BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency.

DDS No. CS0036069

OAH No. 2026050137

DECISION

Marion J. Vomhof, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on June 15, 2026.

Jennifer Cummings, Appeals and Resolutions Specialist, represented Inland Regional Center (IRC).

Claimant's mother and temporary conservator, represented claimant.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on June 15, 2026.

ISSUE

Is claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) because of autism, intellectual disability, or a disabling condition found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability that constitutes a substantial disability?

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant, currently an 18-year-old female, sought regional center services under the qualifying categories of autism, intellectual disability, or a disabling condition found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability.

2. On February 26, 2026, IRC issued a Notice of Action (NOA) advising claimant that, based upon its evaluation, claimant was not eligible for regional center services. IRC cited the law in support of its determination and advised claimant of her appeal rights.

3. On April 27, 2026, IRC received claimant's Appeals Tracking Request appealing the denial.

4. Upon receipt of the appeal, the matter was set for hearing.

Diagnostic Criteria for Autism Spectrum Disorder

5. The *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision* (DSM-5-TR) is a publication by the American Psychiatric Association for the classification of mental disorders using a common language and standard criteria. It is the main book for the diagnoses and treatment of mental disorders. IRC introduced excerpts from the DSM-5-TR, which contained the diagnostic criteria that must be met in order to make a diagnosis of autism spectrum disorder (ASD). To be eligible for regional center services based on ASD, a claimant must meet this diagnostic criteria.

6. An individual must have persistent impairment in reciprocal social communication and social interaction (Criterion A), as manifested either currently or historically by all of 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.

7. An individual must have restricted, repetitive patterns of behavior, interests, or activities (Criterion B), as 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 (4) hyper- or hypo-reactivity to sensory input or unusual interest in sensory aspects of the environment.

8. These symptoms must be present in early childhood (Criterion C) and must cause clinically significant impairment in social, occupational, or other important

areas of current functioning (Criterion D). Disturbances that are not better explained by intellectual developmental disorder or global developmental delay (Criterion E).

9. There is no requirement for formal testing, rather, the diagnostic criteria may be found "currently or by history." Autism diagnoses must specify "current severity based on social communication impairments and restricted, repetitive patterns of behavior." Severity is divided into three levels: Level 1 is the severity level assigned to individuals who have mild symptoms and can function independently with support; Level 2 is the severity level assigned to individuals who have moderate symptoms and require substantial support; and Level 3 is the severity level assigned to individuals who have severe symptoms and require very substantial support.

Diagnostic Criteria for Intellectual Developmental Disorder (Intellectual Disability)

10. The DSM-5-TR defines intellectual developmental disorder (formerly called intellectual disability) as a disorder that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains. The following three criteria must be met: (a) deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience, confirmed by both clinical assessment and individualized, standard intelligence testing; (b) deficits in adaptive functioning that result in the failure to meet developmental and sociocultural standards for personal independence and social responsibility which limit, without ongoing support, functioning in one or more activities of daily life; and (c) onset of intellectual and adaptive deficits during the developmental period.

Diagnostic Criteria for Fifth Category

11. The Lanterman Act states that regional center assistance may be provided to individuals with a disabling condition closely related to an intellectual disability or that requires similar treatment to an individual with an intellectual disability but does not include other handicapping conditions that are "solely physical in nature." (Welf. & Inst. Code, § 4512, subd. (a).) Along with the other four qualifying conditions (cerebral palsy, epilepsy, autism spectrum disorder, and intellectual disability), a disability involving the fifth category must also have originated before an individual turns 18 years old, must continue or be expected to continue indefinitely, and must constitute a substantial disability.

12. In *Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, 1129, the appellate court held that 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 meeting the criteria for IDD. Another appellate decision found that eligibility may not be based solely on a person's adaptive functioning; it must include a cognitive component. (*Samantha C. v. State Dept. of Developmental Services* (2010) 185 Cal.App.4th 1462, 1486–87.) Further, while a person who suffers from mental health or other psychological conditions is not per se disqualified from regional center eligibility under the fifth category, the individual's condition must still be similar to intellectual disability or the individual must still require treatment similar to a person with intellectual disability. (*Id.* at p. 1494.) In making those determinations, regional centers refer, in part, to the Association of Regional Center Agencies (ARCA) guidelines, discussed below.

