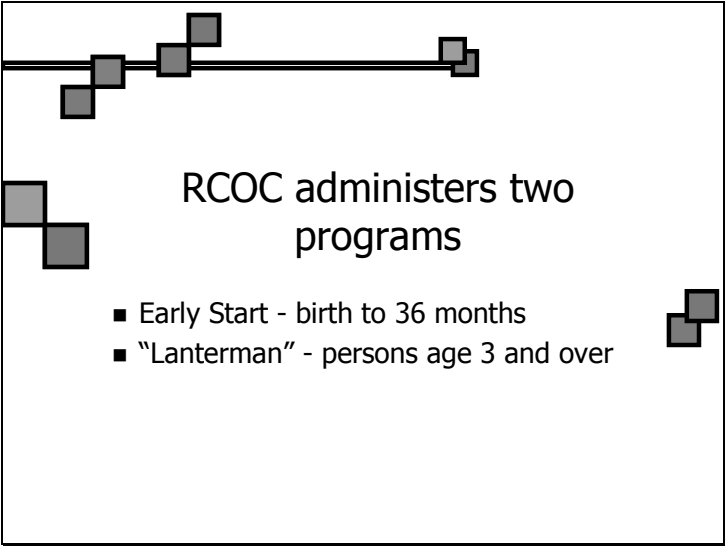


The following slides were prepared for a presentation given to the Saddleback AS/HFA Parent Support Group on May 14, 2007. Dr. Pontius is a staff psychologist for the Regional Center of Orange County. Much of his responsibility with RCOC deals directly with eligibility determination. Dr. Pontius is an expert in eligibility determination; however he is not an officer of the Regional Center of Orange County. That said, the content of this presentation is not intended to be used as a statement of policy for RCOC. Also, while the information contained here is intended to be beneficial in aiding the reader in understanding the eligibility process, the slides were prepared to accompany the lecture which is not part of this package. Dr. Pontius is willing to answer any questions that you may have concerning the eligibility process and is available at the Regional Center during regular business hours.

A decorative graphic consisting of a solid horizontal line near the top of the slide. Several small, dark gray squares are scattered around the line, some overlapping it and others floating nearby, in a non-uniform pattern across the top and sides of the slide area.

**RCOC administers two programs**

- Early Start - birth to 36 months
- "Lanterman" - persons age 3 and over

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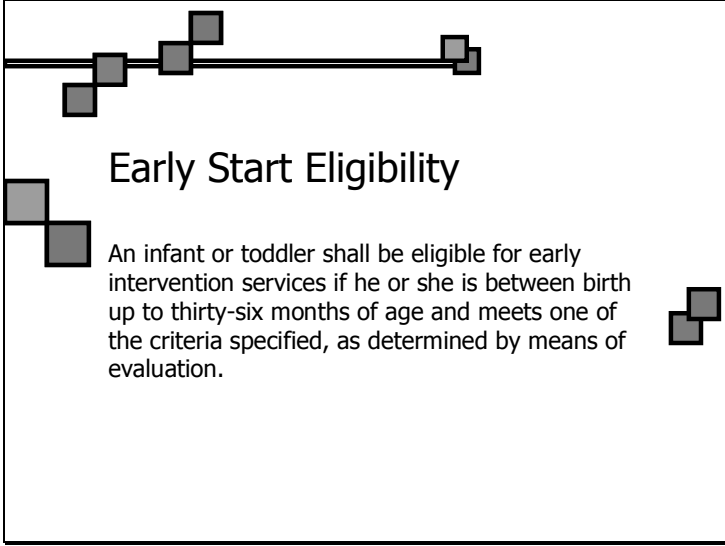
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### Early Start Eligibility

An infant or toddler shall be eligible for early intervention services if he or she is between birth up to thirty-six months of age and meets one of the criteria specified, as determined by means of evaluation.

