Advocacy Guide for Non-Lawyers

Fifth Category Eligibility for Regional Center Services

For use by people with intellectual and developmental disabilities and their supporters to respond to regional center service denials



Prepared by: Jaewon Hwang Last Updated: 9/17/2026

Disclaimer: This document is general information, not legal advice. It is based in part on examples seen in a small set of California Office of Administrative Hearings (OAH) decisions. This guide is based on the law and the administrative hearing decisions interpreting the law at the time we write them. We try to update our materials; however, laws are regularly changing. If you want up-to-date information about the law, please visit Disability Rights California at www.disabilityrightsca.org or another legal source.

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1. Summary of topic

In California, Regional Centers provide services and supports to people with developmental disabilities under a law called the Lanterman Act. To get these services, a person must have a qualifying developmental disability. **The law lists five types:**

(1) intellectual disability

(2) cerebral palsy

(3) epilepsy

(4) autism

(5) a "Fifth Category", which covers conditions that are closely related to intellectual disability, or that require treatment similar to what people with intellectual disability need.

The Fifth Category matters because some people do not fit neatly into the other four categories but still need the same kind of help as people with intellectual disability. For example, a person may have serious thinking, learning and everyday-life problems even if their IQ score is a little above the usual cutoff. Understanding the basic rules can help people with intellectual and developmental disabilities and their supporters respond when a Regional Center says no.

2. What does the law say about this topic?

Basic Rule: ***To qualify under the Fifth Category, a person does not need an intellectual disability diagnosis. However, the person generally needs to show:***

a. The disability started before age 18.
b. The disability is expected to continue for a long time.
c. The disability is closely related to intellectual disability, or the person needs treatment similar to what people with intellectual disability usually need.
d. The disability is not only a mental health condition, only a learning disability, or only a physical disability. A person can still qualify if they have mental health, learning, or physical needs too, as long as there is also a qualifying developmental disability.
e. The disability causes serious limits in at least three major life areas. The seven major life areas are: (i) taking care of oneself, such as bathing, dressing, eating, or using the bathroom, (ii) understanding and using language, (iii) learning, (iv) moving around, (v) making safe decisions and directing one's own life, (vi) living independently, and (vii) working or supporting oneself financially.

In short, the Fifth Category is not about one diagnosis or one test score. It is about whether the person's disability started in childhood, is long-term, is similar to intellectual disability in important ways, and seriously affects everyday life.

For the exact legal language, see the Lanterman Act (Welfare and Institutions Code section 4512(a)) and California regulations (Title 17, California Code of Regulations, sections 54000 and 54001).

Key Court Takeaways:

Mason v. Office of Administrative Hearings (2001)

To qualify under the Fifth Category because a condition is "closely related" to intellectual disability, the condition must look very similar to intellectual disability. It is usually not enough to show a learning disability, ADHD, uneven cognitive skills, or mild limitations. The strongest cases show significant cognitive and adaptive limitations that resemble intellectual disability.

Samantha C. v. State Department of Developmental Services (2010)

A claimant can qualify under the Fifth Category in either of two ways: by showing a condition closely related to intellectual disability, or by showing a disabling condition that requires treatment similar to the treatment required by people with intellectual disability. Samantha C. took a broad view of "similar treatment," recognizing supports such as help with cooking, public transportation, money management, independent living skills, vocational training, specialized teaching, and supported employment.

Ronald F. v. Department of Developmental Services (2017)

Ronald F. criticized Samantha C. for treating broad regional center "services" as the same thing as "treatment." Ronald F. says it is not enough to show that a person would benefit from the kinds of services regional centers provide. The claimant must show a need for treatment similar to what people with intellectual disability require.

3. Common reasons for regional center denials in these cases

These are common reasons Regional Centers give when they deny Fifth Category eligibility:

- **"There is no proof your disability started before age 18."** The law requires that a developmental disability must have started before the person turned 18. Childhood records, school files, and early evaluations can be very important, especially for adults who apply later in life.
- **"Your condition is only a mental health condition or a learning disability."** A person usually does not qualify if the only condition is a mental health condition or a learning disability. But those diagnoses do not automatically block eligibility. The key question is whether the person also has a qualifying developmental disability that affects thinking, learning, communication, safety, self-care, or other everyday-life skills.
- **"Your IQ is too high."** Regional Centers may say that an IQ score above the intellectual disability range (generally above 70–75) means the person is not "closely related to" intellectual disability. In several cases we reviewed, Regional Centers pointed to average or borderline IQ scores to deny eligibility, even when the person had serious problems with everyday life skills.
- **"You do not have a 'substantial disability'. Your everyday functioning is not limited enough."** Even if a person has a qualifying diagnosis, the Regional Center

may deny services if it finds the person does not have serious limits in at least three major life areas. We saw this in cases where testing showed relatively mild functional limitations or where the person's daily skills were seen as too strong.

4. What kind of facts and evidence help people win their cases?

The strongest evidence usually shows two things: the disability started before age 18, and it seriously affects everyday life now.

1) School records and childhood evaluations. Individualized Education Programs (IEPs), psycho-educational assessments, speech and language evaluations, special education records, and old school files can show that learning and developmental problems began before age 18.

2) Social Security Findings. A Social Security Administration (SSA) decision or similar record may help if it explains the disability, the age when it began, and the person's daily limits.

3) Family or caregiver testimony about daily life. Detailed testimony from a parent, grandparent, or caregiver about what the person can and cannot do every day (e.g., help needed for hygiene, reminders, safety, transportation, money, school, or work) is powerful evidence.

Case Spotlight	A 28-year-old woman qualified after showing school records, an SSA finding of

Adult qualifies based on school records, SSA finding, and father's testimony about daily functioning (IRC, OAH No. 2024100101).	intellectual developmental disorder with onset at age 17, and her father's testimony about daily-life limits. The key takeaway is that old records and detailed family testimony can outweigh a later Regional Center assessment when they show childhood onset and serious daily-life limits.

4) **Standardized cognitive and adaptive behavior testing.** Testing is strongest when it shows both thinking and learning problems and serious limits in everyday skills.

Case Spotlight Child qualifies based on low nonverbal reasoning and serious everyday limitations (WRC, OAH No. 2024100287).	An 11-year-old girl qualified under the Fifth Category even though the Regional Center said her problems were mainly mental health and learning issues. The key facts were very low nonverbal reasoning, an IQ of 82, which was only 12 points above the intellectual disability cutoff, and serious limits in self-care, learning, self-direction, and independent living. The ALJ found this combination showed a condition closely related to intellectual disability with substantial disability.

5. What kinds of facts, evidence, or lack of facts and evidence cause people to lose their cases?

In the hearing decisions we reviewed, people often lost for these reasons:

1) **No childhood records or developmental evidence:** It is much harder to win without records or testimony showing the disability began before age 18.

Case Spotlight

Adult denied because he had no school records, IEPs, or developmental evaluations from childhood (IRC, OAH No. 2025020866).

A 49-year-old man had many adult medical and mental health records, including neuropsychological evaluations and letters from treating providers, but no childhood school records, IEPs, or developmental evaluations before age 18. Although he reported that he had been diagnosed with ADHD and received mental health treatment as a child, and his mother helped him with meals and transportation, there was no other testimony about childhood developmental problems. The ALJ denied eligibility because the record did not show a qualifying developmental disability that started during the developmental period.

2) **Cognitive testing shows average or near-average scores**: If testing shows average or near-average cognitive functioning, it may be difficult to prove that the person's condition is closely related to intellectual disability. In those cases, families may need strong adaptive behavior evidence and specific examples of serious daily-life limitations.

Case Spotlight

Child with serious trauma history denied because cognitive testing showed average functioning (SDRC, OAH No. 2025040654).

A 6-year-old girl had a serious trauma history, including prenatal drug exposure and physical abuse. Although her adoptive mother described significant behavioral problems, the Regional Center's psychological evaluation showed cognitive functioning in the average range. The ALJ found that trauma and behavioral concerns alone were not enough without evidence of a qualifying cognitive or developmental disability. The case was denied under every category, including the Fifth Category.

