

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

In the Matter of:

CLAIMANT

and

ALTA CALIFORNIA REGIONAL CENTER, Service Agency

DDS No. CS0037760

OAH No. 2026061325

DECISION

Jennevee H. de Guzman, Administrative Law Judge, Office of Administrative Hearings, State of California, serving as a hearing officer, conducted a fair hearing in this matter on August 10, 2026, in Sacramento, California.

Alta California Regional Center (ACRC), the service agency, was represented by D.J. Weersing, Legal Specialist.

Claimant's mother (Mother) represented Claimant, who was not present.

Evidence was received, the record closed, and the matter submitted for decision on August 10, 2026.

ISSUE

Whether Claimant is eligible for services from ACRC under the Lanterman Developmental Disabilities Services Act, Welfare and Institutions Code section 4500 et seq. (Lanterman Act) based on intellectual disability or condition closely related to intellectual disability (Fifth Category) or requiring treatment similar to that required for individuals with an intellectual disability.

FACTUAL FINDINGS

Application for Services

1. Claimant is 10 years old and resides with his mother, sister, and grandmother in Elk Grove, California. Claimant applied for ACRC services in 2025, and an ACRC multidisciplinary team initiated its eligibility review process. As part of its review, a social assessment and follow-up assessment were completed on November 20, 2025, and December 16, 2025, respectively. Additionally, ACRC funded a psychological evaluation to determine whether Claimant met the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) criteria for intellectual disability. Christy L. Shaw, Psy.D., performed the psychological evaluation on April 14, 2026. The ACRC disciplinary team reviewed Claimant's records, including Dr. Shaw's psychological evaluation, and determined he was ineligible for regional center services.

2. On June 10, 2026, ACRC issued a Notice of Action denying Claimant's application. ACRC denied Claimant's application based on its conclusion that he was ineligible for regional center services. Claimant appealed ACRC's decision on June 23, 2026. This hearing followed.

Diagnosis Criteria for Intellectual Disability and Fifth Category

3. The DSM-5 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.

4. The Lanterman Act states that regional center assistance may be provided to individuals falling within the Fifth Category or who require 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).) "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]." (*Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, 1129.) Accordingly, like intellectual disability, Fifth Category similarly includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains. (*Samantha C. v. State Dept. of Developmental Services* (2010) 185 Cal.App.4th 1462, 1486–87.)

Psychological Evaluation by Dr. Shaw

5. Dr. Shaw conducted an in-person psychological evaluation of Claimant on April 14, 2026, and prepared a report that same day. Dr. Shaw observed Claimant's behavior and interviewed Mother. She also reviewed Claimant's medical and school records, including, but not limited to, individualized education program (IEP) reports for the years 2021 through 2025, and a 2025 psycho-educational evaluation. Additionally, Dr. Shaw administered several tests including the Wechsler Intelligence Scale for Children – Fifth Edition (WISC-V) and Adaptive Behavior Assessment – Third Edition (ABAS-3).

WISC-V

6. The WISC-V is an individually administered clinical instrument for assessing the cognitive ability of children aged 6 through 16. The WISC-V provides subtests and composite scores that represent intellectual functioning in specific cognitive domains, such as verbal comprehension, working memory, and processing speed, as well as a composite score that represents general intellectual ability. Claimant's scores ranged between very low to high average. Dr. Shaw noted, "[Claimant's] overall functioning is best represented using the general ability index" because it allowed for "flexibility in describing [Claimant's] broad intellectual functioning" and accounted for his performance variances. Standard scores falling between 70-79 are deemed very low, and scores below 70 are deemed extremely low. Claimant's composite score for general ability was 78, thus falling within the very low range.

