

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015080716

ORDER GRANTING MOTION TO
DISMISS CLAIMS ARISING PRIOR
TO AUGUST 18, 2013

On August 18, 2015, Student filed a Request for Due Process Hearing, naming Irvine Unified School District as the respondent.

On November 17, 2015, District included in its prehearing conference statement a request to dismiss Student's claims regarding the 2012-2013 school year. District seeks to dismiss Student's claims against it for any time before August 18, 2013, due to Student's failure to allege any facts that would establish an exception to the two year statute of limitations under the IDEA and California Education Code.

During the November 20, 2015 telephonic prehearing conference, Student did not oppose District's motion.

DISCUSSION

The statute of limitations in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) However, title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or the local educational agency withheld information from the parent that was required to be provided to the parent.

Student's complaint does not allege any exception to the two year statute of limitations. Student has not alleged, and has not established any triable issue for hearing, that Parent was prevented from filing a request for due process due to specific misrepresentations by District that it had resolved the problem forming the basis of the complaint, nor has Student alleged that District withheld information from Parent that District was required to provide Parent. Therefore, Student has not alleged facts that would permit Student to pursue claims against District that arose prior to August 18, 2013.

District's motion to dismiss claims against it as to any time before August 18, 2013, is granted.

IT IS SO ORDERED.

DATE: November 20, 2015

/s/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings