

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

In the Matter of:

Claimant,

and

Eastern Los Angeles Regional Center,

Service Agency.

DDS No. CS0031751

OAH No. 2025110355

DECISION

Nana Chin, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on March 23, 2026.

Claimant was represented by Mother and Sister. (The names of Claimant and her family are omitted to protect their privacy.)

East Los Angeles Regional Center (ELARC or Service Agency) was represented by Victor Mercado, Appeals Specialist.

Testimony and documents were received into evidence. The record was closed on March 23, 2026.

ISSUE

Whether Claimant is eligible for regional center services under the Lanterman Developmental Disabilities Services Act based on Autism Spectrum Disorder (ASD).

EVIDENCE RELIED ON

Documents: Exhibits 1-4, 6-12.

Testimonial: Victor Mercado, Mother, and Sister.

FACTUAL FINDINGS

Parties and Jurisdictions

1. Claimant is an eight-year-old female who resides in the family home with her parents and three siblings, one of whom has been diagnosed with ASD.

2. On October 29, 2025, Service Agency notified Mother that Claimant is not eligible for regional center services because she does not have a developmental disability as defined by Welfare and Institutions Code section 4512 and California Code of Regulations, title 17, sections 54000, et. seq.

3. Mother filed a timely appeal on November 10, 2025, and this hearing followed.

Background

4. Before turning three, Claimant received services under the California Early Intervention Services Act (Early Start), Government Code section 95000 et seq. Children under the age of three are eligible for Early Start services if: (1) they have a developmental delay in one or more of the following areas: cognitive development, physical and motor development (including vision and hearing), expressive or receptive communication; social or emotional development; or adaptive development; (2) they have an established risk condition; or (3) they are at high risk of having a substantial developmental disability due to a combination of biomedical risk factors. (Gov. Code, § 95014, subd. (a).)

5. Shortly before those services ended, Service Agency referred Claimant for a psychological evaluation. Based on that evaluation, Service Agency determined Claimant was ineligible for Lanterman Act services and referred her to the school district for special education services.

Special Education History

6. Claimant entered special education on May 13, 2021, under the eligibility category of Speech or Language Impairment (SLI). The District found that Claimant did not meet the eligibility criteria for autism. Claimant was placed in an Early Childhood Special Day Class with Specialized Academic Instruction.

7. In June 2023, the District reassessed Claimant and found she continued to be eligible for special education services due to SLI but did not meet criteria for autism. The Individualized Educational Program (IEP) team determined that Claimant's needs could be met in a general education setting with supportive services.

8. By November 2025, Claimant was participating in general education with Language and Speech services, Resource Support Program services, and anticipated Applied Behavior Analysis (ABA) services. A Multi-Disciplinary Assessment was conducted that fall by School Psychologist Mirrella Bautista, M.A., Ed.S., Educational Specialist Jodi Delgado, and School Psychologist Intern Dawn Mendoza. (Exh. 11.) The evaluation included cognitive, academic, language, social-emotional, and adaptive assessments, classroom observations, and behavioral rating scales completed by Mother and Claimant's teacher. Because the dispositive issue is whether Claimant has a qualifying diagnosis of autism, the following summarizes only those portions of the assessment relevant to that issue.

9. Behavioral rating scales revealed a marked discrepancy between home and school observations. On the Behavior Assessment System for Children—Third Edition (BASC-3), Mother reported clinically significant concerns in the areas of anxiety, somatization, atypicality, withdrawal, behavioral symptoms, and functional communication, and at-risk concerns in the areas of attention, social skills, leadership, and adaptive skills. Teacher ratings on the BASC-3 were largely within the average range, with the exception of clinically significant concerns in learning problems and at-risk concerns in school problems, social skills, leadership, functional communication, and adaptive skills. On the Adaptive Behavior Assessment System, Third Edition (ABAS-3), Mother reported overall adaptive functioning in the extremely low range across conceptual, social, and practical domains, while the teacher reported overall adaptive functioning in the below average range, with practical skills in the average range.

10. On the Autism Spectrum Rating Scales (ASRS), Mother's ratings indicated very elevated concerns across multiple domains. Teacher ratings on the ASRS were more mixed: the teacher rated Claimant's social reciprocity and peer socialization

within the very elevated range, reflecting limited ability to provide an appropriate emotional response in social situations and limited capacity to develop and maintain peer relationships, but rated stereotypy, behavioral rigidity, and sensory sensitivity within the average range, indicating no observed concerns in those areas at school.

