

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

In the Matter of:

CLAIMANT

and

FRANK D. LANTERMAN REGIONAL CENTER,

Service Agency.

DDS No. CS0033829

OAH No. 2026020270

DECISION

Shanda Connolly, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on April 7, 2026.

Claimant's mother (mother) represented claimant, who was not present at the hearing. (Claimant and mother are not identified by name to protect their privacy.) Mirka Guerrero, Fair Hearing Coordinator, represented Frank D. Lanterman Regional Center (FDLRC).

Oral and documentary evidence was received. The record closed, and the matter was submitted for decision on April 7, 2026.

ISSUE

Whether claimant is provisionally eligible or fully eligible for regional center services based on a developmental disability under the Lanterman Developmental Disabilities Services Act, Welfare and Institutions Code section 4500 et seq. (Lanterman Act). (All further statutory references are to the Welfare and Institutions Code unless otherwise stated.)

EVIDENCE PRESENTED

The documentary evidence at hearing consisted of FDLRC's Exhibits 1 through 13 and Claimant's Exhibits A and B. The testimonial evidence at hearing was provided by Michele Johnson, FDLRC's Intake Manager; Randall Ahn, Ph.D., a consulting clinical psychologist for FDLRC; and mother.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant, a four-year-old male, asserts he is fully eligible or provisionally eligible for regional center services because he has autism spectrum disorder (ASD), intellectual disability, or a "fifth category" condition, i.e., a disabling condition closely related to intellectual disability or requiring treatment similar to that required for individuals with intellectual disability (fifth category). The parties agree claimant does not have cerebral palsy or epilepsy.

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2. On January 29, 2026, FDLRC issued a Notice of Proposed Action informing claimant that he is not eligible for regional center services.

3. On February 2, 2026, mother appealed FDLRC's decision, and this hearing ensued.

Diagnostic Criteria

4. There are three conditions at issue in this case: ASD, intellectual disability, and fifth category. The ALJ takes official notice of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition Text Revision (DSM-5) as a highly respected and generally accepted tool for diagnosing mental and developmental disorders.

ASD

5. Under the DSM-5, an individual with ASD has persistent deficits in social communication and social interaction across multiple contexts (A Criteria), as currently or previously manifested by the following: (1) deficits in social-emotional reciprocity; (2) deficits in nonverbal communication behaviors used for social interaction; and (3) deficits in developing, maintaining, and understanding relationships.

6. The individual also must display restricted, repetitive patterns of behavior, interests, or activities (Criteria B), as currently or previously manifested by at least two of the following: (1) stereotyped or repetitive motor movement, use of objects or speech; (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; and/or (4) hyper- or hypo-reactivity to sensory input or unusual interest in sensory aspects of the environment. In addition, the individual's symptoms must have been present in the early developmental period

(Criteria C); must cause the individual clinically significant impairment in social, occupational, or other important areas of current functioning (Criteria D); and must not be better explained by intellectual disorder or global development delay (Criteria E). (DSM-5, pp. 56-57.)

INTELLECTUAL DISABILITY

7. The DSM-5 defines intellectual disability as “a disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains.” The following three criteria must be met to establish that a person suffers from intellectual disability:

1. Deficits in intellectual functioning, 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.
2. Deficits in adaptive functioning that result in failure to meet developmental and social-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, work, and community.
3. Onset of intellectual and adaptive deficits during the developmental period.

(DSM-5, p. 33.)

8. To meet the diagnostic criteria for intellectual disability, the deficits in adaptive functioning must be directly related to the individual's intellectual impairments. Onset is during the developmental period. A diagnosis of intellectual disability should not be assumed because of a particular genetic or medical condition. Any genetic or medical diagnosis is a concurrent diagnosis when intellectual disability is present. (DSM-5, p. 39-40.)