ABAS-3

7. The ABAS-3 assesses an individual's adaptive skills for diagnosis and classification of disabilities and disorders, identifies strengths and limitations, and documents and monitors progress over time. The ABAS-3 focuses on adaptive behavior, which includes domains falling within the categories of conceptual skills, social skills, and practical skills. Based on Mother's reporting, Claimant received a score of 72 for conceptual skills, which fell within the low classification range of 71 to 79. Specifically, Dr. Shaw identified "significant concerns" with functional academics. Claimant received a score of 91 for the social skills, which fell within the average classification range of 90 to 109. He also received a score of 96 for practical skills, which also fell within the average classification range. Claimant's general adaptive composite score was 86, which fell within the below average classification. Dr. Shaw opined Mother had underreported Claimant's adaptive deficits.

DR. SHAW'S IMPRESSIONS

8. Dr. Shaw concluded as follows:

Intellectual disability means that an individual learns more slowly than other individuals of the same age and has difficulties learning the range of skills that will be needed to keep pace with age peers in learning. These skills include communication, self-care, and social and personal safety skills. Individuals with an intellectual disability will have limitations in thinking skills, including the ability to reason (working things out) and remember information, sustain attention, and organize information. A diagnosis of

Intellectual Disability is based on developmental history, performance on standardized measures of intellectual ability, and the level of adaptive functioning [which] an individual demonstrates. [Claimant's] overall intellectual ability fell in the very low range and in the 7th percentile on current testing which is consistent with previous testing. Evaluation of the history and performance during the evaluation, and on formal measures of intellectual functioning, indicates [Claimant] **does not meet [the] criteria for Intellectual Disability** at this time; however, it is the opinion of this clinician that significant concerns may be present regarding intellectual functioning. Therefore, a diagnosis of **Borderline Intellectual Functioning** is being assigned to ensure that this is a target for clinical intervention.

(Emphasis in original.)

Elk Grove Unified School District (EGUSD) Records

IEPs

9. Claimant is a student at Maeola Beitzel Elementary School. He received his first IEP in 2021. His 2021 IEP identified Speech or Language Impairment (SLI) as his only disability and noted Claimant communicated with below average language skills. Claimant's 2022 IEP again identified SLI as his only disability. In 2023, Claimant's IEP identified Specific Learning Disability (SLD) as his primary disability and SLI as his secondary disability. The 2023 IEP noted Claimant had below average process scores in

fluid reasoning, phonological processing, visual-spatial processing, and verbal working memory, which impacted his access to the general curriculum. The 2023 IEP further noted Claimant's SLI would affect his ability to participate in general education curriculum. In 2024, the changes made to Claimant's IEP did not involve the identification of his disabilities. Claimant's 2025 IEP again identified SLD as his primary disability and SLI as his secondary disability.

2025 PSYCHO-EDUCATIONAL EVALUATION

10. Claimant participated in EGUSD's psycho-educational evaluation on August 27, 2025, and September 30, 2025. The evaluation was conducted by a school psychologist. The components of the evaluation included parent and teacher questionnaires, Claimant's interview, school records review, classroom observations, and the WISC-V and other tests geared towards academic performance and behavior. As relevant here, Claimant's WISC-V scores ranged from average to low average. Claimant's general ability index score was not reflected in the 2025 EGUSD psycho-educational evaluation.

2025 SPEECH AND LANGUAGE EVALUATION REPORT

11. Claimant has received speech and language school services since 2021. A speech-language pathologist (SLP) evaluated claimant on September 27, October 8-9, and October 14, 2025, "due to his re-evaluation IEP meeting." The SLP evaluated Claimant in the speech and language domains of expressive, receptive, articulation of speech, and pragmatics. In addition to conducting teacher and parent interviews, reviewing medical and school records, and observing Claimant, the SLP administered several standardized speech and language exams. Based on the data summary, the SLP opined Claimant presented with articulation disorder and language disorder.

Consequently, the SLP opined Claimant continued to be eligible for special education and related services under the category of SLI.

2025 EDUCATIONAL SPECIALIST ACADEMIC REPORT

12. An educational specialist assessed Claimant to determine his continued eligibility for special education under SLD and prepared an academic report dated October 17, 2025. The Education Specialist administered the Kaufman Test of Educational Achievement, Third Edition (KTEA-3) to Claimant on October 15 and 16, 2025, as part of his 2025 EGUSD psychoeducational re-evaluation. The KTEA-3 included subtests in listening, speaking, reading, writing, and mathematics skills. Claimant's composite score for academic skills, reading, and written language fell within the very low range and math fell within the low range.

