

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

In the Matter of:

CLAIMANT

and

SOUTH CENTRAL LOS ANGELES REGIONAL CENTER,

Service Agency

DDS No. CS0023003

OAH No. 2024120627

DECISION

Administrative Law Judge (ALJ) Chantal M. Sampogna, Office of Administrative Hearings, State of California, heard this matter by videoconference on May 8 and August 27, 2025.

Mother, Claimant's authorized representative, appeared on behalf of Claimant, who was not present. (Titles are used to protect the privacy of Claimant and his family.)

Tami Summerville, Appeals Manager for South Central Los Angeles Regional Center (Service Agency), appeared on behalf of Service Agency.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on August 27, 2025.

ISSUES

1. Whether Claimant's Autism Spectrum Disorder (ASD) constitutes a substantial disability as defined by the Lanterman Developmental Disabilities Services Act (Lanterman Act) (Welf. & Inst. Code, § 4500 et seq.). (Statutory references are to the Welfare and Institutions Code unless otherwise designated.)

2. Whether Claimant is eligible for regional center services under the Lanterman Act.

EVIDENCE RELIED UPON

Documents: Service Agency's Exhibits 1 through 11; OAH's Translation of Service Agency's Exhibit 7 (Claimant's 504 Plan) to English.

Testimony: Laurie McKnight Brown, Ph.D.; Mother.

SUMMARY

Mother referred Claimant, her 12-year-old son, to Service Agency to be assessed for eligibility under the Lanterman Act under the category of ASD. Mother has concerns about Claimant's persistent emotional dysregulation and repetitive interests, lack of independence, and his challenges forming relationships with his peers. Service Agency conducted a psychological evaluation of Claimant and reviewed

Claimant's additional cognitive, developmental, educational, and mental health evaluations. Service Agency concluded Claimant has ASD but found he is only substantially disabled in the major life activity of self-direction.

Service Agency denied Claimant's request for eligibility because the Lanterman Act requires an individual to be substantially disabled in at least three major life activities. However, Service Agency's assessment of how Claimant's ASD impacts his major life activities was incomplete and was not consistent with applicable guidelines. Contrary to Service Agency's assessment, Claimant's ASD constitutes a substantial disability in four areas of major life activities: self-care, self-direction, receptive and expressive language, and learning. Accordingly, Claimant is eligible for services under the Lanterman Act. Claimant's appeal is granted.

FACTUAL FINDINGS

Jurisdiction

1. Claimant is 12 years old and resides with Mother, his father, and his 22-year-old sister. Claimant attends Doty Middle School in the Downey Unified School District (District) and is currently in the seventh grade.

2. In August 2024, Mother referred Claimant to Service Agency for an eligibility assessment.

3. On August 28, 2024, Service Agency Service Coordinator (SC) Shirley Soto conducted a psychosocial assessment of Claimant. On September 9 and 11, 2024, Ana Paula Trevizo, Psy.D., conducted a psychological evaluation of Claimant on behalf of Service Agency.

4. On November 24, 2024, Service Agency issued a Notice of Action informing Claimant that he was not eligible for services under the Lanterman Act.

5. On December 12, 2024, Claimant submitted a timely Request for a Fair Hearing.

6. Jurisdictional requirements have been met.

Claimant's Assessments

7. Between May and September 2024, Claimant underwent assessments and evaluations (evaluations) of his cognitive, developmental, and educational capacities and of his mental health. These evaluations were conducted by or on behalf of Service Agency and by the District.

8. The precipitating event that caused Mother to have Claimant evaluated was his suicidal statements and actions taken on April 29, 2024. On that day, Claimant wrote a note, which he gave to his teacher, which stated, "'kill me please, end my suffering.'" (Exh. 8, p. 110.) A suicide risk assessment was conducted by Christian Banuelos, District's Educationally Related Intensive Counseling Services (ERICS) assessor, and Doty Middle School principal Sylvia Estella. During the assessment, Claimant stated he had, earlier that day, wrapped a belt around his neck and pulled it for 10 seconds, but then stopped. Claimant shared that what caused him to stop was thinking about his parents.

9. Mother also sought a regional center evaluation of Claimant because Claimant has a history of emotional behaviors, or emotional dysregulation, and does not have friends. In addition, Mother expressed concerns about Claimant's overall functioning. Claimant can perform some basic self-care tasks, but struggles with tasks

such as tying his shoes, and is often engaged in repetitive or restrictive behaviors, such as watching the same movie or show, playing with Legos or plushies, and dancing or moving in circles.

10. Claimant underwent two cognitive evaluations, both of which placed Claimant's cognitive functioning in the average range. Mother does not assert, and the evidence does not show that Claimant has Intellectual Disability (ID) or a disabling condition requiring treatment similar to treatment provided to an individual with ID. Rather, of the five possible categories of developmental disability provided by the Lanterman Act, Mother asserts Claimant is eligible for regional center services under the category of ASD.