9. The DSM-5 states that "[i]ntellectual functioning is typically measured with individually administered and psychometrically valid, comprehensive, culturally appropriate, psychometrically sound tests of intelligence. Individuals with intellectual disability have scores of approximately two standard deviations or more below the general population mean, including a margin for measurement error (generally +5 points). On tests with a standard deviation of 15 and a mean of 100, this involves a score of 65-75. (70 +/- 5)." (DSM-5, p. 37.) At the same time, the DSM-5 recognizes that Intelligence Quotient (IQ) test scores "are approximations of conceptual functioning but may be insufficient to assess reasoning in real-life situations and mastery of practical tasks." Thus, "a person with an IQ score above 70 may have such severe adaptive behavior problems in social judgment, social understanding, and other areas of adaptive functioning that the person's actual functioning is comparable to that of individuals with a lower IQ score." (*Ibid.*)

FIFTH CATEGORY

10. What is often referred to as the fifth category is not a diagnosis recognized by the DSM-5, but instead was created pursuant to the Lanterman Act for a person who has disabling conditions found to be closely related to intellectual

disability or requiring treatment similar to that required for individuals with an intellectual disability.

Claimant's Background

11. Claimant lives within FDLRC's service catchment area with his mother, father, and younger sister. Claimant received Early Start services from Westside Regional Center (WRC) between July 2023 and October 2024, when he was between 19 months old and three years old. At the time, claimant lived within WRC's catchment area. Early Start services is an early intervention program for infants and toddlers with developmental delays or at risk for having a developmental disability. In May 2024, WRC found claimant was not provisionally eligible or eligible for continued regional center services. In November 2025, after claimant's family moved, the case was transferred to FDLRC.

12. Claimant was born full-term without significant complications and met developmental milestones within the expected ranges, although speech milestones were delayed. Claimant is in good general health, can self-feed using utensils and is toilet-trained. Claimant attends preschool in a general education pre-kindergarten classroom at Yeshivas Aharon Yaakov Ohr Eliyahu (Yeshivas) in Los Angeles. Before attending Yeshivas, claimant attended a daycare in Los Angeles.

Service Agency's Evidence at Hearing

WRC EVALUATIONS

13. On May 7, 2024, when claimant was 30 months old, Lisa Cerra, an occupational therapist, evaluated claimant to determine his eligibility to continue receiving regional center services at WRC. Mother reported that claimant had delays in

speech and language, but was making remarkable progress with weekly speech and language therapy. Ms. Cerra reviewed a caregiver report, records, and prior clinical observations, and she administered the Bayley Scales of Infant and Toddler Development, fourth edition (Bayley 4) and the Developmental Assessment of Young Children (DAYC-2) in claimant's home with mother present. The Bayley 4, which seeks to identify developmental delays in infants and children younger than 42 months, showed claimant had cognitive skills in the average range, language skills in the low average range, and motor skills in the average range. The DAYC-2, a test to identify delays in children up to 71 months old, revealed claimant had average social-emotional skills and average adaptive behaviors. Ms. Cerra recommended claimant continue his speech and language therapy, and recommended that Los Angeles Unified School District (LAUSD) evaluate him to determine his needs and eligibility for special education services.

14. According to a WRC Early Start Follow-up Diagnostic/Eligibility Sheet (Eligibility Sheet) dated May 8, 2024, the eligibility team determined that claimant had no eligible condition and referred him to his school district to assess his speech needs. The Eligibility Sheet was signed by WRC's eligibility team, which included a physician and two psychologists. In a September 3, 2024 letter, Vanessa Gomez, a WRC Early Start service coordinator, explained that claimant's regional center services would end on his third birthday, because WRC had determined that claimant was not eligible or provisionally eligible for continued regional center services after claimant's Early Start eligibility ended.

15. A speech and language discharge letter dated August 30, 2024, from Speech Links, where WRC referred claimant due to concerns regarding his speech and language development, noted that claimant had received weekly speech therapy

starting at age two. The letter explained that claimant's parents requested to end treatment because "he has made excellent progress" and "there are no remaining concerns with his communication development." (Ex. 11, p. A107.)

LAUSD EVALUATIONS

16. On September 24, 2025, when claimant was three years, 10 months old, Hannah Hayes, Ed.S., an LAUSD school psychologist, provided a Preschool Psycho-educational Assessment, based on a referral by his parents due to suspected Other Health Impairment (OHI), ASD, and Specific Learning Disability (SLD). Dr. Hayes noted that claimant had not been previously evaluated by a psychologist or developmental pediatrician. Dr. Hayes reviewed records, observed claimant, and interviewed claimant's parents and teacher. In addition, Dr. Hayes administered claimant the Mullen Scales of Early Learning (MSEL), and she administered mother and teacher the Developmental Profile, fourth edition (DP-4), Behavior Assessment Scale for Children, third edition (BASC-3), Autism Spectrum Rating Scale (ASRS), Conner's Early Childhood Behavior (BEH), and Adaptive Behavior Assessment System, third edition (ABAS-3). Because claimant demonstrated inconsistent participation in the MSEL, that assessment was discontinued. Based on the attempted MSEL tasks and the DP-4, Dr. Hayes identified no areas of need regarding claimant's cognitive skills, academic performance, communication, and motor skills. Based on the BASC-3, which assesses emotional and behavioral disorders in children, claimant's parent responses all fell within the average range; one of claimant's teachers found claimant to be "at-risk" in attention problems; and another teacher found claimant to be "at-risk" or "clinically significant" in the areas of hyperactivity, externalizing problems, and behavioral symptoms. Mother's responses on the ASRS showed scores in the average range. Claimant's teacher's responses on the ASRS showed scores in the elevated range and

needs were identified in areas of adult socialization, social reciprocity, behavioral rigidity, and sensory sensitivity. The Conner's Early Childhood Behavior BEH, which is used to assess Attention Deficit Hyperactivity Disorder (ADHD), revealed very elevated scores in inattention, restlessness, and impulsivity, and elevated scores in emotional lability based on the responses from claimant's current teacher. Based on observations, informal interviews, and the parent and teacher responses on various rating scales, Dr. Hayes found claimant's social and emotional skills in the average range. According to the ABAS-3, which assesses adaptive skills, claimant had general adaptive skills in the average range and self-help skills in the low average range, with no significant needs identified in either area. Dr. Hayes concluded that claimant did not meet the eligibility criteria for a SLD or autism (ASD), but he met the eligibility criteria under the category of OHI due to behaviors associated with ADHD.

17. On September 29, 2025, claimant had an initial Individualized Education Program (IEP) team meeting with LAUSD. The IEP report noted that claimant's social-emotional skills were in the average range and his self-help and adaptive behaviors were in the low average range. Based on the attempted MSEL tasks and other information received in the DP-4 from mother, claimant's cognitive ability was in the average range, his academic readiness was developing as expected given his age, and his language skills and motor abilities were in the high average range. Ultimately, the IEP team concluded that claimant did not have significant needs in the area of self-help and adaptive behaviors. The IEP team recommended accommodations of positive reinforcement, predictable routines, redirection, repetition, physical and sensory breaks, and modeling of age-appropriate social skills.

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FDLRC EVALUATIONS

18. In a Psychosocial Assessment dated December 9, 2025, when claimant was four years old, Aitza Franquez, an assessment coordinator at Smile Pediatric Therapy Diagnostics (Smile), evaluated claimant on behalf of FDLRC by observing claimant and interviewing mother to determine his levels of functioning. FDLRC referred claimant to Smile based on mother's concerns regarding claimant's difficulty with communicating and his sensory-seeking behavior. Claimant's current teacher had recommended he receive applied behavior analysis (ABA) therapy. Ms. Franquez recommended that a multidisciplinary team review all available medical, educational, and specialists' reports to render recommendations and determine claimant's needs.

