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

## In the Matter of:

## CLAIMANT

## and

## INLAND REGIONAL CENTER, Service Agency

## DDS No. CS0035128

## OAH No. 2026060394

## DECISION

Sharon Lahey, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on July 16, 2026.

Andrea Pociano, Fair Hearings Representative, represented Inland Regional Center (IRC).

Tricia Haggerty, claimant's social worker, represented claimant.

Oral and documentary evidence was received, the record was closed, and the matter submitted for decision on July 16, 2026.

## ISSUE

Is claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act of 1969 (Lanterman Act) due to a substantial disability resulting from autism spectrum disorder (ASD or autism) or intellectual developmental disorder (IDD)?[1]

## FACTUAL FINDINGS

### Background

1. Claimant is an eight-year-old female seeking regional center services on the basis of autism and IDD.

2. On January 28, 2026, IRC issued a Notice of Action advising claimant that, based upon its evaluation, claimant was not eligible for regional center services under

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[1] The Lanterman Act was amended long ago to eliminate the term "mental retardation" and replace it with "intellectual disability," as reflected in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*. The more current DSM-5, text revision (DSM-5-TR) no longer uses the term "intellectual disability" and instead refers to the condition as "intellectual developmental disorder." Many of the regional center forms have not been updated to reflect this change, and during testimony, the terms were used interchangeably. Accordingly, for purposes of this decision, as well as all admissible documentary evidence, "mental retardation," "intellectual disability," and "IDD" mean the same thing.

the Lanterman Act. IRC cited the law underlying its determination and advised claimant of her appeal rights.

3. On March 20, 2026, IRC received claimant's appeal of the denial of regional center services.

4. This hearing followed.

## IRC'S Evidence

### DOCUMENTARY EVIDENCE

5. IRC presented the following documents underlying its eligibility determination: an October 3, 2023, psycho-educational assessment report from claimant's school district; an October 23, 2024, medical, psychological, occupational therapy, speech, and language evaluation report by Maritza Arevalo, MS, David Young, MD, PhD, Arpine Agakhanyan, PsyD, Jonnie Galvan, MOT, OTR/L, and Jackie Pavloski-Carter, MS, CCC-SLP, of the Inland Empire Autism Assessment Center of Excellence (Inland Empire); a November 13, 2025, psychological assessment report by Theodore Swigart, Ph.D., of AB Psych Consulting; a May 22, 2026, psychological assessment report by Pardis Amirhoushmand, PhD, ABPP, of the Autism Center; medical records; health plans, functional behavioral assessment reports, and intervention plans from Assure Behavioral Services; individualized educational program (IEP) documents; and IRC documents.

### TESTIMONIAL EVIDENCE

6. IRC presented testimony from Anthony Benigno, PsyD. Dr. Benigno's testimony is summarized as follows: Dr. Benigno is a licensed clinical psychologist. He holds doctoral and master's degrees in clinical psychology and a bachelor's degree in

psychology. In 2018, he founded AB Psych Consulting, where he currently serves as the chief executive officer and clinical director performing consulting duties and training and supervising psychologists.

7. Dr. Benigno has also served as a consultant psychologist for IRC since 2018. As an IRC consultant psychologist, he assesses children and adults for developmental disabilities to determine their eligibility for regional center services under the Lanterman Act. He performs psychological, neuropsychological, autism, and intellectual disability evaluations, he is a member of IRC eligibility teams responsible for making eligibility determinations, and he serves as an expert witness for IRC.

8. Dr. Benigno served as a member of the IRC eligibility team responsible for determining claimant's eligibility for regional center services based on autism and intellectual disability. He concluded the evidence did not support a diagnosis of autism or intellectual disability. In evaluating claimant's case, he reviewed the documents in claimant's file and spoke with Dr. Swigart, the clinician at AB Psych Consulting who performed claimant's November 13, 2025, assessment. Dr. Benigno stated that under the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision* (DSM-5-TR), autism is a developmental disorder resulting in social functioning deficits and restrictive and repetitive behaviors. Under the DSM-5-TR, IDD is a condition that impairs intellectual functioning.