MENTAL HEALTH

ERICS Assessment

11. During May and June 2024, Claimant underwent an ERICS assessment conducted by Mr. Banuelos. The ERICS assessment was initiated by District School Psychologist Jenna Palacios. Ms. Palacios and other therapists had been providing mental health counseling to Claimant through District's Community Family Guidance Center (Guidance Center) since February 2024.

12. The ERICS assessment was conducted at the end of Claimant's 5th grade year. During this time, Claimant had a variety of stressors, including state testing and end-of-the-year assessments.

13. Mr. Banuelos conducted evaluations of Claimant, observed Claimant in different school settings, and received input from District staff, Claimant, and Mother. Based on his observations and the information he reviewed, Mr. Banuelos determined

Claimant's learning was impacted by his symptoms and by his need for support and accommodations in the learning environment.

14. Ms. Palacios found Claimant's strengths included following directions and working independently; Claimant's weaknesses included socializing with peers and working with others. Ms. Palacios was concerned by Claimant's behaviors and emotional state, which included Claimant crying, hitting himself, and screaming, his suicide attempt, and his struggles with symptoms of anxiety. Claimant's symptoms included withdrawal, poor task completion, mood dysregulation, school refusal, little interest in activities, and nervousness. Ms. Palacios believed Claimant's symptoms were significantly impacting his academic performance and that he may require additional services.

15. Claimant's teacher, Jacquelyn Saldana, also expressed concerns regarding the impact of Claimant's symptoms on his learning. For example, Claimant did not complete 35 of 70 assignments due to the break times he needed to receive emotional support. Claimant's learning was also impacted by his emotional dysregulation, as presented by Claimant becoming frustrated during class and hitting his head against the desk or crying, slapping his cheeks with his hands, banging his head on his folded arms, or leaving class to scream outside. Claimant's inability to manage his feelings impeded his ability to maintain focus on his academics. (Exh. 8, p. A105.) Ms. Saldana added that Claimant often "lay on the ground in areas with lots of foot traffic, like the blacktop playground or grass." (*Id.* at p. A110.)

Counseling

16. Maria Trucios, a Licensed Marriage and Family Therapist with the Guidance Center, wrote a letter dated January 8, 2025, on behalf of Claimant. Ms.

Trucios confirmed Claimant began therapy with the Guidance Center on February 21, 2024, and has been regularly attending in-person weekly sessions since. Ms. Trucios noted Claimant is diagnosed with major depressive disorder, single episode, moderate. Claimant presents with low mood and aggression, and he also has difficulty regulating emotions, communicating, and understanding social interactions. Ms. Trucios also clarified Claimant's symptoms stem from his ASD and that major depressive disorder is not the cause of his repetitive restrictive behaviors, or other markers for ASD. (Exh. 4.)

EDUCATIONAL

Section 504 Plan

17. On June 11, 2024, the District held a Section 504 meeting pursuant to the Rehabilitation Act of 1973 (as amended, 29 U.S.C. § 794) (Section 504) to assess whether Claimant qualified for a Section 504 plan. Claimant's Section 504 team determined Claimant has a disability (ASD) impacting at least one area of major life activities (unspecified) that requires accommodations to Claimant's learning environment. Pursuant to Section 504, the accommodations are necessary to remove learning barriers. (Exhs. 7 & OAH2.) ("Major life activities" have different meanings in Section 504 and the Lanterman Act.)

18. Claimant's Section 504 plan accommodations include receiving weekly counseling from the Guidance Center and receiving support with expressing his emotions, identifying his feelings, and identifying and using coping skills when he becomes dysregulated. In addition, Claimant needs support when working in collaborative groups and to communicate effectively with his peers and classmates. (Exhs. 7 & OAH2.)

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Psychoeducational Assessment

19. On September 3, 2024, Claimant underwent a psychoeducational assessment conducted by the District. Claimant was referred to the psychoeducational assessment based on his difficulty regulating his emotions, his suicidal threat assessment, and his suspected ASD. The purpose of the psychoeducational assessment was to identify and describe the significant elements in Claimant's personal style and the psychological processes and social-emotional factors that affect his availability for learning. (Exh. 5, p. A31.)

20. Ms. Palacios administered the psychoeducational assessment to Claimant, which consisted of a series of cognitive, communication, social, and adaptive assessments. Initially, Ms. Palacios administered the Wechsler Intelligence Scale for Children – Fifth Edition (WISC) to Claimant. Claimant's Full Scale Intelligence Quotient score was 98, within the average range of intelligence.

21. Ms. Palacios also administered the Monteiro Interview Guidelines for Diagnosing the Autism Spectrum, Second Edition (MIGDAS-2) to Claimant. The MIGDAS-2 provides a qualitative picture of Claimant's sensory, language, and social profile.

22. During the MIGDAS-2, Claimant demonstrated repetitive behaviors and restrictive interests. As an example, Claimant swayed and shuffled his feet while standing in line for food and lay himself down in the school yard. During the sensory-based interview, Claimant appeared to prefer materials with tactile properties as well as seeking out tactile/proprioceptive input by moving his body or lying on the floor.

