

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

In the Matter of

Claimant

and

North Los Angeles County Regional Center, Service Agency

DDS No. CS0028541

OAH No. 2025100302

DECISION

Thomas Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on April 16, 2026, at the North Los Angeles County Regional Center, 43850 10th Street West, Lancaster, California.

Paul Mejia, Due Process Officer, represented the North Los Angeles County Regional Center (NLACRC or Service Agency). Mother represented Claimant. Titles are used to protect privacy.

This matter is governed by the Lanterman Developmental Disabilities Services Act, Welfare and Institutions Code sections 4500 through 4885 (Lanterman Act).

Mother sought to admit two documents into evidence: an unsigned report from Sarfo Psychiatry, marked for identification as Exhibit A, and a draft Multidisciplinary Assessment Report prepared by iLead Student Support, marked for identification as Exhibit B. Mother had not complied with the Lanterman Act by producing these exhibits to the Service Agency before the hearing and accordingly they were excluded from evidence.

Documents and testimony were received in evidence. The record closed and the matter was submitted for decision on April 16, 2026.

STATEMENT OF THE CASE

Claimant contends he has been diagnosed with autism or autism spectrum disorder (ASD) and is substantially disabled in several ways, making him eligible for services and supports under the Lanterman Act. The Service Agency concluded after evaluating Claimant that he does not suffer from ASD and is otherwise not eligible.

FINDINGS OF FACT

1. The Service Agency served Claimant with a Notice of Action (NOA) dated June 25, 2025. Claimant received the NOA on June 28, 2025. Claimant timely appealed on July 17, 2025.

February 2024 Psychological Evaluation

2. Claimant's pediatrician noted developmental delays, such as in language ability, and referred him to the Service Agency. At NLACRC's request, Brigitte Travis-Griffin, Psy.D., reviewed Claimant's December 14, 2023 Social Assessment and

September 19, 2023 Intake Application. On February 13, 2024, she evaluated Claimant, then 3 years and 9 months old, administering: (i) the Wechsler Preschool and Primary Scale of Intelligence, Fourth Edition (WPPSI-IV); (ii) the Autistic Spectrum Disorder Observation, Module 2, (ADOS-2); and the Autism Diagnostic Interview – Revised (ADI-R) with Mother’s participation.

3. Dr. Travis-Griffin found Claimant to be generally in good health. Mother testified at the hearing, and it is noted in Dr. Travis-Griffin’s report, that Claimant was late to reach some developmental milestones, notably expressive language ability and toilet training. Mother reported he could at times be anxious, a chronic complainer, and quick to anger, sometimes becoming aggressive. Dr. Travis-Griffin noted, Exhibit 7, page A87, Mother’s report that Claimant “does not yet use age-appropriate effective strategies to decrease extreme upset, and struggles to self-sooth[e], which will periodically result in spontaneous vomiting. The intensity of [Claimant’s] emotional dysregulation may be complicated by his limited ability to effectively communicate his needs.” Mother stated she would follow a recommendation that she seek speech accommodations from the school district.

4. Dr. Travis-Griffin’s impressions included, Exhibit 7, page A89:

[Claimant] visually acknowledged this Examiner [and] . . . approached with social interest The quality of [Claimant’s] presentation was impaired by fleeting attention . . . and higher-than-normal kinetic exploration, all of which required mild-to-moderate Examiner redirects

Overall, [Claimant] presented as a friendly and fairly easy-going child with a positive affect. . . . Occasional emerging

of spontaneous sharing or turn-taking skills were noticed . .

..

Other modalities of communication included mild meaningful eye contact, limited spontaneous use of conventional gestures (i.e., head nods to acknowledge active listening skills, self-advocacy via speech such as "more please" or "ready").

Dr. Travis-Griffin found Claimant was minimally verbal and his speech intelligibility was less than 55 percent, whereas it should have been 75 percent.

5. The results of the WPPSI-IV showed that Claimant met criteria for an Intellectual Disability. Claimant's calculated Full-Scale IQ (FSIQ) of 56 reflected general intellectual functioning in the Mildly Deficient range of intelligence. Dr. Travis-Griffin noted that 0.2 percent of the population is likely to score at or below 56, but she stated as well, Exhibit 4, page A90, that Claimant's performance might not be static and that "as cognitive maturation continues, it is quite likely that [Claimant's] cognitive performance may have a different profile once he is exposed to a formal education setting, which includes speech and language support."