9. Dr. Benigno discussed the October 3, 2023, psychoeducational assessment report from claimant's school district, which he found did not support the diagnostic criteria for intellectual disability or autism under the DSM-5-TR. As to intellectual disability, there was no testing or performance-based data, as required for a diagnosis under the DSM-5-TR; the school district attempted, but was unable, to complete performance-based testing. As to autism, there were no findings of

behaviors or traits consistent with autism. To the contrary, claimant presented with good eye contact, she responded to praise, she was polite, cooperative, compliant, and comfortable, and she got along with her classmates. Based on interviews with caregivers and/or teachers, the school district noted suspected areas of disability as intellectual disability, learning disability, and other health impairment, but not autism. This was significant because it indicated the individuals who were with claimant on a regular basis did not identify any behaviors or traits consistent with autism. While the school district found claimant qualified for special education, it found her handicapping disability was intellectual disability, not autism, based on deficits in comprehension, processing speed, and/or focus. Consistent with these findings, claimant's educational services focused primarily on language and speech.

10. Dr. Benigno also discussed an October 23, 2024, assessment by Inland Empire that found claimant did not meet the diagnostic criteria for autism or intellectual disability. After interviewing, examining, and observing claimant and administering intelligence testing, autism diagnostic observation schedule testing, and language scale testing, the evaluation team found claimant only partially met the so-called "Category A" criteria for diagnosing autism under the DSM-5-TR. Dr. Benigno explained that partially meeting these criteria showed claimant had deficits, but they were balanced out by strengths. He noted that when a clinician finds criteria are partially met, the clinician is usually saying, "Give it some time, let it resolve, and evaluate and monitor in the future." Inland Empire concluded that claimant met the criteria for autism on a provisional basis, which Dr. Beningo explained meant that some autism traits were observed but could be attributed to other factors, thus further evaluation was necessary.

11. Dr. Benigno also noted that, contrary to the school district's finding of a handicapping disability of intellectual disability, Inland Empire found claimant did not meet the diagnostic criteria for intellectual disability. She displayed deficits in cognitive functioning, especially in processing speed, that resulted in things like working slowly and having delayed responses, however, these deficits established diagnoses for neurodevelopment and language disorders, not intellectual disability.

12. Dr. Benigno testified that Inland Empire's testing revealed important information concerning the absence of intellectual disability. There was a lot of "spread" in claimant's testing scores, meaning she scored high in some areas and low in others. As a result, no single score reflected her functioning, and the evaluators looked to an overall pattern. Her overall pattern suggested significant language problems, but they were balanced out by visual abilities; she could see visual language and put things together consistent with her age level. Dr. Benigno testified this overall pattern was consistent with language problems, not any kind of intellectual disability.

13. Dr. Benigno also found it important to consider the validity of Inland Empire's test scores. While claimant put forth good effort, she was reserved, which could have caused her scores to be lower than her actual abilities. As she became more comfortable, her performance improved. The clinicians failed to account for how claimant's anxiety and attachment could have affected her engagement during the assessment, as testing instruments are sensitive to these types of factors.

14. Dr. Benigno discussed Dr. Swigart's November 13, 2025, assessment, which found claimant did not meet the diagnostic criteria for autism or intellectual disability. Dr. Benigno has worked with Dr. Swigart, his most senior staff psychologist, since 2020. Dr. Swigart reviewed claimant's records, interviewed and observed

claimant, administered testing, obtained a parent autism questionnaire, and discussed the results of his assessment with Dr. Benigno.

15. Dr. Swigart found claimant did not meet the diagnostic criteria for intellectual disability. While she displayed some cognitive deficits, they were consistent with a language disorder, not intellectual disability. Dr. Swigart administered intelligence testing and, consistent with claimant's previous testing, there was significant variability, with deficits in language but visual spatial capabilities consistent with her age level. Dr. Swigart found his testing accurately measured claimant's cognitive abilities, as she was cooperative and sustained attention, with no notable behaviors that might have factored into her performance.

16. Dr. Swigart also found claimant did not meet the diagnostic criteria for autism. He administered the Autism Diagnostic Observation Schedule, Second Edition (ADOS-2), Module 1, which Dr. Benigno testified was widely considered the "gold standard" for diagnosing autism. Claimant's overall findings corresponded with a low level of autism-related symptoms and did not support an autism diagnosis. Dr. Swigart's clinical observations and reports from claimant's mother also revealed minimal to no symptoms of ASD. While claimant's mother reported extremely low adaptive functioning, Dr. Benigno noted that, like all ratings-based testing instruments, reporting is vulnerable to inherent bias and overreporting. Dr. Benigno further noted that claimant's reported low adaptive functioning could be attributed to factors other than autism or intellectual disability.

