Southwest Third Avenue, Portland, Oregon 97204-2941.