

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

In the Matter of:

CLAIMANT

and

SAN ANDREAS REGIONAL CENTER, Service Agency.

DDS No. CS0032005

OAH No. 2025111028

DECISION

Administrative Law Judge Sara B. Tosdal, State of California, Office of Administrative Hearings, serving as an independent hearing officer, heard this matter on August 6, 2026, in San Jose, California.

Claimant's parent represented claimant, who was present.

Esmeralda Rivera represented San Andreas Regional Center (SARC), the service agency.

The record closed and the matter was submitted for decision on August 6, 2026. At hearing, claimant's 2026 Individualized Education Program and a video of claimant at school were both inadvertently admitted as Exhibit F. After the record closed,

claimant's 2026 Individualized Education Program was re-marked and re-admitted as Exhibit Q to resolve the duplication.

ISSUE

Is claimant eligible under the Lanterman Developmental Disabilities Services Act (Lanterman Act) for services from SARC?

FACTUAL FINDINGS

1. Claimant was born in February 2021 and is now five years old. Claimant lives with his parents and older siblings. Claimant is sweet, energetic, and playful, but also shy.

2. Claimant participated in the Early Start program with SARC approximately from September 2022 to 2024 due to speech-language developmental delays. He received speech therapy from a speech pathologist and specialized instruction from an early intervention specialist, each once a week for 60 minutes per session.

3. Claimant was diagnosed with Autism Spectrum Disorder (autism) when he was approximately three years old, as well as language disorder. He was prescribed Applied Behavior Analysis (ABA) therapy and referred for special education services and an audiology exam. The dispute here is whether claimant is substantially disabled by autism for purposes of Lanterman Act eligibility, and specifically whether claimant has significant functional limitations in three or more areas of major life activity.

Eligibility Determination and Appeal

4. Claimant's parents applied for regional center services and claimant was evaluated for provisional and full Lanterman Act services. On November 4, 2025, Ivania Molina, Ph.D., a clinical psychologist with SARC, concluded that claimant was not eligible for services on the basis that claimant appeared to be improving and did not appear to have the same difficulties at school as at home, and, as a result, was not substantially disabled within the meaning of the Lanterman Act at that time.

Claimant's Treatments and Services

5. Through health insurance, claimant has been receiving ABA therapy from Pacific Clinics since 2025, which he attends twice per week for two hours at a time. Claimant has made some progress, but the therapy provider recommends increasing his sessions to at least three days per week to work on continuing areas of concern: speech and transition behaviors.

6. Claimant was initially referred for special education services in October 2023. He has had an Individualized Education Program (IEP) in place since January 2025, when claimant was in preschool. Claimant is now in transitional kindergarten, and his most recent assessment was in January 2026. The primary disability identified on his IEP is speech or language impairment; there is no secondary disability listed. His IEP addresses claimant's needs in transitions between activities, pre-academics, and receptive and expressive language.

7. Claimant has made progress with supports due to his IEP. Initially, claimant was primarily in a special education classroom, spending 20 minutes twice per week in the general education classroom. He received specialized academic

instruction the rest of the week (600 minutes per week) in the special education classroom, along with 180 minutes of speech-language therapy per month.

On the recommendation of the IEP team, claimant's parents agreed prior to the current IEP to have claimant transition to the general education classroom to be more exposed to a less restrictive environment and "copy" other children. Currently, claimant is in general education classes with specialized academic instruction for 90 minutes per week in the general education classroom and separate language and speech services for 180 minutes per month. Claimant also has a support or supplemental teacher who accompanies him throughout the school day as a one-on-one support. He has met or made progress in several of his IEP goals, such as verbalizing discomfort with and self-soothing during transitions between activities; responding to simple story-comprehension questions from his teacher; and making simple requests.

Areas of Major Life Activity

8. Claimant needs assistance with most self-care tasks, such as bathing or brushing his teeth. Claimant is not toilet trained and wears diapers. He can be a picky eater and has some trouble with sleep, often falling asleep later than is typical for a child his age. However, claimant can now hold a spoon, wash his hands, and drink from an open cup. Other than toileting, the level of assistance that claimant needs appears to be relatively age-appropriate.

9. Claimant has the most challenges in communication and language. Claimant especially struggles with his expressive language where he has significant functional limitations. He is working on building short sentences of three words but typically speaks using one or two words at a time. Often, his three-word sentences are nonsensical. His parents also occasionally have a hard time understanding him when

he speaks. He supplements his oral communication with signals and gestures such as pointing.

With respect to receptive language, claimant can now understand and follow simple, one- or two-step directions. He responds to communications directed to him, including teacher questions about stories read aloud in class, for example. Though he may be more comfortable with familiar adults, he plays with his classmates and shares toys. Claimant has speech and language deficits, but he continues to improve with supports, particularly in receptive language.

10. With respect to learning, given his age and grade, claimant has not yet been assessed using traditional learning benchmarks. The IEPs report that claimant has made progress with his academic skills, though supports, as described in Factual Finding 7, are still needed. At this time, claimant recognizes the first letter of his name, which he can also trace. His current IEP reports that he can recognize all the letters of his first name and write or trace them, but his parent disagrees that he can write his name. He can count to 10.

11. In terms of self-direction, claimant engages in elopement. Claimant runs away down the corridors when his parents pick him up from school and will elope at stores or in other public places unless someone is holding his hand. He will try to open doors to elope, though he has not been able to do so at school due to special door-locking mechanisms. However, claimant responded positively to instructions not to leave the hearing room when he moved to do so.

Claimant can become agitated and stressed in large school group activities, especially involving noises or strangers (such as a school play or a Lunar New Year parade), and must be accompanied by his support teacher. There are also times when

he must be separated from the activity to calm down. The evidence does not show how often these events occur. Claimant uses noise-cancelling headphones to assist with noise sensitivity, both in and outside of school.

Claimant also struggles with transitioning between activities. In the past, he has engaged in playacting, such as pretending to be a cat, when asked to transition between activities in the school setting. He can also become aggressive or physically lash out when frustrated or when he does not want to change activities. While transitions are an area of added focus in his ABA therapy, claimant has overall improved in this area with accommodations at school, such as self-soothing with a fidget toy, toy car, or a stuffed toy, or being given extra time between activities, and the evidence shows that his tantrums have decreased over time.

Claimant cannot distinguish between hot and cold water and cannot wash his hands at home as a result. He washes them at school where only cold water is provided. Claimant engages in imaginative, self-directed play and does not engage in self-injurious behavior.

12. Capacity for independent living and economic self-sufficiency are generally not considered for a person of claimant's age. There was no evidence of functional limitations in mobility.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500 et seq.) The purpose of the Lanterman Act is to address inadequate treatment and services for the developmentally disabled, and to enable developmentally disabled

individuals to lead independent and productive lives in the least restrictive setting possible. (*Id.*, §§ 4501, 4502.) Lanterman Act services are provided through a statewide network of private, nonprofit regional centers, including SARC. (*Id.*, § 4620.)

2. To qualify for Lanterman Act services, claimant must establish by a preponderance of the evidence that (1) he suffers from a developmental disability and (2) he is substantially disabled because of that developmental disability. (*Id.*, §§ 4501, 4512, subd. (a).)

3. Qualifying “developmental disabilities” include “intellectual disability, cerebral palsy, epilepsy, and autism.” (*Id.*, § 4512, subd. (a).) Also included are “disabling conditions found to be closely related to intellectual disability, or to require treatment similar to that required for individuals with an intellectual disability.” (*Id.*) The “developmental disability” must originate before the person turns 18 and must be lifelong. (*Id.*)

4. A qualifying disability must also be “substantial,” meaning that it causes, as determined by a regional center and appropriate to the person’s age, “significant functional limitations in three or more . . . areas of major life activity.” (*Id.*, § 4512, subds. (a), (1)(1); see also Cal. Code Regs., tit. 17, § 54001, subd. (a)(2).) Those areas are self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. (Welf. & Inst. Code, § 4512, subd. (1)(1).) Capacity for independent living and economic self-sufficiency are generally not considered for a person of claimant’s age.

5. Claimant has the eligible condition of autism and is under the age of 18. On this record, claimant has significant functional limitations in expressive language. While the evidence establishes limitations in receptive language, it does not show that

he has significant functional limitations in that area as well. He appears to be improving with his current supports, having thus far successfully transitioned from the special education setting to the general education classroom, and has made the most progress with receptive language.

Claimant has limitations with respect to self-care but has also made progress in that area; other than toileting, his self-care needs appear to be appropriate to his age. Claimant has also made some progress in self-direction as well and may continue to improve with his ABA therapy and ongoing school supports. Self-care and self-direction are not areas of significant functional limitation at this time as a result.

6. On this record, a preponderance of evidence does not establish that claimant has significant functional limitations in at least three areas of major life activity. Claimant is not eligible for SARC services at this time.

ORDER

Claimant's appeal is denied.

DATE:

SARA B. TOSDAL
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.