23. Claimant could be flexible with changes in routine, but had significant difficulty when he was disinterested or dysregulated. When dysregulated, Claimant had

difficulty communicating and effectively using coping strategies that require communication. Claimant displayed a high need for self-directed routines to organize and regulate himself. Such routines include placing his head on his desk, lying on the ground, or playing a video game. These routines helped Claimant block out incoming stressors (i.e., social demands, engaging in work tasks). Claimant also appeared to self-regulate by talking about his interests. Claimant demonstrated difficulties in transitioning from preferred activities to other tasks. Claimant remained alone during breaks and did not interact with his peers. Claimant was most bothered when in large groups that were loud and when the social demands were too much for him.

24. In the area of language and communication, Claimant displayed strengths and weaknesses. Claimant has a well-developed vocabulary and frequently shares extensive facts and details about his interests, e.g., video games and anime. Claimant demonstrated some understanding of humor, especially internet humor, or memes, but had difficulty if it was not within his scope of interests or level of humor. Claimant consistently initiated conversational exchanges about his preferred topics throughout the sensory-based interview session. However, throughout the interview, it was apparent that Claimant's threshold for processing incoming language demands was low when conversations were not centered around his interests or self-directed.

25. Ms. Palacios provided the following example of Claimant's participation in a conversation:

Even though [Claimant] initiated conversations and made comments about his interests, he had difficulty including the evaluator in his narrative. When the evaluator interjected comments or questions, [Claimant] often increased the volume of his voice and continued speaking

or by using a routine of stating "oh wow" before continuing his self-directed narrative. His ability to shift topics or to extend to topics that were not selected by him was limited. [Claimant] also shut down conversations that were about non-preferred topics by refusing (i.e., "I don't want to talk about that") and did not tolerate being re-asked about them. When he was re-asked, even with different phrasing, [Claimant] would answer in a stern/agitated tone that he "already said [he] didn't want to talk about it."

(Exh. 5, p. A50.)

26. In the area of social relationships and emotional responses, Claimant demonstrated strengths in his genuine interest in sharing his interests with others and his funny personality. Claimant appears to care deeply for his family's well-being as he expresses fears of them dying or experiencing harm. Claimant was calmer and more regulated when he knew what was expected of him and had time to focus on his areas of interest. He showed a strong desire to share his interests with the evaluator, albeit using a routine of dominating the conversation with a one-sided narrative and avoiding non-preferred topics or activities.

27. Claimant demonstrated social and emotional challenges in his limited ability to sustain social exchanges when he was asked to discuss social and emotional topics. Claimant also engaged in more tactile sensory-seeking behaviors, mainly seeking movement, and eventually settled on lying on the office floor with his arms over his face. Claimant became visibly frustrated when language demands increased or when asked about topics he refused to engage with. Claimant did not express interest

in establishing peer relationships and reported that he did not feel a sense of belonging with his peers because he is "different." (Exh. 5, p. A50.)

28. Ms. Palacios also administered the Children's Depression Inventory – Second Edition (CDI-2) to Claimant. Based on his ratings, Claimant received scores in the Very Elevated range for his total score and for his emotional problems and functional problems scores. These scores indicated Claimant may be struggling with depression more than his same-aged peers in some settings; he may appear sad, irritable, fatigued, or lonely at times; and he may be experiencing issues with ineffectiveness and interpersonal problems. Specifically, Claimant may have problems interacting with peers and maintaining school performance, and may also have an impaired capacity to be cooperative and to enjoy school activities.

29. Ms. Palacios also administered the Autism Spectrum Rating Scale Short Form (District administered ASRS) to Claimant. The District administered ASRS showed Claimant has difficulty using appropriate verbal and non-verbal communication for social contact, that he engaged in unusual behaviors, has problems with inattention or motor and impulse control, and has difficulty relating to children and adults. Ms. Palacios summarized these communication challenges as follows:

[Claimant] has difficulty providing appropriate emotional responses to people in social situations, uses language in an atypical manner, engages in stereotypical behaviors, has difficulty tolerating changes of routine, overreacts to sensory stimulation, and has difficulty focusing attention.

(Exh. 5, p. A57.)

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30. Ms. Palacios concluded that, based on Claimant's sensory use and interests, his communication, and his social relationships and emotional responses, Claimant's social-emotional and behavioral functioning profile is consistent with ASD. Ms. Palacios also concluded Claimant's challenges with behavioral and emotional regulation appear to be manifestations of his ASD rather than manifestations of other causes. (Exh. 6, p. A66.)

[Claimant's] emotional and behavioral dysregulation occurs when he has reached or passed his threshold for sensory input, social demands, and work demands. When Claimant is dysregulated, it is extremely challenging for him to allocate the cognitive and behavioral resources to calm himself down and return to a state of calm. It is imperative that [Claimant] learn coping strategies that work with his brain to regulate himself when he feels overwhelmed and on the verge of shutting down.

