

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

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

**2017 Report to the Court**

**Prepared by:**

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**Independent Reviewer**

**January 1, 2017 - December 31, 2017**

## Introduction

The Independent Reviewer issues this second 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, 2017 through December 31, 2017. The Independent Reviewer considered various sources in preparing this report, including information the parties provided at quarterly meetings, the State's amended 2017 Employment First Reports, state policies and administrative rules, other State documents, program reviews undertaken statewide by the Independent Reviewer, and information reported by the State. The Independent Reviewer has not audited or otherwise verified the State's reported data.

In 2017, the Independent Reviewer conducted program reviews to help assess the State's implementation of the Settlement Agreement. Next year, in 2018, the Independent Reviewer in collaboration with Temple University and Oregon Health Sciences University will conduct a client review based on interviews of a statistically significant sample of target population members.

Overall, according to the data provided by the State, the State has achieved the numerical and policy requirements for the relevant time period, as detailed in the settlement agreement. However, there are some systemic issues that have been identified that need to be addressed. The state has begun to address some of those systemic issues. The Independent Reviewer has identified 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. The United States intervened as a plaintiff in 2013.

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 Career Development Plan (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 employment 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 integrated 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 ensure that service recipients 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 other 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 until 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 the 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 the parties. The parties will provide input to the agenda three weeks in advance of the next meeting.
- Meetings will be held quarterly.
- The Independent Reviewer, in consultation with the Judge (if needed), shall determine the status of Settlement Agreement. Parties retain 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 the parties with an opportunity to review, comment and request changes. The 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 the parties, they would be welcome to do so at the beginning of the meeting.
- The 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 2017 and 2018

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:

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

The scheduled dates for the meetings of the parties for 2018 are as follows:

- April 10 and 11, 2018
- July 10 and 11, 2018
- September 24 and 25, 2018
- January 9 and 10, 2019

In addition to the information exchanged at the parties' meetings, the Independent Reviewer reviewed the following pertinent information in 2017:

- *Lane v. Brown* Data Report (Amended Mar. 24, 2017)
- Report on Career Development Plans Under the *Lane v. Brown* Settlement Agreement (Mar. 27, 2017)
- Report on Post School Outcomes of Students Enrolled in ODDS Services from Follow Up Interviews Conducted in 2016 (Apr. 24, 2017)
- *Lane v. Brown* Settlement Report on 20 Hour Policy (Sept. 1, 2017)
- Employment First Capacity Report, June 1, 2016 – June 30, 2017 (Sept. 1, 2017)
- Career Development Plan Report (Sept. 2017)
- ODE 2017 Report on the Facilitation of Evidence Based Transition Services in Oregon Public Schools (Oct. 3, 2017)
- DNE Review – Youth CDP Review (Oct. 4, 2017)
- VR Subminimum Wage Project data (Jan. 9, 2018)
- *Lane v. Brown* Data Report (Amended Jan. 11, 2018)

Additionally, in 2017, the *Lane v. Brown* Independent Reviewer, as part of the Program Review, conducted 63 interviews with Community Developmental Disabilities Programs (CDDPs), support service brokerages, Vocational Rehabilitation (VR) offices, public schools, and employment service providers. The purpose of the Program Review is to collect information relevant to the Independent Reviewer’s evaluation of the State’s compliance with the terms of the *Lane v. Brown* Settlement Agreement and the Governor of Oregon’s Executive Order on employment services for persons with I/DD, and enable the Independent Reviewer to aid, recommendations, and training to the State as it implements the Agreement. Overall, the responses indicated that the State is taking some steps toward fulfilling its obligations under the *Lane v. Brown* Settlement Agreement so that persons with I/DD can obtain and maintain competitive integrated employment to the fullest extent possible, consistent with their strength, preferences, and abilities. The interviews also revealed certain persistent obstacles that are impeding the State’s progress in maximizing compliance.

The following is a summary chart to track the state’s compliance for 2017 for the Settlement Agreement. Some items listed below that have metrics for each year. Other items have ongoing provisions across the term of the Settlement Agreement.

Summary of Item	2017 Status
The state is no longer purchasing or funding new Sheltered Workshop placements	One reported new entry was discovered, and payment was disallowed. The individual was offered alternate service.
Decrease number of persons in sheltered workshops to no more than 1530 (Metric 9)	State data shows there were 1,043 people in sheltered workshops as of March 2017

Decrease number of hours worked in Sheltered Workshops to 66,100 by June 30, 2017 (Metric 10)	State data shows 53,857 hours worked.
The State shall issue a policy describing Supported Employment Services	A policy was issued in 2016, and state continues to implement in 2017
Similar to IV.3, Provide CIE to 160 additional individuals in 2017	Although disagreement remains about how to count, the State has met the 2017 target
Ensure at least 4,900 transition age youth are provided SES, and half of those receive an Individual Plan of Employment.	The total count of transition age individuals receiving SES is 2,453. 2,043 received an IPE.
State to encourage schools to continue and expand evidence-based transition practices to achieve CIE.	State continues training on transition practices but could do more to encourage evidence-based practices
Those in Sheltered Workshops who state in their Career Development Plan that they want CIE shall receive SES toward that goal.	The state provides SES as requested. However, delays have slowed the delivery of such services. The State needs to focus on efficient delivery of available services to those who express an interest. There is evidence that there may be more individuals interested in CIE than is reflected in the current CDP's.
Adopt rule encouraging individuals in SW Target Population to choose to leave SWs.	Rule released Jan. 2016 and in case management rule as of 7/16
Adopt and promote a goal of working at least 20 hours a week	Rule and guidance adopted by ODDS and VR in 2016, data shows that the percentage of persons working at least 20 hours a week continues to rise.
Seek approval from CMS for rates that incentivize SES to obtain jobs for class members who obtain CIE of at least 20 hours per week.	The state has sought approval for such rates from CMS, although their efforts have not been entirely successful.
Issue guides to Technical Assistance providers to train providers on the 20 hours per week standard	Guidance was issued in 2016 and is still in place

Class shall receive CDP by 7/1/2015. DHS shall determine whether CDPs have been done.	State issued a report on CDP, after gathering all CDPS of SW class and a sample of Transition age class. Quality of plans is being addressed through training
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. No referrals to sheltered workshops or use of mock sheltered workshops.	ODE issued polices regarding transition practices and prohibiting mock sheltered workshops in 2016. The surveys by the Independent Reviewer indicate that the range of transition activities could be improved, and more training is needed.
ODE shall develop a professional development plan for transition services	ODE used an outside consultant to develop a plan which has stated goals. ODE needs to implement the goals identified
Maintain training technical assistance through 6/30/19	Such assistance continues to be funded by the state.
Maintain transformation grants through 6/30/19	Such grants continue to be in place. The state is now issuing a provider capacity report. As the state moves forward, the state should investigate options to enhance provider capacity in some areas of the state.
Make diligent effort to obtain and maintain funding to comply with Agreement	So far, sufficient funding has been allocated to comply with the Agreement
Semi-annual data reporting required	The state has issued semiannual reports in accordance with 1.a. and b. The state continues to adapt report format to improve transparency.
Post School Outcome survey to be conducted starting July 2016 and each year thereafter. Create a report with specified elements	The State has produced a report on the survey, however, it should be more robust. The state promises to improve this report
Establish competencies for employment service providers	Standards established in 2016, computer-based training implemented in 2017
Outreach and awareness program for members of target population	Employment First communication plan is in place

Use strategies to improve transition services for transition age youth to get CIE	The state continues to offer many trainings to providers and school personnel all over the state. In addition, Transition Network Facilitators are trained and available
Develop MOUs with ODDS.VR.ODE	Completed in 2016, and updated as needed
Develop and implement QA plan	QA plan updated in 2016. State has shifted some items to the Provider Capacity report. Staff changes slowed QA activities, but state intends to continue QA plan

#### 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) adults with I/DD using ODDS or VR services who are not already in sheltered workshops.***

##### ***Status Update 2017***

During SFY 2017, one new person attempted to enter a sheltered workshop. The state discovered the placement and the attempt to bill the state for services. Funding for the new service of sheltered work for 1 individual was denied; the individual was offered another service that is allowable and billable. According to the state, the involved case coordination staff were retrained, and the provider was reminded of the policy directive. As such, the state has been successful in preventing new admissions into a sheltered workshop. The state satisfied section IV.1 in 2017.

#### SA IV.2 - Sheltered Workshops

***By June 30, 2017, reduce sheltered workshop census to no more than 1,530 and decrease hours worked in sheltered workshops to no more than 66,100.***

##### ***Status Update 2017***

The SFY 2017 target was to reduce the number working in sheltered workshops in the March 2017 census to 1,530 individuals. According to the State's March 2017 EOS census, there were 1,043 individuals in sheltered employment (an annual reduction of 362 individuals), which would satisfy Metric 9.

The SFY 2017 target was to reduce the hours worked in sheltered employment in the March 2017 EOS Census to 66,100 hours. According to the State's March 2017 EOS census, there were 53,857 hours worked in sheltered employment, which is less than the 66,100-hour target and would satisfy Metric 10.

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

**Settlement Agreement V.B.1: Provide Employment Services to 3,000 individuals in the target populations by July 1, 2017 (Executive Order IV.3.d)**

**Status Update 2017**

Oregon Executive Order 15-01 provides that “ODDS and VR will provide Employment Services as described in Section IV.6 below to at least 7,000 unique individuals” and that by July 1, 2017 ODDS and/or VR will have provided Employment Services to at least 3,000 unique individuals in the target populations.

The State reports that in SFY 2017, 1,979 new employment services were given. Some of these persons received more than one service. When that duplication is removed, the state reports that 1,697 unique individuals received services in SFY 2017 (See **Table 2 below**). Due to data reporting lags, the state indicates that this calculation was completed without all SFY 2017 data available. This number is therefore incomplete. Future reports will update this number and are expected to include upward revisions of the number of employment services given, as occurred for SFY 2016.

Data for SFY 2016 was also updated by the state with newer information. As a result, according to the State’s report, the unduplicated number of employment services received by persons in both target populations in SFY 2016 has been revised up from 1,577 unique individuals to 1,731 unique individuals (see **Table 1 below**).

Table 1

<b>Employment Services To Target Populations In SFY 2016 (Updated)</b>			
<b>Employment Service</b>	<b>Transition Age</b>	<b>Sheltered Workers</b>	<b>Total Unique Counts</b>
VR Entered IPE	680	412	1,030
Completed Discovery Profiles	247	355	572
New Individual Supported Employment from ODDS	190	148	324
New Small Group Supported Employment	67	147	194
<b>Total Unique Counts of Clients</b>	<b>993</b>	<b>833</b>	<b>1,731</b>

**Table 2**

<b>Employment Services To Target Populations In SFY 2017</b>			
<b>Employment Service</b>	<b>Transition Age</b>	<b>Sheltered Workers</b>	<b>Total Unique Counts</b>
VR Entered IPE	656	388	1,010
Completed Discovery Profiles	181	261	426
New Individual Supported Employment from ODDS	205	189	382
New Small Group Supported Employment	51	118	161
<b>Total Unique Counts of Clients</b>	<b>936</b>	<b>788</b>	<b>1,697</b>

Quoting from the State’s most recent data report:

When the two target populations are broken out, 255 persons were transition age and 299 persons were sheltered workshop class members. When the individuals in both target populations are deduplicated a total of 539 individuals achieved competitive integrated employment in SFY 2017. As noted below in the discussion of Metric 11, larger groups of persons are counted under Metric 11. Metric 11 is measured using a broader array of data sources; data which is not readily available on a semi-annual basis. The XIII.a.2 count here is made with a narrower data source, EOS data, than is used to calculate the number under Metric 11. Unlike Metric 11 data, however, EOS data is available semi-annually. The calculation is described in further detail in the “Reporting Methodology for Settlement Calculations” below. Historically, EOS has also been the data source for this measurement.

As with other measurements described above, this measurement counts a person only once per fiscal year. This time, the focus is on the *new* receipt of *services*. Numbers for group supported employment and individual supported employment are provided. As stated in the “Reporting Methodology for Settlement Calculations” below, the number of new individuals who received Individual Supported Employment services from ODDS comes from eXPRS billing data. eXPRS billing data is used for this metric because it measures services, and this data source can also demonstrate new services through new billing and gaps in billing. As required by the plaintiffs, this data is reported semi-annually. To be able to report this data on a semi-annual basis and to allow for comparison with previous reports, this measurement relies on eXPRS billing data for the ODDS measures. This measurement is different from the methodology used to calculate Metric 11.

During SFY 2014-2017 (July 1, 2013 to June 30, 2017), 4,031 unique individuals in the target populations received an employment service. (see **Table 3** below). This exceeds the minimum 3,000-person number of unique individuals required under the Settlement Agreement, by 1,031 persons. The state complied with the service numbers required in Section V.B. of the Settlement Agreement for 2017.

**Table 3**

<b>Employment Services To Target Populations</b>			
<b>State Fiscal Year</b>	<b>Minimum Required Number of Individuals*</b>	<b>Total Unique Count of Clients Served</b>	<b>Amount Above Requirement</b>
SFY 2014	600	882	282
SFY 2015	1,350	1,844	494
SFY 2016	2,200	3,071	871
SFY 2017	3,000	4,031	1,031

\* As set forth by Executive Order 15-01 section IV

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

**Status Update 2017:**

Disability Rights Oregon has provided an update on named plaintiffs for State Fiscal Year 2017.

**G. C.:** Ms. C began employment October 2016 in the cafeteria at an elementary school with Portland Public Schools. This employment was pursuant to her preference following completion of Discovery. She worked from 10:30 a.m. to 1:30 p.m. Monday through Friday at above minimum wage. She switched to a smaller school after finding the first larger school too active. She did not reach job stabilization at that site as she continued to have difficulty managing the pace of activity during the lunch hour rush. She resigned at the end of January 2017 and began attending THRIVE (<http://otlifebalance.wixsite.com/thrive/about>).

Ms. C next had a several week-long assessments in a group setting which pinpointed targeted goals to work upon. She then met with a Behavior Support Specialist who set strategies for her regarding workplace behaviors. By summer 2017, the vendor began set-up of a community based targeted employment site in which these issues may be worked through.

**S. G.:** Ms. G completed Discovery in Summer 2016 and had a job shadow at a Home Goods retail store. She was offered employment resulting from this service. Her job duties were to involve assisting with directing customers and with store product displays and stock. Ms. G was to start working after a visit with her family over the end of year holidays.

