

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

**In the Matter of the Appeal of:**

**CLAIMANT**

**vs.**

**ALTA CALIFORNIA REGIONAL CENTER, Service Agency**

**DDS No. CS0031582**

**OAH No. 2025110377**

**DECISION**

Hearing Officer Sean Gavin, an Administrative Law Judge employed by the Office of Administrative Hearings (OAH), State of California, heard this matter on December 11, 2025, in Sacramento, California.

Claimant's mother and father represented claimant.

DJ Weersing, Legal Services Specialist, represented Alta California Regional Center (ACRC).

Evidence was received, the record closed, and the parties submitted the matter for written decision on December 11, 2025.

## **ISSUE**

Whether ACRC may reduce claimant's Applied Behavioral Analysis (ABA) services from 38 hours per week to 26 hours per week based on the availability of generic resources, namely claimant's local school district.

## **FACTUAL FINDINGS**

### **Background**

1. Claimant is a three-year-old ACRC consumer based on his qualifying diagnoses of severe autism and global developmental delay under what is known as "fifth category" eligibility. He lives at home with his parents, three siblings, and five cousins. Among the eight other children in the household, six are also ACRC clients. Claimant was initially placed with his family in a foster setting. His parents recently completed the adoption process. His family lives in the Elk Grove Unified School District (EGUSD), though he does not attend school with the EGUSD because his parents have opted to delay the start of his formal schooling.

2. Claimant initially received services from ACRC through the Early Start Program. He received Early Start services until his third birthday, October 8, 2025, at which point he transitioned to traditional services. ACRC funds claimant's ABA services through Applied Behavior Consultants, Inc. (ABC). In August 2025, Cynthia Teglas, a Board Certified Behavior Analyst (BCBA) with ABC, assessed claimant and recommended that he receive "up to 38 hours per week of [ABA] therapy within a center environment." He has been receiving ABA services through ABC for 38 hours per week for multiple months.

## **Claimant's September 2025 IEP and ACRC's Notice of Action**

3. On September 30, 2025, EGUSD conducted an Individualized Education Program (IEP) meeting for claimant. Among others, claimant's parents and Kelilah Thomas, claimant's ACRC Service Coordinator, attended the IEP meeting. Following the IEP meeting, EGUSD prepared an Offer of Free and Appropriate Public Education (FAPE), which identified the specific services EGUSD was offering for claimant's education.

4. Included in the Offer of FAPE, under the heading "Special Education and Related Services," was the following:

Specialized academic instruction provided in the Level 3 Integrated preschool classroom. Classroom utilizes principles of Applied Behavior Analysis (ABA) and other evidence-based practices, which include, but are not limited to: principles of reinforcement, prompting strategies. antecedent based intervention strategies and specialized teaching strategies. Peer based instruction and intervention (PBII), social skills training and social stories/narratives are also implemented within the program to provide structured play and social opportunities with typical peers. Students are taught functional communication skills using evidence-based practices to allow them to initiate and sustain conversations with staff and peers and to use language for a variety of functions, including asking and responding to questions, commenting, greeting others, and requesting/rejecting in an appropriate manner. Classroom

has a lower student to adult ratio than general education classrooms, and follows an integrated model in which all special education supports and services can be provided in a setting with typical peers. The Integrated Preschool program provides a high rate of prompting through the use of a prompt hierarchy, visual and embedded supports for language and communication development and motor functioning.

5. The Offer of FAPE indicated claimant would receive the special education services described above four days per week for three hours each day. Based on that, on November 3, 2025, ACRC issued claimant a Notice of Action (NOA) in which it proposed to reduce funding for claimant's ABA services by 12 hours per week, from 38 hours to 26 hours. ACRC identified the reason as follows:

[Claimant's] school district has offered him a part-time school program of 12 hours of school per week. His school district is now a generic resource to assist with funding ABA-based behavioral health treatment during [claimant's] 12 school hours each week, and [claimant] is no longer able to participate in the full 38 hours of ABA services per week. Regional centers cannot pay for services which may be available from generic resources such as school districts.