6. Dr. Travis-Griffin used the criteria of the standard reference work, the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR), to consider whether Claimant might be autistic. She noted that the tests she used, the Autism Diagnostic Interview-Revised (ADI-R) and ADOS-2, focus, like the DSM-5-TR, on three types of behaviors that define ASD: (i) abnormalities in reciprocal social interaction; (ii) abnormalities in communication; and (iii) restricted and stereotyped interests and behaviors. On ADOS-2, Module 1, Dr. Travis-Griffin gave

Claimant ratings on the Social Affect and Restricted and Repetitive Behaviors sections that were below the Autism cut-off mark, indicating he did not meet the initial criteria for ASD.

June 2025 Psychological Evaluation

7. Larry E. Gaines, Ph.D., submitted a report regarding his psychological evaluation of Claimant on June 18, 2025, to determine Claimant's levels of cognitive and adaptive functioning and the extent of any disability, including intellectual disability (ID) or ASD. Mother reported Claimant was found not initially eligible for special education following a psycho-educational evaluation his school district conducted, an evaluation that is not in the record. On the other hand Claimant was receiving speech therapy. The February 13, 2024 evaluation by Dr. Travis-Griffin was available Dr. Gaines and he took that into account. He conducted a clinical interview of Claimant and reviewed Claimant's records. He noted, Exhibit 11, page A111, that Claimant's "attention problems" and his "rather active" behavior suggested aspects of attention-deficit/hyperactivity disorder (ADHD).

8. Dr. Gaines conducted three tests Dr. Travis-Griffin had conducted in February 2024: (i) the WPPSI-IV; (ii) the ADI-R; and (iii) the ADOS-2, Module 2. Dr. Gaines also administered a fourth, the Vineland Adaptive Behavior Scale, Third Edition (Vineland-3). Dr. Gaines found Claimant's cognitive functioning fell in the deficient range, at risk for ID. Results of the ADOS-2 were that Claimant did not meet the criteria for ASD. On the ADI-R, Claimant was described as friendly, social, and motivated to engage with peers, but also extremely impulsive, hyperactive, and very loud. But in part because the restricted or repetitive behavior often associated with ASD was not observed, Dr. Gaines gave a provisional diagnosis of ID and Expressive Language Disorder with the need to rule-out ADHD.

9. In summarizing his observations, Dr. Gaines noted Claimant was cooperative and attentive during testing and he smiled in response to praise. But he soon became fidgety, could not sit still, and, during the free play period, Dr. Gaines described him, Exhibit 11, page A112, as "extremely hyperactive."

10. Regarding cognitive functioning as evaluated with the WPPSI-IV, Dr. Gaines found Claimant was functioning within the low-average range of cognitive ability on the Verbal Comprehension cluster. He showed average performance on the Fluid-Reasoning cluster. There were discrepancies among cluster scores, with weaknesses in language processing tasks, but his subtest scores were consistent within each cluster.

11. Regarding language ability, Claimant's were in the borderline range as measured with the Vineland-3. Dr. Gaines noted Claimant was three years old before he started talking well, but Dr. Gaines found he could carry on a simple conversation. He would blurt out things, but Dr. Gaines did not observe idiosyncratic language, such as echolalia, pronoun confusion, or idiosyncratic statements such as would be associated with ASD.

12. Regarding adaptive behavior functioning, Claimant was in the low-average range on the Vineland-3. Dr. Gaines noted Claimant could feed himself with a spoon, fork, and a cup, and he was toilet trained, though he still needed help with cleaning. He could do other tasks, such as washing his hands, but he needed help with some others, such as bathing. Dr. Gaines noted Claimant did not understand safety when out in the community. Like his adaptive behavior, Claimant's social skills fell within the low-average range on the Vineland-3. Dr. Gaines noted again that Claimant showed several signs of ADHD.

13. Dr. Gaines stated he did not find the ID that Dr. Travis-Griffin had described. He noted that Claimant continued to have some language delay. So also Dr. Gaines found no symptoms of ASD, though some were previously reported. Claimant showed no restricted or repetitive behaviors. Those that Mother reported, such as Claimant's lining up objects, Dr. Gaines believed might be idiosyncratic. He concluded that Claimant did not present with symptoms in all the areas necessary for a diagnosis of ASD.

14. Dr. Gaines gave Claimant this diagnosis, Exhibit 11, page A115:

It is felt that [Claimant] meets the criteria for the following ICD-10-CM (International Classification of Diseases, 10th Revision, Clinical Modification) diagnosis.

F80.9 Unspecified Communication Disorder (rule-out)

F90.2 Attention Deficit/Hyperactivity Disorder Combined-Type (provisional)

Recommendations by Service Agency

15. In the Service Agency's Lanterman Act Eligibility Determination dated June 24, 2025, Exhibit 12, page A119, the recommendations are:

Not eligible for Lanterman Regional Center services based on a Psychological Re-Assessment by Dr. Gaines who gave [Claimant] a rule out diagnosis of an Unspecified Communication Disorder and a provisional diagnosis of ADHD. Follow up with the school district and mental health.