11. Classroom observations were conducted on October 29 and 30, 2025, during math instruction, independent work, lunch, recess, and a writing lesson. During academic instruction, Claimant sat quietly, appeared attentive, and relied heavily on teacher modeling and peer cues to initiate tasks. She did not participate verbally when the teacher posed open questions to the class and required multiple prompts and individualized assistance to engage with academic work. On the BASC-3 Student Observation System, Claimant demonstrated adaptive behavior for 30 percent of the observed intervals and problem behaviors, including copying answers from a peer, staring blankly, and looking around the classroom, for 50 percent of the observed intervals. During lunch and recess, Claimant transitioned appropriately, interacted positively with peers, smiled, and engaged in active play, remaining close to one particular peer throughout. Although her verbal interactions were limited, her social behavior during unstructured periods was observed to be age-appropriate.

12. Based on the evaluation, the Multi-Disciplinary Assessment concluded that Claimant met the educational eligibility criteria for autism under California Code of Regulations, title 5, section 3030, subdivision (b)(1), based on significant deficits in verbal and nonverbal communication and social interaction adversely affecting her educational performance. The evaluation specifically noted that the educational definition of autism does not require a medical diagnosis, and that meeting the medical definition does not ensure eligibility under the educational criteria. At the same time, the evaluation found that the autism characteristics of repetitive activities

or stereotyped movements, resistance to routine changes, and unusual sensory responses were not demonstrated in the school setting.

13. The IEP team met on November 3, 2025, adopted the evaluation's eligibility conclusions under autism, and developed an IEP to put services in place.

Service Agency Assessments

2021 SANCHEZ ASSESSMENT

14. Shortly before Claimant's Early Start services ended, ELARC referred her to clinical psychologist Victor C. Sanchez, Ph.D., to assess for Intellectual Disability and ASD. Dr. Sanchez conducted the evaluation by telemedicine on January 2, 2021, when Claimant was two years and ten months old. He interviewed Mother, reviewed available records, made clinical observations of Claimant, and administered the Wechsler Preschool and Primary Scale of Intelligence, Fourth Edition (WPPSI-IV), the Receptive One-Word Picture Vocabulary Test (Spanish/Bilingual), the Developmental Profile III, the Vineland Adaptive Behavior Scales III, the Peabody Picture Vocabulary Test V, the Beery Visual Motor Integration Test, the Childhood Autism Rating Scale 2-ST, and the Autism Diagnostic Interview-Revised.

15. During the evaluation, Dr. Sanchez observed Claimant to be friendly, cooperative, and capable of joint attention and shared interaction. She occasionally had difficulty understanding some directions but responded to prompts and participated appropriately. He did not observe repetitive behaviors, restricted interests, or atypical sensory responses. Mother reported significant speech delay, with a limited vocabulary and use of only one- to two-word phrases, but described Claimant as socially engaged, with appropriate eye contact, affection, cooperative play, and imaginative behavior. Scores on the Childhood Autism Rating Scale 2-ST and the

Autism Diagnostic Interview-Revised fell well below diagnostic thresholds. Using Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5), Dr. Sanchez diagnosed Claimant with Language Disorder.

16. Following Dr. Sanchez's evaluation, Service Agency found Claimant ineligible for regional center services under the Lanterman Act.

2025 PSYCHOLOGICAL EVALUATION

17. On a date not reflected in the record, Family contacted Service Agency requesting that Claimant be found eligible for regional center services. ELARC referred Claimant for a new psychological evaluation.

18. Larry E. Gaines, Ph.D., conducted the evaluation on August 19, 2025. (Exh. 7.) Dr. Gaines reviewed Claimant's records, conducted a clinical interview with Mother, and administered the Wechsler Intelligence Scale for Children-Fifth Edition, the Autism Diagnostic Interview-Revised, the Autism Diagnostic Observation Schedule-Second Edition (Module 2), and the Vineland Adaptive Behavior Scales-Third Edition.

19. During the interview, Mother reported that Claimant was not consistently social with other children, maintaining one close friendship and demonstrating possessiveness of that peer. Claimant has difficulty expressing her needs and feelings, which Mother attributed to language delays, and is behind academically. She may cry or have tantrums when upset.

20. Dr. Gaines observed Claimant to be appropriately dressed and groomed. She made good eye contact, used gestures such as nodding, and frequently relied on nonverbal communication, including looking to her mother for assistance. She was cooperative and attentive during testing, though she had difficulty understanding

some tasks, and communicated in short phrases with poor articulation. The results of Cognitive testing revealed a discrepancy between Claimant's verbal and nonverbal abilities, with verbal comprehension in the mild deficit range and visual-spatial and fluid reasoning skills in the average range, consistent with a language-based weakness. On the Vineland-3, Claimant's communication and adaptive skills fell within the mild deficit range, and social skills fell in the borderline range

21. Dr. Gaines noted that autism-specific measures, including the ADI-R and ADOS-2, did not yield clinically significant results, and Claimant was classified as non-autistic. During testing, Claimant demonstrated appropriate eye contact, use of gestures, reciprocal interaction, and imaginative play. She engaged in simple conversation, responded to her name, and participated in structured play activities. Dr. Gaines concluded that Claimant did not meet diagnostic criteria for ASD or Intellectual Disability and diagnosed her with Unspecified Communication Disorder (F80.9).

GAINES ADDENDUM

22. Dr. Gaines issued a psychological addendum on August 20, 2025, in which he reviewed a psychoeducational evaluation dated May 13, 2021, a psychoeducational evaluation dated June 7, 2023, and a school IEP dated June 4, 2024. (Exh. 8.) He noted that while behavioral questionnaires and some autism rating scales showed elevations across those records, Claimant was not directly observed to have difficulties relating to others or to exhibit stereotypical behaviors, and concluded that the additional records did not change his diagnosis.

ELARC'S CONSULTANT REVIEWS

23. The psychological evaluations and school records were reviewed by ELARC consultants, Armida Acosta, Psy.D. on October 16, 2025 (Exh. 9.), and then by Heike

Ballmaier, Psy.D. on December 26, 2025. (Exh. 12.) Both consultants concluded Claimant was ineligible for regional center services.

24. Dr. Ballmaier provided a detailed rationale for her conclusion. She noted that no evaluator, including the school psychologists, had directly observed restricted, repetitive, or stereotyped behaviors in Claimant. She further noted that while Claimant met educational eligibility criteria for autism based on communication and social interaction deficits, the Multi-Disciplinary Assessment itself found that the autism characteristics of repetitive activities or stereotyped movements, resistance to routine changes, and unusual sensory responses were not demonstrated in the school setting. Dr. Ballmaier also concluded that Claimant did not meet criteria for Intellectual Disability or Borderline Intellectual Functioning, observing that her nonverbal and visual-spatial cognitive skills reflected average functioning while her verbal cognitive skills were in the deficit range—a discrepancy consistent with a learning disorder rather than a global intellectual deficit. She further noted that language and learning disorders are not among the categories of developmental disability enumerated in Welfare and Institutions Code section 4512, and that Claimant’s history of significant expressive and receptive language deficits did not independently support Lanterman eligibility.

Hearing Testimony

25. Sister testified at the hearing. She serves as Claimant’s primary caregiver when Mother is working and described a marked difference between Claimant’s behavior at home and in other settings.

26. At home, Claimant follows a rigid daily routine, typically eating the same foods and spending much of her time coloring. Sister reported that Claimant rocks

back and forth throughout the day and uses headphones for auditory comfort. Claimant requires constant prompting and hands-on assistance for daily living tasks such as dressing, bathing, and preparing for school, and needs step-by-step guidance even for simple routines. Following school, she is consistently upset and remains irritable through the evening. She becomes particularly distressed when expectations are not met and may engage in self-injurious or aggressive behaviors, including biting herself or others and throwing objects. Sister also reported that Claimant holds a disability placard and receives In-Home Supportive Services (IHSS) hours.

27. In the community, Claimant's behavior raises safety concerns. She has attempted to elope from the car, does not consistently recognize danger, and has previously wandered off in a store.