## **Claimant's Appeal Request**

6. On November 4, 2025, claimant's parents appealed the NOA. They explained their reasons as follows:

The purpose of this appeal is to request the reinstatement of [claimant's] Applied Behavior Analysis (ABA) therapy at 38 hours per week. [Claimant] is a three-year-old client diagnosed with autism and prescribed ABA therapy.

ABC Consultants, a vendor for Alta Regional Center, conducted a formal assessment and recommended 38 hours of ABA therapy per week. As [claimant] is a straight medical client, Alta Regional Center is obligated to provide funding for the prescribed level of care.

However, Alta Regional Center discontinued services without notice for more than one week and subsequently reinstated therapy at a reduced level of 26 hours per week without conducting a new assessment. This action constitutes a violation of [claimant's] right to receive medically necessary therapy as prescribed. The reduction of therapy hours without reassessment appears Inconsistent with the Behavior Analyst Certification Board (BACB) Code of Ethics and the Lanterman Act's requirements for continuity of medically necessary services.

7. Following claimant's appeal of the NOA, ACRC scheduled the matter for a fair hearing with OAH. This hearing followed.

## **ACRC's Evidence at Hearing**

8. Ms. Thomas, claimant's ACRC service coordinator, testified at hearing. Claimant has been in her caseload since his third birthday on October 8, 2025,

although she also participated in his transition process from Early Start to traditional services. Part of her participation included attending a meeting on September 30, 2025, to discuss and formalize claimant's Individual Program Plan (IPP) with ACRC. Claimant's mother also attended the IPP meeting.

9. Following the IPP meeting, Ms. Thomas prepared a written IPP for claimant's parents' review and signature. Under the heading "Personal/Emotional Growth," the IPP included the following, as relevant to this matter:

Services & Supports (related to Personal & Emotional Growth) are as follows:

ACRC Service Coordinator will request ACRC funding for center-based ABA services at Applied Behavior Consultants, maximum 26 hours per week/104 hours per month, as agreed upon by the planning team.

10. Under the heading "Education/Learning," the IPP provided the following, as relevant to this matter:

Current Status: [claimant's] educational planning team has planned enrollment for [claimant] to attend Elitha Donner Elementary School. He will attend school 4 days a week, from 7:55am to 10:55am. [Claimant] will receive occupational therapy services, social skills training, and language and speech services. The planning team has recommended each service to be provided on a weekly basis for 30 minutes per session. [Claimant] has not been recommended for the Extended School Year (ESY) sessions,

nor does he qualify to receive transportation services through the school district. [Claimant's] initial IEP was conducted September 30, 2025. [Claimant] is not currently enrolled in school, and the family intends to have him attend his current ABA program full-time for the 2025-2026 school year. [Claimant's] family will monitor his progress in ABA before determining if they want him to attend public school for the following school year.

11. Claimant's mother did not agree with the offer of ABA services for 26 hours per week included in the IPP. As a result, when she signed the IPP on September 30, 2025, she checked a box titled "Disagreement or denial on the following services." The explanation stated: "The team did not agree on the following service(s): Center-based ABA Therapy at Applied Behavior Consultants – 26 hours per week/104 hours per month." At the same time, claimant's mother requested an NOA to appeal the proposed reduction of claimant's ABA services through ACRC.

12. At hearing, Ms. Thomas explained that following the IPP meeting, she attempted to bring the dispute over claimant's ABA service hours to an ACRC committee, but there was insufficient time to schedule the committee meeting before the purchase of service (POS) agreement with ABC lapsed on claimant's third birthday. As a result, the services lapsed on October 8, 2025.

13. Thereafter, ACRC's committee met on October 14, 2025. JeNell Flanagan, a BCBA with ACRC, participated in the committee meeting. Ms. Flanagan testified at hearing. Although she does not provide direct services to ACRC consumers, she helps guide planning teams in their decisions.

14. At the committee meeting, ACRC considered claimant's request to maintain 38 hours per week of ABA services through ABC. Part of that consideration included the understanding that EGUSD was offering 12 hours per week of similar ABA services. Additionally, the committee considered two of ACRC's Procedures Manuals, one titled "Early Intervention 'At Risk' Behavior Services" (the Early Intervention Manual) and the other titled "Early Autism Treatment (EAT)" (the EAT Manual).