Dr. Cecil's Testimony

16. For approximately a year and a half, Nichole Cecil, Psy.D., has worked as a psychological services supervisor at the Service Agency, where, among things, she evaluates eligibility, is responsible for multidisciplinary staffing, and conducts individual psychological assessments. Dr. Cecil testified at the hearing that she had reviewed the evaluations conducted by Dr. Travis-Griffin and Dr. Gaines and explained how their findings followed and their conclusions were consistent with the DSM-5-TR. She did not herself evaluate Claimant in person, but based on all the data endorsed the findings that Claimant did not qualify for services. Claimant does not have epilepsy or cerebral palsy, two of the five categories that, under Welfare and Institutions Code section 4512, may qualify a person as eligible for services and supports. Claimant does not have ASD and he does not have ID. Regarding section 4512's fifth category, Claimant does not have: (1) a disabling condition closely related to ID, or (2) one that requires treatment similar to that required for ID.

Mother's Testimony

17. Mother is concerned that the Service Agency has confused her child with another. Mixed in with records the Service Agency sent her were records regarding a child who is unrelated but who happens to have the same name as her child. Both Claimant's given name and surname are very common. Because of the mistake, however, Mother does not believe the Service Agency's conclusions are trustworthy.

18. Mother intended to present the Service Agency during a February 2026 mediation with a psychological report from Sarfo Psychiatry, but she was unable to attend. She stated that a Dr. Sarfo at that facility diagnosed Claimant with ASD. She

did not know what tests Dr. Sarfo conducted, but she stated that his examination of Claimant lasted about two and a half hours.

19. Mother was advised during the hearing that Dr. Sarfo's diagnosis was not evidence sufficient for an eligibility finding, that ASD is a category of disability, one of five, that may qualify a person for services and supports, but there must be additional evidence. Hence she was asked to address the additional provisions of the law, requiring the person to show "Substantial disability," defined in Welfare and Institutions Code section 4512, subdivision (j)(1), to include, in the case of a child, "significant functional limitations in three or more . . . areas of major life activity: (A) self-care; (B) receptive and expressive language; (C) learning; (D) mobility; and (E) self-direction. Mother obligingly discussed these provisions. Her descriptions of Claimant's limitations were in substance the same as those in Dr. Gaines's June 2025 report. There were some differences, because Mother testified to details absent from the June 2025 report. For instance, as Dr. Gaines wrote, Mother testified that Claimant needs help with cleaning after he uses the toilet, she added, however, that if she is not there to help him, Claimant will manipulate his own feces.

20. Mother stated that others in her family are on the autism spectrum. They have differing levels of disability, but Mother believes that Claimant's place on the spectrum is disabling enough to make him eligible. She clarified the observation in Dr. Gaines's report regarding special education: when Claimant first sought special education services he was in transitional kindergarten at four or five years of age. He was deemed too young to benefit from special education. No longer: he has benefitted from special education services since March 2026.

21. Among Mother's most pressing concerns regarding Claimant is his lack of "situational awareness." He does not appreciate when he is in danger. The problem

is made worse by attempts to elope. Claimant stays up into the wee hours of the morning with insomnia and has at times attempted to leave the house, as he has at times attempted to leave school without permission. Mother has put a padlock on the door to keep Claimant's in the home.

Criteria Pertinent to Eligibility

22. As explained by Dr. Cecil, if Claimant were eligible by reason of ASD, the criteria of the DSM-5-TR he would meet include:

A. Persistent deficits in social communication and social interaction across multiple contexts, as manifested by all of the following . . . (examples are illustrative, not exhaustive; see text):

1. Deficits in social-emotional reciprocity, ranging, for example, from abnormal social approach and failure of normal back-and-forth conversation; to reduced sharing of interests, emotions, or affect; to failure to initiate or respond to social interactions.

2. Deficits in nonverbal communicative behaviors used for social interaction

3. Deficits in developing, maintaining, and understanding relationships

B. Restricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following . . . :

1. Stereotyped or repetitive motor movements, use of objects, or speech (e.g., simple motor stereotypes, lining up toys or flipping objects, echolalia, idiosyncratic phrases).
2. Insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior
3. Highly restricted, fixated interests that are abnormal in intensity or focus
4. Hyper- or hyporeactivity to sensory input or unusual interest in sensory aspects of the environment

The DSM-5-TR also notes that the symptoms above must be present in the person's early developmental period, must cause clinically significant impairment in social or other important areas of functioning, and are not better explained by ID.