28. Sister also read portions of the Multi-Disciplinary Assessment and Claimant's 2025 IEP into the record at the hearing, highlighting areas she viewed as reflecting significant deficits. She noted that Claimant's IEP lists autism as the primary eligibility category and Speech or Language Impairment as secondary. She pointed to Claimant's low to low average scores across most domains, her difficulties with memory, following instructions, completing and submitting work accurately and on time, and her high volume of incomplete work, and noted that the teacher has made adjustments to homework expectations to accommodate Claimant's needs. She also noted that the teacher reported to the evaluator that Claimant is academically weaker than her classmates, demonstrates significantly limited verbal and nonverbal communication, has limited capacity to develop and maintain peer relationships, has difficulty providing appropriate emotional responses in social situations, has trouble sustaining attention while ignoring distractions, and presents as disorganized. On

cross-examination, Sister admitted that she has not observed Claimant exhibit any restricted or repetitive behaviors.

29. Mother also testified at hearing. She stated that Claimant is different from other children but acknowledged that, outside of the school setting, Claimant has not received a clinical diagnosis of ASD from any psychologist or psychiatrist.

LEGAL CONCLUSIONS

Jurisdiction

1. The Lanterman Developmental Disabilities Services Act (Lanterman Act) governs this case. (Welf. & Inst. Code, § 4500 et seq.) An administrative hearing to determine the rights and obligations of the parties is available under the Lanterman Act to appeal a regional center decision. (Welf. & Inst., §§ 4700-4716.) Mother timely appealed Service Agency's denial of Claimant's eligibility for regional center services, and jurisdiction is established.

Standard and Burden of Proof

2. When an individual seeks to establish eligibility for government benefits or services, the burden of proof is on the individual. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) As no other statute or law specifically applies to the Lanterman Act, the standard of proof in this case is preponderance of the evidence. (Evid. Code, §§ 115, 500.) The applicable standard of proof is preponderance of the evidence. (Evid. Code, §§ 115, 500.) Accordingly, Claimant bears the burden of proving by a preponderance of the evidence that she meets the eligibility criteria for regional center services. Claimant did not meet that burden.

Applicable Law

3. Establishing eligibility for regional center services requires a two-step showing. First, the claimant must demonstrate that she has a qualifying developmental disability within one of the five categories enumerated in Welfare and Institutions Code section 4512. Second, if a qualifying disability is established, the claimant must demonstrate that the disability constitutes a “substantial disability,” meaning significant functional limitations in three or more areas of major life activity. (Welf. & Inst. Code, § 4512, subd. (l); Cal. Code Regs., tit. 17, § 54001.) Because this case does not advance past the first step, only the threshold question is addressed.

4. In addition to showing a claimant’s disability falls within one of the five statutory categories, the claimant must show that the disability constitutes a “substantial disability.”

5. Welfare and Institutions Code section 4512, subdivision (a), defines “developmental disability” as “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. . . . [T]his 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.”

DSM-V

6. The Lanterman Act and its implementing regulations contain no definition of the qualifying developmental disability of “autism.” The DSM-5, published by the American Psychiatric Association, is a widely accepted manual that lists the

diagnostic criteria and identifying factors for most known mental disorders. The DSM-5 was utilized by the Service Agency in making its eligibility determination, and the ALJ took official notice of its provisions.

7. The DSM-5, at section 299.00, sets forth the diagnostic criteria that must be met to provide a specific diagnosis of ASD, as follows:

A. Persistent deficits in social communication and social interaction across multiple contexts, as manifested by the following, currently or by history (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, ranging, for example, from poorly integrated verbal and nonverbal communication; to abnormalities in eye contact and body language or deficits in understanding and use of gestures; to a total lack of facial expressions and nonverbal communication.

3. Deficits in developing, maintaining, and understanding relationships, ranging, for example from difficulties adjusting behavior to suit various social contexts;

to difficulties in sharing imaginative play or in making friends; to absence of interest in peers.[1] . . . [1]

B. Restricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following, currently or by history (examples are illustrative, not exhaustive; see text):

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 (e.g., extreme distress at small changes, difficulties with transitions, rigid thinking patterns, greeting rituals, need to take same route or eat same food every day).

3. Highly restricted, fixated interests that are abnormal in intensity or focus (e.g., strong attachment to or preoccupation with unusual objects, excessively circumscribed or perseverative interests).