15. At hearing, Ms. Flanagan explained that the Early Intervention Manual is limited to consumers younger than 36 months. As a result, once claimant turned three years old, the EAT Manual applied to him. She further explained that, according to the EAT Manual, ACRC was legally required to consider the EGUSD Offer of FAPE when evaluating the funding level for claimant's ABA services through ABC.

16. Specifically, the EAT Manual provides, as relevant to this matter:

For children over 3 years of age, prior to accessing Regional Center (RC) funding, the availability of other public and private resources must be pursued.

RC funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving funds for providing those services. These resources include publicly funded education programs, Department of Social Services for children in foster placement, Department of Vocational Rehabilitation, and private insurance.

17. The EAT Manual also lists "Key Considerations for Services," which include, as relevant to this matter: "Early Autism Treatment cannot serve as respite,

daycare, school or emergency/crisis services" and "For children over age 3 years, the SC [service coordinator] must be aware of educational resources and the offer of Free and Appropriate Public Education (FAPE) which must be accessed prior to regional center funding. Should a family choose to decline the offer of FAPE, the regional center is not allowed to supplant educational hours."

18. Based on the committee members' understanding that claimant could receive 12 hours of ABA services per week through EGUSD's Offer of FAPE, as well as its reading of the EAT Manual, the ACRC committee elected to move forward with the proposed reduction of claimant's weekly ABA services from 38 hours to 26 hours. ACRC notified claimant's parents via the NOA it issued on November 3, 2025. On November 4, 2025, ACRC retroactively and temporarily extended claimant's POS with ABC through December 31, 2025. As a result, following an interruption of services, he is presently authorized to receive 38 hours per week of ABA services through ABC until the end of this year.

19. Ms. Flanagan explained at hearing that as of the committee meeting, ACRC was aware of the Offer of FAPE but did not have an actual copy of it. Claimant's parents provided the document at hearing and Ms. Flanagan reviewed it. She testified that it confirmed to her that ACRC made the correct decision to reduce claimant's ABA services through ABC by 12 hours per week. Specifically, she noted that the Offer of FAPE contemplates using evidence-based methods to provide ABA services to claimant. Those methods include: a "first-then" strategy to learn what to do first to earn access to a reward; break cards; calm down choices; a snack plan; destination labels to navigate the classroom and its objects; an individualized schedule; visual classroom rules; and a visual timer with verbal reminders. She further noted that, in her

experience, EGUSD provides these kinds of special education services with a ratio of one provider to three or four children, and that BCAs are involved in the process.

## **Claimant's Evidence at Hearing**

20. Claimant's father testified at hearing. He has extensive personal and professional experience with ABA services. He has a bachelor's degree in psychology from the University of California, Davis, and is currently working towards his degree in Licensed Marriage and Family Therapy. He also works for a company that is an ACRC vendor providing ABA services. Additionally, of the seven children in his family that are ACRC consumers (including claimant), five receive ABA services.

21. Claimant's father reviewed EGUSD's Offer of FAPE and believes it does not actually include ABA services. Specifically, he researched EGUSD's requirements for special education classroom instructors on ChatGPT and concluded that, though a master's degree is preferred, it is not required. Similarly, ChatGPT's information indicated the EGUSD special education providers do not necessarily have to be certified.

22. Claimant's father further noted that the services offered by EGUSD are inferior to those Ms. Teglas recommended in her ABC assessment. Specifically, through ABC, claimant receives one-on-one treatment from a BCBA. In contrast, EGUSD would provide claimant special education services in a one-to-three or one-to-four ratio, and claimant's father believes a BCBA would not be involved daily. If claimant was in a group setting, the other students would necessarily have different needs and targets, which would deprive claimant of the individualized attention necessary to focus on specific targeted areas of concern.

