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

## In the Matter of:

## CLAIMANT

## and

## INLAND REGIONAL CENTER, Service Agency.

## DDS No. CS0030422

## OAH No. 2025090990

## DECISION

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on January 7, 2026.

Dana Hardy, Fair Hearings Representative, represented Inland Regional Center (IRC).

Brian Allen, Lead Educational Consultant, Advocate, represented claimant and his parents. He was assisted by Dr. Alfonso Padron.

Oral and documentary evidence was received. The record remained open to allow the parties to submit written closing arguments. Claimant moved to exclude consideration of IRC's closing brief because it was served on claimant seven minutes

past the 5:00 p.m. deadline. Claimant argued that doing so violated OAH's order and took advantage of claimant. However, claimant failed to show how he would be prejudiced by consideration of that brief. Moreover, neither parties' closing brief is evidence, but merely a summary of each party's position. Here, IRC's closing brief was nothing more than its summary of the evidence that had been received and it was consistent with IRC's Position Statement. As such, claimant's motion to exclude consideration of that brief is denied. The parties' closing briefs and rebuttal briefs have been marked and received as the parties' arguments. The record was closed, and the matter was submitted for decision on January 29, 2026.

## ISSUE

Is claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) because of a diagnosis of Autism Spectrum Disorder (ASD or autism) that constitutes a substantial disability?

## FACTUAL FINDINGS

### Jurisdictional Matters

1. Claimant, currently a 15-year-old male, sought regional center services under the qualifying category of autism.

2. On September 22, 2025, IRC issued a Notice of Action (NOA) advising claimant that, based upon its evaluation, claimant was not eligible for regional center services. IRC cited the law in support of its determination and advised claimant of his appeal rights.

3. On September 24, 2025, IRC received claimant's Appeals Tracking Request appealing the denial and asserting IRC's psychological evaluation was legally inappropriate.

4. Upon receipt of the appeal, the matter was set for hearing.

## Diagnostic Criteria for Autism Spectrum Disorder

5. The *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision* (DSM-5-TR) is a publication by the American Psychiatric Association for the classification of mental disorders using a common language and standard criteria. It is the main book for the diagnosis and treatment of mental disorders. IRC introduced excerpts from the DSM-5-TR, which contains the diagnostic criteria that must be met in order to make a diagnosis of autism. To be eligible for regional center services based on autism spectrum disorder, a claimant must meet that diagnostic criteria. The criteria include: persistent deficits in social communication and social interaction across multiple contexts (Criterion A); restricted, repetitive patterns of behavior, interests, or activities (Criterion B); symptoms that are present in the early developmental period (Criterion C); symptoms that cause clinically significant impairment in social, occupational, or other important areas of current functioning (Criterion D); and disturbances that are not better explained by intellectual developmental disorder or global developmental delay (Criterion E).

6. There is no requirement for formal testing, rather, the diagnostic criteria may be found "currently or by history." Autism diagnoses must specify "current severity based on social communication impairments and restricted, repetitive patterns of behavior." The severity is divided into three levels. Level 1 is the severity level assigned to individuals who have mild symptoms and can function independently with

support; Level 2 is the severity level assigned to individuals who have moderate symptoms and require substantial support; and Level 3 is the severity level assigned to individuals who have severe symptoms and require very substantial support.

## Diagnostic Criteria for Oppositional Defiant Disorder

7. The DSM-5-TR diagnostic criteria for Oppositional Defiant Disorder (ODD) stated that the condition is diagnosed when there is a pattern of angry/irritable mood, argumentative/defiant behavior, or vindictiveness lasting at least six months as evidenced by at least four symptoms from any of the following categories: angry/irritable mood, argumentative/defiant behavior, and behavior is exhibited during interaction with at least one individual who is not a sibling (Criterion A). The individual's disturbance and behavior must be associated with distress in the individual or others in the individual's immediate social context or must negatively impact the individual's social, educational, occupational, or other important areas of functioning (Criterion B). Further, the behaviors must not occur exclusively during the course of a psychotic, substance-abuse, depressive, or bipolar disorder or do not meet criteria for disruptive mood dysregulation disorder (Criterion C).

8. The "Specifiers" section notes that is not uncommon for individuals with ODD to show symptoms only at home and only with family members. The "Diagnostic Features" section notes that an essential feature of ODD is a frequent and persistent pattern of angry/irritable mood, argumentative/defiant behavior, or vindictiveness. Two of the most common co-occurring conditions with ODD are Attention Deficit Hyperactivity Disorder (ADHD) and conduct disorder.

## Evidence Introduced at Hearing

9. Alex Mendez, Psy.D., Jerry Turner, Ph.D., and claimant's mother testified in this hearing, and numerous documents were received. The factual findings reached herein are based on that evidence.

10. The parties' Position Statements set forth their respective positions.

## 2024 INDEPENDENT EDUCATIONAL EVALUATION BY DR. TURNER

### Dr. Turner's Background

11. Although no curriculum vitae was provided, Dr. Turner testified that he is a clinical psychologist with an emphasis in school psychology. He has two masters' degrees, one in psychology, and one in school psychology, and has his Ph.D. He completed courses at the University of Massachusetts towards a Board Certified Behavior Analyst (BCBA) degree in 2012. He took these courses to obtain information regarding the BCBA discipline, but had no desire to take the boards or do an internship required for BCBA licensure. He testified he has 23 years' experience diagnosing individuals with disabilities. He has worked as a school psychologist for Beaumont Unified School District, explaining the large increase in autism diagnoses that the district observed led to school psychologists "getting crash courses in autism."

12. Dr. Turner has also taken several courses regarding administering the Autism Diagnostic Observation Schedule (ADOS), one in 2021, which was given by the author of the ADOS manual. Dr. Turner has evaluated between 500 and 700 individuals with autism, ranging from mild to severe autism. He has written books for special education and been a licensed educational psychologist for 11 years.

## Dr. Turner's Independent Educational Evaluation

13. On July 22, 2024, Dr. Turner conducted an Independent Educational Evaluation (IEE) and authored a report. He noted that claimant, who was then 11 years and 2 months old, had been referred by his parents. Concerns included "proper identification of strengths and challenges; creating targeted and effective interventions; and recommendations for appropriate services in the school setting." Although the report noted that the IEE "uses contributions from parents, teachers, our specialist and especially [claimant]," there were no responses received from claimant's general education or special education teachers, which Dr. Turner called "disappointing" during his testimony. Accordingly, the contributors to the IEE were only Dr. Turner, claimant's mother, and claimant. Dr. Turner also reviewed "[a]ll provided school records."

14. Dr. Turner summarized claimant's 2024 Individualized Education Program (IEP), noting that claimant's ADHD diagnosis, as well as his other mood-related conditions may cause him to have "limited alertness (including heightened alertness)" that "can potentially result in a limited alertness to his educational environment at this time." Claimant appeared "to be accessing his education and achieving on par with peers at this time with the additional support of his IEP. Therefore, based on observational data, assessments, collected statements and review of records, [claimant] appears to meet the eligibility criteria for Other Health Impairment."

15. Dr. Turner reported that the 2024 IEP referenced a November 17, 2018, "outside psychological evaluation," which indicated that claimant "met the DSM V [*sic*] diagnostic criteria for separation anxiety disorder, [ADHD] combined presentation, ODD, and major depressive disorder, recurrent episodes, moderate." Of note, this 2018 report was not introduced at hearing or provided to IRC or Dr. Mendez.

16. Dr. Turner also summarized claimant's January 24, 2020, psychoeducational assessment report, which was also not provided to IRC or Dr. Mendez, and was not introduced at hearing. At the time of that 2020 assessment, claimant was six years old and in first grade, and he was assessed and observed over multiple days. Dr. Turner listed the tests administered, noting claimant's strengths and deficits, and that his overall ability was within the average range. Claimant was "generally working within his estimated range of ability in math and writing," although some reading weaknesses were noted, and it was "likely that his attention, effort and engagement likely impact his ability to use his true cognitive and academic skills." Claimant appeared to have positive familial relationships, identified peers as friends, and reported enjoying school. He was observed "having some difficulty with managing his focus and attention within the larger classroom setting and was often verbally prompted and redirected when needed," which "likely impact his ability to demonstrate his full academic potential" as demonstrated by his grades.

17. Dr. Turner further reported that the 2020 assessment showed that despite claimant's diagnoses of ADHD combined type, Separation Anxiety Disorder, ODD, and Major Depressive Disorder, claimant did not present or report experiencing significant negative feelings that would impact him in a negative manner at school. Further, at that time, claimant was taking medication for his ADHD and anxiety, which likely contributed to his overall ability to function at school. Claimant "reported that he had positive social and family relationships and enjoys school." Claimant was reported as being "compliant and friendly" with the 2020 assessors.