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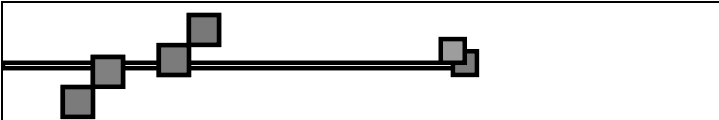
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Slide 4



1 Developmental Delay  
 2 Established Risk  
 3 High Risk for Developmental Disability

A developmental delay shall not be determined based on:

- 1 Temporary physical disability
- 2 Cultural or economic factors
- 3 The normal process of second language acquisition; or
- 4 Manifestation of dialect and sociolinguistic variance.




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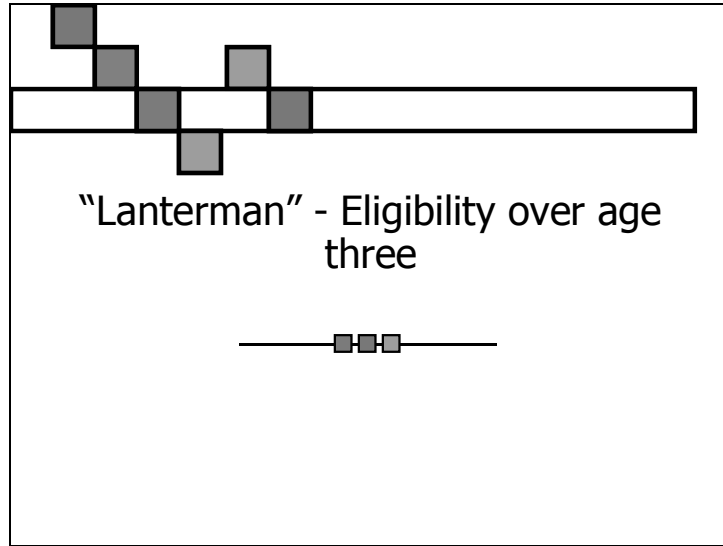
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Slide 5



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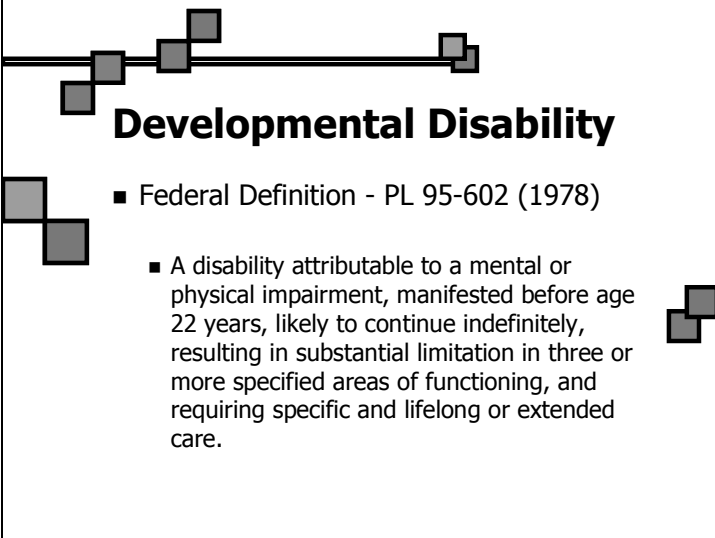
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## Developmental Disability

- Federal Definition - PL 95-602 (1978)
  - A disability attributable to a mental or physical impairment, manifested before age 22 years, likely to continue indefinitely, resulting in substantial limitation in three or more specified areas of functioning, and requiring specific and lifelong or extended care.

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## **Developmental Disability**

- **Lanterman Act (W&IC) & Title 17 (CCR) Definition**
  - A disability that is attributable to mental retardation, 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



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**Lanterman Act (W&IC) &  
Title 17 (CCR)**

- **The Developmental disability shall:**
  - Originate before age eighteen;
  - Be likely to continue indefinitely;
  - Constitute a substantial disability for the individual;
  
- **Developmental Disability shall not include handicapping conditions that are:**
  - Solely psychiatric disorders
  - Solely learning disabilities
  - Solely physical in nature

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**What about other PDDs?**

- They are NOT categorically eligible, but per DDS policy:
  - These conditions are potentially eligible under the 5th Category if they meet the criteria for substantial disability in three areas of major life functioning.