19. On December 10 and 11, 2025, claimant was assessed by Dr. Ahn for FDLRC. Dr. Ahn reviewed FDLRC records, interviewed mother, observed claimant, and administered the Vineland Adaptive Behavior Scales, third edition (Vineland-3), the Autism Diagnostic Observation Schedule, second edition (ADOS-2), Module 2, the Childhood Autism Rating Scales, second edition, Standard Version (CARS-2-ST), and the Weschler Preschool and Primary Scale of Intelligence, fourth edition (WPPSI-IV). According to the WPPSI-IV, claimant had a full scale IQ (FSIQ) of 81, which is in the low average range. Based on this score, Dr. Ahn found that claimant did not have Intellectual Developmental Disorder (IDD). The Vineland-3 measures adaptive behavior, and claimant's scores on this test revealed that he had adaptive skills in the adequate to moderately high range, and communication, daily living, and social skills in the adequate range. The ADOS-2 and CARS-2-ST showed minimal to no evidence of ASD. Dr. Ahn further found that claimant showed none of the persistent deficits in social communication and interaction set forth in Criteria A of the DSM-5, and based on mother's report, only one of the restricted, repetitive behaviors set forth in Criteria

B: atypical responses to sensory aspects of the environment and mouthing objects. Thus, Dr. Ahn found that claimant did not meet the diagnostic criteria for ASD. Dr. Ahn did not specifically opine on claimant's eligibility for regional center services. Dr. Ahn recommended that claimant continue with speech therapy and local mental health resources to support his social development, and that claimant be screened for ADHD when he starts his primary grades. Dr. Ahn testified at hearing consistent with his report. Dr. Ahn also explained that, given claimant's cognitive functioning and verbal comprehension, claimant did not have a disability based on the fifth category. Dr. Ahn noted that claimant's speech delays and dysregulation were not atypical of a child his age.

20. In a Statement of Eligibility dated January 28, 2026, FDLRC found that claimant was not eligible for regional center services because he had no diagnosis of a qualifying developmental disability. The Statement of Eligibility was signed by FDLRC's eligibility team, which included a physician and two psychologists.

Claimant's Evidence at Hearing

21. In a March 2026 letter to the FDLRC eligibility team, Morah Shiffy Mandel, the Dean of Yeshivas, asserted claimant's social functioning, communication, safety awareness, and behavioral regulation were consistent with ASD. Specifically, Ms. Mandel referenced the following concerns: aggressive behavior, including pinching and biting; impulse control difficulties; elopement; sensory-seeking behaviors and failure to respect others' boundaries; limited attention span; language delays below his expected age level; and social delays. Ms. Mandel suggested that regional center services would provide claimant and his family appropriate therapeutic services, behavioral support, and developmental interventions necessary to address these concerns. In Dr. Ahn's testimony, he stated that none of the concerns listed by Ms.

Mandel in her letter changed his opinions. Dr. Ahn suggested that claimant's school might not be a good fit for him, because it has a very structured curriculum and claimant needed more play time at his age.

22. In a March 2026 written statement to FDLRC, mother asserted claimant was entitled to regional center services as soon as possible. Mother noted the safety concerns expressed by claimant's school teachers, such as eloping, that may require the school to exclude him as a student in the upcoming school year. Mother's hearing testimony was consistent with her March 2026 written statement. According to mother, claimant exhibits sensory behaviors by constantly putting things in his mouth, and he needs a soft item, his blanket, to regulate himself. Claimant engages in repetitive behaviors, such as frequently spinning. Claimant also has unnatural fears and obsessions, like needing a completely dark and silent room to sleep. Mother stated she seeks regional center services for claimant so that claimant can receive speech and occupational therapy and participate in art and music programs.

Analysis

23. Although mother testified credibly about her concerns regarding claimant and her desire to obtain regional center services to assist him, her testimony did not outweigh FDLRC's evidence, including Dr. Ahn's credible testimony, that claimant did not have a diagnosis of ASD, intellectual disability, or a fifth category disability. Claimant therefore did not prove by a preponderance of the evidence he has a qualifying developmental disability.

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LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Because claimant is the party asserting a claim, he bears the burden of proving, by a preponderance of the evidence, that he is eligible for government benefits or services. (See Evid. Code, §§ 115 and 500.) A preponderance of the evidence means evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

Applicable Law

2. The Lanterman Act defines a 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. A developmental disability includes intellectual disability, cerebral palsy, epilepsy, autism, and other conditions similar to intellectual disability or requiring treatment similar to that required by individuals with intellectual disability, i.e., the fifth category. (Welf. & Inst. Code, § 4512, subd. (a).)