REPORT CARDS

13. Claimant's most recent report card is from the fourth grade. Claimant's trimester grades include a C- in reading, C- in writing/language, C- in speaking and listening, C-/C-/D in math, C- in history/social science, and an A in science. In third grade, Claimant's trimester grades were as follows: C-/C-/D in reading; C-/C-/F in writing/language; A/A-/B+ in speaking and listening; C-/C-/D in math; B/C-/B in history/social science; and B/A-/C- in science.

Carl Modeste, PhD's, Testimony

14. Dr. Modeste is a licensed psychologist and has worked at ACRC for just over three years. He reviews between 60 and 80 psychological evaluations per month. Dr. Modeste's background includes working as a school and clinical psychologist. He earned his PhD in forensic psychology.

15. Dr. Modeste reviewed Dr. Shaw's report, as well as Claimant's school records. Based on his review, he opined that even when Fifth Category is considered, Claimant would remain ineligible for regional center services. Dr. Modeste explained Fifth Category requires a WISC-V composite score in the 71-to-74 range and an ABAS-3 standard score below 70. Because Claimant's data points fell outside these deficit ranges, he is ineligible for regional center services based on intellectual disability and Fifth Category. Moreover, Dr. Modeste explained his review of Claimant's school records identified SLI and SLD but did not raise concerns regarding intellectual disability or Fifth Category.

16. On cross-examination, Dr. Modeste acknowledged Claimant's attention-deficit/hyperactivity disorder (ADHD) diagnosis and anxiety-related behaviors. He explained such behaviors tend to align and mimic behaviors associated with autism spectrum disorder (ASD) and would typically require a differential diagnosis. However, Dr. Modeste explained such a differential diagnosis was unnecessary because a medical doctor had affirmatively diagnosed Claimant with ADHD. Additionally, Dr. Modeste noted Claimant's medical and school records did not indicate concerns regarding ASD.

Mother's Testimony

17. Claimant's health issues include developmental language disorder, ADHD, SLD, anxiety, and trauma and stressor related disorder. Claimant's trauma stemmed from witnessing domestic abuse. Mother explained the combined effect of Claimant's diagnoses have resulted in cognitive and behavioral limitations. He has problems with abstract reasoning, judgment, memory, learning, planning, solving problems, concentration, achieving developmental milestones, controlling his

behavior, adapting to new situations, speaking and listening, completing daily tasks, social skills, and cognitive and adaptive functioning.

18. Claimant's academic skills fall within the low to very low range, and he is performing well below grade level. Mother acknowledged Claimant's report card once reflected an "A" in science, but she explained his teacher believed she had to give him a passing grade for special education purposes. Claimant does not know basic information such as his birthday or address. Behaviorally, Claimant's challenging behaviors include non-compliance, disruption, and elopement.

19. Mother stated Claimant's sister is an ACRC client based on her qualifying ASD diagnosis. Mother believes Claimant also qualifies for regional center services due to intellectual disability and ASD. She requests that ACRC conduct further assessments to determine whether Claimant is eligible for regional center services.

Analysis

20. Claimant bears the burden of establishing that he is eligible for services under the Lanterman Act. Specifically, he must establish that he has a qualifying developmental disability under the Lanterman Act. The persuasive evidence did not establish that Claimant qualifies for regional center services under the Lanterman Act at this time.

21. Although Mother credibly described Claimant's academic, cognitive, and behavioral challenges, as corroborated by his academic records, his cognitive ability and adaptive skills data points fell outside the range for both intellectual disability and Fifth Category. Dr. Modeste credibly testified that qualifying WISC-V composite scores fall in the 71-to-74 range, while a qualifying ABAS-3 score would fall below 70. Here,

Claimant's WISC-V score for general ability was 78, and his ABAS-3 general adaptive composite score was 86.