3) **Problems attributed mainly to mental health conditions or learning disabilities**: If the evidence shows the limits come only from a learning disability, schizophrenia, PTSD, anxiety, ADHD, trauma, or another psychiatric condition, the person may not meet the Fifth Category.

Case Spotlight

Child in foster care denied because ALJ found his challenges were psychiatric and trauma-related, not developmental (NLACRC, OAH No. 2025030177).

A 12-year-old boy in foster care had ADHD, anxiety, and serious social and emotional difficulties. His foster mother described problems with peer interactions, emotional regulation, and daily behavior. But standardized testing ruled out autism and intellectual disability, and his cognitive function was in the low average range. The ALJ found that his primary challenges were psychiatric and trauma-related, not a qualifying developmental disability. The case was denied.

4) Relying on a school label without Lanterman Act-level testing. A school's autism or disability classification is helpful background, but it may not prove Regional Center eligibility by itself.

Case Spotlight:

Child with school-based autism classification denied because standardized testing did not confirm autism under the Lanterman Act (NLACRC, OAH No. 2024040589).

A 5-year-old boy had a school-based autism classification and received special education services including speech therapy. But when the Regional Center conducted its own standardized autism assessments (ADOS and ADI-R), the results did not support an autism diagnosis under the Lanterman Act. The ALJ also found that his speech and language delays alone did not show treatment needs comparable to intellectual disability. The case was denied.

5) No expert witnesses or weak evidence presentation. If the Regional Center has an expert and the family has no strong records, witnesses, or evaluation to respond, the judge may rely on the Regional Center's evidence.

Case Spotlight: Claimant denied after she did not attend the hearing or present any witnesses to respond to the Regional Center's psychologist (NBRC, OAH No. 2025020737).	A 38-year-old woman had borderline intellectual functioning and a history of special education. But she did not attend the hearing, did not testify, and did not bring any witnesses. The Regional Center presented a staff psychologist who explained why her records did not support eligibility. With no one to respond to the Regional Center's expert, the ALJ credited the psychologist's unrebutted testimony and denied eligibility.

6. Pulling it all together: Common denials and how to respond

Use this chart to match a common denial with a short response and the evidence that may help.

Example of why a regional center may say you are not eligible for services	Example of an argument you could make in response to the regional center's denial	Example of facts, witnesses, or records you could use to support your argument about why you are eligible for services

"There is no proof your disability started before age 18"	Focus on childhood evidence. Records from school, doctors, SSA, or family can show that the disability began before age 18.	IEPs; psycho-educational assessments; school files; SSA decision; family testimony about childhood and daily functioning
"Your IQ is too high."	A person does not need an intellectual disability diagnosis. Very low reasoning scores plus serious daily-life limits can show the condition is closely related to intellectual disability.	Cognitive testing; adaptive behavior testing; caregiver examples about self-care, learning, self-direction, and independent living.
"Your condition is only a mental health condition and a learning disability."	A mental health condition or a learning disability do not automatically block eligibility. But you must show a developmental disability also exists and is not only psychiatric or only a learning disability.	Childhood records; early evaluations; family testimony; independent expert review explaining developmental origin and daily-life limits.
"You do not have a substantial disability."	A diagnosis or school label is not enough. Show serious limits in at least three major life areas.	Adaptive behavior testing; daily examples from caregivers; teacher or therapist observations; records showing limits in communication, learning, self-care, self-direction, or independent living.

Appendix 1

List of OAH Decisions Reviewed and Analyzed about Fifth Category Eligibility for Regional Center Services

1. ***WRC, OAH No. 2024100287:*** Whether an 11-year-old child qualified under the Fifth Category even though she did not have an intellectual disability diagnosis and also had mental health and learning-related concerns. Granted. The ALJ found the child eligible because her low nonverbal reasoning, daily-life limitations, and need for support showed a condition closely related to intellectual disability.