13. A person functions in a manner similar to a person with intellectual disability if the person has significant sub-average general intellectual functioning that

is accompanied by significant functional limitations in adaptive functioning. Intellectual functioning is determined by standardized tests. A person has significant sub-average intellectual functioning if the person has an IQ of 70 or below. Factors a regional center should consider include an individual's abilities to solve problems with insight, adapt to new situations, think abstractly and profit from experience. If a person's IQ is above 70, it becomes increasingly essential that the person demonstrate significant and substantial adaptive deficits, and that the substantial deficits be related to the cognitive limitations, as opposed to a medical or other issue.

Substantial Disability Requirement

14. In addition to meeting the diagnostic criteria for an identified Lanterman Act developmental disability, the disability must constitute a substantial disability for that individual. (Welf. & Inst. Code § 4512, subd. (a)(1).) Substantial disability is defined as 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: (a) self-care; (b) receptive and expressive language; (c) learning; (d) mobility; (e) self-direction; (f) capacity for independent living; and (g) economic self-sufficiency. (Welf. & Inst. Code § 4512, subd. (l)(1); CCR, tit. 17 § 54000.)

IRC Evidence

15. IRC presented the testimony of Anthony Benigno, Psy.D., and numerous documents were received in evidence, all of which form the basis for the following factual findings.

TESTIMONY OF DR. BENIGNO

16. Dr. Benigno earned a bachelor's degree in psychology from the University of California, Los Angeles. He earned a master's degree and a doctorate in psychology from Alliant International University. He is the founder of AB Psych Consulting. He has been vendored with IRC since 2019, where he works as a consulting licensed psychologist. He has conducted over 1,300 assessments for ASD. He accepts referrals from IRC to assess autism and developmental disability under the Lanterman Act and works with IRC's eligibility team in determining eligibility for regional center services. He evaluates children and adults.

17. Claimant has been receiving special education services due to a diagnosis of autism. An individual may qualify for special education services in school but not be eligible for regional center services. The criteria for eligibility for special education services through the school district is less stringent than the eligibility criteria for regional center services. Special education services qualification is based on California Code of Regulations Title 5 and requires only social deficits and deficits in verbal and nonverbal communication. To qualify for regional center services based on an autism disorder, a claimant must meet the DSM-5-TR criteria. Of note, regional centers are governed by Title 17 which is more stringent than Title 5.

18. Under DSM-5-TR, intellectual disability is where cognitive abilities are significantly lower than age-expected levels, and there are significant deficits in adaptive behaviors.

19. Dr. Benigno reviewed both IRC and claimant's evidence, including all assessments, and he interviewed Dr. Theodore Swigert, who conducted AB Psych's

assessment of claimant for IRC. Dr. Benigno was part of IRC's eligibility team. He said there were no indications that claimant has autism.

20. On October 19, 2022, a psychoeducational assessment was completed by David Satre, a school psychologist at Moreno Valley Unified School District (MVUSD) when claimant was a 14-year-old ninth grader. The areas of expected disability were other health impairment close to Attention Deficit Disorder (ADD) or another health condition, emotional disturbance, and residential placement. Claimant's description of her typical school day was different than what she said during her Lanterman Act evaluation. In the school report, she described her typical day in detail. She talked about her mindfulness activities and the insight she had gained about herself, how she handled difficult emotions and took that into interactions with others, and she described her participation in behavior therapy. Claimant spoke of what she does to self-regulate. In the past, she did not talk to peers about her feelings, but she is learning to discern which peers she can trust. Dr. Benigno said there were no indications of ASD or intellectual disability, and neither was listed as a disability.

21. Dr. Benigno reviewed claimant's Individualized Education Program (IEP) dated October 2, 2024. Claimant was in the 11th grade. Claimant's IEP listed her primary disability as emotional disturbance and secondary disability, other health impairment. There was no reference to ASD. Dr. Benigno stated that when he reviews the IEP of an individual with ASD, the IEP generally includes more behavioral services and interventions and occupational therapy. Claimant's IEP reported that she continues to require a structured environment with behavioral and mental health supports to access her education.

22. On October 30, 2023, and December 19–20, 2024, Dr. Austin Kyle Elder, clinical psychologist from Family Mental Health, LLC, in St. George, Utah, conducted a

psychological evaluation of claimant when she was 17 years old. Claimant was referred to Dr. Elder after she returned home in February 2023 after several years in residential treatment and began "spiraling out of control" and exhibiting an inability to be productive and functional and had problems with emotional regulation and behavioral control. Claimant's mother and treatment providers sought diagnostic clarification. Records reviewed by Dr. Elder included a September 16, 2024, Woodcock-Johnson IV Test of Achievement; a July 3, 2023, psychiatric evaluation and psychiatric notes by Rachel Wheeler, M.D.; and a mental treatment report and progress report. The October 19, 2022, psychoeducational assessment from MVUSD was not listed, and it does not appear that it was reviewed.