22. As set forth above, intellectual disability and Fifth Category each require intellectual and adaptive functioning deficits. (*Samantha C. v. State Dept. of Developmental Services, supra*, 185 Cal.App.4th at pp. 1486–87.) While the evidence established significant concerns regarding Claimant's intellectual functioning, the evidence failed to demonstrate the requisite deficits in adaptive functioning. Therefore, Claimant's appeal must be denied.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Claimant has the burden of proving by a preponderance of the evidence that he is eligible for services under the Lanterman Act. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [the party seeking government benefits has the burden of proving entitlement to such benefits]; Evid. Code, § 115 [the standard of proof is preponderance of the evidence, unless otherwise provided by law].) Proof by a preponderance of the evidence means "more likely than not." (*Sandoval v. Bank of America* (2002) 94 Cal.App.4th 1378, 1387.)

Applicable Law

2. The Lanterman Act governs this case. An administrative fair hearing to determine the rights and obligations of the parties is available under the Lanterman Act. (Welf. & Inst. Code, §§ 4700–4716.)

3. Under the Lanterman Act, the State of California is responsible for providing individuals with developmental disabilities with the “treatment and habilitation services and supports” to enable such persons to live “in the least restrictive environment.” (Welf. & Inst. Code, § 4502, subd. (b)(1).) To comply with this mandate the Department of Developmental Services contracts with non-profit agencies called regional centers to provide services and supports for individuals with developmental disabilities. (Welf. & Inst. Code, § 4620.)

4. Eligibility for regional center services and supports is dependent on: (1) the person having a developmental disability (2) that originated before his 18th birthday; (3) is likely permanent; and (4) constitutes a substantial disability. (Welf. & Inst. Code, § 4512, subd. (a)(1); Cal. Code Regs., tit. 17, § 54000, subd. (b)(1)–(3).) Under the Lanterman Act, developmental disabilities include intellectual disability, cerebral palsy, epilepsy, autism, and disabling conditions found to be closely related to intellectual disability or requires treatment similar to that required for individuals with an intellectual disability (fifth category). (Welf. & Inst. Code, § 4512, subd. (a)(1); Cal. Code Regs., tit. 17, § 54000, subd. (a).) A developmental disability shall not include handicapping conditions that are solely psychiatric disorders, learning disorders, or physical in nature. (Cal. Code Regs., tit. 17, § 54000, subd. (c)(1)–(3).)

5. Substantial disability is defined as the existence of significant functional limitations in three or more of the following relevant areas of major life activity: self-care; receptive and expressive language; learning; mobility; and self-direction. (Welf. & Inst. Code, § 4512, subd. (l)(1)(A)–(E).) A developmental disability shall not include handicapping conditions that are solely “psychiatric disorders” (subd. (c)(1)), “learning disorders” (subd. (c)(2)), or “physical in nature” (subd. (c)(3)).

6. "Any person believed to have a developmental disability . . . shall be eligible for initial intake and assessment services in the regional centers." (Welf. & Inst. Code, § 4642, subd. (a)(1).) "Initial intake shall be performed within 15 working days following request for assistance" and must include "a decision to provide assessment." (*Id.* at subd. (a)(2).) "Assessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs." (Welf. & Inst. Code, § 4643, subd. (a).)

7. In determining if a person qualifies for regional center services and supports, the regional center may consider evaluations and tests, including, but not limited to, intelligence tests, adaptive functioning tests, neurological and neuropsychological tests, diagnostic tests performed by a physician, psychiatric tests, and other tests or evaluations that have been performed by, and are available from, other sources. (Welf. & Inst. Code, § 4643, subd. (b).)

Conclusion

8. Based on the Factual Findings and Legal Conclusions as a whole, Claimant did not meet his burden of establishing by a preponderance of evidence that he is eligible for regional center services based on a developmental disability. Consequently, his appeal must be denied at this time.

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ORDER

Claimant's appeal from Alta California Regional Center's June 10, 2026 Notice of Action denying his application for regional center services is DENIED.

DATE: August 18, 2026

JENNEVEE H. DE GUZMAN

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.