18. Dr. Turner reported that the results of tests administered in 2020 showed claimant had significant hyperactivity, depression, attention problems, and learning behaviors, indicating difficulties both at home and in school settings. Adaptive skills

tests were in the clinically significant ranges. One rater indicated significant issues with attention and executive functioning, and one questionnaire indicated below average functioning in all areas, except self-awareness, which was in the average range. The 2020 psychoeducational assessment further documented that claimant had some deficits in reading, with strengths in other areas, but appeared to have difficulty accessing and utilizing his skills in the classroom, which was likely impacted by his ADHD and other diagnoses. Despite taking medication, claimant still had difficulties with inattention, ease of distraction, and task completion, which likely played "a large role in his below ability performances as they impede his ability to effectively use his cognitive and academic strengths in the larger, unstructured classroom setting."

19. Dr. Turner's IEE also documented the parental input he received from claimant's mother who "expressed concerns about [claimant's] social and emotional challenges." She reported he has difficulty maintaining friendships and interacting with peers, experiences significant anxiety, and becomes easily overwhelmed. She also reported he struggles with impulsivity, comprehension, and focusing, which affects his performance and participation in school activities. Claimant also has a hard time communicating his feelings and struggles with his teachers, adding to his overall emotional distress. Claimant's mother described his behaviors and noted that he has significant challenges with inattention and motor control. He also overreacts to sensory stimuli and finds it hard to focus attention.

20. Claimant's mother also reported that when he is motivated, claimant can learn and accomplish tasks effectively, describe things he enjoys, and identify his challenges. Claimant's mother described issues sustaining claimant's attention and his lack of organization, including losing items and failing to complete assignments. Claimant's mother noted that claimant's "academic performance is inconsistent, with

noticeable difficulties in maintaining focus and organization." She was seeking interventions that would help claimant "develop better organizational skills, sustain attention, and manage his impulsivity."

21. Dr. Turner noted that claimant had passed the vision and hearing exams administered to him. Dr. Turner's observations of claimant were consistent with claimant having no vision or hearing difficulties, but he did note that claimant's hand eye coordination "appeared significantly less than expected for his developmental level, with noticeable difficulties with fine motor control."

22. In the "Communication Development" section of his IEE report, Dr. Turner documented that he observed that claimant had average receptive and expressive language skills, displayed a consistent ability to comprehend and accurately follow directions, but his verbal communication "was strickly [*sic*] formal and informative, indicating his limited ability to process and respond to verbal conversations effectively." Claimant "asked some informative-seeking questions" which "were pertinent to the assessment activities and reflected his understanding and interest in the procedures." Claimant successfully followed multi-step directions and maintained limited dialogue with Dr. Turner throughout the assessment. Claimant "responded appropriately to information seeking questions, but did not engage with most open-ended questions with any elaboration." Claimant's "nonverbal communication was significantly limited," and he "demonstrated a significant lack of eye contact, facial expressions and gestures to complement his spoken language."

23. In the "Gross and Fine Motor Development" section of his IEE report, Dr. Turner documented his observations, noting claimant "demonstrated limited proficiency in tasks requiring fine motor coordination." He had limitations

manipulating small objects. Claimant's gross motor skills showed average abilities. He successfully demonstrated balance, navigating with ease and confidence.

24. In the "Teacher Input" section of his IEE report, Dr. Turner documented that although requested, no teachers responded. Dr. Turner referenced the teacher input from the district's January 24, 2020, psychoeducational report, noting that claimant's teacher reported him struggling far below in reading and writing, his difficulty staying on task, his issues with written expression, and his distracting behaviors. Dr. Turner's report also summarized the observations documented in the 2020 psychoeducational assessment, noting the assessor was unable to perform a classroom observation because the assessment was completed over the summer when claimant was not in school. Other 2020 observations documented the redirection given to claimant, how he would stray off task, and other times when he would do the assignments.

25. Dr. Turner also summarized tests previously administered, which showed low scores in reading, writing, and fluency. On the Woodcock-Johnson IV test administered by Dr. Turner, a test to measure cognitive abilities, claimant's scores for knowledge of words and letter word identification were in the average ranges, his passage comprehension score was in the below average range, his reading fluency, calculations, and spelling scores were in the well below-average ranges, his math facts fluency and applied problems scores were in the lower extreme ranges. Claimant's scores on the Woodcock-Johnson Relative Proficiency Index showed claimant's proficiency was at or above his peers, but intervention was needed for comprehension, spelling, math, and fluency. Claimant's scores on the Feifer Assessment of Mathematics, a test designed to evaluate the neurodevelopmental processes

underpinning math proficiency, claimant's scores in the various categories tested were in the average, lower extreme, and below-average ranges.

26. Claimant's scores on the cognitive assessment system, second edition (CAS-2), a tool evaluating neuro-psychological assessment of cognitive processing, showed that claimant's excessive processing scores indicated an average ability, his attention and visual motor integration scores showed a below-average ability, and his planning and simultaneous processing scores were in the well below average range. Claimant's nonverbal CAS-2 scores were in the lower extreme range. Claimant's scores on attention processing were below average, and his scores on expressive attention were well below average, demonstrating his impulsivity.

27. Claimant's scores on a test evaluating his ADHD were associated with a moderate likelihood of having that disorder. Dr. Turner noted that these scores could also be due to other psychological and/or neurological conditions with symptoms of impaired attention. Claimant's scores indicated he may have issues related to "Inattentiveness (Strong Indication)." Tests evaluating claimant's ability to focus were in the below average and well below-average ranges. Test evaluating claimant's responses and reactions were in the average and lower extreme ranges.

28. Dr. Turner wrote that on other tests to evaluate claimant's ADHD, claimant's mother's reported moderate inattention issues, severe hyperactivity/impulsivity issues, moderate oppositional/defiance issues, and concerning issues. On memory processing evaluations, claimant's scores were in the average ranges except for his phonological memory score which was in the below average range. Visual processing evaluations scores were in the average ranges except for his visual motor integration and motor coordination scores which were in the below average ranges.

29. Claimant's handwriting was noted to be "significantly less legible than expected." Most of his letters were unrecognizable. Claimant's letter formation was also "significantly less than expected" and "many of his numbers are unrecognizable." Claimant's drawing skills were also "significantly less than expected." These assessments demonstrated claimant's "ongoing fine motor control difficulties." Dr. Turner wrote that given claimant qualifies for occupational therapy, and continues to be "significantly behind," increased services were required.

30. Claimant's auditory assessments were in the average ranges. His overall auditory processing ability scores were in a below average range.

31. Dr. Turner also evaluated claimant for autism. He administered the Autism Spectrum Rating Scale (ASRS), which is used to quantify observations of a child with autism, and was completed by claimant's mother. Her responses to questions gave claimant scores in the average, elevated, slightly elevated, and very elevated ranges. Dr. Turner concluded that the total score ratings were in the very elevated range, which showed a very elevated DSM-5 range for autism, and showed that claimant "has symptoms directly related to the DSM-5 diagnostic criteria, and is exhibiting many of the associated features characteristic of autism spectrum disorder."

32. Dr. Turner also administered the ADOS-2, which "revealed challenges with social communication and interaction, characterized by minimal eye contact, a focus on precision over social engagement, and difficulties in expressing and understanding emotions." Claimant's "overall behavior is consistent with mild to moderate autism."

33. Claimant's scores on the Clinical Assessment of Pragmatics, which measures pragmatic judgment and the use of social language and nonverbal cues,

were in the well below average ranges. Dr. Turner's "Social Skills Observations" documented that claimant had limited insight into the nature of typical social relationships, significantly limited social overtures (which evaluated the quality of his attempts to initiate social interaction with Dr. Turner), significantly limited appropriate social responses, limited use of verbal and para-verbal behaviors appropriate for social interchange, limited ability to engage in dialogue, and limited understanding and shared emotions. Claimant did ask appropriately for further information and clarification of instructions at an age-appropriate level, sat still appropriately throughout the assessment, but demonstrated obvious anxiety, especially when asked to do mathematical division problems.

34. In his "Summary," Dr. Turner opined that claimant's academic ability was in the lower extreme to average range, his writing ability was consistent with dysgraphia (a neurological condition that affects writing skills for age and ability), his cognitive ability was in the below average to average range, his attention processing showed his ability to quickly focus attention for a brief period was in the below average range and his long-term attention span showed strong indications of inattentiveness. Claimant's mother's reported behaviors consistent with ADHD-combined type. Claimant's short-term auditory memory was in the below-average range and his working memory was in the average range. Claimant's visual processing ability was in the average range, with his visual integration, motor ability, and fine motor coordination being in the below-average ranges. Claimant's auditory processing ability and phonological memory abilities were in the below average ranges. His phonological awareness ability and rapid naming ability were in the average ranges. His overall auditory processing was in the below average range and his phonological awareness skills were in the average range. His overall reading comprehension score was in the below-average range. These scores were consistent with a phonological

processing deficit. Claimant's social skills were in the lower extreme range and his executive functioning abilities were in the average range. Dr. Turner determined that claimant's "observed and assessed behaviors are consistent with autism."

