

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

SAN RAMON VALLEY UNIFIED  
SCHOOL DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2009061134

ORDER GRANTING REQUEST TO  
WITHDRAW COUNTER-  
DECLARATION OF JEAN  
HOLMSTEAD

At the close of the due process hearing in this matter, a continuance was granted so that the parties could file closing briefs by October 15, 2009. The schedule of Student's expert, Dr. Cynthia Peterson, prevented her from visiting Student's current and proposed placements until a week after the hearing. Student was given leave to file a post-hearing declaration by Dr. Peterson about her visits no later than October 5, 2009, and the District was given leave to file a counter-declaration by October 9, 2009.

Dr. Peterson's post-hearing declaration was timely filed on October 9, 2009. The District originally intended to file a counter-declaration by Jean Holmstead, but could not obtain her signature before the filing deadline, so it timely filed a counter-declaration by Fran English instead.

On October 10, 2009, Ms. Holmstead signed the counter-declaration the District had sent to her. On October 15, 2009, apparently without the knowledge of the District's attorney, Ms. Holmstead or someone acting on her behalf, faxed the counter-declaration directly to OAH but did not serve it on Student. Accordingly, on October 19, 2009, the District moved to withdraw the counter-declaration of Jean Holmstead because it was untimely filed and not properly served. Student has not filed an opposition to the motion.

The counter-declaration of Jean Holmstead, faxed to OAH on October 15, 2009, was untimely filed and not properly served. Accordingly, the District's motion to withdraw the counter-declaration is granted. The counter-declaration of Jean Holmstead is stricken from the record and will not be considered in the decision of this matter.

Dated: October 26, 2009

/s/

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CHARLES MARSON  
Administrative Law Judge  
Office of Administrative Hearings

