

with
EXERPTS FROM:

Rights Under the LANTERMAN ACT (RULA)

FASD

What you need
to know when
applying for
Regional Center
Services

5th Category Eligibility

- You have a condition “closely related” to intellectual disability, **OR**
- You require treatment “similar to” treatment for intellectual disability.

RIGHTS UNDER THE LANTERMAN ACT (RULA)

KNOW THE LANTERMAN ACT:

Law in California that defines who has a developmental disability with eligibility for the Regional Center

There are 4 named developmental disabilities for Regional Center eligibility (FASD is not one of the named conditions)

- Autism
- Cerebral Palsy
- Epilepsy
- Intellectual Deficit (ID)

Having one of the above 4 named conditions does not automatically mean you are eligible for the Regional Center. The Disability must:

- Begin before age 18
- Expected to continue indefinitely
- Not be solely psychiatric, learning disability or physical in nature

There must be a substantial disability in 3 out of the 7 areas listed below:

- Self-care
- Receptive and expressive language
- Learning
- Mobility
- Self-Direction
- Independent living skills
- Economic self sufficiency

The 5th Category is another way one can qualify for the Regional Center:

Having a disability

- closely related to Intellectual Disability (ID)
- that requires similar treatment to an individual with ID

Notice the 5th Category does not mention IQ or list an IQ number.

Families/ individuals with FASD have been turned away for not having ID or one of the 4 named conditions - without consideration of the 5th Category. FASD falls squarely into the wording of the 5th category and can absolutely be found eligible.

DIAGNOSES AND CRITERIA

Diagnosis ND-PAE DSM 5: 315.8 (ND: Neurodevelopmental Disability Associated with Prenatal Alcohol Exposure)

The above code can be used for individuals who shows physical characteristics of Fetal Alcohol Syndrome and for people who are affected by FASD but without the characteristics of the syndrome.

Criteria:

1. History of more than minimal prenatal alcohol exposure (PAE)
2. Further criteria: Impairment in 3 critical areas:
 - Impaired neurocognitive functioning by more than one of the following: Global intellectual functioning, executive functioning, learning, memory, and visual-spatial skills
 - Impaired self-regulation in one or more of the following: mood/behavior regulation, attention deficit, impulse control
 - Impaired adaptive functioning by 2 or more of the following (must include one of the first 2 items): communication, social communication, daily living skills or motor skills in young children

Diagnosis Alcohol Related Neurodevelopmental Disability (ARND): Often a medical diagnosis

Criteria:

1. Confirmed prenatal alcohol exposure
2. Facial malformations and growth deficits not present
3. Neurocognitive deficits: Examples: memory, learning, executive function
4. Self-regulation impairments
5. Deficits in adaptive functioning

Diagnosis Fetal Alcohol Syndrome (FAS)

Criteria:

1. Presence of 3 cardinal facial features
2. Prenatal or postnatal growth retardation
3. Small head circumference/ Other evidence of abnormal brain development
4. Developmental, learning, behavior difficulties
5. Confirmation of PAE not required

PFAS: Some but not all of the 3 cardinal facial features of FAS. Requires confirmation of PAE

5th Category Eligibility

You have a condition “closely related” to intellectual disability, OR
You require treatment “similar to” treatment for intellectual disability.

(2.13) What does it mean to have a condition closely related to intellectual disability?

The main parts of intellectual disability are problems with mental functioning and adaptive behavior. If you apply for a regional center under this category, you must show you have problems in both of these areas. You must know the features of intellectual disability. You must show the regional center or a judge which features you have. You must also show these features are caused by your mental impairments and not by something else like physical, learning, or psychiatric disabilities. Because of their mental impairments, people with intellectual disability generally have problems:

- learning academic skills like reading, writing, math, time, and money
- planning, strategizing, setting priorities, and adjusting to things that change
- remembering things
- understanding social cues
- communication (including nonverbal communication), carrying on a two-way conversation, and language
- controlling emotions and behaviors as well as other people their age
- appreciating risks in social situations, exercising good social judgment, and avoiding manipulation by others
- independently shopping for food, getting around in the community, organizing the home, eating healthy food, managing money, making health care and legal decisions, and using leisure time well
- working competitive jobs and having good work skills.[1]

Supplement E: Cognitive Disabilities

- Abstract reasoning
- Poor judgment
- Memory
- Learning unless tasks are broken down into smaller parts and taught in steps
- Short and/or long-term planning
- Solving problems
- Managing money or a budget
- Using public transportation alone
- Logical analysis
- Concentration
- Transferring skills used in one context to another context
- Developmental milestones like sitting up, crawling, walking, talking, toilet training
- Passivity, for example they may not say what they want or feel
- Insight, like understanding why they and others behave the way they do.
- Perception
- Controlling your own behavior
- Being easily manipulated by others
- Adapting to new situations
- Speaking and listening (called expressive and receptive language)
- Fine and gross motor control and movement
- Living in the community independently
- Daily tasks at home
- Remembering on their own about keeping appointments, following a schedule, taking medication
- Learning from experiences
- Being self-sufficient, for example finding a job or learning job skills
- Needing a structured and predictable environment
- Organizing, planning, or prioritizing tasks or activities
- Social skills and behaviors
- Leisure activities
- Personal hygiene
- Telling time
- Health and safety, for example - running into traffic or getting burned when cooking
- Lower cognitive function[1]
- Lower adaptive function[2]

5th Category Eligibility

You have a condition “closely related” to intellectual disability, OR
You require treatment “similar to” treatment for intellectual disability.

(2.14) What does it mean to require treatment similar to that required by people with an intellectual disability?

To read cases involved and more on this subject, please see this RULA section online at <https://rula.disabilityrightsca.org>.

The ARCA Guidelines provide information on treatments required by people with intellectual disability. But, like Ronald F., they provide more information on what these treatment needs are not than on what they are. The ARCA Guidelines say these are not treatments to increase motivation or address deficits caused by socio-cultural deprivation. They are not short-term remedial training. They are not rehabilitative (unless the skills are lost and trying to be regained before age 18).

The ARCA Guidelines do say the treatments required by persons with intellectual disability are habilitative. The goal of habilitation is to help people with disabilities gain, improve, and keep skills used in daily living. The ARCA Guidelines say a few things could be treatment required by persons with intellectual disability. One is treatment to address skills deficits caused by intellectual limitations. Another is long-term training with steps broken down into small pieces taught through repetition. Another is educational supports for children who need supports with modifications across many skill areas.

Supplement F: Services and Supports for People with Cognitive Disabilities

The state law says “intellectual disability,” but we use “cognitive disability” here, to include similar conditions. See Supplement E for a list of common characteristics of people with similar conditions. You are not automatically eligible just because you need some or all of the services on this list.

People with cognitive disabilities often need these services and supports:

- Infant stimulation
- Counseling and emotional support for parents
- Child development training for parents
- Early intervention services
- Sensory stimulation
- Physical, occupational, or speech therapy (for cognitive disability)
- Training in self-help skills, such as feeding, cooking, cleaning, dressing, using the bathroom, personal hygiene, money management, using public transportation
- Training in social skills, such as how to make friends and schedule leisure activities
- Respite care
- Coordinating and managing services
- Advocacy services and training in self-advocacy
- Family counseling
- Information and referral, such as to medical, behavior, or parenting skills specialists
- Social and legal services, such as protection, advocacy, and representation
- Vocational training and paid work opportunities
- Help finding a place to live
- Public benefits like SSI, other Social Security benefits, and Medi-Cal
- Help learning a task by breaking it into smaller parts, and teaching each part, step-by-step
- Behavioral training and behavior modification programs
- Services and supports to help integrate into the community
- Emergency and crisis intervention services Parenting skills for people with disabilities who have children

(2.16) What information should I give my regional center if I apply under the fifth category?

No matter what category you apply under, turn in **every** document that shows your diagnosis or condition, how severe it is, how it affects your functioning, and what treatment you need because of it. Documents may include:

- Psychological evaluations that show your condition and diagnosis
- Results of adaptive skills (daily living skills) testing
- Medical records, school records, your work history, Social Security records, and other documents that show your diagnosis
- Other documents that describe you and your skills, like your work or learning skills, or the way you do things at home
- Letters from family members and neighbors that describe you.

School records can help if the school district has done its own psychological evaluations. Individual Education Programs (IEPs) show your disability-related school needs. Remember that school evaluations may not be as detailed as other psychological evaluations. Schools use different standards to determine needs. They test for certain reasons besides getting a diagnosis. Schools may not use the same tests as an independent psychologist who is trying to find your overall diagnosis or condition.

The regional center may ask you to sign releases so they can gather your records from other agencies. Sign them, but we recommend you collect documents and give copies of useful information to the regional center. Do not depend on the regional center to gather these documents for you.

Additionally, printing these pages and highlighting your loved one's particular difficulties and needs may help the discussion and move the process forward.

DISABILITY RIGHTS CALIFORNIA

Sacramento Office (Main)
1831 K Street
Sacramento, CA 95811-4114
1-916-504-5800
Fax 1-916-504-5801

<https://www.disabilityrightsca.org>
<https://www.disabilityrightsca.org/resources/regional-center>
<https://rula.disabilityrightsca.org>