35. Dr. Turner's diagnoses were:

> Autism Spectrum Disorder, level 1, without intellectual impairment [DSM-V [*sic*]]. He requires intervention in the educational setting in the areas of social and academics.
>
> Specific Learning Disorder with moderate to severe impairment in written expression [DSM-V [*sic*]]. Consistent with dysgraphia. He requires intervention in the educational setting.
>
> Specific Learning Disorder with mild impairment in reading [DSM-V [*sic*]]. Compounded by autism. He requires intervention in the educational setting.
>
> The district should consider the possible impact of [claimant's] unusual 5th grade year before confirming the following:
>
> Specific Learning Disorder with mild impairment in mathematics [DSM-V [*sic*]]. [Claimant] approached math with enthusiasm. However, his positive behavior was inconsistent with his performance. This may be due to missing several months of grade appropriate instruction during the prior school year.

36. Dr. Turner concluded that claimant met the eligibility criteria for special education services under the category of autism. He noted that claimant "presents a unique manifestation of autism characterized by significant challenges in social interactions, attention, and sensory sensitivities. He has difficulty maintaining friendships and often feels isolated or unsure about how to engage with peers." Dr. Turner noted that claimant's "social struggle is compounded by his general and separation-related anxiety, which causes him to become easily overwhelmed in social settings." Dr. Turner noted claimant "struggles with verbal and nonverbal communication in social contexts," and while he consistently followed multi-step directions and displayed appropriate task execution, his ability to engage in open-ended conversations was limited, he often displayed minimal elaboration and restricted use of nonverbal communication cues.

37. Claimant exhibited unusual behaviors and significant difficulties with inattention and motor control, overreacted to sensory stimuli, and found it hard to focus attention, leading to frequent distraction and task avoidance. Claimant's impulsivity and difficulty following through on instructions affected his performance at school. Claimant's "autism manifests in a combination of social, communicative, and sensory processing difficulties that require targeted interventions and a supportive educational environment to help him manage his anxiety, improve social skills, and enhance his academic performance."

38. Dr. Turner also found that claimant met the eligibility criteria for special education services under the Specific Learning Disability (SLD) and Other Health Impaired (OHI) categories, but did not meet eligibility criteria under the Emotional Disturbance or Intellectual Disability Disorder categories. Dr. Turner noted that despite his findings, the IEP team "must make [the] final qualification and service

determination." Dr. Turner cautioned that these classifications and labels "should not cloud the ability to recognize and respect [claimant's] resiliency, because even though they accurately characterize" him, they "do not provide information about how he processes, store[s], and retrieves information; how different environments affect learning; how [his] motivation to succeed is developed; and how intellectual growth is best nurtured." Dr. Turner concluded that claimant's "impairment requires instruction, services, or both which cannot be provided with modifications and accommodations to the general education program." Dr. Turner's report concluded with a list of recommendations, a letter from claimant drafted by Dr. Turner, and a list of resources.

### CLAIMANT'S 2025 IEP

39. Claimant's March 4, 2025, IEP, conducted when he was 11 years, 9 months old, and in sixth grade, documented that claimant met eligibility criteria for special education services under a primary disability of autism and a secondary disability of SLD.

40. The 2025 IEP noted that claimant "presents a unique manifestation of autism characterized by significant challenges in social interactions, attention, and sensory sensitivities." He struggles socially, has difficulty maintaining friendships, and "often feels isolated." Claimant's social struggles are "compounded by his general and separation-related anxiety" and he "struggles with verbal and non-verbal communication in social contexts." Claimant also qualified under the SLD category because he struggles in the areas of written expression, math, problem-solving, and reading comprehension. The 2025 IEP noted claimant first became eligible for special education services in 2020.

41. The "Strengths/Preferences/Interests" section noted claimant "is caring and wants to help others when possible. He desires social interactions with several peers and wants to build meaningful relationships with his friends." Claimant "loves to be outside interacting with his environment and completing physical tasks." He also "enjoys hands-on activities and enjoys working in collaborative groups with 2-3 students. He enjoys playing soccer and is excited about being on a baseball team." Claimant also "enjoys it when stories are being read to him and has a good comprehension of the events and characters in the story. He is motivated by positive behavior support systems."

42. The "Preacademic/Academic/Functional Skills" section noted claimant "has a higher capability level in both reading and math than he demonstrates in his work and assessments." The "Communication Development" section noted claimant "is able to communicate his wants and needs appropriately. However, this skill diminishes when he is emotionally escalated." The "Social Emotional/Behavioral" section noted:

> [Claimant] wants to have positive peer relationships and often makes efforts to be helpful to peers and ask them to spend time with him. He can maintain positive interactions unless he believes he is being denied acceptance in the group or perceives being wronged in some way. When this happens he will resort to instigation of peers and threats of non-compliance (such as refusal to take medication or ride the bus) as a means to get what he desires. [Claimant] has reduced disruptive task-avoidance behaviors and can appropriately request breaks, and shortened or different assignments. He continues to struggle with working to his

ability level and completes his assignments with the bare minimum of effort. [Claimant] has greatly increased his ability to refrain from physical aggression toward peers when frustrated. He is able to avoid hitting or kicking others when frustrated a majority of the time but he still engages in annoyance behaviors to instigate behavior from others (such as taking an item from them, occupying their space, or turning off their electronics while they are using them). [Claimant] has dramatically improved attendance with 0 absences and 1 tardy due to an appointment since transferring to [school].

43. The "Adaptive/Daily Living Skills" section noted:

[Claimant] can dress himself and manage his clothing needs at school which includes putting on, zipping up, unzipping and removing a jacket, tying his shoes, and using the restroom. He can feed himself, and maintain his personal items at school. Parent reported, "He is physically capable of independently pulling his pants up and pushing them down, removing and putting on a jacket, feeding himself with his hands as well as with utensils, drinking from a regular cup, opening food packages and preparing small snacks and meals for himself including using the microwave, using the restroom, and washing his hands.["] When asked if he can manipulate fasteners on clothing, including tying his shoes, she reported he believes he can

> but often chooses not to. [Claimant] will often "spiral through what is expected," to the extent of not completing the task until time is now pressing and parent reports she will end up helping him with many self-care tasks. [Claimant] is working on taking the trash out, unloading the dishwasher, and putting folded clothes away. She notes that whether or not [claimant] complies with the requested chores is dependent on his mood." [*sic*]

44. The "Health" section documented: "Per outside psychological evaluation (dated 11/17/18), [claimant] met the DSM V [*sic*] diagnostic criteria for Separation Anxiety Disorder, [ADHD] combined presentation, [ODD], and Major Depressive Disorder, recurrent episodes, moderate." Claimant also had unspecified asthma that can present with physical activity and had an inhaler at school. The "Health" section also noted that per the July 22, 2024, IEE report, claimant had ASD without intellectual impairment; Generalized Anxiety Disorder, associated with autism, childhood-onset; SLD with moderate to severe impairment in written expression, consistent with dysgraphia; and SLD with mild impairment in reading, compounded by autism.

45. The 2025 IEP noted that for claimant to receive educational benefit, IEP goals would be written to address the following areas of need: reading comprehension, math, writing, behavior, and social/emotional. The 2025 IEP then identified goals and objectives in those areas. The reading goal was to have claimant support inferences drawn from text from 0 percent accuracy to 60 percent accuracy. The math goal was to have claimant improve his accuracy from 10 percent to 70 percent. The writing goal was to improve claimant's accuracy from 40 percent to 80 percent. One behavioral goal was to have claimant complete tasks by transitioning to

and completing them without additional prompts from 10 percent to 70 percent of the time. Another behavioral goal was to have claimant, when facing a negative social situation, improve his use of strategies such as removing himself from the situation or seeking adult guidance to avoid resorting to instigation and retaliatory behaviors, from 20 percent of the time to 80 percent of the time. The social/emotional-emotional regulation goal was to have claimant increase his ability to identify psychological cues, such as sweating, heart racing and/or heavy breathing, prior to emotional dysregulation from two out of five times to three out of five times. The social/emotional-identification of psychological cues goal noted that claimant was able to identify psychological cues and seek adult assistance prior to emotional dysregulation and his ability to do so would increase.

46. In the "Comments" section, in response to the question as to whether claimant's behavior impedes his learning or others' learning, the 2025 IEP stated:

> [Claimant] can engage in task avoidance behaviors and often needs adult prompting to stay on task or to complete the task with the appropriate level of effort. More recently, [claimant's] impulsivity has increased, and he can struggle when a privilege or a tangible is denied or delayed. When he feels excluded or treated negatively by peers he responds with instigation and retaliatory behavior. When he feels this way he can ignore adult directives and lash out at peers. He can use threats of medication and/or transportation refusal as an attempt to get what is desired. This is something that occurs in the home as well.

The 2025 IEP referenced a behavior intervention plan to address those behaviors.