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**So ... Autism Is Not ...**

- Autistic-like behaviors (educational criteria for autism; CCR Title 5 - Section 3030g)
- Autism Spectrum Disorder
- Asperger's Disorder
- Pervasive Developmental Disorder-Not Otherwise Specified (PDD-NOS)



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
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**■ Diagnostic criteria for Asperger's Disorder**



1. Qualitative impairment in social interaction, as manifested by at least two of the following:
  - a) marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction
  - b) failure to develop peer relationships appropriate to developmental level
  - c) a lack of spontaneous seeking to share enjoyment, interests, or achievement with other people
  - d) lack of social or emotional reciprocity



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**Diagnostic criteria for Asperger's Disorder** (continued)

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one of the following:
  - a) encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus
  - b) apparently inflexible adherence to specific, nonfunctional routines or rituals
  - c) stereotyped and repetitive motor mannerisms
  - d) persistent preoccupation with parts of objects



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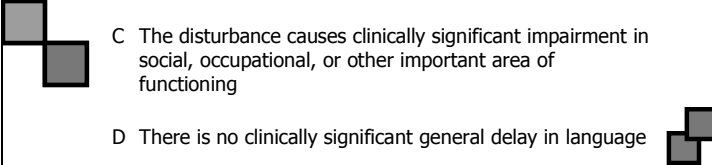
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**Diagnostic criteria for Asperger's Disorder** (continued)

- C The disturbance causes clinically significant impairment in social, occupational, or other important area of functioning
- D There is no clinically significant general delay in language
- E There is no clinically significant delay in cognitive development or in the development of age-appropriate self-help skills, adaptive behavior, and curiosity about the environment in childhood
- F Criteria are not met for another specific Pervasive Developmental Disorder or Schizophrenia



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**Pervasive Developmental Disorder -  
Not Otherwise Specified**

- Severe and pervasive impairment in the development of reciprocal social interaction associated with impairment in either verbal or nonverbal communication skills or with the presence of stereotyped behavior, interests, and activities, but *the criteria are not met for a specific Pervasive Developmental Disorder, Schizophrenia, Schizotypal Personality Disorder, or Avoidant Personality Disorder*
- *For example, this category includes "atypical autism" - presentations that do not meet the criteria for Autistic Disorder because of late age onset, atypical symptomatology, or subthreshold symptomatology, or all of these*

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## Who Diagnoses Autism?

- Licensed Physicians
  
- Licensed Psychologists
  - per ARCA Psychologist Group; 5/11/01
  - DDS Best Practices Guidelines (2002)



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

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## Assessment for Eligibility

- 
- 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 serving the potential client
    - The group shall include as a minimum a program coordinator, a physician, and a psychologist
  - 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
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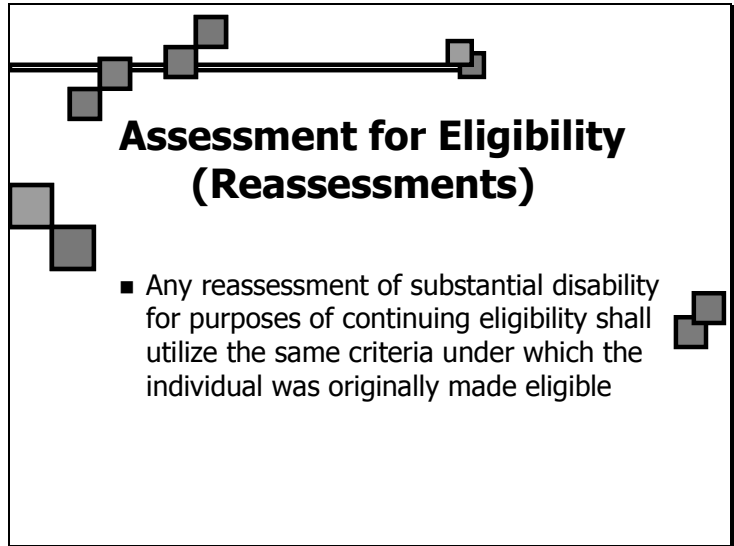
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**Assessment for Eligibility  
(Reassessments)**

