

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

**In the Matter of:**

**CLAIMANT**

**and**

**SAN ANDREAS REGIONAL CENTER, Service Agency.**

**DDS No. CS0020150**

**OAH No. 2024100886**

**DECISION**

Hearing officer Stephanie E. Haffner, Administrative Law Judge with the Office of Administrative Hearings, State of California, heard this matter on May 20, 2025, and February 26, 2026, by videoconference.

Executive Director's designee Esmeralda Rivera represented San Andreas Regional Center on May 20, 2025. Executive Director's designee James Elliott represented San Andreas Regional Center on February 26, 2026.

Claimant, a minor, was represented by his father. Claimant was not present for the hearing.

The record closed and the matter was submitted for decision on February 26, 2026.

## **ISSUE**

Does claimant, who has been diagnosed with autism spectrum disorder, have significant functional limitations in three or more areas of major life activity, thereby qualifying him for regional services under the Lanterman Developmental Disability Services Act (the Lanterman Act)?

## **FACTUAL FINDINGS**

### **Background**

1. To be eligible for services under the Lanterman Act, Welfare and Institutions Code section 4500 et seq.,<sup>1</sup> an individual must have a developmental disability. (§ 4501.) A developmental disability is a disability that originates before an individual attains age 18, is likely to continue indefinitely, and constitutes a substantial disability for that individual. (§ 4512, subd. (a)(1); Cal. Code Regs., tit. 17, § 54000, subd. (b).)

2. The term "developmental disability" includes intellectual disability, autism, epilepsy, cerebral palsy, and what is commonly referred to as the "fifth category." (§ 4512, subd. (a)(1).) The fifth category refers to "disabling conditions found

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<sup>1</sup> Statutory references are to the Welfare and Institutions Code unless otherwise noted.

to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability." (*Ibid.*)

3. A qualifying disability must be "substantial," meaning that it causes "significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person: (A) Self-care. (B) Receptive and expressive language. (C) Learning. (D) Mobility. (E) Self-direction. (F) Capacity for independent living. (G) Economic self-sufficiency." (§ 4512, subds. (a)(1), (h)(1); see also Cal. Code Regs., tit. 17, § 54001, subd. (a)(2).)

4. Prior to age five, children who demonstrate significant functional limitations in at least two out of five areas of major life activity have provisional eligibility for Lanterman Act services. (§ 4512, subd. (a)(2)(A).) A child who was found to be provisionally eligible must be reassessed for full Lanterman Act eligibility to continue to be eligible for regional center services upon turning age five. (*Id.*, subd. (a)(4).)

5. Claimant is six years old and has been diagnosed with autism spectrum disorder. San Andreas Regional Center (SARC) does not dispute claimant's autism diagnosis.

6. On a date that is not in the record, SARC determined that claimant was provisionally eligible for regional center services under the Lanterman Act. When claimant was found to be provisionally eligible, SARC determined that he had a qualifying condition of autism and substantial delays in three areas of major life activity: "communication," learning, and self-direction.

7. Prior to claimant's fifth birthday, SARC reviewed whether claimant meets the criteria for full eligibility for Lanterman Act services, based on the criteria applicable to individuals who are aged five and older.

On July 26, 2024, a licensed psychologist employed by SARC (SARC psychologist) reviewed claimant's ongoing eligibility for Lanterman Act services. After reviewing various records, the SARC psychologist determined that there was not enough information to establish that claimant had substantial functional impairments in three or more areas of major life activity.

Also on July 26, 2024, an eligibility review team consisting of the SARC psychologist, claimant's service coordinator, and SARC's district manager, completed a Certificate of Eligibility stating the determination that claimant does not meet the criteria for full eligibility for Lanterman Act services.

8. By Notice of Action dated August 6, 2024, SARC informed claimant of its action to deny eligibility for regional center services under the Lanterman Act, effective as of claimant's fifth birthday. SARC concluded that claimant has a qualifying condition, autism spectrum disorder, but that he did not demonstrate substantial impairment in at least three areas of major life activity compared with typically developing peers of a similar age.

9. On August 19, 2024, claimant's father (Father) timely requested a fair hearing challenging SARC's denial. This proceeding followed.

10. On the first day of hearing in this proceeding in May 2025, the parties agreed to set an additional hearing date so that claimant's behavioral therapist and/or speech therapist could offer testimony. Considering schedules of all involved, a new hearing date was set for August 2025. This hearing was postponed at the request of

claimant, to October 2025, so that claimant's behavioral therapist and psychologist could confer with SARC's psychologist. It was postponed a second time, to February 2026, to allow additional time for SARC's psychologist to assess claimant.