47. In the section discussing the service options that the 2025 IEP team considered, it was noted that the general education environment with both push and pull out supports was considered, as well as a separate classroom with intensive individualized support, known as the Success program. The 2025 IEP determined that claimant would benefit from a smaller setting and behavior support that the Success program provides. "DMCC counseling (acronym not explained) and Occupational Therapy will provide services in a separate setting as well." While the 2025 IEP team acknowledged this placement would give claimant diminished access to the core curriculum, cause him to miss general education instruction and have a lack of engagement with typical peers, it was the most appropriate setting for him and outweighed any potential harmful effects. As a result, claimant would spend 98 percent of his time outside the regular class, extracurricular and non-academic activities, and two percent of his time in regular classes, extracurricular, and non-academic activities.

48. The Summary section contained summaries of the information noted above, and also discussed the occupational therapist's report and opinions. The occupational therapist recommended claimant receive occupational therapy consultation instead of direct services and recommended medication, explaining that the "primary cause of claimant's fine motor skills is his Anxiety" and "medication was the only variable that changed when he exhibited a change in fine motor skills." The Summary also noted that claimant's advocate, who represents him in this hearing, asked why the occupational therapy report did not have a "discussion of high-level behavior," and the explanation was that claimant's Success program was targeting that

and his needs. The advocate also asked about a fadeout plan, which was not explained, and the occupational therapist believed claimant does not need one to support him. As noted: "The Advocate states that they do not agree with the [occupational therapy report] and requests that they review the reports with a third-party occupational therapist. Parents agreed to the request and stay put rights would be put in place until this time."

49. The "Parent Concerns" section noted that claimant's parents wanted him "to be able to fit in" and would like him "to develop a desire to read and write." The accommodations and supports to be provided were identified. Claimant's parents and advocates signed the 2025 IEP, agreeing to it with the exception of the "[occupational therapy] report and the recommendation changing to a consult model. Will discuss once a review of the report is complete."

50. The Behavior Intervention Plan attached to the 2025 IEP identified the problem impeding claimant's learning as: "When faced with a negative social situation or he feels he is being wronged in some way (being called names were being excluded from the group) he will instigate conflict with the student causing the issue and/or anyone nearby. He will follow them, invade their personal space (ex. sitting down in a chair or swing the student is trying to sit on) take or touch their belongings (turning off their Chromebook or iPad while they are using it), and on occasion resort to physical aggression." These behaviors happened two to three times daily, last 2 to 10 minutes, and are mild to moderate in intensity. The plan identified triggers for that behavior and strategies to address it.

## IRC's 2025 Social Assessment

51. IRC's April 15, 2025, Social Assessment documented that an in-person assessment was offered, but claimant's mother opted to do one by telephone because of the distance from her home to IRC. Present for the assessment were claimant's mother and an IRC intake counselor. Claimant was referred to IRC by his family for possible autism. The assessment documented that the IRC screening committee was requesting that claimant undergo testing to evaluate claimant for autism.

52. The IRC intake counselor took a history, which included documenting claimant's developmental milestones. An IEP had been initiated when claimant was in first grade "but ultimately denied, as he did not meet criteria for services based on academic performance." Claimant's mother "sought a change in school setting and secured the support of an educational advocate, [Mr. Allen], who continued to assist the family." Claimant "eventually received an IEP" at his elementary school that included support in reading, writing, occupational therapy, and fine motor skills. When COVID began, claimant transitioned to distance learning to which he adapted fairly well, largely due to his mother's support. He preferred not to be on camera and his teacher accommodated that request. Claimant received his initial diagnoses in first grade after a three to four hour evaluation. At the time, he was diagnosed with separation anxiety, ADHD, ODD, and mild depression. He did not receive an autism diagnosis until the summer when he was 11 years old following an IEE.

53. The Social Assessment documented claimant's current medical situation, the medications he was prescribed, and that he uses glasses in school for reading. Claimant's 2024 IEE and 2025 IEP were referenced and had been requested by IRC. Claimant's placement history noted that he was placed with his parents at six months old after a previous foster placement.

54. The Social Assessment documented the skills claimant demonstrated in daily life. He was able to ambulate independently, but his movements can appear awkward. His handwriting had improved with occupational therapy but remained somewhat messy. His grasp had shown noticeable progress. He learned to tie his shoes, though did not consistently do so. He was independent with feeding and managed that task without difficulty. Claimant reportedly put up a fight about taking medication and would yell and try to escape. He often refused to help with household tasks but on rare occasions, when in a cooperative mood, may complete simple tasks. His willingness to cooperate was "highly mood dependent." Incentive-based strategies had been attempted but had not proven effective. Claimant "appears capable of completing multi-step tasks," but would "only do so when he is motivated."

55. Claimant has the ability to prepare simple foods but frequently refuses to do so, often choosing not to eat "depending heavily on his mood." Claimant is "selective about what he eats and may refuse certain foods based on preference or mood." He often tends to fixate on particular food items, and introducing new foods is challenging, and his preferences can change over time. He is sensitive to certain textures and often smells and visually examines his food before eating. Claimant has full bladder and bowel control and is able to independently care for his toileting needs. Claimant completes all personal hygiene tasks with regular reminders. His willingness to shower fluctuates, and he has to be prompted to regularly brush his teeth and use deodorant. Claimant's mother would typically apply deodorant if he refused. Claimant was generally cooperative with haircuts and has specific preferences about how he wants it styled. He is self-conscious about his forehead and prefers his hair to cover it.

56. Claimant's mother typically lays out his clothes as he is unable to make those decisions on his own. He has no strong preferences regarding clothes, as long as they are pants, preferring to wear joggers. He can put on his underwear independently but requires assistance with the rest of his clothing. He knows how to dress himself, but chooses not to do so except on Saturdays when there is a specific activity in which he wants to engage. He generally refuses to dress on Sunday for church as he does not find that to be a preferred task.

57. Regarding safety, claimant has difficulty maintaining attention to his surroundings. He reportedly ran off one year ago when he did not get his way, and his family had to chase him down. He is able to be left alone for short periods of time. He is able to communicate through calls and texts on his iPad, although he does not have his own cell phone. He is not likely to engage in unsafe behaviors although his iPad has extensive parental controls, and he does not have access to social media. He has been known to call 911 when he is upset.

58. As to communication, claimant is able to speak in full, clear and understandable statements, which is one of his strengths. He is generally able to answer questions but may be upset and quickly become agitated if he has had a difficult day, which can lead to a "cycle of frustration." He is able to understand idioms and humor, although he sometimes repeats phrases or scripts and things he has heard from others.

59. Regarding social interaction/friends, claimant has a small group of friends at school with seven or eight children in his specialized class, supported by three aides and a lead teacher. These children share similar mental health, autism diagnoses, and behavioral challenges as claimant. His social interactions are mainly confined to school, and he has formed friendships with a couple of the students in his

class. "However, their relationship tends to be a 'love-hate' dynamic and they often influence each other negatively." They tend to get in trouble together. Outside of school, claimant "has not socialized with any of his classmates, and there have been no play dates." At church, claimant participates in a youth group where he has some acquaintances, but those interactions do not extend outside of church. He recently participated in an overnight event with his father which went well. However, he still struggles with certain situations that can overwhelm him and make him upset. He finds eye contact difficult, and rarely makes it. Boundaries are a challenge for him, and he tends to get too close to others, hugging them or picking them up even when they do not want him to do so. He does not intend to hurt others, but can be heavy-handed and does not always understand the impact of his actions. He struggles with empathy and does not grasp the concept of sympathy.

60. The challenging behaviors section noted that claimant's disruptive behaviors included his significant struggles with frustration and meltdowns, which impact his family dynamic and make his parents unable to take him to public settings without difficulties. The family frequently drives separately to events so one parent can leave with claimant if he becomes disruptive in public. Claimant is quite tall for his age, which makes him appear older and creates further challenges during his meltdowns. He tends to become upset at family gatherings and events, and his behavior can escalate quickly. His aggressive and his self-injurious behavior was noted to be that he becomes physically aggressive, may hit repeatedly, flail his arms, and his father often has to restrain him in a bear hug. Claimant's physical aggression has increased over time with claimant's "emotions and actions changing frequently, sometimes by the hour."

61. Claimant has a fear of missing out but struggles to handle himself in public settings and has shown aggression towards his siblings. His behavior can also be manipulative. In extreme instances when he becomes uncontrollable, the police have been called to assist, especially if he runs away or is unable to calm down. He also shows resistance to certain routines, especially if he does not like the food being served. Claimant has also destroyed property such as throwing rocks at his parents, breaking a glass door, and throwing a rock at a police officer two years ago. Claimant's "behavior is often highly impulsive" and his "emotional responses can switch abruptly, leading to extreme reactions in a short time." Claimant's running or wandering away happened for a period of time but has improved. Claimant has a lack of fear and situational awareness, including running across train tracks to provoke a reaction from his parents.

62. Claimant needs to be prepared for anything he finds unusual. He "taps his feet at times." He lines up his toys, and his numerous stuffed animals "all need to be on his bed." He has sensory issues, tends to chew on things, put objects in his mouth, and has difficulty tolerating "people sounds."

