

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL
DISTRICT AND SAN DIEGO COUNTY
OFFICE OF EDUCATION.

OAH Case No. 2015040812

ORDER DISMISSING BANYAN TREE
LEARNING CENTER AS A PARTY

On April 10, 2015, Parents on behalf of Student filed with the Office of Administrative Hearings a due process complaint against San Diego Unified School District, San Diego County Office of Education and Banyan Tree Learning Center.¹

APPLICABLE LAW, DISCUSSION and ORDER

Special Education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to “the public agency involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).) A “public agency” is defined as “a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.)

A review of Student’s complaint shows that Banyan Tree Learning Center is a private school in which Parents seek that District and County Office of Education pay for Student’s attendance. As such, Banyan Tree Learning Center is not a public agency that OAH has jurisdiction over. Therefore, Banyan Tree Learning Center is dismissed as party to this action.

IT IS SO ORDERED.

DATE: May 7, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings

¹ On May 1, 2015, County Office of Education filed a motion to dismiss, which will be ruled on in a separate order.