However, Ms. G eloped from her group home prior to her start date and was considered missing for 5 days. Her DD services case manager recommended that her start date be held off until her employment ISP team met February 15. The store manager agreed to continue to hold the offer for Ms. G open. Ms. G then began more intensive counselling related to the reasons behind her elopement and put her job search on hold through June 2017.

**A. K.:** A Discovery Specialist from Dirkse Counseling and Consulting developed a Discovery profile between April 27 and June 7, 2016. A VR application was submitted on July 27, 2016. On

September 23, 2016, Ms. K was found eligible for VR services. The VR Counselor attributed the delay to being given an incorrect suite number to request medical records. Ms. K did not have a VR meeting until October 3. By that time, the Discovery Specialist who had done the Discovery profile had left Dirkse, and a different Employment Specialist joined the meeting. The new Employment Specialist had not worked with Ms. K.

Another VR meeting was scheduled for October 31, 2016 with the goal of selecting a Community Based Work Assessment (CBWA) provider. Ms. K's residential provider did not transport her to the meeting on October 31. The VR Counselor, DD Services Coordinator, and Eastco Lead Employment Specialist did come to the VR office for the meeting, which was rescheduled to November 7.

Prior to the November 7 meeting, Ms. K's residential provider (Up and Out Inc.) administrator, who had not attended the October 3 VR meeting, raised concerns about Eastco as the CBWA provider. He was apparently unaware of the waitlist for Dirkse. He asked that the meeting be postponed so he could attend.

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

Ms. K completed a CBWA with Abilities at Work at a TJ Maxx store in Portland. She had a meeting on March 15, 2017 to review the CBWA. The team met again, on March 31, 2017, and authorized Abilities at Work to provide job development services. Due to a waitlist, Ms. K did not begin job development until mid-May 2017.

**Z. K.:** In March 2015, Mr. K was hired to work in a child care position at a Portland YMCA. VR closed his file in August 2015. Mr. K worked at the YMCA with ongoing ODDS job coaching provided by United Cerebral Palsy for most of SFY 2017. On May 31, 2017, Mr. K experienced a detached retina in his left eye. He was rushed to emergency surgery and spent over four months convalescing. He was out of work for medical reasons past the end of SFY 2017.

**P. L.:** In 2016, Ms. L was laid off from her employment sorting & filing print jobs and watering plants at a large print shop. As she began VR services prior to Discovery implementation, her team determined that she should engage Discovery, after having lost that prior employment. She completed Discovery in December 2016 and was subsequently assigned a new job developer and VR counselor.

The team began reviewing options for targeted micro-enterprise. Ms. L determined that she preferred to continue work with her job developer for employment at a more traditional employer.

Meanwhile, her productivity at the shop had continued to be far higher than previously, but then began dipping in January through March 2017. While her ISP team determined that she does not need a Behavior Support Plan, a behavior consultant was recommended targeted towards workplace behavior. This consultant was engaged in early spring 2017 with resulting recommendations on issues which arose at her community job. This also helped her regain focus on new employment.

By late spring, she completed trial work at the Portland Children’s Museum. After job developer discussion with the museum Human Resource manager, it appeared that a customized position for her was feasible. Her tasks were/are to direct museum visitors and answer basic questions about the current exhibit. Ms. L presented on a panel at the June 2017 APSE National Conference in Portland and discussed her new job & her job search, which she reports having enjoyed tremendously.

**A. P.:** In December 2016, a trial work arrangement was set for Mr. P by his job developer at a tool maker shop in Hillsboro. He began this work in March 2017, after some difficulty getting the start date confirmed. He performed well with testing tool production quality through April 2017. However, the employer declined to hire him as a regular employee. He could have continued through the temp agency which staffs on-call work at the site, but as the temp agency could not give any assurance as to length or hours of employment, Mr. P declined to continue there. A several week-long delay had occurred in confirming this information, as the job developer vendor had staffing changes.

Mr. P’s job developer then explored opportunities for similar work through the Galt Foundation which did not bear fruit. They meanwhile worked to develop a workplace seizure protocol, to improve communication & interviewing skills and to develop another targeted work assessment site. A referral was also completed for work incentive planning.

**L. R.:** In July 2016, Eastco was authorized to perform a CBWA. Citing health reasons, Eastco delayed starting the CBWA. Eastco staff reported that Ms. R was still going to the Eastco workshop, but her health issues have impacted the tasks she is able to do and her overall endurance. She had lost previously mastered skills and was having difficulty staying awake.

Ms. R had a team meeting at VR on November 28, 2016. Eastco indicated that it did not believe it could meet Ms. R’s needs. Ms. R indicated that she would work with a new job developer. The VR Counselor indicated that consultation with a new job developer – Full Life – would be authorized. Full Life decided that it did not have the expertise to meet Ms. R’s needs. On March 13, 2017, Community Vision was authorized to set up a CBWA and provide job development services.

Ms. R was supposed to start her CBWA in mid-June 2017. She also had interest from an employer, Portland Garment Factory, which was interested in carving a position for her. However, her sister took her out of town for two weeks with short notice. The CBWA was delayed until July and the potential employer lost interest.

## 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 Update 2017:**

In FY2016, the State established a Supported Employment Services policy whose terms are consistent with the requirements of Settlement Agreement VI.1. The state continues to encourage employment providers to assist individuals to be successful in competitive integrated employment. The state has policies in place such that supported employment services shall be individualized, evidence based, flexible, and offered in an integrated setting. Funding for such services are available from ODDS. However, a significant delay has been seen when accessing services from VR. Due to extensive VR staff turnover, as well as high demand for intake services, VR staff, employment providers, CDDPs and Brokerages have indicated long waits for VR intake services in some geographic areas of the state. Although there are federally mandated response times once an individual has been deemed eligible for VR services, there are no time frames for waiting periods to go through VR intake.

***Settlement Agreement VI.3.c: The State was required to provide supported employment services and related employment services so that 395 individuals receiving sheltered workshop services newly obtained competitive integrated employment (retaining it for at least 90 days) from Fiscal Year 2015 through Fiscal Year 2017.***

### **Status Update 2017:**

Due to a new internal agreement between DHS and the Employment Department, the state has access to Employment Department data, which has allowed the state to consider new data when reviewing metric 11 and identify class members who are receiving employment services and working in competitive integrated employment. The parties disagree about how to measure the outcomes found in Metric 11 and Section VI.3 of the settlement agreement. The parties have not come to an agreement on this critical issue and discussions will continue into 2018.

Plaintiffs contend that the agreement requires an unduplicated count of unique individuals, so that a single individual cannot be counted more than once toward this metric over the term of the settlement. Plaintiffs also contend that in determining which supported employment services and related employment services can lead to CIE for purposes of this metric, the State should use the same methodology it used when the settlement agreement and its metrics were established —*i.e.*, the State should count individuals toward this metric if they received a successful closure through VR, or billed for three months of ODDS job development or job coaching services.

The state contends that the Settlement Agreement allows the state to continue its practice of counting new jobs obtained each fiscal year. The state further contends that the Agreement defines Supported Employment Services to include additional types of supported employment services that assist a person with IDD to obtain and maintain work in an integrated employment setting, therefore employment achieved with these additional services should also be counted.

Until these disputes are resolved, the state has reported statistics that align with the way the state contends they should be reported. The state has also provided data enabling plaintiffs to determine what the count should be using the method for which they have argued. Using both

methodologies, the state has met the minimum requirement of 395 individuals who are part of the Sheltered Workshop class who have received competitive integrated employment for at least 90 days.

Plaintiffs contend that while the Agreement has been in effect, the State has provided supported employment services and related employment services so that 412 members of the sheltered workshop target population newly obtained competitive integrated employment, cumulatively. This includes 180 individuals in Fiscal Year 2017. The total of 412 exceeds the 395 required cumulatively as of June 30, 2017. By contrast, it is the State’s position that during this time period, it provided supported employment services and related employment services so that 542 members of the sheltered workshop target population newly obtained competitive integrated employment, cumulatively, which also exceeds the 395 required as of June 30, 2017.

The number of individuals working in the following settings is shown below: competitive integrated employment, Individual Supported Employment, Self-Employment, Sheltered Workshop, and Small Group Employment.

**Table 4**

<b>Employment Counts for Target Population in March 2017 EOS Data</b>				
<b>Population</b>	<b>Competitive Integrated Employment* (CIE)</b>	<b>Self-Employed</b>	<b>Small Group Employment</b>	<b>Sheltered Employment</b>
ODDS Transition-age (14-24)	255	1	54	57
ODDS Sheltered Worker Class Member**	299	4	286	1,043
<b>Average Weekly Hours Worked for Target Population in March 2017 EOS Data</b>				
<b>Population</b>	<b>CIE Avg. Hours</b>	<b>Self-Employed Avg. Hours</b>	<b>Small Group Employment Avg. Hours</b>	<b>Sheltered Employment Avg. Hours</b>
ODDS Transition-age (14-24)	14.0	2.0	14.5	11.4
ODDS Sheltered Worker Class Member**	12.5	8.3	11.9	12.9
<b>Wages for Target Population in March 2017 EOS Data</b>				
<b>Population</b>	<b>CIE Avg. Wage</b>	<b>Self-Employed Avg. Wages</b>	<b>Small Group Employment Avg. Wage</b>	<b>Sheltered Employment Avg. Wage</b>
ODDS Transition-age (14-24)	\$ 10.30	\$ 15.00	\$ 9.80	\$ 5.16
ODDS Sheltered Worker Class Member**	\$ 10.17	\$ 7.62	\$ 9.73	\$ 4.86

*\*Individual Supported Employment is same as Competitive Integrated Employment*

*\*\*Includes all individuals found to have worked in a sheltered workshop since March 2012*

According to March 2017 EOS data, the average length of time a person worked in competitive integrated employment was 20 months for sheltered workshop class members and 15 months for transition-age individuals.

The average length of time a person worked in Small Group Employment was 53.7 months for sheltered workshop class members and 18.2 months for transition-age individuals.

***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 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 Update 2017:***

The Lane Settlement Agreement also requires that, by July 1, 2022, at least half (50%) of the transition-age target population that are counted as having received a new employment service will also receive an IPE from VR. According to the state, the total count of transition-age individuals receiving a new service from July 1, 2013 to June 30, 2017 was 2,453. Of that number, 2,043 received an IPE. This means that 83 percent of these transition-age individuals received an IPE from VR. Oregon is on track to meet this requirement based on the State's reported data.

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

***Status Update 2017:***

The Oregon Department of Education (ODE) provided the Independent Reviewer with a November 3, 2017 report titled "The Facilitation of Evidence Based Transition Services in Oregon Public Schools." The report stated that ODE coordinated a variety of trainings, activities, and collaborative projects with Oregon's Department of Human Services to support the Settlement Agreement and the Executive Order 15-01 Provisions. A list of trainings provided by ODE and the Transition Technical Assistance Network was included. The report also identified some of the ways in which the state is moving in the direction of evidence-based transition services. Specific requirements outlined in the Lane v. Brown Settlement Agreement call on the State to encourage and facilitate the continued and expanded provision of evidence-based transition services in Oregon schools.

The addendum to ODE's report states as follows:

Oregon has been selected, and participates in, the National Technical Assistance Center on Transition (NTACT) as a Technical Assistance State. With this support, Oregon has an opportunity to develop an Assistance and Professional Development Action Plan (Action Plan). This plan outlines goals to continue to expand cross-agency professional development trainings and innovative transition strategies across the state.

One specific goal of the Action Plan is to provide 36 cross-agency trainings in 2018. Topics in this training will include learning more about the Individualized Education Plan (IEP), the Individual Support Plan (ISP), and the Individual Plan for Employment (IPE), and how agencies can work together to share information to support successful outcomes employment outcomes for transition-aged students.

Another goal in the Action Plan is to increase the number of summer work experiences for students with disabilities. ODE, in partnership with VR and ODDS, created a summer youth Request for Application (RFA) in the Oregon Procurement Information Network (ORPIN) in April 2017. With blended funding, applicants had an opportunity to apply for funding to support the development of a summer youth work experience program in communities around the state. This RFA was designed to help DHS and ODE find the best way to support summer work as a sustainable service. Contracted programs focused on community integration and the summer work experience must include community-based experience. At least 20 percent of the participants must have an intellectual or developmental disability.

This RFA is part of ongoing efforts in ODDS, VR and ODE to increase job opportunities for transition-age and high school youth. The state hopes that a model program emerges from this process. All applicants must issue a report on the program and its outcomes at the end of the process. The funds are available on a rolling basis through Dec. 31, 2018.

ODE identified the Lincoln County School District as an example of individual district efforts that go beyond the RFA. In addition to the RFA, Lincoln County School district has participated for the past two years in the Summer Work Employment Experience Training (SWEET) program. This seven-week work experience program supported students from Lincoln County to gain community work experiences while they were paid at minimum wage or greater. Students also were provided first aid training, food handlers certification, and work related/soft skills training through ODEP's "Skills that Pay the Bills" curriculum. In Summer 2016, 10 students participated in the program. By summer 2017, 16 applicants were accepted into the program and 15 completed the SWEET program. This successful summer youth experience was captured in the Employment First weekly message on August 25, 2017.

### **Oregon's First Transition Conference**

In support of providing training and technical assistance, ODE, in collaboration with the Oregon Association of Vocational Support Needs Personnel, DHS, and ODDS developed the first Oregon Statewide Transition Conference in 2017. More than 500 people attended the two-day conference. The Oregon Statewide Transition Conference provided more than 60 sessions supporting the following topical strands: Educational Practices for Transition Aged Youth, Vocational Rehabilitation, Youth Transition Program, and Research and Evidence Based Practice in Transition. The conference featured presenters from ODE, local education agencies, adult services agencies, family advocacy, universities, and employment providers who presented on best practices or emerging practices in Oregon. Karen Gaffney, a self-advocate and founder of the Karen Gaffney Foundation, was one of the keynote speakers. She spoke about the importance of inclusion in schools, workplaces and the community. ODE also provided specific sessions focused on the *Lane v. Brown* Settlement Agreement and Mock Sheltered Workshop Guidance.