63. The Social Assessment concluded that claimant should be assessed to rule out autism, and that appropriate programming, school supports, and services should be explored. Claimant was referred to AB Psych Consulting for a psychological evaluation to determine regional center eligibility.

## IRC's 2025 Psychological Evaluation

### Dr. Mendez's Curriculum Vitae

64. On July 30, 2025, Dr. Mendez, of AB Psych Consulting, performed a psychological assessment and authored a report. Dr. Mendez's curriculum vitae

documented that in 2017 she received her Bachelor of Science in psychology with an emphasis in developmental psychology from University of California, San Diego. In 2019 she received her Master of Arts in clinical psychology with an emphasis in family psychology (APA accredited) from Azusa Pacific University (Azusa). In 2022 she received her Doctor of Psychology (Psy.D.) in clinical psychology with an emphasis in family psychology (APA accredited) from Azusa. In September 2024 she became a licensed clinical psychologist in California. Her curriculum vitae also listed her supervised clinical experience, her professional experience, her research experience, professional seminars she was selected to attend, and her professional memberships.

## Dr. Mendez's Psychological Assessment

65. At the time of Dr. Mendez's evaluation, claimant was 12 years, 2 months old, and in seventh grade. He was referred by IRC to determine Lanterman Act eligibility under diagnoses of autism and intellectual disability. Reported concerns included anxiety, impulsiveness, emotional dysregulation, separation anxiety, noise sensitivity, discomfort with being in front of people or presenting, reduced eye contact, difficulty focusing during conversations, anger, yelling, using curse words, and a tendency to touch people or items that belong to others. Dr. Mendez documented claimant's prior diagnoses, identified the tests she administered and reports she reviewed, and the relevant history she obtained.

66. Claimant was adopted at one year old. He has fine motor deficits and difficulties with writing. Social concerns include his aggression, being bullied and bullying, and difficulty establishing and maintaining relationships. However, Dr. Mendez then wrote that claimant "does not have a history of bullying or being bullied." (Of note, as referenced below, Dr. Mendez amended her report to remove the sentence that claimant did not have a bullying history.) Claimant is willing to interact

with adults and other children at home and at school. Claimant has a history of suspensions from school for fighting but no expulsions.

67. Dr. Mendez documented that claimant "plays baseball, flag football, pretend play, board games, and video games with his peers." However, claimant's mother testified that claimant has never played flag football and no other records referenced that sport, although baseball was referenced in the 2025 IEP. Claimant's mother testified that although claimant tried participating in a baseball league, he could not complete the season because it was "too overwhelming and too much for him." Additionally, claimant's mother testified that the sports claimant plays are at his school's Physical Education (PE) class, he does not participate in organized sports.

68. Dr. Mendez documented that claimant spends time with school peers outside of school and has friends in the neighborhood, which claimant's mother also disputed, testifying that he does not play with children in the neighborhood, and he "somewhat plays" with his siblings, but not that much due to his behaviors. Claimant's mother testified that, at most, claimant can only interact with two or three individuals at a time.

69. Dr. Mendez reported that claimant is positive for tantrums that occur 21 or more times a week and last from 1 to 20 or more minutes. She noted claimant was "not currently prescribed any psychiatric medications" testifying that is what she was told, but that he had taken medications in the past to manage his ADHD and anxiety. Of note, this was also an area she corrected in her addendum report, as discussed more fully below.

70. Claimant's mother completed the CARS 2-QPC, a questionnaire, which identified claimant's development, skills behaviors and interests. Dr. Mendez noted

that the CARS 2-QPC "is subject to overreporting or underreporting" by those completing it and is based on the reporter's perception of the individual being assessed. According to claimant's mother's responses, claimant has "severe problems exhibiting particular speech patterns and engaging in reciprocal conversations," some problems responding to facial expressions and other cues, but can use gestures to communicate. She also reported that claimant has "severe problems making eye contact with others while speaking or listening to others, following another person's gaze or point to a distal object, responding to others' social bids, and understanding and responding to others' emotional needs." He also has problems interacting with others and maintaining friendships. Claimant's mother reported he has "severe problems with hurting himself and with fine motor tasks." He can proficiently play with toys and displays creativity. She reported that when claimant is confronted with new experiences and changes in routine, he has "significant difficulty controlling his obvious discomfort," and "some difficulty adapting and/or coping with changes or new situations." He struggles with a need to adhere to specific routines/procedures, but has no unusually strong interest in objects or topics. She reported that he has "severe problems with an aversion to sounds, smells, or textures," and "some problems with pain sensitivity or pain tolerance."

71. Dr. Mendez reviewed the IRC Social Assessment and the 2025 IEP, as well as Dr. Turner's IEE, which she summarized in her report.

72. In the "Observations" section of her report, Dr. Mendez noted that claimant willingly came to the testing section, presented with an anxious overall affect and evidenced avoiding eye contact which resolved to good eye contact once rapport was established. Claimant "evidenced typical speech" and "transitioned into the testing room without issue." He "initially presented as shy and anxious," was "slow to warm-up

but became friendly and social once rapport was established." He was "hyperactive, constantly moving/fidgeting in his seat and demonstrated psychomotor agitation," as seen by his leg shaking. Claimant "actively engaged in reciprocal conversation with [Dr. Mendez] and openly spoked [*sic*] about his interests, friends, and past vacation/trips with his family." Claimant "showed good use of gestures, which were well-coordinated with his speech," and "demonstrated good imaginative and reciprocal play skills with [Dr. Mendez]." Claimant "frequently sought out interactions with" Dr. Mendez, providing additional leads for conversation, asking her about her thoughts, and trying to include her in his play. Claimant and Dr. Mendez had "several instances of shared enjoyment," with laughing and telling jokes throughout the session. Claimant "demonstrated an adequate understanding of social norms, friendships, and relationships," by discussing his social struggles, being able to differentiate friends from classmates and identifying positive and negative aspects of romantic relationships. Dr. Mendez did not observe any repetitive and/or stereotyped behaviors.

73. Dr. Mendez administered the Autism Diagnostic Interview-Revised (ADI-R), a comprehensive, clinical assessment tool used to diagnose autism and other pervasive developmental disorders. Claimant's mother provided the input for the ADI-R. Per claimant's mother's report, claimant "evidences definite eye contact with others, but only briefly and/or inconsistently." He "readily reciprocates social smiles with a variety of people besides those" with whom he is familiar. He has a limited range of facial expressions, engages in some pretend play, but it is very limited in variety. He watches other children or indicates an interest in them, but intermittently responds when other children approach, and his responses are somewhat limited or only directed towards a sibling or very familiar child. Claimant showed some initiative, but is limited in terms of interests and demonstrates less than expected levels of responsiveness/reciprocity. He will sometimes share if requested but does not do so

spontaneously. He makes frequent attempts to direct several other people's attention to things he enjoys or has done well. He shows "flexibility and spontaneity and comforting others in a range of circumstances and means." He "consistently uses coordinated eye contact integrated with vocalizations in typical situations when he is motivated to communicate. His facial expressions are almost always mood-, situation-, and context appropriate." He "does not consistently respond to others' overtures."

74. Per claimant's mother's report, claimant exhibits age-appropriate, proficient, and frequent use of nonverbal communication, but shows limited use of gestures. He spontaneously imitates a wide range of non-taught actions and engages in occasional, spontaneous pretend play. He engages in normal social play and frequently verbalizes or chats with others for social interactions to express his interests. He occasionally engages in reciprocal conversation. He rarely uses stereotyped utterances but sometimes utters inappropriate questions or statements. It was reported that claimant does not engage in unusual preoccupations that significantly interfere with his activities of family life or cause social impairment. He does have special interests of an unusual degree, but those do not interfere with social functioning. He has no compulsions or rituals, and no hand/finger mannerisms, complex mannerisms, or stereotyped body movements. He does have repetitive use of objects but those do not cause social impairment, and he has some unusual sensory interests, such as being a picky eater and being sensitive to sounds or smells.

75. Dr. Mendez administered the ADOS-2, a structured child interview used to provide information regarding claimant's social interaction, communicative behavior, and play repertoire. Dr. Mendez noted that her clinic does not rely solely on the ADOS-2 to make diagnostic judgments, and that in addition to the ADOS-2 rating scale, the clinic also uses a qualitative form for observation, using the ADOS-2 data as

a way of cross-referencing information obtained. Dr. Mendez administered Module 3: Fluent Speech to claimant. During the exam Dr. Mendez noted that claimant made eye contact when making requests, worked on the tasks through completion, shared his work with Dr. Mendez, and demonstrated a good use of descriptive gestures. Claimant exhibited imaginative play, used the materials provided in creative ways, and did not engage in any repetitive behavior. He actively sought to include Dr. Mendez in his play. He directed smiles and directed play towards Dr. Mendez, and incorporated her play ideas. He was able to follow play sequence. He showed adequate conversational skills as he participated appropriately in dialogue with Dr. Mendez. Claimant provided leads to sustain the conversation and was able to track the conversation across topics of interest. His participation in the conversation was not restricted to topics related to any preoccupations, and he spoke when asked questions, elaborating on his answers.