17. In Dr. Benigno's clinical opinion, he found Dr. Swigart properly found claimant did not meet the diagnostic criteria for autism or intellectual disability. Dr. Benigno found it significant that claimant was initially hesitant with Dr. Swigart, but Dr. Swigart was able to build rapport with her. Once claimant warmed up, she was able to

engage and interact with Dr. Swigart by laughing and playing with him. This shift in demeanor from anxiety to active participation was consistent with claimant's assessment at Inland Empire.

18. Dr. Benigno disagreed with the findings in a May 22, 2026, psychological assessment by Pardis Amirhoushmand, Ph.D., of the Autism Center. Dr. Amirhoushmand's diagnostic impressions were "[ASD], with accompanying language impairment, with accompanying intellectual impairment . . . Rule Out . . . Language Disorder." Dr. Benigno noted a significant discrepancy between claimant's presentation at Dr. Amirhoushmand's assessment and previous assessments. For example, claimant was very quiet and hesitant when she entered Dr. Amirhoushmand's assessment room, did not engage, and displayed hand mannerisms and other behaviors that were inconsistent with, or not present at, previous assessments. Dr. Benigno concluded that, unlike the previous evaluators who got claimant to open up and engage, Dr. Amirhoushmand did not build enough rapport to make claimant feel comfortable. Accordingly, claimant's performance at Dr. Amirhoushmand's assessment did not reflect her actual capabilities.

19. Dr. Benigno noted that a thorough evaluator would have noted the significant discrepancies in claimant's presentation across assessments, yet Dr. Amirhoushmand failed to do so. Further, while Dr. Amirhoushmand diagnosed claimant with autism, Dr. Amirhoushmand did not specifically address how claimant satisfied the DSM-5-TR diagnostic criteria or explain what data she relied on. Dr. Amirhoushmand did not diagnose claimant with intellectual disability, she just noted a speech impairment that impacted intelligence. Dr. Benigno testified that a speech impairment could affect intelligence and autism testing scores, because it could impact the subject's ability to understand instructions. Dr. Benigno noted that Dr.

Amirhoushmand also recommended retesting intelligence in one to two years because the results of claimant's testing were uncertain due to personal qualities, and therefore not entirely conclusive. Dr. Benigno further found that Dr. Amirhoushmand's diagnostic impression of "rule out language disorder" further undermined her assessment because there was enough data in claimant's school records and previous assessments to support a language disorder diagnosis. He noted that most clinicians would have at least diagnosed a language disorder by history, which indicated Dr. Amirhoushmand's assessment was not thoroughly thought out.

## Claimant's Evidence

20. The testimony of claimant's foster mother and soon-to-be adoptive mother (mother) is summarized as follows: claimant's mother has raised claimant since claimant was four years old. When claimant was first placed with her, a county social worker told claimant's mother that claimant had been diagnosed with autism. In 2024, Inland Empire diagnosed claimant with provisional autism. In April 2026, claimant's mother took her to Dr. Amirhoushmand's center for a second opinion, and in May 2026, Dr. Amirhoushmand diagnosed claimant with autism, level three.

21. Claimant has various difficulties at school; she does not listen or pay attention at all, she simply plays with whatever is in her hands or gets up to get food or water, walk around, or go to the trash can. Claimant will eat food or chew gum that she finds in the trash can. She is in special education and has an IEP. In the 2025–2026 school year, claimant received about an hour and a half of special education hours a day; she went to special education for an hour each morning and a half hour after school. Claimant has difficulty with transitions and will not go straight to class. Her mother communicates with her special education teachers and frequently goes into claimant's school to address behavioral issues. For the past two years, claimant's

mother has gone into claimant's school to sit with claimant and observe her in the classroom. Claimant's mother noted that claimant is very smart, but she is not learning at her age level due to her distractibility and lack of focus. Claimant's school has told her mother that claimant just wants to play and is not interested in learning.

22. At home, claimant's mother has to assist claimant with bathing, brushing her teeth, toileting, and dressing, among other activities of daily living. As to dressing, claimant will simply hold up clothes and look at them, but she will not put them on. When toileting, she plays with toilet paper in the toilet water if unsupervised. If she has an accident while she is sleeping, she takes feces out of her diaper and throws it on the floor or plays with it.