23. Dr. Benigno provided the following review of Dr. Elder's evaluation and report:

24. Dr. Elder administered the Wechsler Intelligence Test for Children-V (WISC-V) to claimant. He reported that her overall intellectual functioning was in the low-average range, her verbal comprehension, visual spatial, fluid reasoning, and processing speed were in the average range, and her working memory was in the borderline range. Dr. Benigno said these results did not reflect intellectual disability.

25. Dr. Elder administered the Autism Diagnostic Observation System-2 (ADOS-2) to claimant. Dr. Elder reported that her deficits in communication were in the autism range. She answered all questions but did not offer spontaneous information, her gestures were repetitive, her reciprocal social interaction was in the autism range. She avoided eye contact, and she was uncomfortable with sustained gaze. Dr. Benigno said these results were very different from the psychoeducational assessment at MVUSD.

26. During the ADOS-2, Dr. Elder reported that claimant demonstrated sensory interests and she expressed sensitivity to sounds such as the toilet flushing. He noted that she displayed unusual repetitive hand movements, including twisting her hair. Dr. Benigno said this is not a repetitive movement usually observed with ASD.

27. Dr. Elder found that claimant scored in the autism range on the ADOS-2, Model 4. He diagnosed a number of conditions, including reactive attachment disorder, post-traumatic stress disorder (PTSD), conduct disorder, mood dysregulation disorder, and borderline personality traits. Dr. Benigno stated that these conditions can impact test scores. If an individual has anxiety or a history of trauma or depression, eye contact will be affected, especially if the individual has PTSD. When an individual is uncomfortable with other people, the probability of reciprocity is affected, and the person will be reluctant to be vulnerable to other people. Energy levels would also be affected. Dr. Benigno noted that in the MVUSD psychoeducational assessment, claimant was insightful, agreeable, polite, and introspective, in contrast with how she presented at Dr. Elder's evaluation.

28. As to Criterion A, Dr. Benigno was asked if Dr. Elder's evaluation substantiated persistent deficits in claimant's social communication and social interaction capabilities across multiple contexts. Dr. Benigno said he would need additional information before he could determine if required symptoms were met. Dr. Benigno similarly stated that he would need additional information to determine if Criterion B requirements were met, such as the frequency of symptoms and whether claimant experienced any distress.

29. On September 19, 2025, Rachel Wheeler, M.D., completed a capacity assessment of claimant in connection with a proposed conservatorship. No ASD or intelligence testing were conducted. Dr. Wheeler stated: "[Claimant] demonstrates no

significant deficits when stabilized on an appropriate medication regimen within a structured residential setting." In response to a question asking if temporary or reversible causes of mental impairment had been assessed or treated, Dr. Wheeler wrote: "Absolutely with medication changes." Dr. Benigno stated that the need for medication stabilization is not attributable to an ASD or intellectual disability diagnosis but would be a consistent treatment for claimant's other mental health conditions noted in the record.

30. On November 14, 2025, IRC Intake Counselor Joyce Kim conducted an intake assessment by phone with claimant's mother. Claimant was referred to IRC by her mother for possible ASD and/or intellectual disability. Ms. Kim reviewed Dr. Elder's report and his diagnosis of ASD and other diagnoses; claimant's October 2, 2024, IEP at MVUSD; and her October 19, 2022, psychoeducational evaluation at MVUSD. Ms. Kim reported the following: claimant dresses herself and uses the bathroom independently but needs reminders to cleanse properly afterward, and she has nocturnal enuresis and wears diaper to bed. She requires assistance and verbal prompts to bathe and brush her teeth. She does not initiate interaction with others; she wants friends but does not know how to have friends. She makes limited eye contact. Challenging behaviors include disruptive social behaviors, a past history of aggressive behavior, and, while she does not like being around people or crowds, she participates in community outings at her residential facility. Ms. Kim recommended that IRC conduct a psychological evaluation of claimant.

31. On January 13, 2026, Theodore Swigart, Ph.D., conducted a psychological assessment of claimant at AB Psych Consulting and prepared a written report. Dr. Benigno reviewed Dr. Swigart's report, documents in the record including Dr. Elder's 2023 report and 2025 letter, and the MVUSD psychological assessment dated October

19, 2022, and he made the determination as to whether claimant met Lanterman Act eligibility. Dr. Benigno and Dr. Swigart have worked together since 2020. This evaluation was done to determine eligibility for Lanterman services.

