

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

In the Matter of

Claimant

and

Frank D. Lanterman Regional Center, Service Agency

DDS No. CS0032657

OAH No. 2025120854

DECISION

Thomas Lucero, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by videoconference on February 6, 2026.

Cindy Lopez, Client Services Manager and acting Hearing Representative, represented the Service Agency. Mother represented Claimant. Titles are used to protect privacy.

The ALJ marked for identification the Service Agency's: Position Statement, Exhibit 13; Table of Exhibits, Exhibit 14; and Witness List, Exhibit 15. Claimant's exhibits,

items 1 to 29 in Case Center, not all admitted into evidence, have been redesignated, so that item 1 is Exhibit A, item 2 Exhibit B, and so on, to item 29, Exhibit CC.

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

Documents and testimony were received in evidence. The record closed and the matter was submitted for decision on February 6, 2026.

STATEMENT OF THE CASE

Claimant contends the Service Agency should fund several items of assistive technology (AT) to assist her language and related cognitive deficiencies. The Los Angeles Unified School District (LAUSD) evaluated her and agreed that AT was appropriate to support Claimant's learning, but is not providing AT because Claimant transferred to a private school. The Service Agency contends it is prohibited from funding the AT, as that would be to supplant a generic resource.

FINDINGS OF FACT

1. The Service Agency served its Notice of Action (NOA) on December 16, 2025. Claimant timely appealed on December 17, 2025.

2. Claimant is eligible for services and supports based on a diagnosis of autism, also called Autism Spectrum Disorder (ASD). She lives at home with Mother. She attended eighth grade at LAUSD's Le Conte Middle School, but is currently attending a private school.

May 2025 IEP

3. Claimant's May 12, 2025 Individualized Education Program (IEP), Exhibit 8, page A25, noted:

With checks for understanding, thinking prompts, and graphic organizers, [Claimant] is able to answer inferential questions about text she has read. She can sequence events from stories she has read and is able to compare and contrast characters or events when given graphic organizers and specific characteristics to compare.

[Claimant] can independently decode class text when given large print and staff support . . . [Claimant] needs a quiet environment and noise cancelling headphones, access to text with larger font, and checks for understanding. . . .

4. In an August 21, 2025 letter, Jeffrey Han-Nien Yang, M.D., Developmental-Behavioral Pediatrician Department of Pediatrics, Kaiser Permanente Los Angeles Medical Center, wrote that Claimant's current diagnoses are: (i) ASD; (ii) Attention Deficit Hyperactivity Disorder (ADHD); and (iii) Dyslexia (Specific Learning Disorders with impairment in Reading and Written Expression). Dr. Han-Nien Yang described details of Claimant's needs relating to reading and language and added this note, Exhibit 7, page A20: "These needs are often more successfully accommodated by specialty schools who have the expertise and resources to address the specific strengths and weaknesses of each student and provide a more accepting social environment."

Private School

5. Mother advised the Service Agency in an undated letter that she had made the unilateral decision to place Claimant in her current school, Fusion Academy, for the 2025-2026 school year. She wrote, Exhibit I, page B123, and testified at the hearing to the same effect, that LAUSD had “failed to offer FAPE to meet [Claimant's] unique needs . . . , [offering a] program . . . not likely to confer educational benefit and altogether insufficient to meet the specific and highly complex needs of this student.” FAPE stands for Free Appropriate Public Education, a legal right under circumstance set out in the Individuals with Disabilities Education Act (IDEA), 28 U.S.C. section 1291.

6. Mother testified credibly regarding Claimant’s schools. Claimant encountered serious difficulties with other LAUSD students. At one point school authorities threatened to suspend Claimant from school because she had pushed another child off monkey bars. Other students have treated Claimant unkindly, perhaps because she is “biracial.” Such behavior by students, even if it does not rise to the level of physical violence, causes Claimant great distress. Claimant is not subject to such problems at Fusion Academy. She benefits greatly from one-on-one attention from teachers and the much more flexible curriculum and hours of instruction offered at the private school. LAUSD could not offer such attention.

Resources Offered by LAUSD

7. On August 14, 2025, LAUSD received Mother’s notice that she would transfer Claimant from Le Conte Middle School, LAUSD, to Fusion Academy. Tyler Bailey, Special Education (SPED) Coordinator, Le Conte Middle School, LAUSD, wrote in response to Mother’s notice on August 21, 2025. Mr. Bailey noted that Claimant had,

at LAUSD's request, an independent educational evaluation by Dr. Beth Ballinger on March 22, 2025. He continued, Exhibit 6, page A18:

[T]he [IEP] team made an offer of . . . FAPE that includes placement in the least restrictive environment: general education classes with Resource Specialist Program support, as well as a learning center elective for intensive curricular support. Additional services include occupational therapy, speech therapy, and counseling. Counseling would not be implemented with this IEP per your decline to consent to the service. The District believes [Claimant's] unique needs can be met at her school of residence (Le Conte Middle School).

The IEP team considered alternate placement and program for [Claimant], but it was ultimately determined that her educational needs could be met by the neighborhood school in its inclusion program with co-teaching support from Special Education staff and a learning center elective. Additionally, the services for which she qualifies are readily available at Le Conte Middle School.

Service Agency's Referral for AT Evaluation

8. As noted in an IPP Amendment signed by Mother on September 3, 2025, the Service Agency referred Claimant to a vendor, Goodwill Industries of Orange County (Goodwill), Assistive Technology Exchange Center (ATEC), to evaluate Claimant's needs for AT. Nicole Khattar, CCC-SLP (Certificate of Clinical Competence in

Speech-Language Pathology), is an AT Specialist at the vendor. She evaluated Claimant remotely via Zoom on October 2, 2025, and in person at Claimant's home on November 5, 2025. As she wrote in her November 11, 2025 report, Exhibit 4, page A13, her task was "to see if there is [AT] that will help to improve [Claimant's] engagement and participation in school related tasks, especially for reading and writing."

9. Ms. Khattar found that Claimant would likely benefit from AT to support reading, writing, executive functioning, and other abilities, as well as leisure activities. Ms. Khattar noted that Claimant was already using AT, such as an iPad, a Mac computer, an iPhone, and headphones. She reported on seven items that would assist Claimant: (1) an 11th generation Apple iPad 11"; (2) iPad case; (3) iPad screen protector; (4) an external battery pack; (5) a subscription, costing approximately \$144 per year, to Grammarly, a writing-support app with grammar and spelling checks, vocabulary suggestions, and other assistance with writing; (6) a subscription, costing approximately \$264 per year, to Adobe Animate, to create illustrations, graphics, and other visual content; and (7) a Keyboard Shortcuts Reference Sticker for Mac. Mother testified that Ms. Khattar all but promised that Claimant was to be provided all seven items in a short time, raising the child's hopes, only to disappoint her when the Service Agency decided against funding any of the items.

10. Shortly after the Goodwill ATEC evaluation, Mother wrote the Service Agency, Exhibit 12, page A84, that in addition to alleviating ASD, ADHD, and Dyslexia, the three diagnoses by Dr. Han-Nien Yang, AT would alleviate Claimant's other conditions: (1) Auditory Processing Disorder; (2) Hyperacusis & Misophonia, hearing-related sensory disabilities; (3) visual processing weaknesses; (4) executive functioning challenges; (5) sensory regulation deficits; (6) anxiety, especially in community settings; and (7) working memory and attention difficulties.

11. SPED Coordinator Bailey advised in a letter of December 4, 2025, Exhibit B, page B3:

This letter is to inform interested parties that LAUSD assessed [Claimant] (DOB . . . September 2011) and recommended . . . AT. At this time, LAUSD is not providing AT because the student is in a unilateral private placement and not in district-offered FAPE.

Claimant is currently not receiving AT from a school district or from Fusion Academy.

Mother's Testimony

12. Mother testified with visible emotion and in convincing fashion that if Claimant were thriving at LAUSD, Mother would not have transferred her. LAUSD does not charge tuition or fees, as Fusion Academy does. Mother, employed as a teacher, stated she is making great sacrifices to be able to afford Fusion Academy.

13. To explain Claimant's need for AT, Mother presented a statement, Exhibit 26, page A176:

[Claimant's] disability impacts executive functioning, written expression, communication efficiency, organization, regulation, and stamina. These needs affect her daily functioning outside of school, including task initiation, planning, organization of thoughts, communication, self-advocacy, and independent completion of daily activities. Without appropriate Assistive Technology, [Claimant] must expend disproportionate cognitive effort to compensate for

these barriers, resulting in increased fatigue, inefficiency, frustration, and reduced participation. These challenges occur in home and community environments, not solely in academic settings.

LEGAL CONCLUSIONS

Principles Of Law

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. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.)