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

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### **Substantial Disability**

- 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
- The existence of significant functional limitations, as determined by the regional center, in **three (3)** or more of the following areas of major life activity, as appropriate to the person's age:
  - Learning;
  - Receptive and Expressive Language;
  - Self-care;
  - Mobility;
  - Self-direction;
  - Capacity for independent living;
  - Economic self-sufficiency

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### The 7 Areas of Functioning

Area	Age		
	Birth to 5	6 to 18	Over 18
Learning	X	X	X
Receptive & Expressive Language	X	X	X
Mobility	X	X	X
Self-Care	X	X	X
Self-Direction	X	X	X
Independent Living		X	X
Economic Self-sufficiency			X

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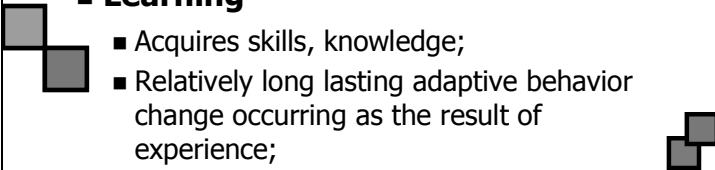
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**■ The 7 Areas of Functioning - 1**

**■ Learning**

- Acquires skills, knowledge;
- Relatively long lasting adaptive behavior change occurring as the result of experience;
- Aspects include general cognitive functioning, retention, and academic achievement



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**The 7 Areas of Functioning - 2**

**■ Receptive/Expressive Language**

- Comprehends and expresses information through
  - ❖ symbolic behaviors
    - e.g., spoken word, written word/orthography, graphic symbols, sign language, manually coded English
  - ❖ non-symbolic behaviors
    - e.g., facial expression, body movement; touch, gesture;
- Understands a request, emotion, greeting, comment, protest, rejection

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## The 7 Areas of Functioning - 4

- **Self-care**
  - Skills involved in
    - ❖ Toileting,
    - ❖ Eating,
    - ❖ Dressing,
    - ❖ Hygiene and
    - ❖ Grooming



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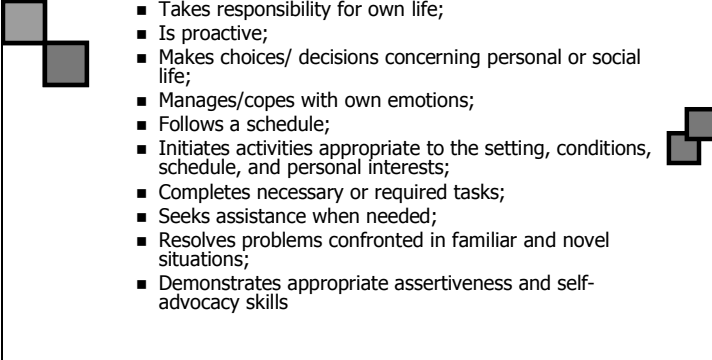
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## The 7 Areas of Functioning - 5

### ■ Self-direction

- Takes responsibility for own life;
- Is proactive;
- Makes choices/ decisions concerning personal or social life;
- Manages/ copes with own emotions;
- Follows a schedule;
- Initiates activities appropriate to the setting, conditions, schedule, and personal interests;
- Completes necessary or required tasks;
- Seeks assistance when needed;
- Resolves problems confronted in familiar and novel situations;
- Demonstrates appropriate assertiveness and self-advocacy skills