### **Eastern Oregon Regional Job Club**

ODE identified, as an example of an emerging practice to support the provisions of Executive Order 15-01 and the *Lane v. Brown* Settlement Agreement, the development of the Regional Job Club (RJC). This is a day-long, hands-on career exploration in the community for transition-

aged students who experience disabilities. This program was developed by the Transition Network Facilitator and communities in eastern Oregon to assist in expanding opportunities for career exploration in rural and frontier communities. During each job club, students have an opportunity to tour local employers and learn more about job opportunities and careers in multiple counties in eastern Oregon. Over the 2016-2017 school year, more than 645 students attended the 10 regional job clubs and more than 100 adults supported these events. An additional 12 events are scheduled for the 2017-2018 school year with plans for expansion to other areas around the state.

### **Seamless Transition Boot Camp**

Oregon launched a Seamless Transition Pilot in 2013. The goal is to establish a seamless transition model for transition-age (16-21 years) people with significant disabilities, with strong emphasis on intellectual and developmental disabilities (I/DD), from school to integrated paid work. This is a collaborative process that includes partnership between ODE, local school districts, ODDS, Vocational Rehabilitation, Community Developmental Disability Programs (CDDPs), Support Service Brokerages, employment providers, and family members. In August 2017, ODE and DHS provided a Seamless Transition Boot Camp for eight teams around the state. Each team was invited by its Transition Network Facilitator. All teams were asked to bring a local education agency representative, VR counselor, DD case manager or Brokerage Personal Agent, and employment provider to be a part of the team. During this two-day Seamless Transition Boot Camp, teams learned about the history and foundation of a seamless transition process and how to plan ahead when working with transition-aged students three years before they exit from school. Training on each of the agency's plan was provided and examples of sharing information between school and adult service agencies were shared. After the training, the teams scheduled time to continue to meet regularly in their communities with the support of their Transition Network Facilitator. Plans to expand and offer another Seamless Transition Boot Camp in summer 2018 are in development.

### **Creating Community Work Experiences**

The Transition Technical Assistance Network created by Executive Order 13-04 continues to encourage and facilitate the continued and expanded provision of evidence-based transition services in Oregon schools. During the 2016-2017 school year, the Transition Technical Assistance Network created and implemented a training on creating and expanding community work experiences. This training provides educators and educational support staff information regarding Bureau of Labor and Industries (BOLI) rules and regulations regarding paid vs. unpaid work experiences and internships for students. There were more than 12 trainings provided during the school year. Upon completion of this series of trainings, it was recommended by local education agencies that there be a training more specific to providing successful job coaching to students working in community experiences. The target audience for this training would be educators, transition specialists, and instructional assistants/paraprofessionals. This training will provide information regarding proper job coach training and fading, data tracking that can be useful for IEP planning and for sharing with adult service agencies and building and maintaining work relationships with community employers. This training is taking place during the 2017-2018 school year.

In addition, ODE is encouraging and facilitating the expansion of evidence-based transition services in Oregon schools. ODE is also working with its contractor FACT to provide training to families on evidence-based practices in transition. In the program reviews it was clear that schools understand that no student should be referred to a sheltered workshop. It was also consistently clear, that schools are aware that there should be no mock sheltered workshop options in any school setting.

However, it is not clear that schools understood that after students with IDD leave their transition programs, the schools can refer the students to community-based employment providers to receive competitive integrated employment services. Although ODE has put forth much effort to provide training and technical assistance toward evidence-based transition services, the results of the program review suggests that paid competitive integrated employment is rarely a component of Oregon transition programs. Many schools reported to the Independent Reviewer that although they offer students with IDD in transition options for unpaid in-school internships, very few schools offer paid employment as an option through their transition programs. This component of the settlement agreement is in process. Until schools indicate a better understanding of the importance of paid competitive integrated employment as an essential component of evidence based best practices in transition, there is still work to be done.

The state has begun work to ensure that paid work for some students in the class is a possibility. The state has created summer work grants for paid work experience at some schools. Seamless transition highlights paid work experiences for some students and the state will continue this model. The state is in compliance with this section of the settlement agreement for 2017, but the Independent Reviewer strongly suggests that ODE enhance its focus on evidenced based best practice with an emphasis on paid work for students.

***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 Update 2017:***

The results reported in the State's CDP Report as they relate to Settlement Agreement VI.7 are discussed in conjunction with the discussion of Settlement Agreement VIII. These two provisions in the Settlement Agreement are closely related, as Section VIII sets forth the requirement that the State complete CDPs for target population members, while Section VI.7 defines the State's obligation to provide supported employment services to those Sheltered Workshop Target Population members who are interested in competitive integrated employment.

In FY 2017, the state VR Office conducted its first interviews of adults in sheltered workshops paid subminimum wages. Although the provisions of W.I.O.A. are not specific to the Settlement Agreement, many of the individuals interviewed by the state as part of the federal requirements are Lane class members. As such, this data is important and relevant to Lane class members. A more detailed analysis of the data will be available in the next report of the Independent Reviewer. ODDS and VR are following up on this data. This data will be discussed in April of 2018 by the parties at their quarterly meeting. Data that Oregon gathered by interviewing individuals in sheltered employment suggests that many individuals indicated that they wanted competitive integrated employment but have not yet been connected with VR services. Specifically, the interviews produced the following results:

Responses to the Question Are you interested in competitive integrated employment?	
Number who want CIE	560
Number who do not want CIE	259
No response	45
Total surveyed	864

When the responses are broken down by provider, it shows that at most of the large providers, over 70% of the total individuals surveyed would like CIE, with Goodwill being the highest at 95%. There are, however, two outliers among the large providers – Edwards Center, where the response was only 20% and Shangri-La, where the response was zero. These two anomalies need to be further investigated. At these 2 programs the same reviewer found that 16% of the 166 individuals surveyed wanted CIE while 83% did not want CIE. In contrast, the other reviewers found that 76% of those surveyed wanted CIE and just 17% did not want CIE. As such, the State should reevaluate individuals with these two providers.

VR ANALYSIS OF INDIVIDUALS WHO WANT CIE	
Total number of individuals who want CIE and are VR client	112
Total number of individuals who want CIE but are NOT VR client	443
Number who want CIE and blanks/unknown/unclear for VR response	5

This data requires further discussion. The data will be discussed by parties at the April, 2018 implementation meeting. After the discussion, the Independent Reviewer may file a supplement to this report on the interview data.

***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 Update 2017:**

As part of a formal program review, in 2017 the Independent Reviewer conducted site visits throughout Oregon to visit with providers, brokerages, CDDPs, VR counselors, and transition programs and assess the implementation of the policy above. In the program review conducted by the Independent Reviewer, it was found that some CDDP staff do not support the concept of encouraging members of the sheltered workshop population to leave sheltered workshops and consider employment options. In addition, in the ODDS CDP review, it was found that 31% of individuals with a CDP who requested employment services did not receive the requested services.

## **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 Update 2017:**

As set forth in the July 2015 Integrated Employment Plan, the SFY 2017 target is that 12.3 percent of individuals working in Individual Supported Employment work an average of 20 hours per week or more.

According to March 2017 EOS data, 23.8 percent of individuals working in Individual Supported Employment were working 20 hours or more, higher than the 12.3 percent target.

(Numerically, the number of adults with I/DD working in individual integrated employment settings for 20 or more hours per week also increased from 181 in 2015 to 264 in 2017. Thus, according to the State's data, the State has satisfied this part of the Agreement for this year.

DHS reports that their staff promote this policy annually and issues a report of activities annually. The reports include success stories, training calls, etc.

***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 Update 2017:**

The State has been negotiated with CMS on rate issues for more than a year between 2015-2016. Rates for job coaching are based on hours the individual works versus hours of contact and were formally implemented between the end of 2016 and the beginning of 2017. CMS required a \$6.8 million-dollar payback from Oregon for implementation that occurred in 2014, prior to waiver approval. However, the waiver approval includes the requirement that the state adjust the rate annually based on the amount of direct contact time provided. This annual adjustment provides an instability for providers that may not be able to be managed. The state continues to be in conversation with internal and external stakeholders to reach a solution that

reflects best practice. The state has developed and sought CMS approval of rates that include financial incentives. The state has worked diligently to promote best practice with rates with the federal government.

***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 Update 2017:***

**Transformation Grants:**

These comments reflect input on Settlement Agreement Section VII.1.c and XI. Provider Capacity. The state has spent considerable funds helping with provider transformation by allocating grant funds to providers willing to refocus on competitive integrated employment. Living Opportunities and WISE were selected to mentor organizations committed to the transformation process state-wide through the Employment First grants. Organizations are currently being mentored, and competitive-wage jobs are being developed in community businesses, in rural and urban settings, for individuals with a wide variety of abilities and support needs. The state has funded transformation and innovation grants to focus on expanding and enhancing provider capacity for competitive integrated employment.

Phase 1 transformation grants were awarded as shown in Tables I and II and expired on December 31, 2016.

**TABLE I. Living Ops Phase 1 Transformation Grants**

Opportunity Foundation of Central Oregon	\$ 150,000
Sunrise Enterprises of Roseburg	\$ 125,000
Southern Oregon Aspire	\$ 125,000
Partnerships in Community Living	\$ 100,000
Opportunity Connections/Hood River Sheltered Workshops, Inc.	\$ 70,000
Star of Hope	\$ 80,000
Goodwill Industries of Southern Oregon	\$ 110,000
Arc of Lane County	\$ 100,000
Pearl Buck	\$ 125,000
<b>Grand Total</b>	<b>\$ 985,000</b>

**TABLE II. WISE Phase 1 Transformation Grants**

<b>Sheltered Workshop Name</b>	<b>Amount</b>
Mentor Oregon	\$ 150,000
Garten Services, Inc.	\$ 150,000
The Shangri-La Corporation	\$ 125,000
Mid-Valley Rehabilitation	\$ 125,000
Tualatin Valley Workshop	\$ 125,000
Catholic Community Services	\$ 100,000
Eastco Diversified Services	\$ 100,000
Western Idaho Training Company	\$ 50,000
Rise, Inc.	\$ 35,000
Exceed Enterprises, Inc.	\$ 125,000
SERP Enterprises, Inc.	\$ 125,000
Alternative Services - Oregon, Inc.	\$ 110,000
Willamette Valley Rehabilitation Center	\$ 100,000
Bethesda Lutheran Communities	\$ 80,000
Community Services, Inc.	\$ 50,000
Sunny Oaks	\$ 35,000
<b>Grand Total</b>	<b>\$ 1,585,000</b>

Phase 2 transformation grants have been awarded as shown in Table III and IV.

**TABLE III. Living Ops Phase 2 Transformation Grants**

Community Access	\$ 75,000
Edwards Center	\$ 75,000
Abilitree	\$ 50,000
Opportunity Foundation	\$ 100,000
MV Advancements	\$ 50,000
Sunrise	\$ 50,000
ARC	T&TA only
Aspire	T&TA only
Opportunity Connections	T&TA only
<b>Grand Total</b>	<b>\$ 400,000</b>

**TABLE IV. WISE Phase 2 Transformation Grants**

Albertina Kerr	\$ 71,000
Bethesda Lutheran	\$ 35,000
CSI	T/TA only
Eastco	\$ 35,000
Exceed	\$ 100,000
Imagine Possibilities	\$ 35,000
SERP	T/TA only
TVW	\$ 100,000
Garten	\$ 100,000
ASI	\$ 50,000
Mentor	\$ 150,000
Work Unlimited	\$ 35,000
<b>Grand Total</b>	<b>\$ 711,000</b>

The next round of transformation grants has also been awarded. DHS has awarded new grants to service provider agencies that currently provide facility-based employment or day services to help transform their organizational and program models to community-based, integrated employment services.

Phase 2, round 3 transformation grants have been awarded as shown in Tables V and VI.

**TABLE V. Living Ops Phase 2, round 3 Transformation Grants**

Sunshine	\$ 36,444
Star of Hope	\$ 35,000
Cornerstone	\$ 35,000
<b>Grand Total</b>	<b>\$ 106,444</b>

**TABLE VI. WISE Phase 2, round 3 Transformation Grants**

Horizon	\$ 50,000
Pearl Buck	\$ 100,000
<b>Grand Total</b>	<b>\$ 150,000</b>

**Innovation Grants**

In addition to these transformation grants, the State has awarded other types of grants that are designed to contribute to system reform. Originally, the State awarded start up and expansion grants to providers in FY 2015, but these funds could not be matched with federal dollars in FY 2016 (July 1, 2016 – June 30, 2017) and for that reason were not continued. Instead, the Oregon legislature appropriated dollars in the 2015-17 session for innovation grants, which were designed to fund innovative projects aimed at increasing Employment First capacity throughout the state. These grants were open to local communities and could include start up for already existing Personal Support Workers or Independent Contractors or expansion via mentoring of new providers, technical assistance, training, exploration of new models, etc.

The purpose of these innovation grants is to expand efforts to increase competitive integrated employment opportunities for people experiencing I/DD. Twenty-two grants were awarded totaling \$458,422.00. The following summaries are examples of the awarded grants; a listing of all the grants is in Appendix A.

- **Awardee:** Garten Services, Inc.  
**Location/Region:** Marion/Polk counties  
**Amount:** \$11,077  
**Project Summary:** Three partner agencies will each have a staff member certified to do benefits counseling. Create materials and provide benefits counseling to families and individuals.
- **Awardee:** MV Advancements  
**Location/Region:** Polk, Yamhill and Marion counties  
**Amount:** \$46,980

**Project Summary:** Plan and implement multi-week training program for high school staff of transition-aged youth in six school districts.

**Peer-to-Peer (P2P) Employment Project**

The P2P employment project is a collaboration between the Oregon Department of Human Services (DHS), the Oregon Council on Developmental Disabilities (OCDD) and the Oregon Self-Advocacy Coalition (OSAC) with funding provided by DHS and OCDD. This project springs from OSAC’s goal to educate, inspire and encourage people with DD to pursue integrated employment. In the P2P project, Peer Mentors (OSAC employees) are helping people understand how to use their services to find community jobs. Trained Peer Mentors co-facilitate four classes (with support as needed) for up to 12 people with DD. They also collaborate with local disability programs and community partners to help participants work towards employment goals. Participants complete classes with homework, develop action plans to reach an employment goal and receive 1:1 or small group support to implement their action plans.

To date, OSAC has implemented the P2P project in Eugene, Portland and Central Oregon. The Eugene classes were held at Pearl Buck and Alvord Taylor during December 2016. OSAC convened the Portland classes with Exceed Enterprises in January and February. Finally, DHS worked with Opportunity Foundation in Redmond to hold classes for Central Oregon participants during June and July. The table below shows the number of initial participants and class completers in each location.