23. As explained by Dr. Cecil and set out in the DSM-5-TR, the criteria for ID are, Exhibit 14, page A139:

[ID] . . . includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains. The following three criteria must be met:

A. Deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience, confirmed by both clinical assessment and individualized, standardized intelligence testing.

B. Deficits in adaptive functioning that result in failure to meet developmental and socio-cultural standards for personal independence and social responsibility. Without ongoing support, the adaptive deficits limit functioning in one or more activities of daily life, such as communication, social participation, and independent living, across multiple environments, such as home, school, . . . and community.

The DSM-5-TR notes that, like ASD, ID must arise in the person's early developmental period.

24. Mother's evidence has implications for Claimant's possible eligibility under the fifth category. ARCA, the Association of Regional Center Agencies, has published Recommendations for Determining "5th Category" Eligibility for the California Regional Centers, recommendations endorsed by the Department of Developmental Services (DDS), the agency that oversees the Service Agency and all the other regional centers in the state. Among ARCA's recommendations is, Exhibit 16, page A151:

A DSM-5-TR identified condition of borderline intellectual functioning (ICD-10 code R41.83) can be considered when an individual's general cognitive functioning is in the subaverage range of intelligence but slightly above that which would be considered for intellectual disability. Individuals with borderline intellectual functioning may be considered to have a condition closely related to intellectual disability. However, having borderline intellectual functioning does not, in and of itself, establish

eligibility under 5th category, as additional eligibility components must also be present to meet the definition of developmental disability. (Emphasis in original.)

Claimant's FSIQ, calculated by Dr. Travis-Griffin, was 56, in the Mildly Deficient range of intelligence. Dr. Travis-Griffin qualified this finding, stating that it was not static and might be found to be higher upon Claimant's pursuing formal education. But the FSIQ suggests that if Claimant may be found eligible for services and supports, it would most likely be under the fifth category. As otherwise discussed, however, it is not clear that factors other than FSIQ are enough for a finding of eligibility.

LEGAL CONCLUSIONS

1. Under Evidence Code sections 115 and 500, the standard of proof in this matter is proof by a preponderance of the evidence. Claimant has the burden of proof because Claimant is the party asserting a claim and seeking a change in the status quo. (See, e.g., *Hughes v. Bd. of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.)

2. Most pertinent here are these provisions of the Lanterman Act: (i) what constitutes a developmental disability, as set out in Welfare and Institutions Code section 4512, subdivision (a)(1); and (ii) what constitutes substantial disability, as set out in Welfare and Institutions Code section 4512, subdivision (j), quoted above.

ANALYSIS

3. Both psychological evaluations of Claimant, in February 2024 and June 2025, indicate that his delays or deficits likely relate to ADHD, a condition not covered

by the Lanterman Act. Both evaluations were supported by the testimony of Dr. Cecil. But whether or not ADHD is the cause of Claimant's developmental difficulties, the evidence does not establish that he has ASD or ID.

4. Dr. Cecil explained, based on the findings of Dr. Travis-Griffin and Dr. Gaines, that Claimant does not meet the criteria of the DSM-5-TR for a finding of ASD.

5. Dr. Cecil explained that Claimant is not eligible based on ID. The psychologists found and explained in convincing fashion that Claimant does not meet the criteria of the DSM-5-TR for ID.

6. Claimant's evidence of eligibility under the fifth category comes closer than his other evidence to showing eligibility, given his relatively low FSIQ, as calculated by Dr. Travis-Griffin. His score of 56 may be considered evidence of borderline intellectual functioning. However, there was insufficient evidence of additional eligibility components, as explained in the ARCA recommendations, quoted above.

7. There is no claim and no evidence that Claimant suffers from either of the other two disabilities in Welfare and Institutions Code section 4512, subdivision (a)(1), cerebral palsy or epilepsy.

8. Mother's testimony was quite credible, but it did not contradict the evidence in the psychological evaluations. Without doubt, Claimant has difficulty in paying attention or staying focused, his expressive speech ability was delayed until he was approximately three years old, and he has other deficits, such as his ability to care for his own hygiene. But these facts do not prove ASD or ID or the fifth category of disability, and they are insufficient to consider conclusive the reported diagnosis of ASD that Mother stated was made by Dr. Sarfo.

9. Claimant bore the burden of proof in this matter and was unable to offer sufficient evidence to show that he is eligible for services and supports under the Lanterman Act.

ORDER

Claimant's appeal is denied.

DATE:

THOMAS LUCERO
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party may request a reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 within 15 days of receiving the decision, or appeal the decision to a court of competent jurisdiction within 180 days of receiving the final decision.