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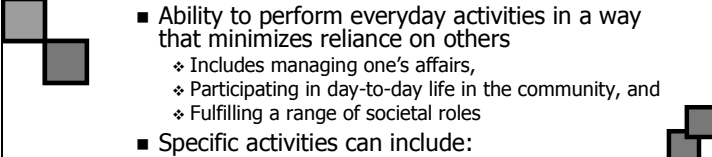
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**The 7 Areas of Functioning - 6**

- **Capacity for Independent Living**
  - Ability to perform everyday activities in a way that minimizes reliance on others
    - ✦ Includes managing one’s affairs,
    - ✦ Participating in day-to-day life in the community, and
    - ✦ Fulfilling a range of societal roles
  - Specific activities can include:
    - ✦ Getting around in the community,
    - ✦ Using community resources,
    - ✦ Transacting with commercial establishments,
    - ✦ Maintaining living space,
    - ✦ Following safe practices,
    - ✦ Caring for one’s health, and
    - ✦ Preparing meals



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**The 7 Areas of Functioning - 7**

**Economic Self-sufficiency**

- Obtains employment and functions effectively in a job environment
- Earns a wage that, net after expenses related to the disability, permits one to live independently of financial support from family or social services
- This includes:
  - ❖ Obtaining relevant job training,
  - ❖ Identifying potential jobs,
  - ❖ Interviewing effectively,
  - ❖ Negotiating the hiring process,
  - ❖ Performing job responsibilities satisfactorily,
  - ❖ Managing work schedule effectively,
  - ❖ Communicating well with co-workers, and
  - ❖ Maintaining good relationships with management

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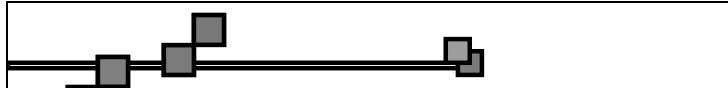
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How is "substantial disability" determined in these areas?

- The eligibility team uses a combination of
  - Clinical information - (observations and descriptions of functioning)
  - Psychometric information - appropriate standardized tests measuring the domains involved. (Per AAMR guidelines, the standard of the 2nd percentile is used as a cutoff)



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## **Implications for Eligibility**

- Defines more precisely who has/does not have a developmental disability
- Objectifies the process and enhances fairness
- Provides framework for organizing information about an applicant's functioning
  - e.g., how to deal with sensory functioning, executive functioning, relationship development, fine motor deficits
- Establishes basis for exit criteria



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### Implications for Services

- Provides easily communicable, objective basis for funding decisions
- Requires services to address adaptive functioning directly
- Allows ongoing monitoring of progress and appropriate adjustments in service types and levels
- Directs providers to clearly defined areas of functioning and away from more esoteric processes, unless these can be shown to have direct relevance to progress in a service qualifying area

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**Implications for Quality Assurance**

- Emphasizes outcomes
- Provides basis for funding tied to consumer growth in adaptive skills



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Issues involved - FAQ's

- Other RC's accept persons with AS, shouldn't RCOC?
  - *Each of California's 21 Regional Centers are independent agencies, individually applying the eligibility criteria set up in the law. The Department of Developmental Services establishes policies and the Association of Regional Center Agencies meet regularly to discuss issues so as to move toward consistency between agencies, however each RC is autonomous in how they apply the law.*



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One Southern California RC MD wrote in an email to other docs,  
*"I would like to know what everyone is currently doing regarding ASD eligibility criteria specifically for kids (and adults) with Asperger's and PDD. Is the general consensus still 3 areas of substantial handicap with an eligible diagnosis of "5th category?" At "%RC" I've advocated for this approach and encountered a good deal of resistance. As you all know it's often difficult to define 3 (and often even 2) areas of substantial handicap in individuals with Asperger's or "high functioning ASD/PDD" However at "%RC" the other members of the eligibility group have increasingly advocated for eligibility in these cases if the individual is substantially handicapped by their PDD or Asperger's even if the individual has substantial handicaps in only 1 or 2 areas (usually socialization/self direction and maybe language)."*

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ALJ's are not consistent in their rulings concerning eligibility.