11. On the second day of hearing in this proceeding in February 2026, Father did not present additional evidence from claimant's behavioral therapist, speech therapist, or psychologist, and SARC did not present additional evidence from its psychologist. No updated behavioral therapy, speech therapy, school reports, or psychological evaluations were presented. Father was offered the opportunity to provide testimony from claimant's therapists and to provide updated reports; however, he requested that the decision be based on a review of the evidence at the time of SARC's decision to deny full Lanterman Act eligibility at age five.

### **Regional Center's Assessment**

12. In concluding that claimant did not show substantial disability in three or more areas of major life activity, the SARC psychologist considered a December 2023 multidisciplinary evaluation report stating that claimant's cognitive skills fell in the 82nd percentile, adaptive skills fell in the 68th percentile, and social/emotional skills fell in the 81st percentile. Results from another test, the Brigance, reported claimant's academic/cognitive score as falling in the 77th percentile. There were no updated school records after December 2023.

13. In addition, the SARC psychologist appears to have administered another test of adaptive behavior known as the "ABAS," or Adaptive Behavior Assessment System, and provided scores in a summary email. The SARC psychologist opined, without additional context, that the scores are not accurate "because parents are just marking [claimant] low in everything." Parent scores showed substantial impairment in

all areas of adaptive functioning except functional academics, whereas the child's behavioral therapist scores showed no substantial impairment in any area.

Father testified that the difference between parent scores and behavioral therapist scores is one of interpretation of claimant's behavior. He said that parents selected scores of zero for various skills indicating that claimant was "unable" to perform them, whereas the behavioral therapist generally selected scores of one for the same skill areas, indicating that the child "never or almost never" performed the skills. Father provided a good faith explanation for the discrepancy in scores; nevertheless, the ABAS scores are given minimal weight due to the lack of context from the behavioral therapist who responded and from the SARC psychologist who interpreted the results.

14. SARC contended at hearing that claimant is not substantially limited in any area, in that his abilities do not fall more than two standard deviations below the norm in any area of major life activity.

### **Claimant's Functioning**

15. Claimant's developmental pediatrician diagnosed him with level one autism spectrum disorder. According to the Diagnostic and Statistical Manual, Fifth Edition, Text Revision (DSM-5-TR), a level one autism diagnosis reflects an assessment that the individual requires support, but not substantial or very substantial support, in the domains of social communication and social interaction, and restrictive, repetitive patterns of behavior, interests, or activities. The developmental pediatrician noted that claimant "has several strengths, including intellectual functioning, emerging language abilities, good social skills with parents or family members, cooperativeness with

unfamiliar adults, improvements over time or after therapy, a committed and supportive family[,] and an outstanding intervention plan.”

16. Father asserts that claimant has substantial impairments in the major life activity areas of self-care, self-direction, receptive and expressive language, and learning.<sup>2</sup> Evidence relating to claimant’s abilities includes:

- A progress report from claimant’s special needs coordinator at school, dated February 24, 2025.
- The diagnostic report of claimant’s developmental pediatrician dated January 31, 2023.
- A letter from claimant’s developmental pediatrician, dated December 15, 2024, recommending that claimant be evaluated, and qualify, for Lanterman services because his “autism causes deficits/challenges with his ability to complete activities of daily living, his capacity for self-care, his receptive & expressive communication, and his ability to learn.”
- A report from claimant’s behavioral therapist of claimant’s scores on the Vineland-3 Comprehensive Assessment (Vineland-3), dated February 2025.
- A list from claimant’s behavioral therapist of “areas of difficulty and deficits” in self-care, self-direction, and learning, based on a combination of test results from the Vineland-3 and Batelle Developmental Inventory, Third Edition, tests, dated February 2025. The list does not specify the extent to

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<sup>2</sup> A child of claimant’s age is expected to have limited functioning in the major life activities of capacity for independent living and economic self-sufficiency.

which various skills are absent or difficult, and if difficult the nature of the difficulty.

- A list from claimant's speech therapist of skills deficits in receptive language, expressive language, and social communication skills, dated May 2025. As with the behavioral therapist's list, the speech therapist's list does not describe the extent to which the skills are absent or difficult, and if difficult the nature of the difficulty.
- An email from SARC's psychologist, dated May 19, 2025, reporting raw scores from the "ABAS" as discussed in Factual Finding 13.

Except for the 2023 autism diagnosis report, the documentary evidence describes claimant's abilities at age five. Relevant parts of the documentary evidence are discussed below under the applicable areas of major life activity.