76. Claimant "did not evidence any intonation peculiarities when he conversed with" Dr. Mendez and appropriately incorporated eye contact, facial expressions, and gestures with his speech. He was able to teach a sequence of actions with no problems, and accurately describe the actions of characters depicted, even mentioning some of the emotions of the depicted characters. Claimant "appeared to share enjoyment with [Dr. Mendez] while describing the picture" and transitioned to another topic. Claimant was able to convey continuity of the story shown to him and responded appropriately to humorous aspects of the story. He accurately referenced some of the characters' emotions and evidenced shared enjoyment with the book discussed, but not with the cartoons shown to him. He also had some difficulty and discomfort addressing the audience while standing and telling a story but did accurately identify the characters' emotions. He was able to identify events that elicited different emotions.

77. While discussing emotions, he produced appropriately corresponding facial expressions and "exhibited age-appropriate insight into typical social relationships causing the emotions." Claimant showed the ability to perceive social difficulties and exhibited age-appropriate insight into typical social difficulties. He mentioned coping with social problems by walking away and trying to avoid conflict. He was able to describe his current friendships, activities in which he engages with friends, and their shared interests. He does not regularly meet up with friends outside of school or church, and although he has not had romantic relationships, he conveyed an understanding of them. He also demonstrated an understanding of loneliness and demonstrated creativity when telling a story. Dr. Mendez noted that claimant "used sentences in a largely correct fashion with some complex speech during the ADOS-2 evaluation. His speech evidenced appropriately varying intonation, reasonable volume, and normal rate of speech, with regular rhythm coordinated with breathing." He occasionally offered information spontaneously about his own thoughts, feelings or experiences, and occasionally asked Dr. Mendez about her thoughts/feelings/opinions. He demonstrated spontaneous use of several descriptive gestures, which were communicative.

78. Claimant also demonstrated appropriate gaze with subtle changes meshed with other communication speech during the ADOS-2 evaluation, and directed a range of appropriate facial expressions to communicate affective or cognitive states. Claimant's "vocalizations were usually accompanied by subtle and socially appropriate changes in gestures, gaze, and facial expressions." He showed definite pleasure appropriate to the context, spontaneously communicated clear understanding of emotions, and effectively used verbal and nonverbal means to make clear social overtures to Dr. Mendez. Claimant made frequent attempts to get or maintain Dr. Mendez's attention and/or direct her attention to objects or actions of

interest. He displayed a range of appropriate responses and made some reciprocal social communication, and the interactions between claimant and Dr. Mendez were "comfortable and appropriate." Claimant "showed a variety of spontaneous, inventive, and creative play, including use of the doll or figures as agents of action."

79. Claimant did not use stereotyped or idiosyncratic words or phrase speech, did not engage in any unusual sensory interests or sensory-seeking behaviors, and did not engage in any mannerisms. He showed no excessive interest or reference to topics or behaviors, and had no obvious activities or verbal routines that had to be completed in full or according to a sequence. He sat still appropriately when expected to do so but fidgeted. He did not become upset, disruptive, negative, destructive, or aggressive, but was mildly anxious during the assessment.

80. Dr. Mendez administered the Adaptive Behavior Assessment System, Third Edition, Parent Form (ABAS-3), which evaluates behaviors in the home, school, and community environments. According to claimant's mother, claimant's adaptive functioning is in the low range, and his communication was in the extremely low range. His profile indicated he performs most adaptive behaviors somewhat less proficiently and/or frequently than his same-age peers.

81. Dr. Mendez's impression identified the DSM-5-TR criteria for an ASD diagnosis, evaluated whether they were "met" or "not met," and provided comments. Dr. Mendez concluded claimant did not have ASD. Dr. Mendez diagnosed claimant with ADHD by history, separation anxiety by history, and ODD by history. She documented the reported concerns, and noted that claimant had been "administered a battery of tests to observe behaviors and traits associated with [ASD] as well as to assess his adaptive behaviors." Dr. Mendez opined that claimant's ADOS-2 profile was "suggestive of minimal to no probability of ASD with 0 out of 3 deficits in social

affective functioning and 1 out of 4 symptoms related to stereotyped and repetitive behaviors." She noted that based on his mother's report and clinical observation, claimant "does not currently have deficits in social verbal and non-verbal communication abilities and social relationships." Dr. Mendez gave examples supporting her opinion, writing that claimant was able to engage in reciprocal conversation with her, showed an awareness of others' emotions and impact of his own behavior and words on others, showed spontaneous use of gestures to communicate and is able to maintain friendships with others, identifying a best friend.

82. Dr. Mendez noted that claimant had a history of anxiety "which may have impacted his social affective functioning and other presenting concerns." Claimant showed some anxiety-related behaviors such as avoiding eye contact, leg shaking, and mild discomfort with public speaking, but those difficulties did not appear to cause significant deficits in his social communication abilities. Moreover, his presenting concerns "may be better explained by the presence of another neurodevelopmental disorder, such as [ADHD]." Dr. Mendez concluded that claimant did not meet the DSM-5-TR criteria for a diagnosis of ASD, nor did he meet criteria for a diagnosis of an intellectual disability disorder.

83. Dr. Mendez's recommendations were that claimant met diagnostic criteria for ADHD by history, ODD by history, and separation anxiety by history. He did not meet diagnostic criteria for ASD or intellectual disability disorder. Claimant did not exhibit substantial deficits in three of the required areas of major life activities, citing the seven areas. She recommended individual therapy services to address claimant's anxiety, promote pro-social behaviors and introduce useful coping skills. The therapy might also reduce some of his ADHD symptoms and oppositional behaviors. She recommended claimant consider group therapy services related to anxiety and/or

social skills, explore different activities/hobbies so as to gain mastery in them, and consult with a psychiatrist to discuss potential medication options if claimant's presenting problems persist.

84. Dr. Mendez concluded her report by noting she reserved the right to modify or change her recommendations if new information was brought to her attention.

## CLAIMANT'S RESPONSE TO IRC'S PSYCHOLOGICAL EVALUATION

85. Claimant provided a response to Dr. Mendez's report, pointing out alleged errors and inconsistencies in it. IRC responded to each of those points, and Dr. Mendez issued a revised report.

86. Claimant first asserted that Dr. Mendez's report was inconsistent because the heading listed ASD, but the narrative under it concluded claimant did not meet criteria for that diagnosis. IRC responded that the purpose of that part of the report was to highlight the ASD criteria, not to present that claimant had that diagnosis. Of note, the report simply had an ASD heading and listed the ASD criteria.

87. Claimant next asserted that the medication status in the report was contradictory because in one section it stated claimant was prescribed a medication, but then the psychiatric history section stated he was not currently prescribed any medications. IRC's response was that the report had been revised to describe claimant's medication history, which is referenced below.

88. Claimant next noted that the report referenced a high school claimant attends, but also that he is in seventh grade which is implausible. IRC responded that the report had been corrected to put the word "Junior" before the words high school.

89. Claimant asserted that the bullying history in the report was contradictory as it stated he both does and does not have a history of bullying or being bullied. IRC responded that the "[i]nformation was omitted in the addendum." Dr. Mendez revised her report to remove the sentence stating claimant did not have a history of bullying.

90. Claimant asserted that the ABAS-3 results had been misapplied and that claimant's scores do show substantial difficulties in at least three major life activities, including global adaptive composite, conceptual composite, social composite, practical composite, and skill-area scaled scores of communication, functional pre-academics, self-direction, and social skills. Claimant asserted that his ABAS-3 scores demonstrated significant limitations in receptive expressive language, learning, and self-direction which met the Lanterman Act disability criteria. IRC responded that the areas of daily living skills assessed based on claimant's age are self-help, self-direction, mobility, expressive and receptive communication, and learning. Further, IRC asserted that based on Association of Regional Center Agencies (ARCA) guidelines, an individual must have a "substantial disability" across multiple settings in at least three or more areas and those disabilities must be caused by the eligible condition and not because of another diagnosis or condition. Of note, the substantial disability requirement is set forth in the Lanterman Act.

91. Lastly, claimant asserted that the IEE which diagnosed ASD, level I, and claimant's 2024 IEP listing autism as the primary eligibility criteria were "significant contemporaneous sources supporting" an autism diagnosis. Claimant's developmental history and standardized parent interview also supported an autism diagnosis, and his current symptoms report was "consistent with [a]utism related features." Further, claimant argued that the ADOS-2 is simply "one data point and cannot erase

convergent evidence," and that the IEE confirmed and gave claimant a diagnosis of autism. IRC responded that Dr. Mendez's psychological evaluation "remains a valid assessment which considered all the data presented as well as her clinical observations during the interview. The mistakes that were corrected in her report were merely typos, therefore, there is no clinical reason for IRC to offer another assessment." IRC also noted that the IEE referenced a 2018 psychological evaluation and 2024 IEP, neither of which had been submitted to IRC for review, and that it "would be helpful for those records to be reviewed to determine if there are any consistencies with either of the most recent psychological evaluations." IRC stated that claimant could obtain another psychological evaluation through his medical insurance if his parents wished to confirm or rule out data in the IEE or Dr. Mendez's evaluation.