3. "Substantial disability" means the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person: (1) self-care, (2) receptive and expressive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic self-sufficiency. (Welf. & Inst. Code, § 4512, subd. (1)(1).)

4. In *Mason v. Office of Administrative Hearings* (2001) 89 Cal. App.4th 1119, 1129, the California Court of Appeal provided general guidance regarding the

fifth category: "The fifth category condition must be very similar to [intellectual disability], with many of the same, or close to the same, factors required in classifying a person as [intellectually disabled]. Furthermore, the various additional factors required in designating an individual developmentally disabled and substantially handicapped must apply as well." It is therefore important to consider factors required for a diagnosis of intellectual disability when assessing fifth category eligibility.

5. Developmental disability shall not include handicapping conditions that are solely learning disabilities which manifest as a significant discrepancy between estimated cognitive potential and actual level of educational performance. (Cal. Code Regs., tit. 17, § 54000, subd. (c)(2).)

6. A child under five years old shall be provisionally eligible for regional center services if the child has a developmental disability and significant functional limitations in at least two of the following areas of major life activity, as determined by a regional center and as appropriate to the age of the child: (1) self-care, (2) receptive and expressive language, (3) learning, (4) mobility, and (5) self-direction. (Welf. & Inst. Code § 4512, subd. (a)(2)(A).)

Determination of Claimant's Ineligibility for Services

7. Claimant did not prove by a preponderance of the evidence he is eligible for regional center services. As set forth in Factual Finding 23, claimant did not prove he has a qualifying developmental disability that makes him eligible or provisionally eligible for regional center services under the Lanterman Act. This Decision does not preclude claimant from presenting further evidence to FDLRC, at some later date, so that he can be re-assessed for eligibility for services.

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ORDER

Claimant's appeal is denied. Claimant is not eligible to receive regional center services at this time.

DATE:

SHANDA W. CONNOLLY

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.

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In the Matter of:

CLAIMANT,

and

FRANK D. LANTERMAN REGIONAL CENTER,

Service Agency.

DDS No. CS0033829

OAH No. 2026020270

ORDER DENYING APPLICATION FOR RECONSIDERATION

On April 20, 2026, an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH) issued a final decision in the above matter after receiving documents and testimony into evidence.

On April 28, 2026, claimant's authorized representative applied to OAH for reconsideration of the decision under Welfare and Institutions Code section 4713. The application for reconsideration was timely submitted. OAH gave notice of the application to the Service Agency and the Department of Developmental Services (DDS).

The application for reconsideration specifically refers to Factual Finding 19, on page 10 of the Decision, which reads in part:

Dr. Ahn did not specifically opine on claimant's eligibility for regional center services. Dr. Ahn recommended that claimant continue with speech therapy and local mental health resources to support his social development, and that claimant be screened for ADHD when he starts his primary grades.

The application for reconsideration requests correction of a clerical error in the quoted text on the following grounds: "Dr. Ahn suggested that it would be highly beneficial for [claimant] to receive services, as well as his school teachers, LAUSD, and his principal. I am unsure why I have to fight for my child to get services he greatly needs."

A party may request reconsideration to correct a mistake of fact or law or a clerical error in a final hearing decision, or to address the decision of the original hearing officer not to recuse themselves following a proper request. (Welf. & Inst. Code, § 4713, subd. (b).)

Here, claimant's authorized representative seeks reconsideration to correct a clerical error in the decision. However, the application describes a disagreement with the ALJ's interpretation of Dr. Ahn's testimony and the outcome of the hearing. The application does not specify a clerical error in the final decision.

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Accordingly, the application for reconsideration is denied. The decision issued by the ALJ remains in full force and effect as the final administrative decision. Either party may appeal the decision to a court of competent jurisdiction within 180 days of receiving the final decision.

DATE:

MATTHEW GOLDSBY

Presiding Administrative Law Judge

Office of Administrative Hearings