**TABLE VII. P2P Participants by Location**

<b>Location</b>	<b>Host Organization</b>	<b>Number Attended First Class</b>	<b>Number Completed All Classes</b>
Eugene	Pearl Buck Alvord Taylor	16	12
Portland	Exceed Enterprise	22	12
Central Oregon	Opportunity Foundation	24	20

The next steps include incorporating final revisions into the P2P curriculum and assisting OSAC to package the materials and continuing to support OSAC Peer Mentors to provide 1:1 and group mentoring to Peers in Central Oregon. In addition, conversations will continue with OSAC and the service providers in Portland and Eugene to implement P2P and the peer support model in different settings.

The state substantially complied in 2017 with Sections VII.1.c and XI.1 of the Settlement Agreement.

***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 Update 2017:***

No changes.

**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 Update 2017:**

As required by the Agreement, the State collected and reported the percentage of persons with ID who were working in an integrated setting at least 20 hours per week. See chart below.

Population	Number in Competitive Integrated Employment (CIE)	Number in Competitive Integrated Employment (CIE) Working 20 Hours or More	Ratio
Total ODDS Population	1,111	264	23.8%
ODDS Transition-age (14-24)	255	60	23.5%
ODDS Sheltered Worker Class Member	299	66	22.1%

As set forth in the July 2015 Integrated Employment Plan, the SFY 2017 target was for 12.3 percent of individuals working in Individual Supported Employment to work in such settings for an average of 20 hours per week or more.

According to the State’s March 2017 EOS data, 23.8 percent of individuals working in Individual Supported Employment were working 20 hours or more (see Chart above), more than the 12.3 percent target. (Numerically, the number of adults with I/DD working in individual integrated employment settings for 20 or more hours per week also increased from 181 in 2015 to 264 in 2017. Thus, according to the data that it provided, the State is currently satisfying this part of the Agreement.

**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 Update 2017:*

The State reported to the Independent Reviewer on CDPs in 2017. The results are discussed below. This discussion also analyzes the State's performance under Settlement Agreement §§ VI.7 (requiring the State to provide supported employment services, if a sheltered workshop target population member's CDP states that the member is interested in competitive integrated employment) and VIII (requiring the State to complete CDPs for target population members). First, the results of the report concerning the adult sheltered workshop target population are discussed in relation to both VIII and VI.7. Second, the results of the report concerning the youth target population are discussed in relation to VIII.

#### Sheltered Workshop Target Population:

In order to determine whether all individuals in the Sheltered Worker Target Population had a CDP, ODDS reviewed CDPs for all individuals who received Employment Path Facility services in a Sheltered Workshop setting during fiscal year 2015, a total of 2,521 individuals. ODDS requested the CDPs from Case Management Entities. Members of the ODDS Employment Team examined the documents. Written instructions were provided to all reviewers. Several conference calls and two in-person meetings were also held to ensure consistency amongst reviewers.

All CDPs were reviewed to determine if a CDP had been completed, consistent with SA VIII Career Development Planning, as stated above. Thus, it was first determined whether an individual had a CDP as well as a basic review of employment related discussion. In the data review section this is referenced as "verify only."

In order to get additional information, including a more in-depth review of an individual's desired outcomes, and determine if supported employment service(s) requested were delivered as required by SA VI.7, a smaller percentage of the total had a more in-depth examination. In the data review section, this is referenced as "total review."

To determine which CDPs would be reviewed as a "total review," a sample distribution was created using a 95% Confidence Interval (CI) with a 5% Margin of Error. However, because of the number of individual Case Management Entities (CDDPs and Brokerages) providing services, it was determined a more statistically relevant sample could only be obtained by sampling at the point of service level for the total review. Normal distribution random sampling was used at each of the CDDPs and Brokerages using a random number generator based on Participant Prime Identification Numbers (Primes). A minimum of 20% of each CDDP/Brokerage was targeted for sampling and as a further level of validation.

Based on the initial review, a total of 2,521 records were to be reviewed as part of the CDP review process. Of the 2,521 only eight were unable to be obtained. Thus, a total of 2,513 were reviewed overall. Some reasons as to why CDP was not obtained included that the CDP was not completed, and the individual had passed away, dis-enrolled from ODDS services, or was no longer in any employment service. Therefore, 99.7% of CDPs were completed with a CDP Component (2023), a Decision Not to Explore ("DNE") Component (414), or both the CDP and DNE components (76). See Table A below for additional details.

**Table A**

<b>Description</b>	<b>#</b>	<b>% (as applicable)</b>
<b>Total # of CDPs Pulled for Review</b>	<b>2521</b>	
Total Reviewed	2513	99.7
Total Unable to Review	8	.003
<b>Total Reviewed (including “Total Review” and “Verify Only”)</b>	<b>2513</b>	
CDP Component Completed	2023	81
DNE Component Completed	414	16
Both CDP and DNE Components Completed	76	3
<b>Total Reviewed Breakout “Total Review” and “Verify Only”</b>	<b>2513</b>	
Verify Only Review	1796	71
Total Review	717	29
<b>Improvement needed (i.e. number of CDPs that appear to have been completed incorrectly)</b>	<b>815</b>	<b>32</b>

Using a 95% CI and 5% Margin of Error, as well as the sampling distribution outlined in the “Methodology” section above, 652 needed more in-depth reviews or “Total Reviews.” The reviewers exceeded this requirement by conducting 717 Total Reviews.

Of note with the “Total Reviews,” it was determined whether the individual requested a Supported Employment Service (including Discovery, Job Coaching, a referral to VR for Job Development, or a referral to Supported Small Group) as required by Settlement Agreement VI.7. Of 717 reviewed, 475 individuals requested a Supported Employment Service and received it, 223 requested a Supported Employment Service and did not receive it and 19 did not request a Supported Employment Service. See the Table below for additional information regarding the SES requests.

As demonstrated below, 223 individuals requested a Supported Employment Service and did not receive it. ODDS encourages Case Management Entities to document and authorize job coaching if an individual is interested in exploring job coaching; however, job coaching cannot be billed until a job is found and provider secured. Additionally, an individual may have requested a provider of a service and may have been waiting to receive that service or may have changed their decision after the initial referral. Therefore, if an individual requested a Supported Employment Service but did not receive it, additional follow up and information are needed before next steps can be determined. See Table B for additional details.

**Table B**

<b>Description</b>	<b>#</b>	<b>% (as applicable)</b>
<b>Total # of “Verify Only” Reviews</b>	<b>1796</b>	
CDP Component Completed	1463	81
DNE Component Completed	290	16
Both CDP and DNE Components Completed	43	2
<b>Total # of “Total Reviews”</b>	<b>717</b>	
CDP Component Completed	560	78
DNE Component Completed	124	17
Both CDP and DNE Components Completed	33	5
<b>Supported Employment Service (SES) Request for “Total Reviews”</b>		
Requested and Received SES	475	66
Requested and did not Receive SES	223	31
Did not Request SES	19	3

Thus, it was indicated that 66% of individuals who requested a Supported Employment Service received one, 31% of those who requested a Supported Employment Service did not receive one and 3% did not request a Supported Employment Service. As there are several reasons that an individual may request a Supported Employment Service and not receive it, the Independent

Reviewer asks that the State provide a report on why an individual did not receive a requested service as required.

The CDP report also revealed that a substantial proportion of the CDPs appear to have been completed incorrectly. A CDP comprises two components: the CDP Component, for individuals who wish to explore employment; and the DNE Component, for those who do not. Only one of the two components should be completed for each individual, depending on the individual's responses regarding his or her interest in employment. However, in many cases, both components were completed for the same individual. In other cases, a DNE component was completed when it was clear that a CDP component should have been completed instead (such as when the individual requested an employment service elsewhere on the form). Still other CDPs omitted employment desired outcomes or included problematic outcomes such as saying that a person's only possible outcome was to stay in a sheltered workshop. Further information and samples are available in Appendices 2 and 4 to this report. In total, 32% of the CDPs reviewed required some form of improvement.

To address these concerns, the ODDS employment team reviewed existing training materials to ensure that these issues are clearly incorporated and explained. Additionally, Case Management Entities with the highest percentage of improvement needed were required to attend training. ODDS has amended the CDP to clarify instructions to ensure that the most common mistakes are addressed (such as being clear that if someone is in a Sheltered Workshop setting they must complete the CDP component not the DNE component of the CDP).

ODDS has agreed to conduct another CDP review for individuals in Sheltered Workshops setting during Fiscal Year 2017. Although the sample will not include all individuals in a Sheltered Workshop setting, it will include a statistically significant sample size across Case Management entities, just as the "total review" was completed for this report. Future reviews will seek to determine if training, changes to the CDP form, and individualized follow up has yielded an improvement in overall CDP performance.

Transition-Aged Target Population:

The following facts are largely quoted from the State's Career Development Plan Report of September 2017, with some edits for clarity:

For transition aged youth, a similar assessment was completed by ODDS specific to Career Development Plans. For this study, the parties agreed on a sampling methodology, as requested by the U.S. Department of Justice. DHS sampled youths turning 20 in 2017 using a base sample size of 20 individuals for each of the eight Transition Network Facilitator Regions. In total, it was requested that **160** transition age CDPs be reviewed.

DHS determined the number of people that met the age criteria in each county by reviewing eXPRS records for client authorizations across the state, filtering by age. Then, using a random number generator, DHS pulled a representative sample from each county based on the overall percentage of eligible residents to meet the regional distribution expectations. DHS pulled **242** CDPs for review.

Of the **242, 57** CDPs were not able to go through the review process because the individuals were not or had not yet been determined eligible for employment services. Reasons for this included that the person was not Medicaid eligible; had not yet been determined for Medicaid eligibility or was Case Management Only; was no longer in service; or had moved<sup>1</sup>. As a result, DHS reviewed **185** CDPs.

Case Management Entities submitted CDPs for 100% of those in the sample who were currently eligible for ODDS employment services. This indicates, with good reliability based on the sample size, that CDPs are being completed for transition age youth.

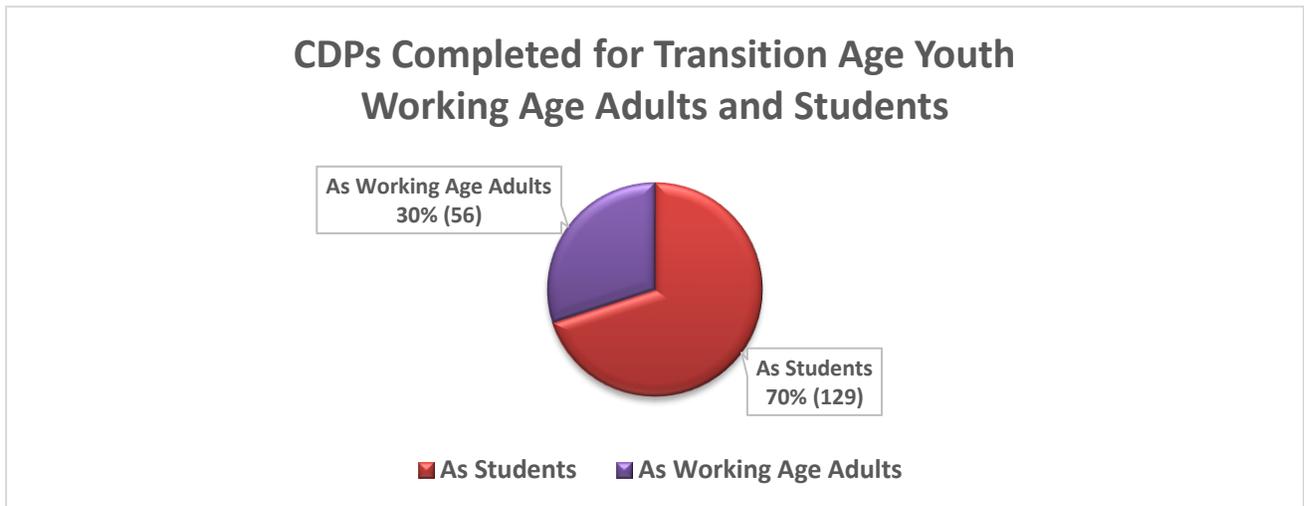
**Chart 1** shows how many of the **185**-transition age youth CDPs were completed as Students or as Working Age Adults. For youth in school and eligible for IDEA, the Service Coordinator/Personal Agent (SC/PA) completes the “Transition” (Students) Section of the CDP. The SC/PA completes the “Working Age Adults” section of the CDP for youth who are 16 or older and who have exited school. Please note that when someone’s ISP year spans time in school when they are eligible for IDEA and also after they exit school, the CDP may articulate outcomes for the time they are in school as well as after they exit school.

The DNE component is the most notable difference between completing the CDP as a Youth or as a Working Age Adult. Even if a Student chooses not to explore CIE, to avoid possibly ingraining the “no” response to even exploring CIE in a young person’s file, DHS does not include the DNE component. A Student should never have the DNE component. However, a Transition Age Target Population member who has left school and is now working-age must complete the DNE component if (and only if) he or she makes an informed decision not to even explore CIE over the ISP year.

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<sup>1</sup> Youth originally found eligible based on a Developmental Disability often undergo re-determination around age 20. The redetermination may find that the person is no longer eligible. Other people may leave services after transition, or live in-home and choose only to receive case management without having service eligibility for employment services. DHS anticipated that some people would not be in service and would not have an ISP or Plan of Care at this time. By gathering additional CDP samples, DHS ensured compliance with the number agreed upon by DHS, the Independent Reviewer and the Plaintiffs.

CHART 1



#### Competitive Integrated Employment Outcomes

Of the **185** reviewed CDPs, **117** or **63%** demonstrated a clear interest in CIE. In general, plans to explore, pursue and/or secure CIE were generally robust. As outlined above, there are differences between how a CDP is completed for a Student and a Working Age Adult. For that reason, this section will first discuss the results for Students; then Working Age Adults and then cumulative results.