2. Welfare and Institutions Code section 4646.4, subdivision (a), provides, in part that a Service Agency shall ensure, when developing a consumer's individual program plan (IPP), or upon a scheduled review or modification of the IPP, the establishment of an internal process. The internal process must ensure adherence with federal and state laws and regulations, so that, when purchasing services and supports, the IPP ensures utilization of generic services and supports when appropriate.

3. Welfare and Institutions Code section 4648, subdivision (a)(8), provides that a Service Agency's funds shall not be used to supplant the budget of any agency that has a legal obligation to provide the services or supports.

4. The Service Agency is required to identify and pursue all possible sources of funding for consumers receiving services, including governmental entities, as stated in Welfare and Institutions Code section 4659, subdivision (a).

Analysis

5. As it acknowledged before ordering the AT evaluation, LAUSD has an obligation to provide services related to Claimant's education. The Service Agency argued that all of Claimant's needs for AT are related to education, so that the services should be funded by LAUSD. The argument proceeded: it was Claimant's choice to opt out of the services and AT offered by LAUSD. That should not negate the requirement that available generic resources must be exhausted before the Service Agency is obligated to provide funding.

6. From the Service Agency's perspective, Mother is attempting, by her unilateral decision to remove her daughter from public school, to force the Service Agency to supplant a generic resource, contrary to Welfare and Institutions Code section 4648, subdivision (a)(8). The Service Agency also pointed out that LAUSD offered Claimant generous support, essentially all that was recommended by Ms. Hattar in her Goodwill ATEC report, and other resources as well. Consequently there should be no need for the Service Agency to step in with funding for AT that has been on offer from LAUSD for many months, that Claimant could take advantage of by simply re-enrolling at an LAUSD school.

7. Mother urges that her daughter attended public school and knows from experience, unpleasant if not indeed bitter experience, that it does not help her, that in some respects it holds her back from overcoming the difficulties and challenges she faces from ASD and other disabilities. The services are there, true, and appropriate AT

is available and ready to be funded, as well, but services and funding do not by themselves make a school fitting or safe or beneficial. Mother chose Fusion Academy for a reason she considers compelling, because it offers a curriculum uniquely suited to her daughter's many challenges, and LAUSD proved unable to provide similarly suitable programs.

8. A quandary here is, on the one hand, whether a mother should be forced to choose between the educational environment she considers best for her child and a less beneficial school environment with, however, funded AT. There is, on the other hand, this quandary as well: whether a mother's preference should dictate the entity that expends public monies, a public school district or a service agency.

9. The Service Agency has cited pertinent provisions of the Lanterman Act. Mother believes for her part that the Act is on her side. But the letter of the law, the Act and laws in general, shed little light for settling the quandaries here. The Lanterman Act, as the Service Agency correctly emphasizes, speaks to cost savings. But given the Act's intent, as Mother emphasizes, also correctly, to promote the wellbeing and development of those with disabilities, taking into account family preference, it is difficult to interpret the law as requiring a parent to surrender school choice and yield instead to cost-saving considerations merely.

10. Both parties have well-reasoned arguments. In the end, however, it appears most equitable and compatible with the intent of the Legislature in enacting the Lanterman Act, that cost-saving yield to Mother's insight into what is best for her child, the need for school choice, and AT needs that are publicly funded. Alternatively, a reasonable conclusion here is that, because of Claimant's need for the public school she is attending, and LAUSD's inability to fund AT for a private school student, generic

resources are in effect not available to Claimant, making funding from the Service Agency appropriate and in accord with the Lanterman Act.

11. The Service Agency need not, however, fund AT that Claimant is already using: an iPad, a Mac computer, and headphones, unless a new iPad or computer is necessary in order to operate Grammarly and Adobe Animate.

ORDER

1. The Frank D. Lanterman Regional Center shall fund Claimant's purchase of: (1) an external battery pack; (2) a one-year subscription to Grammarly; (3) a one-year subscription to Adobe Animate; and (4) a Keyboard Shortcuts Reference Sticker for Mac.

2. The Frank D. Lanterman Regional Center shall fund for: (1) an 11th generation Apple iPad 11"; (2) an iPad case for that iPad; and (3) an iPad screen protector for that iPad, but only if the iPad Claimant is already using cannot operate Grammarly and Adobe Animate and the 11th generation Apple iPad 11" is necessary in order to operate these apps.

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.