(Exh. 5, p. A57.)

Individualized Education Program

31. On September 3, 2024, the District conducted an Individualized Education Program (IEP) meeting on behalf of Claimant. Based on the information provided to the District, the special education eligibility criteria considered were ASD and Emotional Disability. (Exh. 5, p. A31.) Consistent with Claimant's psychoeducational assessment, Claimant's IEP team concluded Claimant is not eligible for special education services. (Exh. 6, p. A66.)

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32. The definition of ASD for special education services is found in California Code of Regulations, title 5, section 3030, subdivision (b)(1) (Regulations). When determining whether a child has ASD requires special education services, a school district does not consider the Diagnostic Statistical Manual – 5th Edition (DSM-5) definition of ASD or whether the student’s ASD constitutes a substantial disability. Rather, the consideration is whether a student’s ASD, as defined by the Regulations, adversely affects a student’s academic performance.

33. Ultimately, the District determined Claimant is not eligible for special education services under the category of ASD or emotional disability. The District concluded Claimant presents with ASD symptoms, but Claimant’s ASD does not adversely impact Claimant’s academic performance. Regarding emotional disability, the District concluded that Claimant’s difficulty with social-emotional regulation is related to Claimant’s ASD. The District further concluded that Claimant’s participation in counseling has reduced the heightened stress Claimant felt when he attempted to take his own life, which occurred during state testing and other end-of-school-year academic assessments. (Exh. 5, p. A59.)

PSYCHOLOGICAL

Psychosocial Assessment

34. On August 28, 2024, SC Soto conducted a psychosocial assessment of Claimant. During the psychosocial assessment, SC Soto asked general intake questions of Mother and made preliminary observations of Claimant. SC Soto documented her findings in Claimant’s Psychosocial Assessment report (Exh. 2).

35. During the psychosocial assessment, SC Soto noted Claimant appeared to be able to maintain eye contact, had a normal gait, and had no limitations to his

fine or gross motor skills. SC Soto also concluded that Claimant understands gestures and can express himself verbally.

36. In response to SC Soto's questions, Mother reported Claimant's strengths include that he is intelligent, caring of his family members, and he can prepare or warm up simple meals and feed himself. However, Mother expressed concerns about Claimant's social, emotional, and behavioral challenges. Mother explained that when Claimant was younger, he aligned his Legos. Currently, he engages in repetitive behaviors, including repeatedly watching the same movies, and dancing without reason, which SC Soto observed Claimant doing during the psychosocial intake. Claimant tries to socialize, but currently has only two friends and had no friends at his previous school. Claimant does not like sounds and cannot measure danger. Claimant has challenges in math and reading comprehension, but he can count money. Finally, Claimant cannot tie his shoes and does not tend to his personal hygiene despite repeated reminders and directions.

Psychological Evaluation

37. On September 9 and 11, 2024, Ana Paula Treviso, Psy.D., conducted a psychological evaluation of Claimant on behalf of Service Agency. Dr. Treviso's explanation of the tests she administered to Claimant, observations, findings, and recommendations are summarized in her Psychological Evaluation report (Exhibit 3).

38. Dr. Treviso administered the following assessments to Claimant: Wechsler Nonverbal Scale of Ability (WNV); Wide Range Achievement Test – 5th Edition (WRAT-5); Vineland Adaptive Behavior Scales, Third Edition Survey Interview Form (VABS-3); Autism Spectrum Rating Scale Short Form (ASRS); and the Autism Diagnostic Interview – Revised (ADI-R). Dr. Treviso also based her findings and recommendations on the

results of the evaluations, her interviews with Mother and Claimant, and her clinical observations.

39. In review of the information gathered during the psychological evaluation, Dr. Treviso concluded Claimant presents with ASD as defined in the DSM-5, without intellectual impairment but with accompanying language impairment. Dr. Treviso determined the severity level of Claimant's ASD to be at level 2, requiring substantial support, in both the social communication and repetitive and restrictive behaviors areas. Dr. Treviso also concluded Claimant has a specific learning disorder with impairment in written expression. (Exh. 3, pp. A23-A25.)

WNV

40. The WNV measures cognitive functioning. It is especially designed for culturally and linguistically diverse groups, individuals with limited language skills, individuals with hearing impairment, and individuals suspected of having Language Disorders. Claimant's Full Scale score on the WNV was 95, placing him in the average range for cognitive functioning. (Exh. 3, p. A20.)

VABS-3

41. The VABS-3 measures an individual's adaptive functioning, i.e., practical everyday skills required to function and negotiate environmental demands. The VABS-3 measures skill areas that are used to yield an Adaptive Behavior Composite Score with domain-skill area classification scores for Claimant's age group within the following areas: Communication (Receptive, Expressive, and Written); Daily Living Skills (Personal, Domestic, and Community); Socialization (Interpersonal Relationships, Play and Leisure Time, and Coping Skills); and Motor Skills (Gross Motor and Fine Motor).