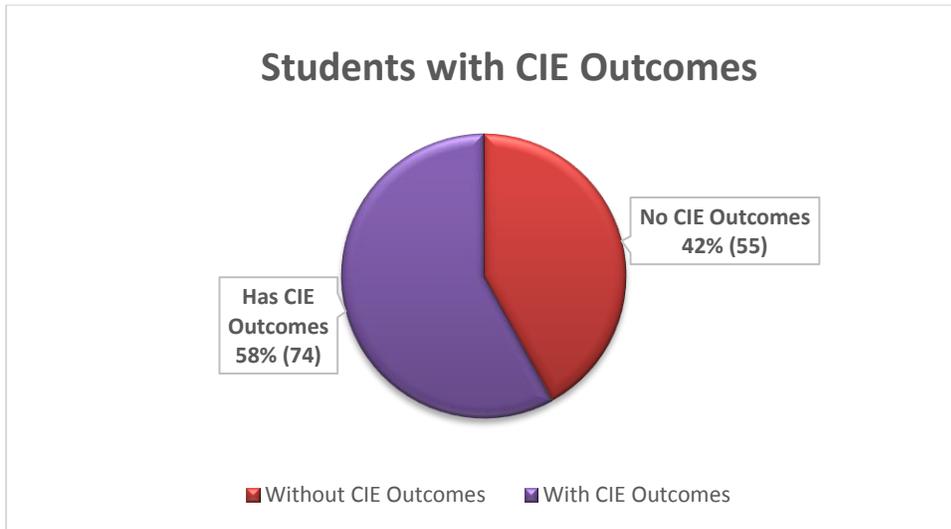
#### Students

Because a youth who is in school and is eligible under IDEA has different opportunities than a Working Age Adult who is eligible for Medicaid services, the Student Section of the CDP has different selections than the Working Age Adults Section. Because there are wording differences between programs various versions of the CDP, the choices below may differ slightly than what is on a particular version of the CDP. The choices for Students are:

- In school and wants to work now. *Develop employment outcomes.*
- In school and wants to maintain and advance in current job. Develop employment outcomes.
- In school and receiving employment supports elsewhere. *Develop employment outcomes.*
- Has an IEP with post-secondary goals or employment training focus.
- In school and not receiving any employment supports.
- Currently receiving or requesting pre-employment transition planning services through VR.

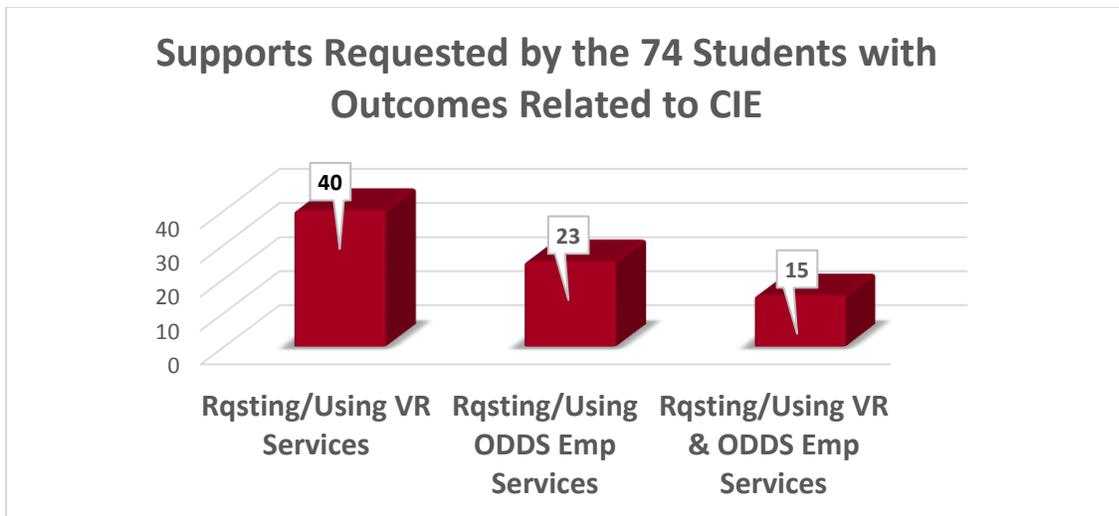
Students may choose one or more of the above selections. As shown in **Chart 2**, **seventy-four** of the **129** Students had CDPs with CIE outcomes.

**CHART 2**



As shown in **Chart 3**, **40** of the **74** Students, or **54%** are requesting or using VR services. Nearly one-third (**23**) were requesting/using ODDS employment services. **Twenty percent (15)<sup>2</sup>** were requesting /using ODDS employment services and VR services simultaneously.

**CHART 3**



The new version of the CDP should alleviate most of these mistakes. When a Student's CDP is completed, the DNE component will not be available.

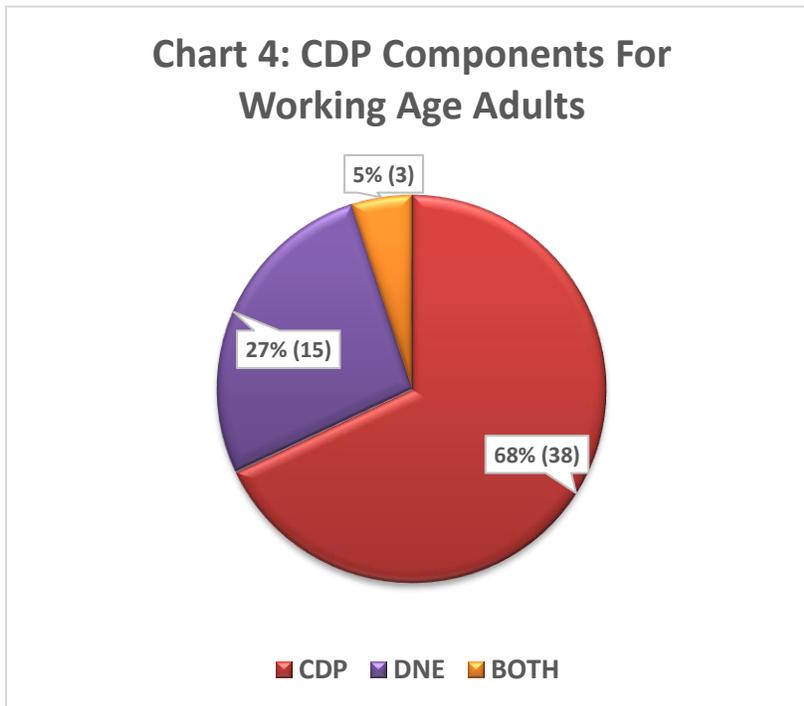
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<sup>2</sup> This number includes some of the 25 people who were requesting/using ODDS employment services.

## Transition-Age Youth Who Are Now Old Enough to Work

Again, the following factual claims are largely quoted from the State's Career Development Plan Report of September 2017, with some edits for clarity:

**Chart 4** shows how many of the **56** youth in this category had a CDP component, DNE component or both at the same time. A person should have either a CDP or a DNE component completed but not have both simultaneously.



As discussed previously, the new version of the CDP will not populate the DNE component when an individual's interest in CIE is indicated in the CDP and should alleviate most of these errors.

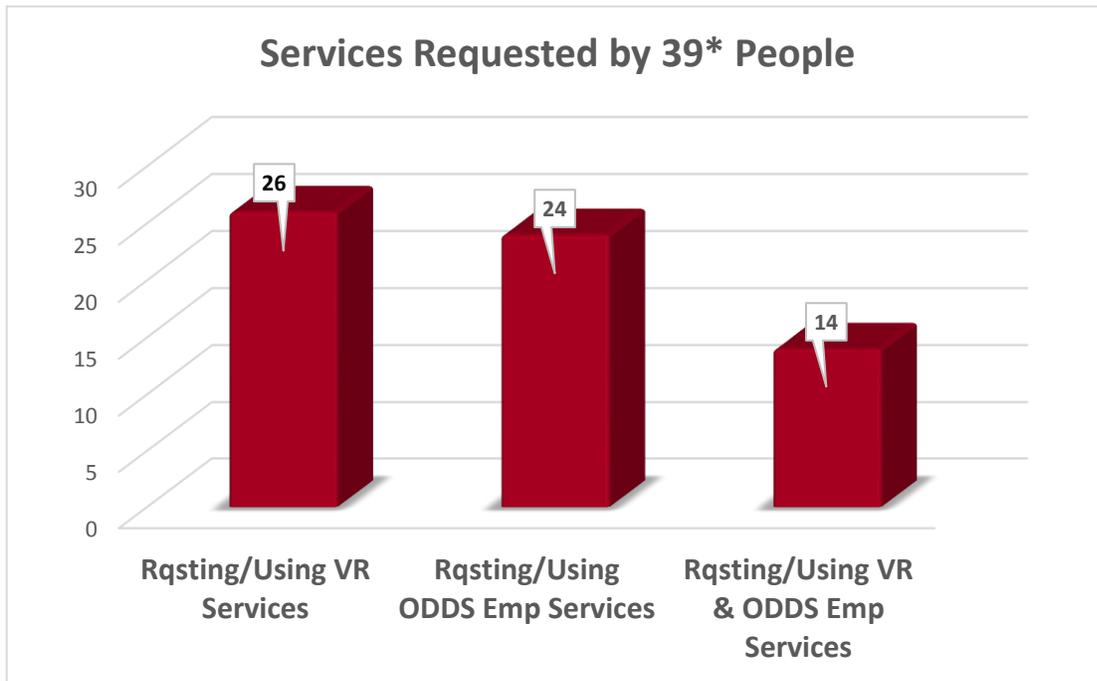
Although **two** of the **15** people who had DNE components had CIE goals, **none** of the people with DNE components were using or requesting ODDS employment services. However, **one** person with a DNE component was using/requesting VR services. The **three** people who had both a CDP and DNE

component at the same time all had CIE outcomes.

Like the students who completed CDPs, there were also a number of transition-age individuals who are old enough to work, whose CDPs reveal that they have ambitious plans.

**Chart 5** shows that **26** are requesting/using VR services; **24** people are requesting /using ODDS employment services; and **14** are requesting/using ODDS employment services and VR services.

CHART 5



\* Includes one person with both a CDP and DNE at the same time

#### Cumulative

This section features charts that combine the numbers for Student CDPs and Working Age Adult CDPs.

CHART 6

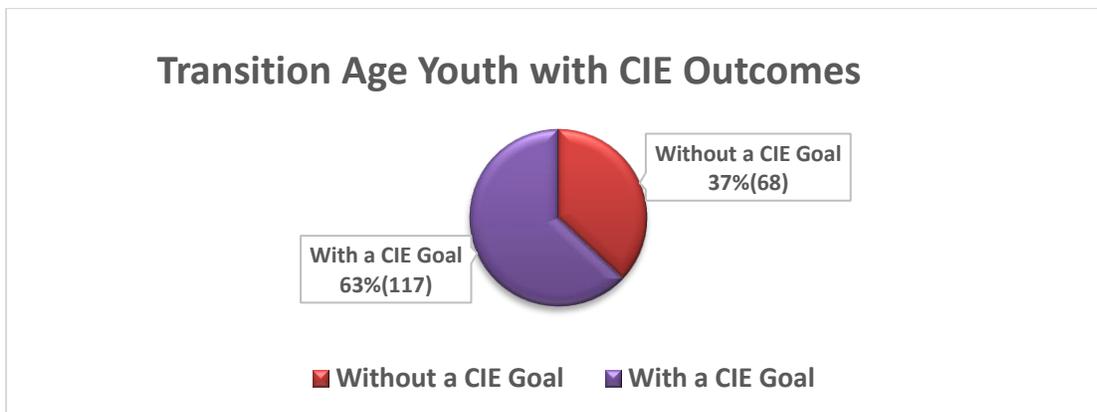
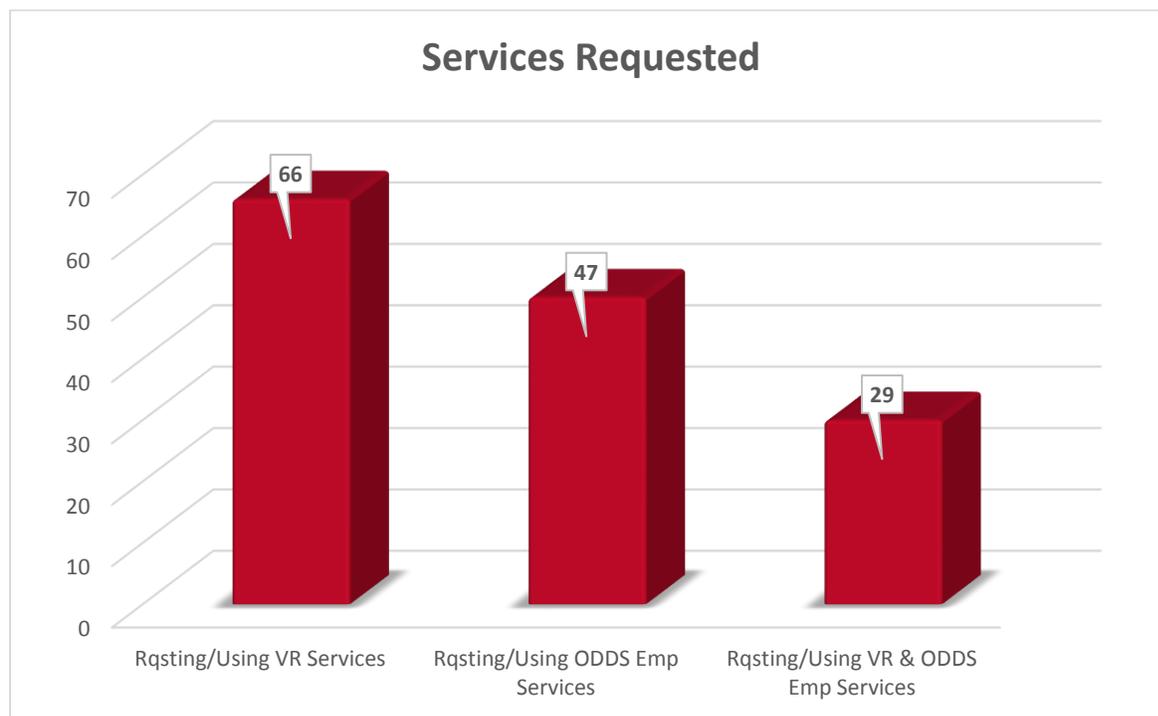


CHART 7



### 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 Update 2017:***

Based on the Independent Reviewer's preliminary discussions with impacted families, it remains unclear whether 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 continuing program reviews and

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

In the program reviews conducted by the Independent Reviewer in 2017, many school personnel indicated progress among some local schools. For example, one high school in the Portland Metro area reported, “We look at transition with a different lens” as a result of new policies that the State is implementing in connection with the *Lane v. Brown* settlement. “How do we transition from an in-school Italian soda shop run by a self-contained classroom in the school to a community work experience? We stopped the Italian soda shop because it was not inclusive. We realized that we are segregated and need to move toward integration.” Another Portland Metro high school echoed this assessment, stating that “[t]he policies make us work harder to focus on employment and are changing the thinking of professionals,” yet also cautioned that “some of that outdated thinking still exists.”