### DR. MENDEZ'S PSYCHOLOGICAL ASSESSMENT-ADDENDUM

92. As a result of claimant's assertions, Dr. Mendez authored a Psychological Assessment-Addendum on November 5, 2025, making changes to her initial report. She identified the sections of the report that had been updated and revised "to ensure accurate background/demographic information."

93. In the "Social History" section of her revised report, Dr. Mendez noted that concerns included claimant being bullied, and bullying, both verbally and physically. She removed the sentence from her report that stated claimant did not have a history of bullying or being bullied. The word "Junior" was added to the name of claimant's school. The report now stated claimant had been prescribed medications in the past but was "not currently taking any prescribed psychiatric medications." Dr. Mendez made no other changes to her report, and her opinions did not change.

## Witness Testimony

### DR. MENDEZ'S TESTIMONY

94. Dr. Mendez testified consistent with her report and addendum.

95. Dr. Mendez became licensed in September 2024, and evaluated claimant in July 2025. Since being licensed, she performs approximately six assessments per week, although noted that there are cancellations. Her evaluation of claimant lasted approximately three hours. However, claimant's mother testified that the assessment was less than three hours, being closer to two hours because she was texting her husband after the assessment, and the time of those texts showed she was at a restaurant with claimant approximately two hours after the assessment began.

96. Dr. Mendez noted the reports referenced in Dr. Turner's IEE that were not provided to her for review, although she did review Dr. Turner's summaries of them in his report. Dr. Mendez noted that the 2024 IEP and the 2020 psychoeducational assessment did not give claimant an autism diagnosis. Instead, he was given diagnoses that do not make him eligible for regional center services. She also noted that the reports described claimant as being compliant, friendly, and engaging, which are not typical descriptions given to someone who has autism.

97. Dr. Mendez testified that claimant's mother's responses on the ASRS gave claimant scores in the very elevated range of autism, noting a high level of symptoms. However, someone with that severe level of autism typically has significant behaviors, social, emotional, and relationship deficits, and safety concerns, as well as body rocking, posturing, and severe sensitivities. Overall, a person with those types of scores would need a very significant level of care and assistance. However, those

scores were not consistent with what was reported for claimant in other environments, or with the individual who presented to her.

98. Dr. Mendez opined that claimant's ADOS scores were consistent with someone with mild to moderate autism, but Dr. Turner did not provide the actual scores for the ADOS nor did he perform any adaptive skills testing. Moreover, while claimant did qualify for special education services, there are different standards for eligibility for school services versus regional center services. Special education simply requires an individual to have significant characteristics of autism which affect the individual in an academic setting. However, the Lanterman Act requires there to be specific areas of functional limitations that affect daily living across multiple settings.

99. Dr. Mendez testified that claimant's reports of being bullied could affect how he views social relationships and could result in fear or anxiety leading to a negative ability to engage with others. The reports that he plays outside of school and enjoys collaborating with others are not typical behaviors seen by one with autism. Moreover, individuals with autism do not have an acute understanding of being bullied, as this requires a certain level of emotional and social awareness, so claimant being aware of being bullied is not consistent with an autism diagnosis.

100. Dr. Mendez testified that the CARS is subject to both over and under reporting by parents and the data would be impacted by the rater's perspective. Her impressions of claimant's mother's responses were that there were some reports in each of the ranges that claimant was severe, moderate and proficient, for example, claimant's mother reported that he had problems looking at people and making eye contact and using gestures, but other reports indicated that he could look and respond, use gestures, and made eye contact.

101. Dr. Mendez explained that overall, she felt that her dynamics with claimant flowed very well, and she did not notice anything unusual in her interactions with him nor did she observe any stereotypical or repetitive behaviors. On the ABIR test she administered, claimant did not meet the diagnostic cut off for autism, although he did have some characteristics of autism, but not enough to make that diagnosis. The adaptive skills testing she administered, such as the ABAS, is based on more than just the scores, it also includes her clinical interview, her observations of claimant from the time he arrives to the time he departs, and a records review. Claimant's scores on these tests were in the average to extremely low ranges, with only his communication score being in the extremely low range. The Lanterman Act requires there be at least three functional limitations, and here claimant only had one, communication.

102. Dr. Mendez also noted that the adaptive skills documented in claimant's 2025 IEP indicated he can perform tasks, it just depends on his mood. Those reports were suggestive that claimant can do his self-care abilities at both home and school, it just depends on whether he wants to do them. Additionally, claimant's anxiety and ADHD could explain his behaviors, neither of which are eligible conditions.

103. Dr. Mendez prepared an addendum in response to claimant's assertions regarding errors in her report. However, those were "transcriptionist" errors, and did not change her opinions that claimant did not have autism and was not eligible for regional center services, nor change her opinion that he did not have at least three substantial disabilities as required for eligibility.

104. Dr. Mendez disputed some of the information documented in other reports, noting that this was not what she was told during her clinical interview of claimant. She agreed that the reports of eye contact being difficult for claimant was

similar to what she experienced when she first met him, but that difficulty resolved over time as she established a rapport with claimant. After claimant got comfortable with Dr. Mendez, he started to respond differently, and engage more with her.

### DR. TURNER'S TESTIMONY

105. Dr. Turner testified consistent with his report. He acknowledged that although requested, he did not receive any responses from claimant's teachers for the IEE. Dr. Turner evaluated claimant during several sessions, spending approximately six hours with him.

106. Dr. Turner testified that claimant's manifestation of autism is unique. He has significant challenges with personal interactions and maintaining friendships. He opined that claimant's autism impacts his learning. On videos shown to him, claimant did not pick up that individuals were making fun of others. He does not interact well unless it is a topic he likes.

107. Claimant's coping skills include drawing negative attention to himself and other maladaptive behaviors. These are not typical behaviors for a sixth grader such as claimant, the grade when he evaluated claimant. Claimant is not behaving like a "neuro-typical sixth-grader." Claimant's behaviors are consistent with maladaptive coping skills that one would expect would be suppressed by sixth grade.

108. Claimant's school district has placed him in the Success program, which is not a general education class. The district also provided numerous accommodations to him because of his needs. Those accommodations are "consistent with any child who needs a lot of support."

109. Dr. Turner opined that this is not an easy case. It is not a case that would show up at all unless one had "lots of autism experience," otherwise one is "going to misinterpret [claimant's] behavior" as being attributed to his ADHD, or other diagnoses when those behaviors "stem from an autistic mind and a high level of anxiety." Dr. Turner testified that claimant's anxiety "needs to be addressed right away" because claimant has "a lot of maladaptive coping skills." "Claimant needs lots of help but has lots of patience."

110. Dr. Turner did not observe claimant get angry during the testing he administered. He gave claimant breaks during testing when claimant wanted to stop. Dr. Turner will watch to see if a student gets upset during testing, and he does not want to push a student too hard.

111. Dr. Turner testified that claimant is someone who is highly functioning and unique, and autism may not show up unless the evaluator has lots of experience. Dr. Turner acknowledged he has not received Lanterman Act training for regional center eligibility. He has done evaluations for regional center, but "that Act has not come up."

112. Dr. Turner did not perform an adaptive skills assessment for claimant because this was a school-based focused IEE, and he only does adaptive assessments if looking for intellectual disability when a student's cognitive scores are below 70 and claimant's scores were not. Moreover, the Individuals with Disabilities Education Act (IDEA) does not require adaptive skills tests. (IDEA is the law which provides free appropriate public education and services to eligible children with disabilities.)

113. When asked about the extremely low scores needed on adaptive skills functioning to be eligible for regional center services, Dr. Turner testified that

"extremely" is a vague term, and a "percentage rating would give [him] a concrete number to work with."

114. Dr. Turner also discussed claimant's school records that referenced autism as a concern, but then the district did not perform testing to rule autism out, which appeared to be an oversight. Behaviors referenced in those reports showed claimant had "autism characteristics." Dr. Turner opined that claimant's behaviors have to be viewed through an autism lens because the neuro-structure of his brain is different, and that claimant could have both autism and ADHD.

115. Dr. Turner opined that Dr. Mendez's report just looked at autism, it was "just not a complete picture." His assessment focused on the complete child and all possible diagnoses.

### CLAIMANT'S MOTHER'S TESTIMONY

116. Claimant's mother testified that claimant was placed with her and her husband when he was six months old after being in foster care since birth. Claimant was born full term but had been exposed to methamphetamine in utero. Claimant's mother and her husband adopted claimant and two more of claimant's birthmother's children, with claimant being the oldest of the three.