2. IRC, OAH No. 2023070285: Whether a 27-year-old claimant with schizophrenia, learning disabilities, and speech/language impairments qualified under IDD or the Fifth Category. Denied. The ALJ found no qualifying developmental disability before age 18 and treated the claimant's main limitations as caused by schizophrenia and other non-qualifying conditions.

3. IRC, OAH No. 2024100101: Whether a 28-year-old claimant qualified based on intellectual developmental disorder or the Fifth Category, using school records, Social Security findings, and family testimony. Granted. The ALJ found the claimant eligible based on evidence of IDD before age 18 and significant limits in learning, communication, self-direction, independent living, and economic self-sufficiency.

4. IRC, OAH No. 2025020866: Whether a 49-year-old claimant qualified under several categories, including the Fifth Category, where most records were adult medical and mental health records. Denied. The ALJ found insufficient evidence of a qualifying developmental disability before age 18 and found that the claimant's difficulties were mainly tied to psychiatric conditions.

5. NBRC, OAH No. 2025020737: Whether a 38-year-old claimant qualified based on intellectual disability or the Fifth Category, where the evidence included school records, competency evaluations, and psychiatric history. The claimant did not attend the hearing or present witnesses. Denied. The ALJ credited the regional center's expert's unrebutted testimony and found that the claimant did not prove intellectual disability or a Fifth Category condition that began before age 18.

6. NLACRC, OAH No. 2024040589: Whether a 5-year-old child qualified based on autism or the Fifth Category, where the child had a school-based autism classification and speech/language delays. Denied. The ALJ found that standardized autism testing did not support Lanterman Act autism eligibility and that the child's functioning did not show needs comparable to intellectual disability.

7. NLACRC, OAH No. 2025030177: Whether a 12-year-old foster child with ADHD, anxiety, trauma history, and behavioral concerns qualified under autism, intellectual disability, or the Fifth Category. Denied. The ALJ found that testing did not support autism or intellectual disability and

that the child's primary challenges were psychiatric or behavioral, not a qualifying developmental disability.

8. SDRC, OAH No. 2025040654: Whether a 6-year-old child with trauma history and behavioral concerns qualified under autism, intellectual disability, epilepsy, cerebral palsy, or the Fifth Category. Denied. The ALJ found that the child did not have a qualifying diagnosis and that trauma-related difficulties alone did not qualify for regional center eligibility.

9. TCRC, OAH No. 2024060720: Whether the regional center had to fund formula and probiotics for a 3-year-old child already eligible under the Fifth Category. Granted in part and denied in part. The ALJ ordered funding for medically necessary formula related to the child's developmental disability, but denied probiotics because the record did not show clinical necessity.

10. GGRC, OAH No. 2024090243: Whether a nearly 4-year-old child with autism qualified for ongoing or provisional regional center eligibility after Early Start services. Denied. The ALJ found that the child had autism but did not currently have significant functional limitation in enough major life areas to qualify.

11. Mason v. Office of Administrative Hearings (2001): To qualify under the Fifth Category because a condition is "closely related" to intellectual disability, the condition must look very similar to intellectual disability. It is usually not enough to show a learning disability, ADHD, uneven cognitive skills, or mild limitations. The strongest cases show significant cognitive and adaptive limitations that resemble intellectual disability.

12. Samantha C. v. State Department of Developmental Services (2010): A claimant can qualify under the Fifth Category in either of two ways: by showing a condition closely related to intellectual disability, or by showing a disabling condition that requires treatment similar to the treatment required by people with intellectual disability. Samantha C. took a broad view of "similar treatment," recognizing supports such as help with cooking, public transportation, money management, independent living skills, vocational training, specialized teaching, and supported employment.

13. Ronald F. v. Department of Developmental Services (2017): Ronald F. criticized Samantha C. for treating broad regional center "services" as the same thing as "treatment." Ronald F. says it is not enough to show that a person would benefit from the kinds of services regional centers provide. The claimant must show a need for treatment similar to what people with intellectual disability require.