The Independent Reviewer found a relative lack of paid, individualized work experiences. While schools appear to have made efforts to expand the array of work experiences that are potentially available to transition-aged students with I/DD, the *clear majority* of these work experiences remain unpaid. Academic research and best practices strongly support the principle that placement in such paid work experiences is the single most effective method of ensuring that students with I/DD successfully transition into competitive integrated employment after they exit schools and enter the adult population. Although it may be beyond the terms of the Agreement to dictate the types of transition activities that schools must undertake, the State should encourage school districts to increase and maximize the number of students with I/DD who are exposed to paid trial work experiences.

In addition, as a policy matter, the State should assist schools in ensuring that students’ trial work experiences are individualized. Some schools reportedly rotate students through a set list of internship employers without regard to the students’ preferences. By contrast, other districts have developed more person-centered practices for selecting internships for students. For example, one school in Southern Oregon reported that before placing a student in a work experience, “First [we] find out student interests and strengths. Our transition coordinator is trained to do Discovery. She designed forms for students to request a job change for internships.” The State should assist schools and school districts so that their personnel have the training and knowledge to implement person-centered practices to the greatest extent possible in connection with their efforts to place students with I/DD in trial work experiences.

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

***Status Update 2017:***

Oregon is working with the National Technical Assistance Center on Transition. The goal of the Oregon Technical Assistance Plan is to improve transition outcomes for youth with disabilities by creating an equitable, sustainable, simplified system, aligned across agencies that reduces redundancy. The professional development plan for transition services has been shared with plaintiffs and the Independent Reviewer. The plan has 6 goals. The goals are as follows:

1. Develop an Oregon universal release of information (OUROI) combining OUROI requirements from ODE, ODDS and VR with review by legal counsel for sufficiency across agencies and then implement/field test. The tool should be final by May of 2018.
2. ODE, VR and ODD will develop and implement 36 cross agency professional development trainings (focused on employment opportunities for staff working in foster care, 24 -hour and supported living facilities, VR, parent PTI, Developmental Disabilities, tribal VR, and education) to facilitate universal information sharing (ISP, IPE, SOP), collaborative resource delivery, and promote shared outcomes of employment for all transition age students with disabilities. The training will begin in June of 2018.
3. Develop and provide professional development trainings adapted for families and foster and group home family support about ISP, IEP and SOP, and OUROI as well as on eligibility requirements and needs of each agency to provide coordinated services to youth. Training of trainers began in November 2017 and training will be held annually.
4. Increase summer work experiences for 100 students with disabilities by blending funds from VR, DD and Education. Summer work programs were operationalized in the summer of 2017.
5. Develop a data collection method to capture Pre-ETS activities as required by WIOA occurring in high schools and transition programs without a YTP contract. This work is ongoing.
6. Cross agency team will develop an educational version of the discovery tool to be used by educators to document discovery like activities completed during the student's educational programming. This will be piloted from February to May of 2018.

According to the State, these goals will provide a much-needed link from school-based services to employment services. The school-based discovery tool will aid in transition from school to work and provide much needed information to VR counselors. The data collection tool for high schools and transition programs without a YTP contract will be helpful. It has been reported to the Independent Reviewer by those who have been providing transition in Oregon, that students with IDD or significant disabilities cannot access YTP. However, OD reports that at least 30% of students in YTP in Oregon are IDD or potentially IDD eligible. The state reports a concerted effort to increase students who are IDD or have significant disabilities in YTP in the last few years.

The summer work experiences were launched in the summer of 2017, and hopefully additional funds can be allocated to continue as well as expand the program for students with more significant disabilities. Professional cross training is essential, and Oregon is moving toward a coordinated system of supports. The universal release forms through OUROI will open communication across agencies that are working cooperatively on employment first. In sum, the professional development plan appears to represent a positive step on the State's path to compliance. The Independent Reviewer will continue to assess the implementation and efficacy of the plan going forward.

In 2017, the State carried out its obligation to develop a broad-based professional development plan for transition services that includes targeted assistance provided to ODE personnel, school district personnel, and other practitioners.

## 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 Update 2017:***

DHS contracts with WISE to provide technical assistance and training to execute the Oregon Statewide Employment First Project. During the period July 1, 2016 through June 30, 2017 the training and technical assistance activities pursuant to that contract consisted of:

1. **Calendar:** Throughout the year, WISE maintained a web-based project calendar that lists events, activities and forums with projected dates to provide a schedule and planning guide for target audiences.
2. **OELN Training:** WISE submitted a Technical Assistance Plan for the fiscal year, which was subsequently approved by ODDS. WISE presented 17 two-day events to 566 attendees providing 34 days of training for the Oregon Employment Leadership Network (OELN). In addition, WISE applied to the Association of Community Rehabilitation Educators (ACRE) to obtain certification for the OELN seminar series, which was subsequently awarded. As a result, the number of individuals holding the ACRE Certified Employment Support Professional credential increased by 93 since the last report.
3. **Virtual Community of Practice Sessions:** WISE completed four web-based Community of Practice sessions during this reporting period. Topics and attendance were:
  - “Employment is Everyone’s Job: Employment Team Collaboration and Coordination,” (130)
  - “Recruit, Train, Retain: How to Build a Successful Employment Team,” (68)
  - “Making the Business Case for Hiring,” (79)
  - “Collaboration between Employment First Teams,” (75).

The Oregon technical assistance contract is in the process of rebidding through a request for proposals. The state intends to continue funding technical assistance statewide through a contracted vendor. It is important to include in the contract mechanisms to allow for statewide training that is available locally to reduce travel time and travel costs.

The state has satisfied the requirement for 2017 that it maintain a technical assistance provider to offer competency-based training, ongoing assistance, and support for evidenced-based practices to agencies that offer supported employment services.

## 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 Update 2017:**

The state has continued to fund transformation grants. However, they have changed the grants' outcome measures so that they are more specific in requiring successful outcomes for individuals in competitive integrated employment. This is a key positive change. The state has spent considerable funds helping with provider transformation by allocating grant funds to providers willing to refocus on competitive integrated employment. Living Opportunities and WISE were selected to mentor organizations committed to the transformation process state-wide through the Employment First grants. Organizations are currently being mentored, and competitive-wage jobs are being developed in community businesses, in rural and urban settings, for individuals with a wide variety of abilities and support needs. See the pertinent section earlier in the report for a full discussion on transformation grants.

The state substantially complied in 2017 with the provision that, subject to funding, the state would maintain transformation grants through June 30, 2019.

## **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 Update 2017:**

The state reported that ODE has had no negative budget impact. For VR there was a 1.8% increase from the previous budget. There will be no order of selection at this time for VR. The ODDS budget had an overall increase, but it also included significant reductions in certain program line items. Crisis intervention staff have been cut from the budget. The family support program was cut in half. Bed hold days in residential programs have been reduced. ODDS needs to cut an additional \$12 million. The priority is to not cut funding for employment.

In 2017, the state substantially complied with the necessary funding provision.

## **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 Update 2017:**

The State is providing semi-annual data reports to Plaintiffs and the Independent Reviewer. The following is a summary of the data most recently provided in the State's October 2017 Amended *Lane v. Brown* Report. Some of this data is also discussed elsewhere in this report.

### **Supported Employment Services to Target Populations for SFY 2017:**

- 656 transition age and 388 sheltered workers completed an Individual Plan for Employment with VR, for a total unique count of 1010 individuals.

- 181 transition age and 261 sheltered workers completed Discovery profiles for a total unique count of 426 persons.
- 255 transition age and 299 sheltered workers received individual supported employment from ODDS for a total unique count of 539 persons.
- 54 transition age and 286 sheltered workers were funded for small group supported employment for a total unique count of 331 persons.
- 2004 total unique individuals received a supported employment service, as members of the class in SFY 2017.
- During SFY 2014-2017 (July 1, 2013 to June 30, 2017), 4,031 unique individuals in the target populations received an employment service. This exceeds the minimum 3,000-person number of unique individuals required under the Settlement Agreement, by 1,031 persons.
- The *Lane* Settlement Agreement also requires that, by July 1, 2022, at least half (50%) of the transition-age target population that are counted as having received a new employment service will also receive an IPE from VR. The total count of transition-age individuals receiving a new service from July 1, 2013 to June 30, 2017 was 2,453. Of that number, 2,043 received an IPE. This means that 83 percent of these transition-age individuals received an IPE from VR. Oregon is on track to meet this requirement.

#### **Vocational Rehabilitation—Employment Services to ODDS Clients in SFY 2017:**

- SFY 2017 VR Closure data shows that 314 transition age and 180 sheltered worker class members successfully exited VR with employment.
- DHS examined open VR cases for all ODDS clients in SFY 2017. For this group, 140 VR counselors served 4,388 ODDS clients who had an open case at some time in SFY 2017.
- Breaking this group out by target populations, 137 VR counselors served 2,042 transition-aged ODDS clients and 118 VR counselors served 1,075 Sheltered Worker class members who had an open case at some time in SFY 2017.
- New Manual: VR released the Supported Employment Procedures Manual (VR-AR-17-03) on 6/30/17 and have revised Supported Employment policy, in draft. In addition, VR trained branch managers and VRC-IDD staff to take the lead in guiding all VR staff in their work with VR's supported employment participants.
- New Rules: VR is currently revising their Oregon Administrative Rules and began releasing them in stages during the winter of 2017 starting with Definitions and Dispute Resolution.
- Policy Releases: The following apply specifically to Employment First and were released during the reporting period:
  - VR-AR 17-02 Subminimum wage – WIOA Part 397 – directions to staff for providing services to current VR clients -- released 1/19/17.

- VR-AR 16-10 Updated Service Questionnaire, DHS 1277 – released 8/3/16.
- VR-AR 16-03 Participant Release of training, certificates, degrees, and grades information – measures credential attainment and measurable skill gain -- released 11/7/16.

### **Employment Counts for Target Population in March 2017 EOS Data:**

- 255 ODDS transition age class members were funded for individual supported employment.
- 299 sheltered workers were funded for individual supported employment.
- 1 ODDS transition age students and 4 ODDS sheltered workers were self-employed.
- 54 ODDS transition age individuals and 286 ODDS sheltered workers were funded in small group employment.
- 57 ODDS transition age (14-24) individuals and 1,043 sheltered workers were funded in sheltered employment.

### **Numbers in Competitive Integrated Employment:**

- 255 ODDS transition age individuals were working in competitive integrated employment.
- 299 sheltered workers were working in competitive integrated employment.
- 60 ODDS transition age individuals were working 20 hours or more a week in competitive integrated employment.
- 66 sheltered workers were working 20 hours or more a week in competitive integrated employment.
- The SFY 2017 target had a goal that 160 individuals in the sheltered workshop class obtain new competitive integrated employment, for a total of 395 jobs from SFY 2015-2017. An additional requirement to this metric applies to newly obtained job placements in which employment has been retained for at least 90 days, regardless of whether a person subsequently loses his or her job.
- In SFY 2017, 270 individuals obtained competitive integrated employment for at least 90 days. This leads to an overall total of 542 placements since SFY 2015
- According to March 2017 EOS data, the average length of time a person worked in competitive integrated employment was 20 months for sheltered workshop class members and 15 months for transition-age individuals.
- The average length of time a person worked in Small Group Employment was 53.7 months for sheltered workshop class members and 18.2 months for transition-age individuals.
- The SFY 2017 target is that 12.3 percent of individuals working in Individual Supported Employment have an average of 20 hours per week or more. According to March 2017 EOS, 23.8 percent of individuals working in Individual Supported Employment were

working 20 hours or more, more than the 12.3 percent target. (Numerically, the number of adults with I/DD working in individual integrated employment settings for 20 or more hours per week also increased from 181 in 2015 to 264 in 2017.

- Using the method of counting that plaintiffs prefer; the count is 412 individuals. To avoid disputes for the time being, the State has reported the data in the way the State believes is appropriate but is including the data if the plaintiffs preferred methodology is used. The requirement for 2015 to 2017 was a total of 395. Under either method, the State has satisfied Metric 11 for this fiscal year.

#### **People in sheltered workshops:**

- The SFY 2017 target was to reduce the number working in sheltered workshops in the March 2017 census to 1,530 individuals. The March 2017 EOS census calculated that, there were 1,043 individuals in sheltered employment (an annual reduction of 362 individuals), which satisfies Metric 9.
- The SFY 2016 target was to reduce the hours worked in sheltered employment in the March 2017 EOS Census to 66,100 hours. The March 2017 EOS census calculated that there were 53,857 hours worked in sheltered employment, which is less than the 66,100-hour target, which satisfies Metric 10.

#### **Training Data:**

- According to the DHS iLearn Core Competency Training data, 980 persons have completed provider training, including job coaching, job development or Discovery training.
- According to the Association of Community Rehabilitation Educators (ACRE) certificate registry, 197 employment professionals in Oregon have obtained an ACRE Certification.
- According to the Association of People Supporting Employment First (APSE), 313 employment professionals have achieved the Certified Employment Support Professional (CESP) credential in Oregon.
- According to Washington Initiative for Supported Employment (WISE), which is contracted to deliver Oregon Employment Learning Network (OELN) certificates, 94 Employment Professionals have obtained the DHS Employment First OELN certification.
- According to VR's SFY 2017 case closure data for job development contracts, there were 67 job developer vendors who served Sheltered Worker class members and 84 job developer vendors served transition-aged ODDS clients.
- Currently DHS/Work Incentives Network contracts with six Independent Living Centers to provide benefits counseling throughout the state. In total, the six centers have 11 counselors. Disability Rights Oregon also administers a benefit planning program called "Plan for Work." Both programs serve all types of disabilities, not just the I/DD population.

In 2017, the state substantially complied with Sections XIII.1.a and .b of the Agreement.