## **SELF-CARE**

17. According to the Vineland-3 scores, claimant's standard score for daily living skills was 71, or nearly two standard deviations below the norm. The behavioral therapist reported that claimant had difficulty with various self-care skills that are expected to be present by age five, including wiping or cleaning his face when eating something messy; independently using the toilet, including wiping; blowing his nose into a tissue when needed; brushing or rinsing his mouth after eating sticky foods; washing his hands with soap and water independently; and using a towel to dry his hands and face without being prompted.

18. Father testified that claimant can physically feed himself, but he needs someone next to him when eating so that the table is not messy. He does not wipe

himself after using the toilet and does not blow his nose when needed. He has suffered large cavities in his teeth from not brushing; an aide must be next to him and at times must physically move the toothbrush to "get him started," or he will not do it. Claimant's twin brother, who also has an autism spectrum diagnosis, has no issues with toothbrushing. Absent instruction, claimant leaves the bathroom without having washed his hands. "Every time," he needs step by step instruction on how to wash his hands with soap and water. He knows how to dry his hands but must always be prompted.

### **SELF-DIRECTION**

19. When claimant was diagnosed with autism spectrum disorder, his patterns of restrictive/repetitive behaviors were measured as falling in the 16th percentile or the low average range. His social skills were identified as an area of relative strength, described by the developmental pediatrician as "good social skills with parents or family members" and "cooperativeness with unfamiliar adults." Claimant "demonstrated . . . social motivation" suggesting that he would benefit from a program of developmental and social intervention. Social skills training was recommended to provide claimant with opportunities to practice applying learned social skills in facilitated small group peer settings.

20. According to the Vineland-3 scores, claimant's standard score for socialization was 62 or well below two standard deviations of the mean for his age. His behavioral therapist reported that claimant had difficulty with various self-direction skills that are expected to be present by age five, including recognizing and following simple household rules, asking for permission before using someone else's belongings, understanding basic safety rules, using coping strategies when feeling overwhelmed, following simple instructions when distracted or engaged in another

activity, and using words or gestures to request a break instead of engaging in negative behaviors.

21. Claimant's speech therapist, who sees claimant three times per week, listed areas of deficit in social communication that are expected to be present by age five. These include "maintaining interactions," "recognizing socially offensive message[s]"; and "rewording message[s] in a polite form when cued."

22. Father testified that the family has come home to find that claimant smeared feces on the walls throughout the home. Claimant does not follow household rules, and the family cannot leave claimant in the care of friends or neighbors because he will not follow rules in another household. For example, claimant nearly broke a table in a third party's home by sitting on it. The family must rely on respite caregivers for babysitting, rather than friends or neighbors, because of the extent of difficulty from claimant's behaviors.

23. Claimant also does not ask permission before using objects that belong to others. He does not look both ways before crossing the street and instead acts on his desires without awareness of potential consequences. He has a hard time calming himself down when upset; when his twin brother has a tantrum, claimant "makes an angry face as if the world is falling apart," and tries to squeeze his brother's neck. Claimant only follows one-step instructions "when we have his complete attention." He does not use words to request a break and instead screams and runs away. Claimant does not engage in back-and-forth conversation and does not use eye contact when speaking. He does not recognize when people are making fun of him and mistakes such conduct for friendliness. He does not express his wants or needs in a polite way; for example, claimant may say, "I will hit you," instead of saying, "I am hurt."

## **RECEPTIVE AND EXPRESSIVE LANGUAGE**

24. When claimant was diagnosed with autism spectrum disorder, his social interactions and emotional responses were measured as falling in the 25th percentile or average to low average range. His level of maladaptive speech fell in the 61st percentile or the normal range, and his language abilities were identified as an area of relative strength. His developmental pediatrician recommended speech and language therapy "to further develop expressive and pragmatic use of language."

25. Claimant's school progress report addresses two communication goals. The first goal is for claimant to demonstrate active listening skills with minimal prompts, such as through eye contact, attentive posture, appropriate comments, and taking turns in conversation. The second goal is for claimant to "sequence three picture cards" with minimal prompts and to use appropriate verbal language to narrate a sequence of events. As of February 2025, he was able to sequence the picture cards most of the time and was using three- to five-word sentences with age-appropriate grammar, given one to two verbal prompts and models.

