

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

BRIDGETTE K.,

Petitioner,

vs.

GOLDEN GATE REGIONAL CENTER,

Respondent.

OAH No. 2012050961

(Early Intervention Services Act  
Gov. Code, § 95000 et seq.)

**DECISION**

Administrative Law Judge Diane Schneider, State of California, Office of Administrative Hearings, heard this matter in San Mateo, California, on June 5 and 12, 2012.

Golden Gate Regional Center (GGRC), was represented by Lisa Rosene, L.C.S.W., Chief, Regional Center Services.

Petitioner was represented by her mother, Sadie K.

The record closed and the matter was submitted for decision on June 12, 2012.

**ISSUE**

Did the Golden Gate Regional Center (RCEB) err when it denied funding for the Son Rise Program at the Autism Treatment Center of America?

**FACTUAL FINDINGS**

1. Petitioner was born on April 2, 2010, and lives at home with her mother. On October 21, 2011, petitioner was diagnosed with autism by Pediatric Neurologist Sarah Cheyette, M.D. Petitioner was made eligible for services under the California Early Intervention Services Act on November 15, 2011, based upon communication, social and emotional delays.

2. At the Individual Family Service Plan (IFSP) meeting on November 15, 2011, the IFSP Team recommended that petitioner would benefit from a small structured environment with individualized attention to facilitate her learning and achieving her

outcome goals. Towards this end, the IFSP Team referred petitioner to the STEPS program provided by the San Mateo County Office of Education.

3. In December 2011, petitioner's parents declined to participate in the STEPS program. Instead, they wanted to participate in the Son Rise Program. The Son Rise Program is located in Massachusetts and is operated by the Autism Treatment Center of America. Petitioner's parents received training from the Son Rise Program and made changes to their home based upon the Son Rise Program recommendations. (Petitioner's father no longer resides with petitioner and her mother.)

4. In a Notice of Proposed Action dated March 16, 2012, GGRC declined to fund the Son Rise Program on the grounds that there are local comparable programs that meet petitioner's developmental needs. Petitioner appealed, and this hearing followed.

5. Petitioner's mother testified at the hearing to her belief that the Son Rise Program best meets petitioner's needs. Son Rise Program Certified Child Facilitator and Instructor, Suzanne Pruss, also testified at the hearing. Although Pruss does not possess a college degree, she has worked with children with autism for about 20 years. Her work focuses on improving a child's eye contact, emotional flexibility, communication skills, as well as a child's ability to interact with others. The Son Rise Program trains caregivers to "join" and "embrace" the behaviors of a child who exhibits autistic symptoms. According to Pruss, with the assistance provided by the Son Rise Program, kids have "fully recovered from autism" to the point that they "look and act like kids without autism." Pruss acknowledges that there are no evidence-based empirical studies documenting the effectiveness of the Son Rise Program.

6. Petitioner's mother has implemented the Son Rise Program on her own with the assistance of volunteers. She believes that petitioner has benefited tremendously from this program in several ways: her eye contact has improved, she responds to her name, and she started pointing several weeks ago. For these reasons, petitioner's mother would like to continue implementing the Son Rise Program. She seeks GGRC funding for the cost of training, which includes monthly video feedback for parents and bi-monthly video feedback for volunteers. Petitioner's mother estimates the cost of the Sun Rise Program is between \$30,000 to \$50,000, depending on the degree of services provided. Petitioner's mother firmly believes that the Son Rise Program offers petitioner the most effective program to address her needs. Petitioner's mother lacks confidence in the programs offered by GGRC.

7. At the hearing, Michele Bennet, L.C.S.W, GGRC Manager, Early Start Services, and Ingrid Lin, M.D., GGRC Director, Clinical Services, testified to the following facts: GGRC offered petitioner services from STEPS, and from Jumpstart, a parent training program. Both of these programs are local and vendored by GGRC to provide services to children with autism and their families. The programs offered by STEPS and Jumpstart are known and trusted by Dr. Lin and Bennet. In addition, petitioner has the option of selecting other local programs that are suited to address petitioner's needs. Petitioner, however, has declined to participate in any services offered by GGRC. GGRC cannot fund the Son Rise

Program because it is out-of-state, it is not vendored by GGRC, and the validity and effectiveness of the program have not been scientifically documented.

## LEGAL CONCLUSIONS

1. The Individuals with Disabilities Education Act, Part C, 20 United States Code sections 1431-1445, established a program in which states were provided federal funds to develop and implement a statewide multidisciplinary system to provide early intervention services for infants and toddlers with disabilities and those who would be at risk of having substantial developmental delay if they did not receive early intervention services. (20 U.S.C. § 1431 (b).) In California, the early intervention program was established pursuant to the California Early Intervention Services Act (Early Intervention Act), Government Code sections 95000-95029, and its implementing regulations, California Code of Regulations, title 17, sections 52000 through 52175. This federally funded program is known in California as Early Start.

2. Early Start services are “designed to meet the developmental needs of each eligible infant or toddler and the needs of the family related to the infant or toddler’s development.” (34 C.F.R. § 303.12 (a)(1).) Regional Centers are required to develop and implement an IFSP for each child who is eligible for Early Start services. (Cal. Code Regs, tit. 17, § 52100; 34 C.F.R. § 303.340.) The nature and extent of services provided are determined through the IFSP process. (Cal. Code Regs, tit. 17, §§ 52102, 52106.)

3. Pursuant to Government Code section 95004, subdivision (a), Early Start services “shall be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Services Act” (DDS Act), beginning with section 4500 of the Welfare and Institutions Code. The Early Intervention Act further requires that, when providing services under the Early Intervention Act, regional centers must comply with the DDS Act and its implementing regulations “including, but not limited to, those provisions relating to vendorization . . . .” (Gov. Code, § 95004, subd. (b)(1).)

4. Three laws relating to the funding of services are pertinent to the instant case. First, under the DDS Act, regional centers are prohibited from funding out-of-state services without prior approval of the director of the DDS, and only when the director determines that the proposed service is not available from resources and facilities within the state. (Welf. & Inst. Code, § 4519, subd. (a).) Second, regional centers may not fund a service or support unless it is vendored by the regional center. (Welf. & Inst. Code, § 4648, subd. (a)(3).) Third, regional centers may not fund treatments or therapies that “have not been clinically determined or scientifically proven to be effective . . . .” (Welf. & Inst. Code, § 4648, subd. (a)(15).)

5. The evidence in the instant case established that a local program is available to meet petitioner’s needs. Additionally, Son Rise is neither vendored by the regional center nor has it been clinically determined or scientifically proven to be effective. In light of these facts, GGRC is mandated by law to deny funding for the Son Rise Program.

6. Petitioner's mother is commended for the hard work and dedication she brings to obtaining services that she believes are best-suited to petitioner's development. GGRC, however, is simply forbidden by statute from providing the services she requests.

ORDER

The appeal of Bridgette K. is denied.

DATED: \_\_\_\_\_

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DIANE SCHNEIDER  
Administrative Law Judge  
Office of Administrative Hearings