***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 Update 2017:***

ODE shared some summary results from the Post School Outcomes Survey (PSO). Oregon reported that it had added a few questions to the federally mandated questions specific to the Lane Settlement Agreement. ODE reported that it provides training to school districts on how to complete the PSO. ODE offers stipends to incentivize school districts to complete the survey. For the school year ending in 2016, 2937 students were interviewed statewide. The data provided to plaintiffs and the Independent Reviewer was incomplete. In the summary results, the results indicated that of those interviewed, 941 had a paid job, 116 were not sure if they had a paid job, and 2000 did not respond. Plaintiffs and the Independent Reviewer asked for more detail data from the PSO school year ending in 2017.

When asked how ODE was utilizing this key data, there were mixed responses from ODE staff. One staff member reported that it was local school districts, not ODE, that should use the data to improve outcomes. Another ODE staff member responded that ODE staff is using the data and going to districts to talk about training needs and then provide technical assistance through the transition network facilitators and others as needed.

In the future, it would be helpful to have the aggregate PSO data, in addition to the summary results, which would better enable the Independent Reviewer to identify trends and next steps. In the program reviews, school districts indicated that they were looking at the PSO data for the first time as a tool to improve services. ODE should place additional value on this data, assure that it is as complete as possible, and utilize the data to move toward evidence based best practices. The data shared with the parties should be more thorough and presented in a fashion that is understandable.

**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 Update 2017:***

This data is reported on in the section from the Settlement Agreement XIII. According to the DHS iLearn Core Competency Training data, 980 persons have completed provider training, including job coaching, job development or Discovery training.

According to the Association of Community Rehabilitation Educators (ACRE) certificate registry, 197 employment professionals in Oregon have obtained an ACRE Certification.

According to the Association of People Supporting Employment First (APSE), 313 employment professionals have achieved the Certified Employment Support Professional (CESP) credential in Oregon.

According to Washington Initiative for Supported Employment (WISE), which is contracted to deliver Oregon Employment Learning Network (OELN) certificates, 94 Employment Professionals have obtained the DHS Employment First OELN certification.

According to VR's SFY 2017 case closure data for job development contracts, there were 67 job developer vendors who served Sheltered Worker class members and 84 job developer vendors served transition-aged ODDS clients.

Currently DHS/Work Incentives Network contracts with six Independent Living Centers to provide benefits counseling throughout the state. In total, the six centers have 11 counselors. Disability Rights Oregon also administers a benefit planning program called "Plan for Work." Both programs serve all types of disabilities, not just the I/DD population.

The state remains in compliance with the competencies requirements of the Executive Order for 2017.

#### ***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 Update 2017:***

In addition to outreach to the general public, employers, clients and their families, Employment First's communication effort is a cornerstone of maintaining and increasing system capacity by reminding "troops in the field" that what they are doing not only matters, but changes lives for the better. The following communication activities were undertaken during the reporting period:

- Employment First has partnered with the Oregon Resource Association to produce both 30-second and 15-second radio spots to air statewide through the Oregon Broadcaster's Association on all commercial radio stations, as well as guaranteed ad buys through iHeart Media in the Portland metro area during drive time, to direct potential job seekers to vendor agencies.
- Employment First's statewide marketing campaign continued including billboards, transit signage, radio and print ads, posters and pamphlets.
- In-depth Success Stories are being produced describing positive system outcomes from multiple perspectives including Clients, families, employers and the employment professionals who helped bring about these outcomes.

- ODDS released transmittals 16-077 and 16-079 explaining the new streamlined processes for enrolling new and renewal personal service workers/job coaches, and independent contractor discovery specialists/job developers, respectively. Streamlined enrollment processes should encourage qualified individuals to enroll who otherwise were put off by the previous confusing and burdensome requirements.
- Employer focused outreach is being conducted, including:
  - Employer-focused statewide radio ad in cooperation with the Oregon Broadcaster's Association.
  - Created a window decal that employers that hire people experiencing I/DD can use to brand their businesses.
  - Produced an employer web page with video testimonials from employers.
  - Increased employer engagement on social media by tagging the employer's Facebook page when we share a story. This is a win-win strategy for both Employment First and the employer because it increases exposure for both beyond normal reach through views and multiple shares.

In 2017, the state remained in compliance with the Executive Order's outreach and information plan provisions.

#### ***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 Update 2017:***

ODE provided the following training during the reporting period:

- Planning Alternative Tomorrows with Hope/Making Action Plans Facilitation training to regional Training Network Facilitators (TNFs) and ODDS Regional Employment Specialists.
- Better Employment Success Together (BEST) Trainings in Jackson and Coos Counties. These were the last two of ten trainings across the state.
- A total of 600 persons attended the Transition Conference, featuring Settlement Agreement and Mock Sheltered Workshop presentations.

In addition, ODE developed other trainings, plans and tools:

- Work experience development and coaching training. This is a training series aimed to support teachers and school staff in creating and supporting students in community work experiences. The materials have been developed and piloted in one region. The trainings are scheduled to be presented in multiple regions around the state this academic year.
- TNFs are trained as Person Centered Planning facilitators. The plan is to have all Training network facilitators provide Person Centered Plans (PCPs) in their region for 2017-2018, then will train others in their region to become person centered planning facilitators.

Training other stakeholders will expand capacity and will be a low cost/no cost opportunity for teams to provide PCPs in their communities.

- National Technical Assistance Center on Transition intensive technical assistance plan to be implemented in the 2017-2018 tracking year.
- TNF tracking app - This application allows the ability to track the location and activities of when and where TNFs are going around the state, allowing ODE to gather data regarding direct contact to local education agencies, VR, Employment Providers, ODDs, Family outreach, Pre-Employment Transition Service activities, and trainings provided in each assigned region.

In 2017, the state remained in substantial compliance with the Executive Order's transition strategies provisions.

#### ***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 Update 2017:***

The previous MOU between ODDS, VR, and ODE was replaced by a new MOU in May 2017. Copies are available online. The state remains in substantial compliance for 2017 with the Executive Order's MOU provisions.

#### ***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 Update 2017:***

The state of Oregon has had significant staff turnover in the QA ODDS position. The state shifted some of the quality metrics from the 2015 QA Plan as part of the Settlement Agreement. The State has also shifted some of the components of the 2015 QA Plan to the new Provider Capacity Report. The state will now develop an annual Provider Capacity Report. The first Provider Capacity Report was made available in September of 2017. This report also addresses some of the systemic issues identified by the Independent Reviewer's Program Review. ODDS is actively recruiting for a new staff to work on the QA Plan.

In 2017, although the state substantially complied with the Executive Order's quality improvement provision, this is an area that would benefit from more work, more staff and more progress.

#### ***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 Update 2017:**

The EO Policy Group continues to meet monthly with leadership from ODDS, VR and ODE. The Independent Reviewer participates, typically on the phone, but also in person when possible. Disability Rights Oregon continues to be an active member. In 2017, the state substantially complied with the Executive Order's policy group provisions.

## **Client Review**

In 2018, 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.

### **Status Update 2017:**

#### *Methodology for Individual Assessment for the Lane Independent Review*

(Modified January 2018)

1. Develop survey instrument based on:
  - a. Employment/transition questions from the National Core Indicator Survey for each of the groups
  - b. Questions developed by the Court Monitor in the Rhode Island Consent Decree and Interim Settlement Agreement (permission granted by Charles Moseley) in the areas of employment and Community-based Day Services.
  - c. Employment questions from the Essential Data Elements (EDE) 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.
  - d. 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.
2. A sampling strategy will be determined, to insure a representative sample is chosen for the two groups of individuals of interest to the parties and the Independent Evaluator – those who are employed, having left sheltered workshops and those transitioning from school to adult life. Possibilities for sampling strategy include:
  - a. Simple random samples of individuals from each of the two groups;
  - b. Cluster sampling, where geographical areas are identified as the clusters; once the clusters are identified a sample of clusters is selected and then individuals in the two groups are identified through random sampling in each of the clusters selected. Cluster sampling increases efficiency and decreases

costs but does not ensure representation from each of the clusters as the cluster is the sampling unit.

- c. Stratified random sampling, where strata (in this case geographic areas) are identified and a random sample is selected from each of the strata – this is less efficient but ensures each of the strata will be represented in the sample.
3. Finalize instrument (February 2018)
  4. Meet with parties to finalize instrument and process (February 2018)
  5. Recruit and hire data collectors through OHSU (February 2018 – May 2018)
    - a. Recruit data collectors who have significant experience working with people with disabilities, specifically in the areas of employment and transition from school to work. Some of the data collectors will be individuals who have participated in data collection for National Core Indicators (NCI)
    - b. OHSU will identify those individuals with the most significant experience and ask if those individuals are willing/able to conduct the individual reviews for Lane class members.
    - c. Once the group of experienced data collectors is identified, training will be provided to them specific to the Settlement Agreement and its provisions. Training will also be provided in assessing best practices in employment and transition. Training may be provided by the Independent Evaluator or Derrick Nord, specifically in case judging.
  6. Pilot data collection instrument
    - a. Independent Evaluator and Consultant which each collect data for about 10 individuals (April 2018)
  7. Obtain IRB approval at OHSU (February 2018).
  8. Begin annual data collection (July 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

### *Status Update 2017:*

The Program Review interviews that the Independent Reviewer conducted in 2017 enabled the Independent Reviewer to make the following additional observations regarding the State's progress on this obligation and on issues that may call for extra attention going forward. Although the state is generally complying with the terms of the Agreement, the state is promoting organizational and systems change. This type of change takes time and requires systemic changes. Ensuring that all new policies, grants and training result in widespread improvement requires coordination in the effective delivery of employment services. This is an ongoing task and the state appears to be committed to this organizational change. The following are areas of systemic change that could be enhanced as the state moves forward.

### **Lack of Capacity of Job Developers, Job Coaches, and Other Service Providers Necessary to Implement the Settlement Agreement**

Although the state is working on improving provider capacity, numerous interviewees across all settings and all geographical areas expressed serious concerns regarding a lack of sufficient staff to meet the demand for employment services. In 17 of the 63 interviews, there were reports of insufficient staffing at VR (case managers, job developers); and in 21 of the interviews, there were similar reports with respect to insufficient staffing at ODDS and its employment providers (case managers, job coaches, ODDS staff, Discovery personnel), including eight in which the reports focused specifically on Discovery. These personnel shortages present a challenge to expand capacity at the provider level and reduce staff turnover. There appears to be an insufficient number of job developers employed by VR as private providers in many areas of the state.

### **Access to VR**

Another eight interviews revealed, more generally, that there are inordinate delays in receiving services through the State's employment system, especially from VR. Interviewees cited wait times as long as three months for VR intake, and one CDDP stated that delays sometimes last so long that "[w]e have providers who find people jobs, but they lose the jobs waiting for VR." Another noted that VR was "not ready to handle all these people coming to get a job" due to these capacity issues, and thus VR "only takes a few people with I/DD a month for the whole county for orientation."

A state hiring freeze in VR caused multiple vacancies to occur in SFY 2017, which impacted VR to maintain full staffing of VR counselors. VR reports it was able to fill these vacancies toward the end of 2017. According to the DHS Employment First Report on Outcomes and Successes for October 2017, VR did help more than 700 individuals with IDD to get a job in the community which the state reports is a 24% increase from prior years.

### **Lack of Effective Interagency Coordination**

Complaints about the lack of effective interagency coordination within the State's employment services system were commonplace. These concerns came from across the State but were especially prominent in Eastern Oregon. For example, one CDDP in that region stated that "VR

seems not to want to do anything and sends the people back to us,” while “ODDS says we have to go through VR and then they pass them back like a hot potato.” Employment service providers in Eastern Oregon echoed these concerns, with one stating that “ODDS is not always willing to work with VR,” and another describing the process as “broken.”

Comments on interagency coordination in other regions of the State were mixed at best. In the Portland area, one provider agency stated “[t]here’s a lot to be improved,” while another labeled the process “cumbersome” and “awkward.” Yet another responded, “Sometimes it works great. Sometimes it’s horrible.” In Southern Oregon, one provider agency stated that the process “goes terribly,” citing the example of one individual with I/DD who lost a job and wished to find a new one: “Brokerage referred him to VR. VR said no, they won’t reopen his case for job development because they thought he was too independent. So now he’s in Employment Path.” Other interviewees likewise indicated that the process of coordinating between different agencies was difficult, although they also indicated that the situation was gradually improving in their regions.

Considering these interviewees’ comments, the State should take steps to improve the level of communication between VR, DD, and providers. Agency leaders at the State level should work in concert, through training, meetings, or other joint communications, to develop closer and more effective working relationships among on-the-ground agency personnel and providers at the local level, particularly in Eastern Oregon, as well as set clear expectations that such local personnel and providers are to work cooperatively always. In addition, agency leaders should work together to conduct their own interviews of local personnel and providers to troubleshoot for future problems with respect to coordination and cooperation.

### **Poor Quality of Some Discovery Profiles**

Of the interviewees who expressed an opinion about Discovery, a majority voiced strong criticisms. Only a small handful of interviewees expressed enthusiastically positive opinions about the efficacy of this new service. However, many indicated that Discovery, if done correctly, was an essential service to move toward employment.

Most criticisms reflected a perception that many Discovery Profiles were of poor quality. Many brokerage staff offered negative assessments of Discovery Profiles completed in the past.

While many felt that Discovery is of such poor quality that it is redundant or a waste of time, several others said that the problem was lack of access to Discovery, either due to lack of available staff or lack of funding. As previously noted, eight interviewees specifically identified Discovery as a service that has been negatively impacted by a lack of capacity.

Provider agencies also expressed frustration. In March 2017, two agencies in Eastern Oregon indicated that, as of that date, CDDPs were not funding Discovery in that area. Both indicated that they had asked their respective CDDPs for funding for Discovery, but their CDDPs had refused. This has been corrected, staff have been retrained. This is not allowable under Medicaid.

Yet, other CDDP staff and Employment providers value Discovery, if done well. Many statewide interviewees commented that it makes better sense for VR to contract with the same provider

to do Discovery and Job Development for an individual. It is confusing and lacks coordination of if one entity does the Discovery profile and then another entity is charged with job development. Continuity of supports is important.

The State should increase its efforts to ensure that CDDPs and brokerages recommend, fund, monitor, and use Discovery as required by State rules. The widespread critiques of Discovery's quality, its usefulness relative to other supported employment services, and its availability suggest that the State would benefit from working with system stakeholders —especially brokerages, VR personnel, and provider agencies —on training and on maximizing the quality of and access to Discovery.

