

**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA**

**In the Matter of:**

**CLAIMANT,**

**vs.**

**FRANK D. LANTERMAN REGIONAL CENTER,**

**Service Agency.**

**OAH No. 2023020344**

**DECISION**

Administrative Law Judge (ALJ) Deena R. Ghaly, Office of Administrative Hearings (OAH), State of California, heard this matter on April 6, 2023, by videoconference.

Claimant's mother and conservator (Mother) (titles rather than names are used to protect the privacy of Claimant and his family) represented Claimant. A certified Spanish-speaking interpreter assisted Mother during the hearing. FDLRC Regional Manager and Fair Hearing Representative Guadalupe Munoz represented the Frank D. Lanterman Regional Center (FDLRC).

Testimony and documentary evidence was received. The record closed, and the matter was submitted for decision on the hearing day.

## **ISSUES**

Claimant's Fair Hearing Request identifies the issue for review as whether FDLRC should fund Claimant's tuition for Tink Tank Animate, an academic program located in Detroit, Michigan offering in-person and remote programs for neuroatypical students. At the hearing, Claimant introduced a second issue, whether FDLRC should have provided Claimant and his family with additional assistance to help Claimant pursue animation as a vocation. FDLRC did not object to this additional issue. It is therefore also addressed in the Decision below.

## **FACTUAL FINDINGS**

1. Claimant is a 28-year-old man. He is eligible for regional center services based on diagnoses of Autism Spectrum Disorder and mild intellectual disability.

Claimant lives with his parents who are his conservators. Mother is Claimant's primary caretaker.

2. Claimant communicates well and has no physical restrictions. He needs some assistance with self-care and hygiene and has limited social skills and safety awareness. He therefore requires supervision under most circumstances.

3. As set out in Claimant's latest Individual Program Plan (IPP), prepared after his annual review and dated October 10, 2022, FDLRC agreed to fund 20 hours per month of respite care; 36 hours per month of independent living services; \$240 per

month to reimburse parents for piano lessons; and tuition payments for “Tink Tank Animate School (Tink Tank): \$15,000 max.” (Exh. 8, p. A. 57.)

4. During the October 2022 annual review, Mother requested that FDLRC continue to fund Claimant’s tuition for Tink Tank – originally \$48,000 per year and subsequently reduced to \$15,000 – for 2023 and 2024. Tink Tank is an art and mixed media academy teaching film making and animation to neuroatypical students. Its campus is in Detroit, Michigan, but it also offers online remote-learning classes. FDLRC requested more information about the Tink Tank program from Mother, which she provided, and told Mother her request would be referred to higher management for its review.

5. Mother requested ongoing tuition reimbursement for Tink Tank tuition because Claimant’s vocational goal, also reflected in his IPP, is to become a professional animator and one day, own an animation studio. To help Claimant reach his goal, FDLRC funded Claimant’s tuition at the Exceptional Minds Full Time Training Program (Exceptional Minds) from September 2015 to June 2021, when he graduated. While at Exceptional Minds, Claimant created a short, animated video featuring an avatar of himself. (Exh. O.)

6. After graduating from Exceptional Minds in June 2021, Claimant wanted to continue his animation studies. At the time, due to the public health emergency arising from the COVID-19 pandemic, the Department of Developmental Services (Department) issued special directives allowing regional centers to fund online programs not normally allowed under applicable statutes and regulations. Therefore, FDLRC had the authority to fund additional Claimant’s additional training at Tink Tank.

7. Claimant attended Tink Tank's online summer workshop and, from February 1, 2022 through January 23, 2023, Tink Tank's regular school year program. FDLRC expended the \$15,000 allotted in the October 2022 IPP to fund Claimant's attendance at Tink Tank through January 2023.

8. While still attending the year-long program at Tink Tank, Claimant attended a leadership training held at FLDRC where the video he created at Exceptional Minds was shown. A regional center volunteer and consumer parent, Kristianna Moralls, saw the video and offered Claimant an internship through the Easter Seals organization to help create animated public service announcements. Though his supervisor would be affiliated with Easter Seals, his salary would be paid by FLDRC.

9. In November 2022, DDS issued another directive regarding prohibiting regional centers from funding remote programs unless they fell into several exceptions not applicable here. Thus, FDLRC no longer had the authority to fund Tink Tank.

10. At approximately the same time, on December 3, 2022, Mother sent a communication to Claimant's service coordinator, Shelly Hernandez, reiterating her request that FDLRC approve funding for Claimant to attend the Tink Tank school programs during the 2023 and 2024 academic years.

11. In a letter dated January 13, 2023, FDLRC Regional Manager for Older Adult Programs Da Vonna Jenkins informed Mother her request for funding for Tink Tank was denied. Ms. Jenkins explained regional centers no longer had the authority to fund remote programs or programs originating outside California. Additionally, in her letter, Ms Jenkins noted that, in the wake of the extensive animation training Claimant already received, he had been offered an opportunity to participate in a paid

internship in the animation field. Ms. Jenkins wrote the internship would give him real-world work experience in his chosen vocation and additional training that, rather than ongoing education, was the next logical step to help him reach his goals to work in the animation field.

