



Questions and Answers for SCs/PAs on Lane vs. Brown Proposed Settlement

Question #1: What is Lane vs. Brown?

Answer: In January 2012, people representing individuals with intellectual and developmental disabilities (I/DD) sued the state of Oregon. This was a class action lawsuit with the plaintiffs represented by a firm from Boston, Disability Rights Oregon, and two private Portland law firms. In March 2013, the United States Department of Justice formally joined the lawsuit.

Question #2: What was the lawsuit about?

Answer: The lawsuit was about the state's use of sheltered workshops. The plaintiffs claimed that too many people with I/DD were in sheltered workshops and the state wasn't doing enough to help people get jobs in the community. The plaintiffs claimed the state's employment services system was in violation of the Americans with Disabilities Act and the Rehabilitation Act on the ground that sheltered workshops segregate people from their communities.

Question #3: Who does the lawsuit affect?

Answer: This was a class action lawsuit. The "class members" are Oregonians with I/DD who use ODDS services and who have worked in a sheltered workshop or been referred to one. It also covers high school transition-age students with I/DD who were at risk of being referred to sheltered workshops.

Question #4: I heard the lawsuit was settled, what does that mean?

Answer: This means that representatives of the plaintiffs and the state of Oregon reached an agreement on how to resolve the issues of the lawsuit without going to trial. The proposed settlement was announced on Sept. 8, 2015 and avoids a trial that was set to begin in Dec. 2015.

The settlement details several conditions the state must meet to address plaintiff's concerns. Failure to meet the conditions could lead to further legal disputes and court actions. The full settlement is at: <http://www.oregon.gov/dhs/employment/employment-first/Pages/Publications.aspx>

A U.S. District judge must still approve the settlement. This will take place after a hearing is held by the judge to determine whether the agreement is fair, reasonable, and in the best interest of the class. The hearing is Dec. 7, 2015 at 9:30 a.m. at the federal courthouse in Portland.

Question #5: What are the goals of the settlement?

Answer: The settlement requires the state to (1) reduce the use of sheltered workshops and (2) provide more employment services to help people get and keep jobs in the community. Sometimes these jobs are referred to as "integrated employment." Those suing the state believe more people with I/DD want community jobs than are currently getting them. They also believe more people will want jobs once they understand the benefits and opportunities of working in their communities.

The settlement sets goals the state must achieve. For example, the state must:

- Reduce the number of people using services in sheltered workshops from about 1,900 to about 1,500 by June 2017.
- Help 1,115 individuals who use services in sheltered workshops get integrated employment in the community by June 2022.

There are other goals like these examples the state must meet.

Question #6: Does the settlement require sheltered workshops to close?

Answer: The settlement does not specifically call for the closure of sheltered workshops. However, with the goal of reducing the use of sheltered workshops and the policy requiring no new entry to sheltered workshops, the settlement may cause provider agencies to reconsider whether or not to provide these services in the future.

The settlement is only one factor affecting the long-term status of sheltered workshops. Other factors such as Oregon's Employment First policy and new or redefined federal policies also significantly affect sheltered workshops.

The federal Centers for Medicare and Medicaid Services (CMS) is the largest funder of Oregon's employment services for people with I/DD. In 2014, CMS adopted a rule that requires all Medicaid-funded Home and Community Based Settings services (such as employment services) be provided in an integrated setting. Sheltered workshops do not meet that definition. And, finally, Congress passed the Workforce Innovation and Opportunity Act (WIOA) to prioritize employment services and supports to help people find jobs in the most integrated settings. These new laws will impact sheltered workshops.

Question #7: Does the settlement change the [state policy](#) on who can use sheltered workshops or the “closing the front door” to sheltered workshops?

Answer: No. The current policies adopted by DHS about who can use services in sheltered workshops are still in place. As of July 1, 2015, DHS does not allow new entries into sheltered workshops.

Question #8: Are there new expectations of Service Coordinators (SCs) and Personal Agents (PAs)?

Answer: Yes, DHS will issue rules and guidance related to the expectations of SCs and PAs. SCs and PAs will have increased expectations to promote active steps for people with I/DD, including people in sheltered workshops, to consider services that lead to integrated employment. Examples are:

- Community Developmental Disability Programs (CDDPs) and brokerages must encourage individuals in sheltered workshops to choose integrated options instead of sheltered work;
- CDDPs and brokerages must complete and implement Career Development Plans; and
- CDDPs and brokerages should plan for and promote individual community jobs that maximize the number of hours that people will work, consistent with individual preferences.

Question #9: Does the settlement require that everyone get a job in the community?

Answer: The settlement does not require any specific person to get a job in the community. It does require that at least 1,115 people get integrated community jobs. The settlement does respect preference and choice as criteria for selecting and planning services.

Question #10: Individuals on my caseload and their families/guardians are contacting me about a notice they received in the mail about the settlement. What is this?

Answer: They received this letter (“notice”) because they are a member of the class covered by the lawsuit and subsequently the settlement. This notice is to provide some background information, outline the settlement provisions, let them know of next steps, and inform them where to get questions answered.

All CDDPs and brokerages were also sent a copy of the notice and should post it in a visible location. The notice is also available on the DHS Employment First website, <http://iworkwesucceed.org>

Question #11: What do I tell clients about the notice and settlement?

Answer: We have prepared a question and answer document aimed at individuals and families to help with this discussion. This document is available through your workplace and at <http://iworkwesucceed.org>.

Question #12: What do I do if a customer does not want to work in integrated employment?

Answer: You must make sure that:

- The individual customer and their personal advocates (family members, etc.) have enough information about the benefits and opportunities of integrated work so they can make fully informed decisions;
- You have a discussion about setting a goal of individual integrated employment, and you regularly revisit that discussion;
- The Career Development Plan is completed and updated;
- The customer’s ISP is up to date and reflects the decision not to work;
- If they are using any employment service, your customer must have a goal of an individual integrated job;
- Some tools that may help with this process are under “Employment Tools” at <http://www.dhs.state.or.us/spd/tools/dd/cm/>

Question #13: What do I do if I have additional questions?

Answer: You may email questions to Employment First at: employment.first@state.or.us