*"Under the statute, the only potentially eligible condition applicable to Claimant is autism. The language of the statute does not address autism spectrum disorders or Asperger's disorder - it is specifically limited to autism."*

K.P v. Harbor Regional Center - 7/3/03  
David B. Rosenman, Administrative Law Judge



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*"Autism' under the Lanterman Act is not strictly limited to the DSM-IV-TR diagnosis of Autistic Disorder, but encompasses all disorders along the autism spectrum; however, in order to qualify for regional center services, it must be established that the individual's "autism" constitutes a substantial disability."*

M.K. v. San Diego Regional Center - 10/7/04  
James Ahler, Administrative Law Judge

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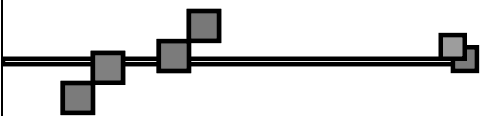
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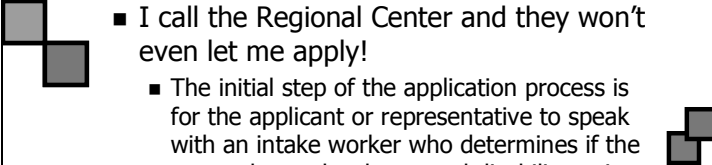
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Issues involved - FAQ's (continued)

- I call the Regional Center and they won't even let me apply!
  - The initial step of the application process is for the applicant or representative to speak with an intake worker who determines if the person has a developmental disability or is likely to have one. They are trained to make these initial screenings, and they will refuse to accept applications from those without a suspicion of having a developmental disability.



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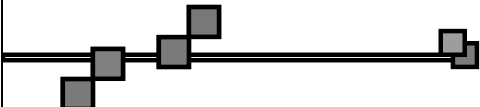
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Issues involved - FAQ's (continued)

- My child qualifies for the school district, why not the regional center?
  - Different agencies have different criteria for services. Even persons qualifying for IEP services under "Autism" and "Mental Retardation", don't automatically meet the eligibility criteria for the regional center. Each individual is assessed according to the current criteria for eligibility when they apply.



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Issues involved - FAQ's (continued)

- I went to a very prominent doctor, and he said that my child qualifies for RC, how can they say no?
  - The Lanterman Act places the responsibility for determining eligibility on the regional centers. They must consult professionals in the community who have done assessments, however it is not up to an outside professional to determine eligibility.



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Issues involved - FAQ's (continued)

- My child will soon turn three, he's doing great with his ES services and I don't want them to end? Can RCOC just cut them off?
  - Early Start services end at age 3. Its not that services are cut off, its that they are over. The school district picks up most of the services beginning at age three. An assessment for "Lanterman" services takes place shortly before the 3<sup>rd</sup> birthday. If found eligible, RCOC services will continue under the "Lanterman" program beginning on the 3<sup>rd</sup> birthday. Regardless of eligibility, Early Start ends the day before the 3<sup>rd</sup> birthday.

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Other Questions?

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I don't like it, how do I go about changing it?  
(these ideas are Dr. Pontius' alone)

- Attend/participate in RCOC's monthly board meetings - 5pm to 8pm on the first Thursday of the month in Santa Ana.
- Familiarize yourself with all applicable laws, policies, etc.
- Familiarize yourself with applicable "best practices" guidelines
- Go through the fair hearing process if you don't agree with the decision of ineligibility of your child. *Note that fair hearing decisions are not precedent setting.*
- Contact Area Board XI of the State Council on Developmental Disabilities.
- Contact Protection & Advocacy CRA (714) 621-0563
- Contact your state assemblyperson / senator to introduce legislation for change.

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