42. Claimant's Adaptive Behavior Composite score was 77, placing him in the moderately low range. Claimant's Communication Domain score, which measures how well an individual exchanges information with others, was 71, placing him in the moderately low range and third percentile. Claimant's Daily Skills score, which measures an individual's performance of practical everyday tasks of living, was 87, placing him in the adequate range, in the 19th percentile. Claimant's Socialization score, which measures an individual's functioning in social situations, was 78, placing him in the moderately low range, in the seventh percentile.

43. The VABS-3 organizes testing results into categories of strengths or weaknesses. Claimant's VABS-3 scores showed Claimant's areas of weakness were in his receptive and written communication (not expressive), personal daily living skills, and interpersonal relationships. Claimant's personal score and domestic score, which assess his ability to attend to his self-care and chores, were significantly lower than his community score. Claimant's area of strength was in his community daily living skills.

ASRS

44. Dr. Treviso also administered Claimant the ASRS. As she explained in the psychological evaluation, "[w]hen used in combination with other information, results from the [ASRS] can help determine the likelihood that a child has symptoms associated with [ASD]. Ratings on the Total Score scale indicate the extent to which the child's behavioral characteristics are like the behaviors of children diagnosed with [ASD]. [Claimant's] [r]atings on this scale yielded a T-score of 79, ranked at the 99th percentile, and fell in the Very Elevated range." (Exh. 3, p. A22.) Dr. Treviso concluded Claimant's pattern of scores indicates he has symptoms related to the DSM-5 diagnostic criteria of ASD, and he exhibits many of the associated features characteristic of ASD.

ADI-R

45. The ADI-R is a diagnostic measure for ASD. The interview is conducted with parents or caretakers knowledgeable about the individual's current behavior and developmental history. The questions address the triad of symptoms related to ASD: Language and Communication; Reciprocal Social Interactions; and Restricted, Repetitive, and Stereotyped Behaviors and Interests. (Exh. 3, p. A22.)

46. Consistent with his performance on the ASRS, Claimant's scores on the ADI-R exceeded the cutoff scores in all the DSM-5 criteria for ASD. In the area of Abnormalities in Reciprocal Social Interaction, Claimant scored 14, where the ASD cut-off is 10. In the area of Abnormalities in Communication, Claimant scored 9, where the ASD cut off is 8; and in the area of Restricted and Stereotypic Patterns of Interest, Claimant scored 8, where the ASD cut off is 3.

47. During the psychological evaluation, Claimant demonstrated the following features of ASD:

[Claimant] rarely shares fun activities with others. . . . He occasionally has an odd way of speaking. He very frequently becomes obsessed with details. He very frequently insists on doing things the same way each time. He never plays with others. He occasionally notices social cues. He rarely shows interest in the ideas of others. He never understands humor. He very frequently focuses on one subject for too much time. He very frequently needs things to happen just as expected. He frequently insists on certain routines. He very frequently becomes upset if routines are changed. He

rarely shows good peer interactions. He occasionally responds when spoken to.

(Exh. 3, p. A22.)

ASSESSMENT

48. Dr. Treviso documented Claimant's ASD features related to abnormalities in reciprocal social interactions, abnormalities in communication, and restrictive and repetitive patterns of behavior and interests. Regarding reciprocal interactions, Claimant does not engage in consistent eye contact and does not consistently reciprocate a social smile. Although Claimant demonstrated a full range of facial expressions, he did so at inappropriate times, would laugh to himself without reason, and had difficulty understanding sarcasm.

49. Regarding communication, Claimant points to items of interest, engages in repetitive speech, does not engage in reciprocal conversation, and makes inappropriate comments in public without realizing it. He does not use speech without a need or want and only speaks regarding his hobbies or interests. Regarding persistent deficits in social communication and social interaction, Claimant prefers to be alone, engages minimally with others, and isolates himself during social gatherings.

50. Regarding restrictive and repetitive patterns of behavior or interests, Claimant has special interests in Legos and plushies. He engages in repetitive actions like tapping his feet and spinning in circles. He frequently rewatches movies and becomes fixated on organizing items. He is sensitive to textures and smells, including vomiting at the smell of vinegar, and frequently mouths objects, such as bottle caps or Legos. Claimant becomes distressed over changes, is sensitive to loud noises, and is a

picky eater. Finally, Claimant is emotionally dysregulated daily and engages in self-injurious behavior such as hitting his face with his fists.

CONCLUSIONS AND RECOMMENDATIONS

51. Dr. Treviso concluded Claimant's symptoms together limit and impair his everyday functioning. Claimant's lack of interest in others creates difficulties for Claimant in forming and sustaining social relationships. Similarly, Claimant's rigidity and sensitivities create challenges for Claimant in day-to-day life when dealing with changes and functioning in various settings.