12. Ms. Jenkins further noted, pursuant to Welfare and Institutions Code sections 4512, subdivision (b) and 4646, subdivision (a) (further statutory references are to the Welfare and Institutions Code unless otherwise designated), FDLRC is limited to funding the most cost-effective services and supports. According to her letter, even if Claimant chose to pursue additional animation education along with, or in lieu of, the internship, Tink Tank is not the most cost-effective educational resource. Ms. Jenkins noted there are local community college course that could provide Claimant with ongoing education in the animation field. Ms. Jenkins' letter did not provide information about specific local animation education programs.

13. After receiving Ms. Jenkins' letter, Mother requested an informal meeting and decision pursuant to FDLRC's internal review system. FDLRC convened the informal meeting on January 27, 2023. In a letter dated February 2, 2023, the FDLRC designee for the informal meeting process, FDLRC Regional Manager Guadalupe Munoz, informed Mother that Ms. Jenkins' decision to deny funding for Tink Tank was upheld.

14. At the hearing, Mother explained she did not believe Claimant was ready for employment and also had concerns that any payment he would receive for his work would cause him to lose eligibility for the federal disability payments he received through the Social Security Administration. If Claimant accepted the position but could not successfully enter the work world and meet its concomitant demands over the long term, he could end up without either the learning opportunities of the internship

or a necessary financial resource his family used for his basic needs. Regarding other educational local programs, Mother stressed she had been given no specific information about where such classes took place and how Claimant could access them.

## **LEGAL CONCLUSIONS**

1. The party asserting a claim or defense has the burden to prove the facts supporting that claim or defense. (Evid. Code, § 500.) In this case, Claimant bears the burden to establish he is entitled to receive additional funding from FDLRC to pay his tuition at Tink Tank. The applicable standard of proof is preponderance of the evidence. (Evid. Code, § 115.) A preponderance of the evidence means that the evidence on one side is more persuasive than the evidence on the other side. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2019) 171 Cal.App.4th 1549, 1567.)

2. Under the Lanterman Developmental Disabilities Act (Lanterman Act), the State of California provides supports and services to eligible disabled individuals. The supports and services are provided to help these individuals lead as independent and productive lives as possible. (§§ 4501, 4502.)

3. Regional centers are charged with carrying out the state's responsibilities under the Lanterman Act and must do so in a cost-effective manner. (See §§ 4646, subd. (a), 4640.7, subd. (b).) While a regional center is obligated to secure services and supports to meet the consumer's goals as set out in the IPP, it is not required to meet a consumer's every desire. (§ 4512, subd. (b).)

4. Regional centers must "identify and pursue all possible sources of funding" for their consumers. (§ 4659, subd. (a)(1).) The Department will not approve out-of-state programs unless the regional center can demonstrate the services it

provides are not available from any facilities or programs located in California. (§ 4519, subd. (a).)

5. “[I]t is the policy of the state that opportunities for integrated, competitive employment shall be given the highest priority for working age individuals with developmental disabilities, regardless of the severity of their disabilities. This policy shall be known as the Employment First Policy.” (§ 4869, subd. (a)(1).) Regional centers are required to assist consumers 16 years and older to assist them in finding and maintaining employment. (§ 4869, subd. (c).)

6. Claimant did not prove his right to have FDLRC fund his tuition for Tink Tank. Claimant failed to provide evidence or argument countering FDLRC’s reasons for denying the funding: that the Department no longer allowed regional centers to fund remote programs such as Tink Tank; applicable law prevented regional centers from funding out-of-state programs; and alternatives available to Claimant, including an opportunity for paid work and available local classes for continuing, were more cost-effective and better tracked Claimant’s ultimate goal to work in the animation field. (Factual Findings 5-15.)

7. Claimant proved, however, that FDLRC did not provide sufficient information about non-remote, cost-effective continuing education in Claimant’s field. Claimant also established that FDLRC failed to provide assistance in assessing whether Claimant’s acceptance of a paid internship would jeopardize the federal financial assistance upon which he and his family currently rely. Notably, however, maintaining maximum disability benefits is not a legitimate reason to avoid available employment.

8. Pursuant to the order below, Claimant’s appeal for funding for the Tink Tank program is denied. The request for additional assistance to help identify other

sources of continuing education and to assist with understanding the ramifications of Claimant's acceptance of a paid internship on the federal disability benefit he currently receives is granted.

## **ORDER**

1. The Frank D. Lanterman Regional Center's decision to deny Claimant's request for funding Tink Tank remote classes held during the 2023 and 2024 school years is upheld.

2. Claimant's request that FDLRC keep him and his family apprised of available resources for local, in-person continuing education in the field of animation and also assist them in understanding the potential impact of Claimant's internship on the amount of disability benefits he receives are granted.

DATE:

DEENA R. GHALY

Administrative Law Judge

Office of Administrative Hearings

## **NOTICE**

This is the final administrative decision. Each party is bound by this decision. Either party may request a reconsideration pursuant to subdivision (b) of Welfare and



Institutions Code section 4713 within 15 days of receiving the decision, or appeal the decision to a court of competent jurisdiction within 180 days of receiving the final decision.