32. Dr. Swigart reviewed claimant's background and history and conducted a record review. He administered the ADOS-2, where claimant showed adequate conversational skills. She was able to have dialogue with Dr. Swigart, she provided leads to conversation, and she was able to track the conversation over different topics, including favorite movies, friends she made at residential school, and her feelings. This was very consistent with the MVUSD psychoeducational evaluation. She asked Dr. Swigart questions about his interests and elaborated on her answers. This is a social element that is not seen in ASD, and Criterion A-1 for ASD was not met. Claimant described situations, and she used different facial gestures and expressions. Even if an individual has depression and anxiety, one would generally see a little more energy than claimant displayed if the individual felt comfortable.

33. Criterion A-2 deficits in nonverbal communication were not met. Claimant used different facial expressions and gestures while speaking, which showed that she felt comfortable. Her eye contact was good. When asked how to do something, she used gestures and was able to describe instructions without prompts. She talked about different emotions, and she was able to be introspective. She talked about cooking and stated she met two friends at school. Dr. Swigart's findings were not consistent with Criterion A-3 in the DSM-5-TR because claimant did not have difficulty making and maintaining friendships, which difficulty would be consistent with ASD. Claimant stated that she came across as clingy with friends, which she stated they do not like. This showed insight, claimant's ability to see that a friend was annoyed, and that she wanted social bonding through friends.

34. Dr. Swigart did not observe any restrictive or repetitive movements or sensory issues, in contrast to Dr. Elder. Looking at DSM-5-TR, Criterion A, and the three deficits that must be met, it was evident that she did not meet the criteria for ASD.

35. Dr. Swigart administered the Childhood Autism Rating Scale, Second Edition, High-Functioning Version (CARS 2-HF) test, which looks for symptoms associated with ASD. This test was based on direct observations and interviews with claimant and her mother. There are two versions of the CARS, and Dr. Swigart chose the high functioning version based on claimant's full-scale IQ score. Claimant's CARS 2-HF total raw score was 25, which fell into the category of minimal to no symptoms of ASD.

36. Dr. Swigart administered the Wechsler Adult Intelligence Scale-Fourth Edition (WAIS-IV). Test results showed that claimant's overall intelligence or full-scale IQ was in the low range. Her verbal comprehension was low compared to her visual ability, such as perceptual reasoning, which was in the average range. Her working memory was in the delayed range. This test primarily dealt with numbers, and her achievement testing showed that she had difficulty with numbers, as well. Her processing speed was in the average range.

37. The Adaptive Behavior Assessment System, Third Edition (ABAS-3) was completed by claimant's mother based on her perceptions. This test estimated claimant's current development levels in areas of adaptive functioning. According to claimant's mother, claimant's adaptive functioning, or behaviors associated with independent functioning, were in an extremely low range. Dr. Benigno believed claimant's adaptive functioning was affected by her mental health conditions.

38. Dr. Swigart listed the various diagnoses claimant had received. He did not test for those, but this did not mean he agreed with those diagnoses. He did not diagnose ASD or intellectual disability.

39. Dr. Swigart said claimant was playful and easy to get along with. She tried to engage Dr. Swigart in reciprocal coordinated eye contact. His observations were that she was engaged, and she only disengaged regarding the length of the assessment.

40. Dr. Benigno reviewed Dr. Elder's December 11, 2025, letter, wherein Dr. Elder said he proposed to summarize his findings and apply them to the IRC's eligibility criteria. Dr. Benigno's review of this letter did not change his view regarding claimant's eligibility, as Dr. Elder did not adequately discuss claimant's symptoms.

41. Dr. Benigno reviewed an undated letter from claimant's clinical therapist. He stated that the letter referenced a lot of concern about claimant's adaptive functioning deficits but did not change his opinion that claimant was not eligible for regional center services.

42. Based on Dr. Swigart's assessment, Dr. Benigno determined that claimant does not meet eligibility for regional center services under ASD or any other category.

Claimant's Evidence

TESTIMONY OF AUSTIN KYLE ELDER, PH.D.

43. Dr. Elder is a licensed psychologist in the state of Utah. He has a bachelor's degree in psychology, a master's degree in clinical psychology, a Master of Education in School Psychology, and a doctorate degree in clinical psychology. Dr. Elder is a certified school psychologist in both California and Utah. He has had a

private practice as a clinical psychologist in Utah since 1993. He has assessed well over 1,000 children and adults for autism.