23. For instance, Ms. Teglas's assessment states that "[t]he primary focus of [claimant's] ABA program will be to increase instructional control, functional communication, social skills and adaptive daily living skills." Claimant's father noted that the Offer of FAPE proposed working on other priorities, such as self-regulation; social and parallel play; communication development in expressive, pragmatic, and receptive language; functional skills such as sitting and attending in small groups, managing activity preferences, and making transitions and using a visual schedule; participating in large groups; and pre-academics such as receptive labels and body parts. Claimant's father believes that spending time on those areas will lessen the time claimant can spend on instructional control, functional communication, social skills and adaptive daily living skills, as recommended by Ms. Teglas.

24. Separately, claimant's father explained that sending claimant to an EGUSD classroom four days per week would be impractical due to logistical challenges. Specifically, claimant's school day would begin at 7:55 a.m. and run until 10:55 a.m. He would have to take a school bus from his house at 6:30 a.m., and he would not return until 12:15 p.m. He and multiple other siblings attend ABC daily at 12:30 p.m., and the facility is approximately 20 minutes from their home, so they would be late every day. Additionally, claimant would likely need to eat lunch and take a nap given the longer days. As a result, even assuming the EGUSD services were sufficient, it would be impractical for claimant to access them. Claimant's mother testified at hearing that EGUSD told her it would not fund claimant's attendance at ABC as an alternative to receiving classroom instruction through the school.

## **Analysis**

25. ACRC contends it should not be required to continue funding claimant's ABA services for the full 38 hours per week because, as stated in the Offer of FAPE,

EGUSD is able to provide claimant ABA services for 12 of those hours. Claimant believes ACRC should continue to fund 38 weekly hours of ABA services for two reasons. First, claimant's parents believe the services offered by EGUSD are different and inferior to those offered by ABC. Second, claimant's parents note that the logistical difficulties involved with utilizing EGUSD's services render those services inaccessible and therefore unavailable to claimant. Each of those positions is addressed below.

### **ADEQUACY OF EGUSD's SERVICES**

26. Although claimant's father's testimony was genuine, his beliefs about the inadequacy of EGUSD's services are not supported by the evidence. To the contrary, ACRC proved that, according to the Offer of FAPE, EGUSD's services would include specialized academic instruction in a Level 3 integrated preschool classroom and use ABA and other evidence-based practices. It would implement peer-based instruction and intervention, social skills training, and social stories and narratives "to provide structured play and social opportunities with typical peers." In addition, "[s]tudents are taught functional communication skills using evidence-based practices to allow them to initiate and sustain conversations with staff and peers and to use language for a variety of functions, including asking and responding to questions, commenting, greeting others, and requesting/rejecting in an appropriate manner." Moreover, the classroom would provide a high rate of prompting through the use of a prompt hierarchy, visual and embedded supports for language and communication development and motor functioning.

27. The features of the EGUSD classroom identified above are quite similar to Ms. Teglas's recommendation that the primary focus of claimant's ABA program be "to increase instructional control, functional communication, social skills and adaptive

daily living skills." Moreover, Ms. Flanagan credibly explained that EGUSD provides these kinds of special education services in a one-to-three or one-to-four ratio, and that BCAs are involved in the process. Although Ms. Teglas recommended one-to-one instruction, there was no persuasive evidence that a one-to-one setting is the only effective way for claimant to receive ABA services. Similarly, although the slightly larger group may lead to less individualization, there was no evidence that less individualization would make EGUSD's services ineffective for claimant.

## **ACCESSIBILITY OF EGUSD'S SERVICES**

28. Claimant's father also testified credibly about the logistical difficulties attending class at EGUSD would create for claimant and his family. Although these concerns are legitimate, they do not create a requirement that ACRC funds services that are available through a generic resource. EGUSD is a public agency with a legal responsibility to serve all members of the public. It receives public funds to provide those services. As a result, ACRC cannot fund services that EGUSD is obligated to provide, such as ABA services for claimant.

29. Claimant's father credibly explained his genuine frustration with the process and his belief that claimant would benefit from ongoing ABA services exclusively through ABC. However, there was insufficient evidence at hearing to support the position that ACRC must continue to fund claimant's ABA services for 38 hours per week when EGUSD is willing to provide those services for 12 hours per week. For that reason, there is no legal basis to grant claimant's appeal.