52. Dr. Treviso made the following recommendations for Claimant's future services and evaluations: Claimant be administered a behavioral assessment to reduce dysregulation, resistance, and other maladaptive behaviors; Claimant undergo an occupational therapy evaluation to assess Claimant's sensory processing and provide intervention as needed; Claimant receive social skills training; and Claimant receive another cognitive assessment after he receives services for approximately two years.

Testimony of Laurie McKnight Brown, Ph.D.

53. Laurie McKnight Brown, Ph.D., testified at hearing on behalf of Service Agency. Dr. Brown has been a licensed psychologist since 2015 and the lead psychologist consultant for Service Agency since 2017. Dr. Brown's duties for Service Agency include reviewing the work of other Service Agency psychologists and assisting with appeals and fair hearings.

54. Dr. Brown explained the Lanterman Act eligibility requirements: Claimant must have a qualifying condition (cerebral palsy, epilepsy, ID, ASD, or a disabling condition found to be closely related to ID or to require treatment similar to that

required for individuals with ID); Claimant must be substantially disabled in at least three areas of daily life functioning as a result of a qualifying condition; and the qualifying condition must have developed within the development period, before Claimant was 18 years of age. Dr. Brown further explained that for a qualifying condition to constitute a substantial disability, it must impact at least three of the following seven major life activities: receptive and expressive language; learning; self-care; mobility; self-direction; capacity for independent living; and economic self-sufficiency.

55. Dr. Brown reviewed the evaluations of Claimant, found them valid, and agreed with the respective conclusions. Regarding Claimant's eligibility for regional center services, Dr. Brown explained Service Agency's Eligibility Team reviewed Claimant's request for eligibility in November 2024 and March 2025 and concluded both times that Claimant has the qualifying condition of ASD, but that Claimant's ASD does not constitute a substantial disability and he is therefore not eligible for regional center services.

56. Service Agency determined Claimant's ASD and his associated emotional dysregulation only impair his major life activity of self-direction. As to the other areas of substantial disability, the Service Agency concluded all of Claimant's records support the finding that he struggles with depression and any impacts on his major life activities are attributable to his depression and not to his ASD. Dr. Brown added that Claimant's struggles in the areas other than self-direction are based on a lack of motivation and not a lack of capacity.

57. Dr. Brown explained how Service Agency assessed whether Claimant's ASD constitutes a substantial disability. Regarding receptive and expressive language, Service Agency found Claimant to be fluent in English and therefore not substantially

disabled in this area of major life activity. Because Claimant's cognitive scores were average to high, Service Agency determined Claimant is not substantially disabled in the area of learning. Regarding self-care, Service Agency determined Claimant may need some reminders to attend to his self-care, but this limitation did not rise to the level of a substantial disability. Because Claimant can prepare food for himself and does not present with safety concerns, Service Agency concluded Claimant is not substantially disabled in the area of capacity for independent living. Finally, Claimant is not limited in his mobility and therefore is not substantially disabled in this area of major life activity.

Claimant's Evidence

58. Mother explained Claimant is very intelligent but also difficult. Claimant struggles with self-care – at 12 years old, he is not able to tie his shoes, and therefore only wears slip-on shoes, and he requires constant reminders for self-care activities such as hygiene. Mother has two adult children and explained Claimant's need for assistance with self-care far exceeds any support her other children needed when they were 12 years old. Mother agrees that Claimant can prepare simple meals for himself. However, Claimant is otherwise not self-sufficient, does not tend to household chores, and cannot be left alone based on his ASD symptoms, as described in the evaluations reviewed during the fair hearing.

59. Mother wants Claimant to receive the services that other children with ASD receive. Mother is increasingly worried about Claimant because he avoids school and based on his ASD symptoms, she cannot foresee him being employable as an adult without services to address his ASD.

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ARCA Guidelines

60. Service Agency submitted the “Association of Regional Center Agencies Recommendations for Assessing ‘Substantial Disability’ for the California Regional Centers”(ARCA Guidelines). (Exh. 10, pp. A159-A170.) The ARCA Guidelines provide general guidance on the assessment of whether an individual’s qualifying condition constitutes a substantial disability. The ARCA Guidelines state the following:

It is important to note that scores on adaptive functioning measures (such as the [VABS-3] DO NOT solely determine the presence or absence of substantial disability, as these scores are not a direct, objective measure of an applicant's adaptive functioning abilities. As such, the Interdisciplinary Eligibility Review Team should be vigilant to the potential for unintentional bias and/or the possibility of artificial over- or under-reporting of behaviors on these types of measures. . . . [A] wide variety of information, such as from an intake interview, psychological report(s), school and medical records, and provider and parent/caregiver interviews, should inform the determination of whether a substantial disability in three or more areas exists for each applicant.

(Exh. 11, p. A159.)

61. The ARCA Guidelines also provide a series of questions to be asked, according to the age of the individual, when assessing for substantial disability. The

ARCA Guidelines do not recommend assessing economic self-sufficiency for individuals under 16 years of age.