44. Dr. Elder stated there is a vast difference between educational criteria for special education services under Title 5, as opposed to the criteria in DSM-5-TR required for services under the Lanterman Act. The school system does not diagnose, it classifies. Dr. Elder stated that he is unable to describe the difference between education systems in California versus Utah.

45. Dr. Elder said that Dr. Benigno's review of Dr. Elder's report is fairly accurate. The reasoning and justification for the diagnosis is clear. He stands by his diagnosis. Any time someone is evaluated, they are evaluated at that specific point in time. An evaluation at a different time may provide different results.

46. The composite scores for the intellectual testing conducted by Dr. Elder and the testing conducted by Dr. Swigart were very close. Dr. Elder did not offer a diagnosis or suggest that there is intellectual impairment. What claimant presented to Dr. Elder was completely different than what she presented to Dr. Benigno and Dr. Swigart. During Dr. Elder's assessment, claimant was not interactive. She made no eye contact, asked no questions, and there was a repetitive nature in the way she twirled her hair. She had obvious sensory issues. Her deficits in social awareness, cognition, and motivation were clearly supported.

47. ASD was one of his diagnoses, but he gave several, including attention-deficit/hyperactivity disorder (ADHD). This was based on the way claimant presented to him at the time of the evaluation. Dr. Elder based his diagnoses off what he was given. He did not perform this evaluation for the regional center. Dr. Elder has never

contracted with regional centers and has never been asked to weigh in on a situation. He completed his evaluation for the school district at the request of claimant's mother.

48. The evaluation shows that claimant is not learning. One of the most concerning things he observed from Dr. Benigno's testing was that all scales from claimant's mother were extremely low. There was evidence of poor adaptive functioning in her residential treatment placement.

49. Dr. Elder administered the Behavior Assessment System for Children (BASC-3). As rated by her therapist in the residential facility, claimant's scores for autism probability, developmental social disorder, adaptive skills, activities of daily living, social skills, and functional communication were all in the clinically significant range for assessing autism.

50. Claimant had clinically significant problems, including difficulty following routines and running into traffic. Dr. Elder opines this is justification for his ADD diagnosis. The ADOS-2 shows poor limited insight and flat mechanical speech. Regarding her learning disorder, it was not an issue of IQ, but she had a very low working memory index, which is probably the reason for her learning disorder. All scores were extremely low.

51. Dr. Elder was the first one to test claimant for ASD based on someone at her residential center stating that she believed claimant showed signs of ASD. His evaluation was not to determine if claimant met Lanterman criteria. Claimant's symptoms are not solely explained by her psychological evaluation. Dr. Elder agrees with Dr. Benigno that it is difficult to separate psychiatric disorders from ASD, and that some symptoms belong to more than one diagnosis. At the time Dr. Elder completed his evaluation, claimant showed some criteria attributed to ASD.

CLAIMANT'S MOTHER'S TESTIMONY

52. Claimant's mother thinks that it would be helpful for people who do not know claimant to spend more time with her. Claimant is a complex case.

53. Claimant has learned to adapt to situations by mimicking another's behavior. She has found ways to navigate through education. Dr. Benigno commented that claimant has friends, but claimant's current therapist would disagree because these are things that claimant desires. She is not able to read the room. At times she can present well. She has gotten it in her mind that she has to do well in testing or she will not be able to do something.

54. When claimant and her mother arrived at AB Psych for her evaluation, claimant told her mother not to worry because, "I'm going to do good." Claimant wants to please. Claimant's mother stated that claimant's presentation at Dr. Elder's evaluation may have been different because he came to her facility.

55. Claimant's mother testified that evidence from professionals who have treated claimant over time, such as claimant's current therapist, show that claimant is complex. People need to take the time to understand who claimant is. Claimant needs more help than what has been given.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. In a proceeding to determine whether an individual is eligible for regional center services, the burden of proof is on the claimant to establish by a

preponderance of the evidence that he or she meets the proper criteria. (Evid. Code, §§ 115 & 500.)

Statutory and Regulatory Authority

2. The Lanterman Act is set forth at Welfare and Institutions Code section 4500 et seq.

3. Welfare and Institutions Code section 4501 outlines the state's responsibility for persons with developmental disabilities and the state's duty to establish services for those individuals.