## **LEGAL CONCLUSIONS**

### **Burden and Standard of Proof**

1. ACRC has the burden of proving it is no longer required to fund claimant's ABA services for the full 38 hours week. (*In re Conservatorship of Hume* (2006) 140 Cal.App.4th 1385, 1388 [the law has "a built-in bias in favor of the status quo," and the party seeking to change the status quo has the burden "to present evidence sufficient to overcome the state of affairs that would exist if the court did nothing"].) The applicable standard of proof is preponderance of the evidence. (Evid. Code, § 115.) This evidentiary standard required ACRC to produce evidence of such weight that, when balanced against evidence to the contrary, is more persuasive. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.) In other words, ACRC must prove it is more likely than not that it is no longer required to fund claimant's ABA services for the full 38 hours per week. (*Lillian F. v. Superior Court* (1984) 160 Cal.App.3d 314, 320.)

### **Applicable Law**

2. Under the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.), the State of California accepts responsibility for persons with developmental disabilities and pays for the majority of the "treatment and habilitation services and supports" to enable such persons to live "in the least restrictive environment." (Welf. & Inst. Code, § 4502, subd. (b)(1).) "The purpose of the statutory scheme is twofold: to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community [citations], and to enable them to approximate a pattern of everyday living of nondisabled persons of the same age and to lead more independent

and productive lives in the community [citations]." (*Assoc. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.)

3. To determine how an individual consumer is to be served, regional centers are directed to conduct a planning process that results in an IPP designed to promote as normal a lifestyle as possible. (Welf. & Inst. Code, § 4646; *Assoc. for Retarded Citizens v. Dept. of Developmental Services*, *supra*, 38 Cal.3d at p. 389.) The IPP is developed by an interdisciplinary team and must include participation by the consumer and/or his representative. The regional center must gather information and assessments from a variety of sources, including other public agencies that provide services or supports. (Welf. & Inst. Code, § 4646.5, subd. (a)(1).)

4. Among other things, the IPP must set forth goals and objectives for the consumer, contain provisions for the acquisition of services (which must be based upon the consumer's developmental needs), contain a statement of time-limited objectives for improving the consumer's situation, and reflect the consumer's particular desires and preferences. (Welf. & Inst. Code, §§ 4646, subds. (a) & (b), 4646.5, subd. (a), 4512, subd. (b), 4648, subd. (a)(6)(E).) The regional center must then "secure services and supports that meet the needs of the consumer" within the context of the IPP. (*Id.* at § 4648, subd. (a)(1).)

5. Regional centers are mandated to provide a wide range of services to facilitate implementation of a consumer's IPP but must do so cost-effectively. (Welf. & Inst. Code, §§ 4640.7, subd. (b), 4646, subd. (a).) They must "identify and pursue all possible sources of funding for consumers receiving regional center services," including "governmental or other entities or programs required to provide or pay the cost of providing services, including . . . school districts." (*Id.* at §§ 4646.4, subd. (a)(3)(A), 4659, subd. (a)(1).) "Regional center funds shall not be used to supplant the

budget of an agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services." (*Id.* at § 4648, subd. (a)(8).)

## **Conclusion**

6. ACRC met its burden of proving it is not required to continue funding claimant's ABA services for 38 hours per week. According to the Offer of FAPE, ACRC determined claimant's goals and objectives can be addressed by receiving 26 hours of ABA services through ACRC and 12 hours of ABA services through EGUSD, which is legally required to provide those services. ACRC is not lawfully permitted to supplant the school district's budget to fund those services through a third-party service provider.

## **ORDER**

Claimant's appeal from Alta California Regional Center's November 3, 2025, Notice of Action proposing to reduce claimant's ABA services is DENIED. Alta California Regional Center may reduce funding for claimant's ABA services from 38 hours per week to 26 hours per week effective January 1, 2026.

DATE: December 22, 2025

SEAN GAVIN

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 Section 4713 of the Welfare and Institutions Code 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.