62. Service Agency did not follow the ARCA Guidelines when assessing whether Claimant's ASD constitutes a substantial disability. Rather, Service Agency's assessment did not adequately consider how Claimant's ASD impacts his major life activities. In addition, Service Agency's assessment was contrary to statements made by the evaluators that Claimant's limitations are attributable to his ASD and not to his depression. When the ARCA Guidelines are applied to the evidence presented at hearing, it is evident Claimant's ASD constitutes a substantial disability in four major life activities, i.e., self-direction, self-care, learning, and receptive and expressive language.

SELF-CARE

63. To determine whether an individual's qualifying disability constitutes a substantial disability in the major life activity area of self-care, the ARCA Guidelines provide that the regional center's assessment should determine whether the individual has noticeable limitations in the ability to acquire and perform basic self-care skills. When making this determination, the individual's capacity to address personal hygiene, grooming, and feeding should be considered.

64. For school-aged children, questions that should be asked regarding self-care include the following:

When asked in general about self-care, what concerns are reported?

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How does the child appear in terms of hygiene and general appearance?

Is the child expected to perform self-care tasks independently at home?

Are tasks not completed because of inability to understand them, or does it seem to be solely a compliance issue?

(Note that requiring prompts to get started on self-care tasks is usually not sufficient in and of itself to be considered a substantial disability in this area.) [¶] . . . [¶]

(Exh. 11, p. A160.)

65. Service Agency's assessment did not address these questions, and Service Agency did not present evidence establishing Claimant's self-care capacities are age-appropriate or typical. Rather, the evidence demonstrated that at the age of 12 years old, Claimant does not attend to his personal hygiene or to household chores. Claimant is capable of preparing simple meals for himself. However, he is not sufficiently independent to be left alone or to attend to his self-care needs for any period of time based on his persistent ASD symptoms.

RECEPTIVE AND EXPRESSIVE LANGUAGE

66. When making the determination as to whether an individual's qualifying disability constitutes a substantial disability in the major life activity area of receptive and expressive language, the ARCA Guidelines provide the regional center's assessment should determine whether the individual has noticeable limitations in both the comprehension and expression of verbal and/or nonverbal communication

resulting in functional impairments. The ARCA Guidelines further provide the individual must demonstrate impairment in receptive and expressive language to consider receptive and expressive Language to be an area of substantial disability.

67. The ARCA Guidelines also provide that the individual's pragmatic use of language be considered. Regarding receptive language, this includes consideration of whether the individual experiences significant difficulty understanding a simple conversation or needs information to be rephrased to a simpler level to enhance understanding; whether the individual experiences significant difficulty following directions (not due to general noncompliance) or significant difficulty understanding and interpreting nonverbal communication (e.g., gestures, facial expressions of others). Regarding expressive language, this includes consideration of whether the individual experiences significant difficulty participating in basic conversations (e.g., following rules for conversation and storytelling, tangential speech, fixation on specific topics), or significant difficulty communicating information effectively, or whether atypical speech patterns (e.g., jargon, idiosyncratic language, echolalia) significantly impair the individual's ability to communicate.

68. The ARCA Guidelines suggest interview questions for receptive language include the following:

Can the applicant usually follow a simple conversation?

Do information or requests frequently need to be rephrased to a simpler level to enhance understanding?

Does the applicant follow directions? How many directions at a time?

Does the applicant have a noticeable difficulty making sense of nonverbal communication such as gestures and facial expressions?

Is language use usually appropriate for social context?

If the applicant is near age level on receptive language test scores, is social language used in a typical manner?

Pragmatic deficits should be considered in assessing substantial disability for receptive language.

(Exh. 8, p. A161.)

69. The ARCA Guidelines suggest interview questions for expressive language include the following:

How does the applicant communicate needs and wants? (e.g., nonverbal gestures, speaks in single words, phrases, or sentences)

Is verbal language used for social purposes? Can the applicant have a comfortable back-and-forth conversation with others? Ask appropriate questions?

Does the applicant use nonverbal communication when speaking, such as eye contact, facial expressions, and hand gestures?

Does the applicant tend to speak mainly about preferred interests, rather than social chat? . . .

If the applicant is near age level on expressive language test scores, is social language used in a typical manner? . . .

(Exh. 8, pp. A161-A162.)

70. Service Agency failed to properly assess how Claimant's ASD impacts his receptive and expressive language. Considering the ARCA Guidelines, Claimant's ASD constitutes a substantial disability in the major life activity of receptive and expressive language. Claimant cannot follow a simple conversation, but rather dominates the conversation with focus on his interests; Claimant's language use is not appropriate for the social context; and Claimant does not use social language in a typical manner. Regarding expressive language, Claimant's communication serves the purpose of speaking of his interests and is not used for social purposes. Further, Claimant's non-verbal communication is limited to discussions of Claimant's preferred interests.