26. Claimant's standard score for communication on the Vineland-3 test was 71, or nearly two standard deviations below the norm for his age. Within the communication domain, sub-scores for oral communication were significantly lower than for written communication, which was in the normal range. Listed deficits or difficulties that could be indicative of oral communication impairment include retelling a short story or describing a past event; asking "why" and "how" questions about the world around him; recalling three or more details from a story read aloud; using basic directional words such as "up," "down," "over," or "under"; and following simple two-step instructions without repeated prompting.

27. Claimant's speech therapist listed areas of deficit in receptive and expressive language that are expected to be present by age five. These include, in the area of receptive language: following simple directions and rules to play games; consistently answering "wh" questions (who, what, where, when, why) in an unstructured setting; and understanding superlatives. In the area of expressive language, deficits include using: conjunctions (when, so, if); reflexive pronouns (himself, herself, itself); "what do," "what does," or "what did" questions; regular past tense verbs; irregular plural forms; future tense; and superlatives.

## **LEARNING**

28. When claimant was diagnosed with autism spectrum disorder, his developmental pediatrician identified as strengths his intellectual functioning and "improvements over time or after therapy." Claimant did not show signs of global developmental delay. Claimant's readiness to learn, like his social motivation, suggested that he would benefit from a program of intervention.

29. According to claimant's behavioral therapist, learning tasks that claimant had difficulty with, that are expected to be present by age five, include retelling a short story or describing a past event; engaging in pretend play that includes role-playing and using imagination; asking "why" and "how" questions about the world around him; and recalling three or more details from a story read aloud.

30. Father testified that claimant has "sparks of brilliance" and strong intelligence in some ways, but in other ways he "is in his own world" and is not developing typically. If claimant's interest is sparked, he will learn.

## **Ultimate Findings Regarding Lanterman Act Eligibility**

31. Claimant has real limitations. He has a diagnosis of autism spectrum disorder, needs support with social communication and interaction and with restricted or repetitive behaviors, and has received extensive therapies as endorsed by his developmental pediatrician.

32. There is insufficient evidence at this time to establish that claimant has lifelong substantial limitations in self-care, receptive and expressive communication, or learning. Claimant's self-care abilities may be substantially impaired, but the Vineland-3 scores and descriptions of skills with which he has difficulty are not determinative without additional context such as through assessment or progress reports from school or therapists. His receptive and expressive communication does not appear to be substantially limited given his average score for written communication and his developmental pediatrician's assessment that his language abilities were an area of relative strength. Claimant's learning also does not appear to be substantially limited given that there are no identified concerns for his intelligence and that his developmental pediatrician considered him ready to learn. The evidence is therefore insufficient to establish substantial limitations in self-care, receptive and expressive language, and learning at this time.

33. The evidence established that claimant is substantially limited in self-direction. Parents require respite care because claimant lacks the skills to behave safely and obey rules in other persons' homes, and claimant's socialization skills, according to his behavioral therapist, measured well below two standard deviations from the mean.

## LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act (§ 4500 et seq.). The purpose of the Lanterman Act is to rectify the problem of inadequate treatment and services for the developmentally disabled, and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (§§ 4501, 4502; *Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384.) The Lanterman Act is a remedial statute; as such, it must be interpreted broadly. (*Cal. State Restaurant Assn. v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

2. To establish eligibility for SARC's services under the Lanterman Act, claimant has the burden of proving by a preponderance of the evidence that he: (1) suffers from a developmental disability, and (2) is substantially disabled by that developmental disability. (§§ 4501, 4512, subd. (a).)

3. There is no dispute that claimant meets the diagnostic criteria for autism, an eligible condition, as set forth in Factual Finding 5. However, claimant did not prove by a preponderance of evidence that he is substantially disabled by his eligible condition. He established that he has significant functional limitations in only one area of major life activity: self-direction. (Factual Finding 33.) Claimant did not show that he has significant functional limitations in self-care, receptive and expressive language, or learning at this time. (Factual Finding 32.) He does not contend that he is substantially limited in mobility, and at age five claimant is not expected to be capable of independent living or sustaining himself economically.

4. Because claimant has not established that he has significant functional limitations in three or more areas of major life activity as compared with his peers, he

did not prove that he is substantially disabled. Accordingly, claimant did not meet his burden to establish that he is eligible for regional center services at this time.

5. Claimant's abilities around age five were considered for this hearing. There may be extensive additional evidence, in the form of therapist and school evaluations and reports, concerning claimant's abilities. Such evidence has not been considered because it was not presented, but it would be relevant to a future evaluation of claimant's eligibility should he reapply for services.

## **ORDER**

Claimant's appeal is denied.

DATE:

STEPHANIE E. HAFFNER  
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. (Welf. & Inst. Code § 4712.5, subd. (a)(1).)