23. In March 2026, claimant started taking medication for attention-deficit/hyperactivity disorder. She is more relaxed on the medication, but she is still not learning and continues to be distracted during class. She is not potty trained and is uncooperative; despite claimant's mother's efforts to potty train claimant, claimant will not go to the bathroom when she needs to do so. Claimant wears a diaper and will not say anything when she has a dirty diaper. She will also go to the boy's bathroom when unsupervised. Claimant is non-responsive to questions, sometimes she will not answer or just give general responses. While she interacts with her sisters and mother at times, often times, she will not interact with other people at all. For example, in the two years she has been working with her social worker, claimant has not made eye contact, responded to questions verbally, or otherwise engaged in significant social interaction.

24. Claimant receives applied behavioral services from Assure Behavioral Services. She goes in twice a week, for three hours each day, to work on socialization and navigating public life, such as having boundaries with strangers and protecting her privacy when she is using a public restroom. She receives these services based on her

learning delays, the fact that she is not potty trained, and her social disengagement. Assure Behavioral Services diagnosed claimant with intellectual disability, but not autism, because Assure Behavioral Services does not specialize in autism diagnoses.

# LEGAL CONCLUSIONS

## Burden and Standard of Proof

1. An individual seeking regional center services under the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.) has the burden of establishing she meets the eligibility criteria for such services. She must meet this burden with a preponderance of the evidence, meaning simply, she must present evidence showing that her eligibility for regional center services is "more likely than not." (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1387–88; Evid. Code, §§ 115, 500.)

## Applicable Law

2. The purpose of the Lanterman Act is to provide a "pattern of facilities and services . . . sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life." (*Assn. of Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388; Welf. & Inst. Code, § 4501.)

3. The Department of Developmental Services (Department) is the state agency 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.) To comply with its statutory mandate, the Department contracts with private non-profit community agencies, known as "regional centers," to

provide the developmentally disabled with "access to the services and supports best suited to them throughout their lifetime." (Welf. & Inst. Code, § 4620.)

4. Under the Lanterman Act, a "developmental disability" is a disability that: (1) is attributable to IDD, cerebral palsy, epilepsy, autism, or disabling conditions closely related to IDD or requiring treatment similar to the treatment required for individuals with IDD; (2) originated before age 18 and is likely to continue indefinitely; and (3) constitutes a "substantial disability" for the individual. (Welf. & Inst. Code, § 4512, subd. (a)(1); Cal. Code Regs., tit. 17, § 54000, subds. (a)–(b).)

5. To constitute a "substantial disability," a disability must result in a "major impairment" in cognitive and/or social functioning and result in "significant functional limitations" in three or more of the following areas: receptive and expressive language; learning; self-care; mobility; self-direction; capacity for independent living; and economic self-sufficiency. (Cal. Code Regs., tit. 17, § 54001, subd. (a).)

## DSM-5-TR

### DIAGNOSTIC CRITERIA FOR ASD

6. The DSM-5-TR identifies criteria for the diagnosis of ASD. The diagnostic criteria include: persistent deficits in social communication and interaction across multiple contexts; restricted repetitive and stereotyped patterns of behavior, interests, or activities; symptoms present in the early developmental period; symptoms causing clinically significant impairment in social, occupational, or other important areas of functioning; and disturbances that are not better explained by IDD or global developmental delay. An individual must have a DSM-5-TR diagnosis of ASD to qualify for regional center services based on ASD.

## DIAGNOSTIC CRITERIA FOR IDD

7. The DSM-5-TR states that IDD is a disorder involving deficits in intellectual and adaptive functioning in conceptual, and practical domains, with an onset during the developmental period. Essential features of IDD are deficits in general mental abilities and impairment in everyday adaptive functioning, as compared to an individual's age, gender, and socio-culturally matched peers. Intellectual functioning is typically measured using intelligence tests. Individuals with IDD typically have IQ scores in the 65–75. Three diagnostic criteria must be met to warrant an IDD diagnosis under the DSM-5-TR:

(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, standardized intelligence testing.

(B) Deficits in adaptive functioning that result in failure to meet developmental and sociocultural 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.