LEARNING

71. Regarding the major life activity of learning, the ARCA Guidelines direct the regional center's assessment to consider whether the individual has noticeable impairment in the ability to acquire and apply knowledge or skills to new or recurring situations. Notably, the question before the IEP team was whether Claimant's ASD warrants academic support. As can be seen by review of the ARCA Guidelines, whether a qualifying condition constitutes a substantial disability in the area of learning requires a different assessment, including consideration of the individual's interaction with the learning environment and community. An individual may be capable of the academic challenges presented to him or her and yet substantially disabled in the ability to access learning based on limitations with social and peer interaction and the emotional stressors that may arise on a given day in the classroom.

72. The ARCA Guidelines suggest interview questions for the major life activity of learning include the following:

Are symptoms of the applicant's qualifying condition impacting an ability to learn and participate meaningfully in the school environment (e.g., significant sensory sensitivities, engagement in atypical behaviors that disrupt the school day)?

Is there consistency across the records in terms of the applicant's present or past functioning in a structured learning environment? (For school-age children, consider a direct clinical observation of the child in a school setting if more clarity is needed.) [¶] . . . [¶]

Is the child receiving Special Education services?

What is your estimation of the child's reading level or math level?

Can the child tell time on an analog clock at least by the hour? Identify coins and values?

What was the last task the child recently learned how to do?

What was it like teaching them?

Does the child appear to have an excessive difficulty with learning, regardless of participation in intervention services?

Is the child able to maintain mastery of a newly attained skill?

(Exh. 8, pp. A163-A164.)

73. Service Agency did not assess whether Claimant's ASD constitutes a substantial disability in the area of learning in accordance with the ARCA Guidelines. Rather, Service Agency determined Claimant's learning was not impacted by his ASD because of his average cognitive scores. However, as provided in the ARCA Guidelines, the assessment of the impact of a developmental disability on the major life activity of the area of learning requires a broader assessment than consideration of FSIQ scores or whether the individual qualified for special education services.

74. In consideration of the ARCA Guidelines, Claimant's ASD constitutes a substantial disability in the major life activity of the area of learning. Claimant experiences significant emotional dysregulation when learning something new that presents challenges attributable to his ASD. In addition, his ASD symptoms impacted his daily learning. Further, Claimant experiences significant challenges in his ability to work in groups or collaboratively, a social and learning skill set impacted by his ASD, but expected from typically functioning 12-year-old students.

LEGAL CONCLUSIONS

Jurisdiction

1. The Lanterman Act governs this case. An administrative "fair hearing" to determine the rights and obligations of the parties is available under the Lanterman Act. (§§ 4700-4716.) (Factual Findings 1-6.)

Burden and Standard of Proof

2. The party asserting a condition that would make the individual eligible for a benefit or service has the burden of proof to establish that he or she has the condition. (*Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 160-161.) In this case, Claimant bears the burden of proving by a preponderance of the evidence that he has a developmental disability as defined by the Lanterman Act and is eligible for regional center services. (Evid. Code, § 115.)

Lanterman Act Eligibility Requirements

3. A developmental disability is a disability that originates before an individual turns 18 years old. This disability must be expected to continue indefinitely and must constitute a substantial disability for the individual. Developmental disabilities are limited to cerebral palsy, epilepsy, ASD, Intellectual Disability (ID), or a disabling condition found to be closely related to intellectual disability or to require treatment similar to that required for an individual with an intellectual disability (5th Category). Developmental disabilities do not include other handicapping conditions that are solely physical in nature, or which are solely psychiatric disorders or learning disabilities. (§ 4512, subd. (a); Cal. Code Regs., tit. 17, § 54000.)

SUBSTANTIAL DISABILITY

4. "Substantial disability" means:

(a) (1) A condition which results in major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary planning and

coordination of special or generic services to assist the individual in achieving maximum potential; and

(2) The existence of significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person's age:

(A) Receptive and expressive language;

(B) Learning;

(C) Self-care;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living;

(G) Economic self-sufficiency.

(Cal. Code Regs., tit. 17, § 54001, subd. (a); see § 4512 (1)(1).)

Analysis

5. When assessing whether Claimant's ASD constitutes a substantial disability, a wide variety of information, including all the evaluations presented at the fair hearing, should inform the decision. The evaluators, including Dr. Treviso, Ms. Palacio, Mr. Banuelos, and Ms. Trucios, were aware of Claimant's depression and yet attributed his struggles with major life activities to his ASD and not to his depression. Further, the evaluations demonstrated consistently that Claimant's ASD results in

major impairment of his social functioning, which causes significant functional limitations in the major life activity areas of self-direction, self-care, receptive and expressive language, and learning.

6. Claimant has ASD, a qualifying condition. Claimant's ASD constitutes a substantial disability. Accordingly, Claimant is eligible for services under the Lanterman Act.

ORDER

Claimant's appeal is granted. Claimant is eligible for regional center services under the Lanterman Act.

DATE:

CHANTAL M. SAMPOGNA
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 under Welfare and Institutions Code section 4713, subdivision (b), 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.