4. The Department of Developmental Services (department) is the public agency in California responsible for carrying out the laws related to the care, custody and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.)

5. Welfare and Institutions Code section 4512, subdivision (a), states in part:

> As used in this division:
>
> (a)(1) "Developmental disability" means 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. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this 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.

(2)(A) A child who is under five years of age shall be provisionally eligible for regional center services if the child has a disability that is not solely physical in nature and has 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:

(i) Self-care.

(ii) Receptive and expressive language.

(iii) Learning.

(iv) Mobility.

(v) Self-direction.

(B) To be provisionally eligible, a child is not required to have one of the developmental disabilities listed in paragraph (1).

6. California Code of Regulations, title 17, section 54000, provides:

(a) "Developmental Disability" means a disability that is attributable to mental retardation,[1] cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation.

(b) The Developmental Disability shall:

(1) Originate before age eighteen;

(2) Be likely to continue indefinitely;

(3) Constitute a substantial disability for the individual as defined in the article.

(c) Developmental Disability shall not include handicapping conditions that are:

(1) Solely psychiatric disorders where there is impaired intellectual or social functioning which originated as a result of the psychiatric disorder or treatment given for such a disorder. Such psychiatric disorders include psycho-social deprivation and/or psychosis, severe neurosis or personality disorders even where social and intellectual functioning

[1] The regulations still use the term "mental retardation," which was replaced with the term "intellectual disability," which has since been replaced with the term "intellectual developmental disorder."

have become seriously impaired as an integral manifestation of the disorder.

(2) Solely learning disabilities. A learning disability is a condition which manifests as a significant discrepancy between estimated cognitive potential and actual level of educational performance and which is not a result of generalized mental retardation, educational or psycho-social deprivation, psychiatric disorder, or sensory loss.

(3) Solely physical in nature. These conditions include congenital anomalies or conditions acquired through disease, accident, or faulty development which are not associated with a neurological impairment that results in a need for treatment similar to that required for mental retardation.

7. California Code of Regulations, title 17, section 54001, provides:

(a) "Substantial disability" means:

(1) A condition which results in major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary planning and coordination of special or generic services to assist the individual in achieving maximum potential; and

(2) The existence of significant functional limitations, as determined by the regional center, in three or more of the

following areas of major life activity, as appropriate to the person's age:

(A) Receptive and expressive language;

(B) Learning;

(C) Self-care;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living;

(G) Economic self-sufficiency.

(b) The assessment of substantial disability shall be made by a group of Regional Center professionals of differing disciplines and shall include consideration of similar qualification appraisals performed by other interdisciplinary bodies of the Department serving the potential client. The group shall include as a minimum a program coordinator, a physician, and a psychologist.

(c) The Regional Center professional group shall consult the potential client, parents, guardians/conservators, educators, advocates, and other client representatives to the extent that they are willing and available to participate in its deliberations and to the extent that the appropriate consent is obtained.

(d) Any reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

Evaluation

8. Claimant presents a complex clinical case, and she needs assistance and supports. The question is whether her condition is due to ASD, intellectual disability or the fifth category. Most of her supports have been due to her psychiatric diagnosis. Her psychoeducational evaluation at MVUSD did not indicate ASD or intellectual disability. This was in direct contrast to her assessment with Dr. Elder. Her 2024 IEP listed her primary disability as emotional disturbance and secondary disability as other health impairment. ASD or intellectual disability were not listed. Results of her 2026 IRC evaluation with Dr. Swigart did not indicate ASD or intellectual ability, and Dr. Benigno determined she was not eligible for regional center services. Dr. Elder qualified that his evaluation and observations that led to his ASD diagnosis were based on claimant's presentation at the time of his evaluation and that he also gave other diagnoses. The only time claimant was diagnosed with ASD was by Dr. Elder, and his diagnosis was not supported by any other evidence.

9. The Lanterman Act and the applicable regulations set forth criteria that must be met in order to qualify for regional center services. On this record, claimant failed to establish that she had a qualifying diagnosis of autism or intellectual disability that constitutes a substantial disability, or that she qualifies under the fifth category, which is defined as a disability closely related to an intellectual disability, or that requires treatment similar to that required for individuals with an intellectual disability, that constitutes a substantial disability and therefore, claimant is not eligible for regional center services.

ORDER

Claimant's appeal from IRC's determination that she is not eligible for regional center services is denied. IRC's determination that claimant is not eligible for regional center services is affirmed.

DATE: June 30, 2026

MARION J. VOMHOF
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.