(C) Onset of intellectual and adaptive deficits during the developmental period.

## Conclusion

8. Claimant has not met her burden of presenting evidence establishing her eligibility for regional center services under the Lanterman Act. As Dr. Benigno testified, the evidence did not establish that claimant met the DSM-5-TR diagnostic criteria for ASD or IDD.

9. As to ASD, claimant underwent three assessments. Two of these assessments concluded she did not meet the diagnostic criteria for ASD under the DSM-5-TR: (1) In an October 23, 2024, report, an assessment team that included a child neurologist and two psychologists at Inland Empire found claimant did not meet all of the diagnostic criteria for ASD; and (2) In a November 13, 2025, report, Dr. Swigart of AB Psych Consulting similarly found claimant did not meet the ASD diagnostic criteria. These assessments were supported by the clinicians' clinical observations, clinical interviews, and administered testing, including the ADOS-2, Module 1, which Dr. Benigno described as the "gold standard" for diagnosing ASD, among other evidence. Pertinent clinical findings included, but were not limited to, claimant's social engagement, shared enjoyment, and reciprocal communication. Consistent with Inland Empire and Dr. Swigart's assessments, claimant's school district performed a psychosocial assessment and did not identify ASD as a suspected area of disability based on caregiver and/or teacher reports or find that claimant had a handicapping condition of ASD.

10. Conversely, in a May 22, 2026, report, the third assessor, Dr. Amirhoushmand of the Autism Center, found claimant met the diagnostic criteria for ASD. However, as Dr. Benigno testified, Dr. Amirhoushmand did not specifically discuss the diagnostic criteria for ASD or explain why she found claimant met all the criteria. In addition, claimant presented very differently at Dr. Amirhoushmand's assessment than

at Inland Empire and Dr. Swigart's assessments, especially as to social engagement and physical mannerisms, and Dr. Amirhoushmand did not address or reconcile these differences. Notably, claimant initially presented similarly at Inland Empire and Dr. Swigart's assessments, but she was able to perform at higher levels after the clinicians built rapport and made her feel comfortable. This raises a concern about whether Dr. Amirhoushmand's assessment captured claimant's actual capabilities, as claimant's comfort level with Dr. Amirhoushmand could have negatively impacted her performance. Accordingly, Dr. Amirhoushmand's assessment is given less weight than Dr. Swigart and Inland Empire's assessments.

11. As to IDD, Dr. Swigart and Inland Empire each found claimant did not meet the diagnostic criteria for IDD.[2] Intelligence testing in both assessments revealed claimant had significant cognitive deficits in some areas but not others, which Dr. Benigno testified was consistent with both Dr. Swigart and Inland Empire's conclusions that claimant had a language disorder, not IDD.

12. While claimant's school district found she had a handicapping impairment of intellectual disability warranting special education services, Dr. Benigno testified that a student does not need to meet the diagnostic criteria for IDD under the DSM-5-TR to be eligible for special education. He also testified that the variance in claimant's scores across different indices in the school district's intelligence testing was

[2] Dr. Amirhoushmand diagnosed claimant with an accompanying intellectual impairment but did not discuss or diagnose claimant with IDD. Further, while she administered intelligence testing, she expressly noted that her test results "should be interpreted with caution" because they may not accurately reflect claimant's cognitive abilities and recommended that claimant be retested in the future.

consistent with a language disorder, not IDD. The school district did not find claimant had a language disorder or address whether claimant's deficits could be attributed to a language disorder rather than IDD. Accordingly, the school district's assessment is given less weight than Dr. Swigart and Inland Empire's assessments.

13. Considering all the evidence, claimant has not met her burden of establishing she is eligible for regional center services because the evidence does not establish a valid diagnosis for ASD or IDD. While the evidence established significant deficits in some areas of cognitive, social, and adaptive functioning, the evidence did not establish that these deficits stemmed from a qualifying developmental disability under the Lanterman Act.

## ORDER

Claimant's appeal from Inland Regional Center's determination that she is not eligible for regional center services is denied. Inland Regional Center's determination that claimant is not eligible for regional center services due to a substantial disability resulting from autism, intellectual developmental disorder, cerebral palsy, epilepsy, or a condition closely related to intellectual development disorder or requiring similar treatment is affirmed.

DATE: July 27, 2026

SHARON LAHEY
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.