4. Hyper- or hyporeactivity to sensory input or unusual interests in sensory aspects of the environment (e.g., apparent indifference to pain/temperature, adverse response to specific sounds or textures, excessive smelling or touching objects, visual fascination with lights or movement). [1] . . . [1]

- C. Symptoms must be present in the early developmental period (but may not become fully manifest until social demands exceed limited capacities, or may be masked by learned strategies in later life).
- D. Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.
- E. These disturbances are not better explained by intellectual disability (intellectual development disorder) or global developmental delay. Intellectual disability and autism spectrum disorder frequently co-occur; to make comorbid diagnoses of autism spectrum disorder and intellectual disability, social communication should be below that expected for general developmental level.

(Exhibit 4, p. A11-13.)

Analysis

8. Autism may be defined differently depending on the governing law, and the two determinations serve distinct purposes. A clinical diagnosis of autism is a medical determination made by a qualified professional, such as a licensed psychologist or psychiatrist, based on clinical evaluation and the criteria set forth in the DSM-5. An educational eligibility determination, by contrast, is a decision made by a school multidisciplinary team based on whether a student's characteristics adversely affect educational performance and create a need for special education services.

9. Under California law, eligibility for special education services on the basis of autism requires a finding that the student exhibits characteristics of autism, including significant deficits in verbal and nonverbal communication and social interaction, that adversely affect educational performance. (Cal. Code Regs., tit. 5, § 3030, subd. (b)(1).) That determination does not require a medical or clinical diagnosis of autism, as the Multi-Disciplinary Assessment itself noted in this case. Conversely, a school eligibility finding does not establish that a student has received a clinical diagnosis, nor does it satisfy the Lanterman Act's eligibility standard.

10. Eligibility for regional center services under the Lanterman Act requires a qualifying developmental disability established through clinical diagnosis consistent with DSM-5 criteria. A school eligibility determination, however thorough, does not substitute for that clinical finding and cannot independently establish Lanterman Act eligibility.

11. Claimant did not establish that she has a qualifying developmental disability under the Lanterman Act. No licensed psychologist or psychiatrist has ever diagnosed Claimant with ASD. The two clinical psychologists who evaluated Claimant, Dr. Sanchez in 2021 and Dr. Gaines in 2025, both concluded Claimant did not meet the DSM-5 diagnostic criteria for ASD. Both evaluators noted the absence of restricted or repetitive behaviors, which are required under DSM-5 Criterion B, and the autism-specific measures administered by Dr. Gaines, including the ADI-R and ADOS-2, did not yield clinically significant results. ELARC's consulting psychologists, Dr. Acosta and Dr. Ballmaier, reviewed the full record and reached the same conclusion. Sister acknowledged on cross-examination that she has not observed Claimant exhibit any restricted or repetitive behaviors, and Mother acknowledged at hearing that Claimant

has not received a clinical diagnosis of ASD from any psychologist or psychiatrist outside of the school setting.

12. Although the District found Claimant eligible for special education services on the basis of autism, that determination was made under a distinct legal standard from the Lanterman Act. Moreover, the District found that Claimant did not exhibit core DSM-5 ASD features, including repetitive behaviors, stereotyped movements, rigidity, and unusual sensory responses, in the school setting, which is consistent with the observations by ELARC's clinical evaluators.

13. The evidence reflects that Claimant has significant deficits in expressive and receptive language, and the record as a whole suggests she faces real challenges in her daily functioning. However, language disorder and learning disorder are not among the five categories of developmental disability enumerated in Welfare and Institutions Code section 4512, subdivision (a), and deficits in communication alone, without a qualifying diagnosis, do not establish eligibility for regional center services.

14. Because Claimant did not establish the threshold requirement of a qualifying developmental disability, the inquiry ends there. The substantial disability analysis under Welfare and Institutions Code section 4512, subdivision (l), and California Code of Regulations, title 17, section 54001, applies only if a qualifying diagnosis has been established. As that threshold was not met, the substantial disability question is not reached.

15. Based on the foregoing, the preponderance of the evidence did not establish that Claimant is eligible to receive regional center services.

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ORDER

Claimant's appeal is denied. The Service Agency's determination that Claimant is not eligible for regional center services is upheld.

DATE:

NANA CHIN

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.