117. Claimant has been "struggling since a very young age," and she became more aware of these struggles once he was in a school setting. She requested he be tested when he was in kindergarten. His medications have changed through the years, and he "has never not been prescribed" medication.

118. Claimant's mother described claimant's struggles with distance learning during COVID. He did not want to present his face on camera, and his teacher agreed

to let the camera be aimed at his schoolwork. When he returned to the classroom in third grade, claimant had separation anxiety. Claimant's mother described the problems he had in fourth and fifth grade.

119. Claimant's mother described how change is really hard for claimant. Claimant does not understand social or emotional cues. He does not understand when others are making fun of him. He does not like to speak in front of others, even though they will work with him on making a presentation for class. She described an incident when he refused to go to school because he had to make a presentation, although he did not explain why he refused to go to school.

120. In sixth grade claimant was placed in the Success program. This is a special classroom that has less than 10 students, 1 teacher, and 4 aides. There is more one-on-one attention given to students and services provided to meet the students' needs. The program is very isolated from the school, and there is a sensory room for the students. The class takes lots of breaks, allowing students to decompress and "check out of lecture time."

121. Claimant's junior high has the same program, called AIM. It encourages students to participate in general education classes if they can, and claimant can do two such classes, participating at least one hour in that setting. He also has a modified PE class.

122. Claimant's mother testified that at home claimant struggles, "you do not know what [claimant] you are going to get." She testified about claimant's sensory processing issues, the issues he has with peers in his class, his difficulties understanding relationships and nonverbal cues, and his extreme dislike of changes in

his routine or unexpected changes, which will lead to meltdowns. Claimant's mother provided an example of how changes negatively impact him.

123. She also testified that claimant struggles with receptive language. Following directions does not come easy, and he is not able to do multi-step direction tasks. Claimant also struggles with expressive language and is unable to make his needs known to others. He also struggles maintaining eye contact and understanding jokes. Claimant needs to be reminded of self-care tasks including how to use toiletries, which ones to use, and where to use them. Claimant struggles with self-direction. He does not recognize social cues and cannot stop himself, which leads to a worsening of the situation. He cannot problem solve.

124. Claimant's mother testified that claimant can perform tasks but is not willing to do so, often resulting in others having to do his tasks. He "straight up refuses" to perform certain tasks. He requires constant help and redirection. Claimant's mother testified that claimant "needs the services that IRC offers", otherwise he is "going to struggle as he gets older."

125. Claimant's mother explained they sought testing with Dr. Turner to determine claimant's placement and what additional services could be provided. Dr. Turner assessed claimant both at home and in school. They had to give claimant "lots of incentives" as he does not like to do testing. Dr. Turner's testing was the first time claimant received an autism diagnosis. They did not seek out Dr. Turner for an autism diagnosis, but to get additional help for claimant. Now that they have the autism diagnosis, they are seeking additional supports from IRC. Claimant would benefit from regional center services, which is why they were referred to IRC.

# LEGAL CONCLUSIONS

## Burden and Standard of Proof

1. In a proceeding to determine eligibility, the burden of proof is on the claimant to establish he or she meets the proper criteria. The standard of proof is a preponderance of the evidence. (Evid. Code, § 115.)

## Statutory and Regulatory Authority

2. The Lanterman Act is set forth at Welfare and Institutions Code section 4500 et seq.

3. Welfare and Institutions Code section 4501 states:

> The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important impact on the lives of their families, neighbors and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance.
>
> [¶] . . . [¶]
>
> An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage

of life and to support their integration into the mainstream life of the community. To the maximum extent feasible, services and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

4. Welfare and Institutions Code section 4512, subdivision (a), states in part:

As used in this division:

(a)(1) "Developmental disability" means a disability that originates before an individual attains 18 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

(2)(A) A child who is under five years of age shall be provisionally eligible for regional center services if the child has a disability that is not solely physical in nature and has significant functional limitations in at least two of the

following areas of major life activity, as determined by a regional center and as appropriate to the age of the child:

(i) Self-care.

(ii) Receptive and expressive language.

(iii) Learning.

(iv) Mobility.

(v) Self-direction.

(B) To be provisionally eligible, a child is not required to have one of the developmental disabilities listed in paragraph (1).

5. California Code of Regulations, title 17, section 54000, provides:

(a) "Developmental Disability" means a disability that is attributable to mental retardation,[1] cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation.

[1] The regulations still use the term "mental retardation," which was replaced with the term "intellectual disability," which has since been replaced with the term "intellectual developmental disorder."

(b) The Developmental Disability shall:

(1) Originate before age eighteen;

(2) Be likely to continue indefinitely;

(3) Constitute a substantial disability for the individual as defined in the article.

(c) Developmental Disability shall not include handicapping conditions that are:

(1) Solely psychiatric disorders where there is impaired intellectual or social functioning which originated as a result of the psychiatric disorder or treatment given for such a disorder. Such psychiatric disorders include psycho-social deprivation and/or psychosis, severe neurosis or personality disorders even where social and intellectual functioning have become seriously impaired as an integral manifestation of the disorder.

(2) Solely learning disabilities. A learning disability is a condition which manifests as a significant discrepancy between estimated cognitive potential and actual level of educational performance and which is not a result of generalized mental retardation, educational or psycho-social deprivation, psychiatric disorder, or sensory loss.

(3) Solely physical in nature. These conditions include congenital anomalies or conditions acquired through

disease, accident, or faulty development which are not associated with a neurological impairment that results in a need for treatment similar to that required for mental retardation.

6. California Code of Regulations, title 17, section 54001, provides:

(a) "Substantial disability" means:

(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.

(b) The assessment of substantial disability shall be made by a group of Regional Center professionals of differing disciplines and shall include consideration of similar qualification appraisals performed by other interdisciplinary bodies of the Department serving the potential client. The group shall include as a minimum a program coordinator, a physician, and a psychologist.

(c) The Regional Center professional group shall consult the potential client, parents, guardians/conservators, educators, advocates, and other client representatives to the extent that they are willing and available to participate in its deliberations and to the extent that the appropriate consent is obtained.

(d) Any reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

## Applicable Case Law

7. In resolving any conflict in the testimony of expert witnesses, the opinion of one expert must be weighed against that of another. In doing so, consideration should be given to the qualifications and believability of each witness, the reasons for each opinion, and the matters upon which it is based. California courts have repeatedly underscored that an expert's opinion is only as good as the facts and reason upon

which that opinion is based. (*Kennemur v. State of California* (1982) 133 Cal.App.3d 907, 924.)

## Evaluation

8. The Lanterman Act and the applicable regulations set forth criteria that a claimant must meet in order to qualify for regional center services. Claimant did not establish by a preponderance of evidence that he has a qualifying diagnosis. Claimant's 2025 IEP autism disability category and the IEE finding that claimant was eligible for special education services under the category of autism are not sufficient to find that he has an eligible autism diagnosis for regional center services. Schools are governed by California Code of Regulations, Title 5 and regional centers are governed by California Code of Regulations, Title 17. Title 17 eligibility requirements for services are much more stringent than those of Title 5. Thus, it is possible for a person to be found eligible under the category of autism for the purpose of special education services, but not meet eligibility criteria for regional center services under the Lanterman Act.

Unlike Dr. Mendez, Dr. Turner did not assess claimant using Lanterman Act criteria. His testing was for IDEA purposes, which did not require he perform adaptive function testing. While the IEE clearly showed that claimant qualified for special education services under the autism category, this was insufficient to establish that he qualified for regional center services under the Lanterman Act. Dr. Mendez, on the other hand, specifically assessed for autism under the Lanterman Act, making her opinions more persuasive than Dr. Turner's. Her findings and opinions were supported by the record and are accepted over those of Dr. Turner. Contrary to claimant's argument, Dr. Mendez did not only rely on test scores to render her opinions; she also relied on her clinical observations and review of other records. Dr. Mendez credibly

explained that claimant does not have a DSM-5-TR diagnosis of autism, making him ineligible for regional center services. Moreover, even assuming he did have that diagnosis, he does not have substantial disabilities in at least three areas as required.

Further, the behaviors documented in the records and as described in witness testimony, are consistent with his ADHD, anxiety, and ODD diagnoses, and appear to be attributable to those conditions. While claimant may have "autism characteristics," those are insufficient to find him eligible under the Lanterman Act for regional center services. Finally, while claimant may benefit from regional center services, the fact that a service may benefit an individual is not controlling on eligibility determinations. (*Ronald F. v State Department of Developmental Services* (2017) 8 Cal.App.5th 84, 98.)

On this record, claimant failed to establish he had a qualifying diagnosis and the required substantial disabilities as a result of that diagnosis so as to be eligible for regional center services.

## ORDER

Claimant's appeal from IRC's determination that he is not eligible for regional center services is denied. IRC's determination that he is not eligible for regional center services is affirmed.

DATE: February 2, 2026

Mary Agnes Matyszewski
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 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.