Appendix 2: Glossary of Common Terms

Term	Definition
Adaptive Behavior/Adaptive Functioning	A person's everyday life skills, including how well they communicate, take care of themselves, manage daily tasks, interact socially, and live independently. Tools like the Vineland Adaptive Behavior Scales and the ABAS measure these skills.
ALJ (Administrative Law Judge)	The judge who conducts hearings at the Office of Administrative Hearings and decides whether a person qualifies for Regional Center services
ARCA Guidelines	Guidelines created by the Association of Regional Center Agencies to help determine Fifth Category eligibility. They are helpful but are not law and do not get special legal weight.
Developmental Disability	Under the Lanterman Act, a disability that (1) started before age 18, (2) is expected to continue indefinitely, and (3) causes a substantial disability. It includes intellectual disability, cerebral palsy, epilepsy, autism, and Fifth Category conditions.
DSM-5 / DSM-5-TR	The Diagnostic and Statistical Manual of Mental Disorders, the standard reference book that defines mental health and developmental conditions. Regional Centers and judges rely on it when deciding eligibility. The current version is the DSM-5-TR.
Fifth Category	The fifth type of qualifying developmental disability under the Lanterman Act. It includes conditions that are "closely related to" intellectual disability or that "require treatment similar to" what people with intellectual disability need. It does not include conditions that are only physical.
IEP (Individualized Education Program)	A plan created by a school for a child with disabilities that describes the special education services the child will receive. IEPs and school records from childhood are often important evidence in Fifth Category cases.

Intellectual Disability (IDD)	A condition involving limits in both thinking abilities (cognitive functioning) and everyday life skills (adaptive behavior) that begins during the developmental period (before age 18). Previously called "mental retardation." Under the DSM-5, it is called Intellectual Developmental Disorder.
IQ (Intelligence Quotient)	A score from a standardized test that measures a person's thinking and reasoning abilities. An IQ of about 70 or below generally suggests intellectual disability. Scores of 71–75 may qualify if there are also significant adaptive behavior deficits.
Lanterman Act	California's main law (Welfare and Institutions Code sections 4500–4846) that gives people with developmental disabilities the right to services and supports through Regional Centers. It lists the five types of qualifying developmental disabilities.
OAH (Office of Administrative Hearings)	The state agency where hearing cases about Regional Center eligibility disputes are decided. An Administrative Law Judge (ALJ) hears evidence and makes a decision. OAH decisions are not binding on other cases but provide helpful examples of how the law is applied.
Preponderance of the Evidence	The legal standard used in Regional Center hearings. It means that the person seeking services must show that it is "more likely than not" that they qualify. In other words, the evidence must tip more in their favor than against.
Self Determination Program (SDP)	An initiative put in place in the State of California that creates more flexibility for social recreation activities by giving claimants a set amount of funding and allowing them to switch out activities as needed.
Substantial Disability	A legal requirement meaning the person has serious limits in at least three major life areas (communication, learning, self-care, mobility, self-direction, capacity for independent living, economic self-sufficiency) and needs coordinated help from multiple professionals.

Vineland Adaptive Behavior Scales	A widely used tool that measures a person's everyday life skills in areas like communication, daily living, socialization, and motor skills. Low Vineland scores help show that a person's adaptive functioning is similar to that of someone with intellectual disability.

Appendix 3:

List of resources that can help me prepare for IPP meetings and disagreements with regional centers

1. Rights Under the Lanterman Act: This Manual is published by Disability Rights California. It has one purpose: to help you understand some of your rights as a person with developmental disabilities in California. The Manual focuses on your rights to supports and services under the Lanterman Act — your rights with the regional center and service providers. It will not answer every question you may have, but it is a place to start.

2. Search Tools to find hearing decisions about regional center cases
    a. Stanford Intellectual and Developmental Disabilities Law and Policy Project Smart Search Tool
    b. Office of Administrative Hearings Website

3. Regional Center Services and IPP Toolkit: This Toolkit is published by Disability Rights California and explains how you can prepare for your IPP meetings with your regional center.

4. Regional Center Hearings and Appeals Toolkit: This Toolkit is published by Disability Rights California and has additional information about how you can prepare for hearings when you disagree with a decision your regional center has made about your services.