The state conducted a statewide focus group which included VR Managers, VR Counselors, Provider Organizations, SC/Pas and Transition Network Facilitators in 2017. The purpose of the focus group was to identify ways to improve the quality of Discovery. DHS intends to implement new training in 2018 as well as policy changes in early 2019. The state should prioritize these changes in the coming months.

### **Lack of Available Services for Individuals with Greater Needs**

Executive Order 15-01 § IV(1)-(2) requires ODDS' and VR's employment services to be evidence-based, individualized, and of a type and duration that are tailored to each recipient. Yet interviewees reported that individuals who have greater needs and/or require personal care services are not able to access necessary employment services from providers or VR. Interviewees stated that individuals with high needs who find jobs may then lose them due to the requirement to taper job coaching services. One provider agency in Eastern Oregon stated that "VR pushes back on funding for individual supports for adults with I/DD who have more significant needs," while a Portland Metro brokerage added that Discovery providers often refuse to support individuals with personal care support needs.

ODDS implemented a rate model that has 6 tiers and 3 categories designed to provide financial incentives to provide services to those with higher needs. VR also has a 3-tier system, which allows higher rates for individuals with higher needs and is one of the only VR programs in the US to offer such a rate system. This system was designed through interagency collaboration. However, more work is needed to make sure the providers better understand the system and that individuals with higher needs receive services based upon individual needs.

The State should clarify to VR offices and provider agencies that all individuals in the target populations are equally deserving of supports, and that individuals may not be given lower levels of priority, let alone turned away from services, based on having more complex needs.

### **Opportunity to Expand Paid, Individualized Work Experiences in Schools**

Eleven schools and school districts were interviewed as part of the program review. Many interviewed indicated progress among some local schools. For example, one high school in the Portland Metro area reported, "We look at transition with a different lens" as a result of new policies that the State is implementing in connection with the *Lane v. Brown* settlement. "How do we transition from an in-school Italian soda shop run by a self-contained classroom in the school to a community work experience? We stopped the Italian soda shop because it was not

inclusive. We realized that we are segregated and need to move toward integration.” Another Portland Metro high school echoed this assessment, stating that “[t]he policies make us work harder to focus on employment and are changing the thinking of professionals,” yet also cautioned that “some of that outdated thinking still exists.”

The most significant deficiency was the relative lack of paid, individualized work experiences. While schools appear to have made efforts to expand the array of work experiences that are potentially available to transition-aged students with I/DD, most of these work experiences remain unpaid. Academic research and best practices strongly support the principle that placement in such paid work experiences is the single most effective method of ensuring that students with I/DD successfully transition into competitive integrated employment after they exit schools and enter the adult population. Thus, the State should encourage school districts to increase and maximize the number of students with I/DD who are exposed to paid work experiences.

In addition, the State should assist schools in ensuring that students’ work experiences are individualized. Some schools reportedly rotate students through a set list of internship employers without regard to the students’ preferences. By contrast, other districts have developed more person-centered practices for selecting internships for students. For example, one school in Southern Oregon reported that before placing a student in a work experience, “First [we] find out student interests and strengths. Our transition coordinator is trained to do Discovery. She designed forms for students to request a job change for internships.” The State should assist schools and school districts so that their personnel have the training and knowledge to implement person-centered practices to the greatest extent possible in connection with their efforts to place students with I/DD in work experiences.

#### **System Issues from the regional program reviews:**

1. Offer technical assistance and training to the CDDP’s and Brokerages who have filed incomplete or inaccurate Career Development Plans. **Update:** The state found about 30% of the CDP’s in need of correction. TA has been made available and CDP’s have been rewritten, for the 30% with plans of correction.
2. Consider making employment training mandatory for all CDDP and brokerage staff. **Update:** Training was required for agencies that had a 30% correction rate or higher on the CDP’s. DHS has also created an online CDP training for new case managers and broker staff and or those who may need a refresher course on how to complete a CDP and wrote SMART employment goals.
3. Provide additional training and mentoring to VR counselors with a large number of people with IDD on their caseloads. **Update:** VR is now hosting regular conference calls with VR counselors on the Lane Settlement Updates.
4. Provide additional direction to the field that referral to VR can start during Discovery. **Update:** It is not clear if formal direction has been provided, but many CDDP’s and Brokerages report that this is their new protocol. However, it has not been embraced statewide.

5. VR should create a checklist of data needed by VR for referral to employment providers, brokers and CDDP's. **Update:** DHS has worked with stakeholders to develop a uniform referral which will be piloted in March of 2018.
6. Could VR and ODDS and ODE clarify how a person with IDD can go directly to VR without going through the CDDP, Brokerage, or school? **Update:** A revised exception process has been created and staff have been informed of how and when to utilize the protocol.
7. Until Oregon has a comprehensive case management system, in the meantime is there a way to aggregate key data points from the CDP such as employment data from the ISP and CDP? **Update:** DHS continues to work with CCDDP's and Brokerages to manually review CDP's.
8. As in every state, transportation is an issue, especially in rural areas. **Update:** ODDS is working to offer innovative solutions to transportation barriers. ODDS created a new transportation website which contains local transportation resources.
9. The state should clarify to the CDDP's that if an individual wishes to use the waiver funded services called, Discovery, then access should not be denied based upon the opinions of particular CDDP Director(s). **Update:** DHS has discussed the federal requirements to offer individuals choice and make referrals to available services.
10. Some transition programs require students to pass a class in order to be considered for work experiences. Some students never pass the class after taking it three times. Should technical assistance address this?
11. In many transition programs, work experiences are unpaid, yet the data and research demonstrate that students with a paid job prior to graduation have a higher success rate for employment post-graduation. **Update:** DHS with ODE is offering summer work grants that require paid work experiences to help students access paid work experiences.
12. More Students with significant disabilities should be included in the Youth Transition Programs. **Update:** ODE reports that the number of students with significant disabilities continues to increase. About 30% of YTP participants are students with significant disabilities. That number needs to continue to increase.
13. Clarification is needed with foster placements staff about denying a paid work experience for an individual. **Update:** DHS is developing an employment training for families and residential providers to be released in 2018.
14. A comprehensive case management system would allow the state to have accurate data and information across the state and across ODDS, VR, and transition.

## **CONCLUSION, SUMMARY OF IMPLEMENTATION FOR SFY 2017 BY THE NUMBERS and RECOMENDATIONS:**

### **Vocational Rehabilitation (VR) Employment Services to ODDS Clients in State FY 2017**

According to the data that the State calculated and provided:

- 1697 total unique individuals received a new supported employment service as class members in SFY 2017.
- 656 transition-age youth and 388 employees in sheltered workshops completed an individual plan for employment, total count of 1010 individuals;
- 205 transition-age youth and 189 employees in sheltered workshops, total count of 382 people received supported employment and during SFY 2014-2017, 4,031 unique individuals in the target populations received an employment service, exceeding the 3,000-person target by over 1,000 persons.

**Sheltered Employment:** The SFY 2017 target was to reduce the census of individuals in sheltered workshops. The goal for March of 2017 was 1,530 individuals, based on state data the census is 1,043.

The state reports that it has met the numerical benchmarks in the settlement agreement for SFY 2017. The State calculated that members of the sheltered workshop target population worked 53,857 hours in sheltered employment, which is less than the target of 66,100 hours worked.

#### **Number of individuals working in competitive integrated employment:**

There is still a dispute among the parties on how to calculate this data. To avoid disputes for the time being, the State has reported the data in the way the State believes is appropriate but is including the data if the plaintiffs preferred methodology is used.

According to March 2017 EOS, 23.8% of individuals working in Individual Supported Employment were working 20 hours or more, more than the 12.3% target. With employees making at least minimum wage.

In SFY 2017, 270 individuals obtained competitive integrated employment for at least 90 days. There has been an overall total of 542 placements since SFY 2015.

#### **Highlights for State Fiscal Year 2017 for Oregon:**

1. The state published the Employment First Outcomes and Successes Report in October of 2017, the report showed that 1,111 people with IDD were working in community jobs with supports as of March 2017. This represents a 32 percent increase from last year. There was also a 46 percent increase in people with IDD working 20 or more hours per week.
2. Of those 1,111 individuals, 255 ODDS transition age class members were funded for individual supported employment and 299 sheltered worker class members were funded for individual supported employment. 60 transition age individuals were working 20 hours or more a week in competitive integrated employment. 66

- sheltered workers in SFY 2017 were working 20 hours a week or more in competitive integrated employment.
3. 542 class members have worked in competitive integrated employment for at least 90 days since SFY 2015.
  4. The state launched the second phase of the employment marketing and outreach campaign, "I Work We Succeed."
  5. ODDS, VR and ODE worked jointly to launch a summer work experience initiative to increase paid work opportunities for youth with disabilities.
  6. ODDS and VR trainings were revised and updated based on stakeholder feedback.
  7. Innovation grants were awarded to 20 entities throughout Oregon to increase capacity and employment outreach efforts for individuals with IDD.
  8. Additional transformation grants were funded to assist employment provider agencies to transform from legacy services to community-based employment services.
  9. ODDS hosted a statewide employment conference with over 350 participants to network and discuss best practices about Employment First.
  10. ODE hosted a statewide transition conference with over 600 participants to network and discuss best practices about transition.
  11. VR provided career counseling, information and referral to 1,239 individuals working in subminimum wage employment.
  12. ODDS redesigned the employment outcomes system online to highlight employment provider agency capacity with an easy to use system to help people with disabilities, families, case coordinators, school transition personnel and VR to understand where there is capacity in Oregon for employment providers and to allow informed choices by consumers of employment services.
  13. The state launched a Peer to Peer Employment Project with the Oregon Self-Advocacy Coalition in conjunction with the Oregon Council on Developmental Disabilities.

### **Recommendations from the Independent Reviewer's Program Review**

1. The State should outline strategies and report on work done to build provider capacity, particularly in areas where it has been identified that there is a lack of employment provider capacity. The report should be shared with the IR and plaintiffs by September 2018.
2. The Program Review revealed that numerous persons in the employment service system lack confidence in the quality of many Discovery Reports. The State should ensure that CDDPs and brokerages recommend, fund, monitor, and use Discovery as required by State rules. The state should continue to retrain CDDP's and brokerages to maximize the quality of the service and ensure consistency and confidence in the process. Wherever possible, the entity doing Discovery, should also provide job development, unless the individual requests someone else to do so.

3. The State should clarify to VR offices and provider agencies that all individuals in the target populations are equally deserving of supports, and that individuals may not be given lower levels of priority or turned away from services based on having more intense needs.
4. ODE should provide guidance to school districts to increase and maximize the number of members of the Transition Age Target Population, including those with more intense needs, who are exposed to paid trial work experience before exiting into the adult service system. ODE should also assist schools in ensuring that such work experiences are individualized and person-centered, rather than simply rotating students through a pre-set list of internship employers.
5. Statewide there is a need for additional benefit counseling.

### **Recommendations for Class Members in the Sheltered Workshops**

1. For individuals in sheltered workshops who indicated an interest in competitive integrated employment and are not already a VR client, ODDS and or their agents (CDDPs and Brokerages) should review the Career Development Plans for those individuals. Each of these individuals should be referred, on a rolling basis, to VR for intake and assessment. VR should provide the Independent Reviewer with a plan and timetable for completing these referrals within SFY 2018.
2. ODDS should develop a Case Management System which will allow for improved follow up and data for all individuals in sheltered workshops and transition populations.
3. The State should improve its tracking of Sheltered Workshop Target Population members who enter CIE, so that it can know whether and when an individual leaves CIE, regardless of whether the individual initiates a request for new VR or other services. Although this is not specifically required by the Settlement Agreement, it would enhance the state's capacity to understand what contributes to successful competitive integrated employment.

### **Recommendation on Youth Transition Issues**

1. Given the State's explanation that "Decision Not to Explore" (DNE) components had been completed in error on the CDP's of certain members of the Transition Age Target Population, the State should provide increased technical assistance regarding (a) how and when to complete DNE components, especially for transition-aged youth, and (b) how to discuss employment with transition-aged youth and their families in a manner that ensures that they are making a truly informed choice about whether to pursue employment.
2. While the state has made progress among the target populations, overall, there appears to be a lack of students with more significant I/DD included in school district Youth in Transition Programs (YTP). ODE and VR should look at creative ways to expand the number of YTP Programs and to incentivize school districts to include students with significant disabilities in Youth in Transition Programs. The state reports that the number of students with IDD has increased in recent years with 30%

of students in YTP are IDD or potentially IDD eligible, however some schools appear not to understand this fact.

3. Schools are reporting very few paid employment options for high school students in transition prior to graduation. ODE needs to enhance training and technical assistance in this area to promote job development and individualization of employment services. In addition, the State should assist schools to ensure that students' work experiences are individualized based on skills and preferences.

### **Recommendations on Executive Order Implementation**

1. ODDS and Employment First should implement and update its Quality Assistance plan as needed.
2. ODDS and Employment First should continue to update its Outreach and Communication Plan.

The state has been following up on some of the systemic issues above. While some items were consistent across the board (for example, most parties were aware of and attended Employment First Meetings, and understood the provider training requirements and 20-hour policy) interpretation of other policies and procedures were not consistent (such as understanding when to refer to VR after Discovery, how to bypass VR if an individual is stable, etc.) For that reason, DHS (including VR and ODDS) and ODE continue to follow up as needed.

Some follow-up has been specific (such as when a specific entity does not understand a particular policy) and some has been more general. For instance, a manager at a CDDP office clearly did not understand how to write detailed employment outcomes or the best use of the Career Development Plan (CDP), and in that case CDP training was provided.

However, some recommendations were made by the IR on a system level. These included (but were not limited to):

- Creating a statewide intake and referral form for VR.
- Clarification around referral information to VR.
- Clarification around how to bypass VR when an individual is stable.
- Creating a system flow chart.
- Clarification of the Discovery service requirements.

For that reason, ODDS, VR and ODE are working with stakeholders to develop a uniform intake, referral and release form for VR. Additionally, ODDS is working with stakeholders using Employment First Messages and online training about how and when it is appropriate to enter directly into long-term job coaching. ODDS is also working with the state technology team (OIS) to create an online flow chart that can be customized to individuals. Finally, ODDS is in the process of releasing updated policy regarding Discovery requirements. Additional information will be reported in the future as system changes are made.

**Cathy Ficker Terrill, M.S.**

Independent Reviewer

SFY 2017