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6 7 8 9	Daniel P. Barer (SBN 150812) Girard Fisher (SBN 54007) POLLAK, VIDA & FISHER 11150 W. Olympic Boulevard, Suite 980 Los Angeles, CA 90064-1839 Tel. (310) 551-3400 / Fax: (310) 551-1036 Email: dpb@pvandf.com				
10	Attorneys for Defendant Tehachapi Unified School District				
11	UNITED STATES DISTRICT COURT				
12	EASTERN DISTRICT OF CALIFORNIA				
13					
14	WENDY WALSH, individually and as Successor-in-Interest to S. W., Deceased,) CASE NO. 1:11-CV-01489-LJ0-JLT			
151617	Plaintiff v.	ORDER GRANTING STIPULATION RE: EXTENSION OF TIME TO AMEND PLEADINGS, LEAVE TO AMEND TO ADD PLAINTIFF, AND PETITION FOR RELIEF			
18 19	TEHACHAPI UNIFIED SCHOOL DISTRICT; SUPERINTENDENT SWANSON; SUSAN ORTEGA; MR. KAMINSKY; MS. KIRBY; MS. HAIGHT; MRS. KABONIC; MR. FEEHAN; and DOES 1 through 100,))))			
20	Inclusive,))			
21	Defendants.))			
22					
23	The parties to this action (plaintiff Wendy Walsh; defendants Tehachapi Unified School				
24	District; Susan Ortega; and Paul Kaminski), as well as prospective plaintiff Sh. W., (collectively,				
25	"the parties"), through their undersigned counsel, stipulate as follows:				
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27					
28					

1	WHEREAS:		
2			
3	1.	Sh. W., brother of decedent S.W., presented an application for leave to present late	
4		claim under Cal. Gov. Code § 911.4 to the defendant Tehachapi Unified School	
5		District, with a proof of service dated September 16, 2011, together with a proposed	
6		claim for damages seeking recovery for events on and after September 19, 2010.	
7			
8	2.	The parties have agreed that Sh. W. is not seeking recovery in this action for any	
9		events that occurred before September 19, 2010.	
10			
11	3.	In the application Sh. W. represents, and presents evidence, that he was born on	
12		February 21, 1999, indicating that he is a minor.	
13			
14	4.	Under Cal Gov. Code §§ 911.6(b)(2) and 946.6(c)(2), and Hernandez v. County of	
15		Los Angeles, 42 Cal.3d 1020, 232 Cal.Rptr. 519 (1986), a claimant against a public	
16		entity who was a minor throughout the six-month claim-presentation period, and	
17		who presents an application for leave to present late claim within one year of the	
18		accrual of the minor's cause of action, is entitled to leave to present a late claim.	
19			
20	5.	Based on the evidence in his application, Sh. W. is entitled to leave to present a late	
21		claim as to damages claimed for events on or after September 19, 2010. And:	
22			
23	6.	The interests of the parties and courts are best served by trying the damages claims	
24		of both Sh. W. and plaintiff Wendy Walsh in the same action;	
25			
26	IT IS THEREFORE STIPULATED THAT:		
27			
28	7.	Based on the application for leave to present late claim presented within a year of	

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the accrual of his cause of action, and his minority throughout the six-month period to present a claim, the California Government Claims Act does not prevent Sh. W. from pursuing a cause of action against defendants Tehachapi Unified School District, Susan Ortega, and Paul Kaminski, despite his failure to present a claim for damages to the defendant District within six months after accrual. Sh. W. need not obtain an order of relief under Cal. Gov. Code § 946.6(c) to pursue this cause of action against these defendants.

- 8. On or by May 31, 2012, Wendy Walsh and prospective plaintiff Sh. W. may amend Wendy Walsh's First Amended Complaint in this action by filing a Second Amended Complaint to add Sh. W. as a plaintiff to the Negligent Infliction of Emotional Distress cause of action only, and only in regard to events on or after September 19, 2010.
- 9. The parties agree to request the Court to extend the deadline set forth in Paragraph III of the December 22, 2011 Scheduling Order in this case for filing of requested pleading amendments, either through a stipulation or motion to amend, from February 24, 2012 to permit the filing of the Second Amended Complaint described in paragraph 8 above on or by May 31, 2012, and to permit defendants to file a response to that Second Amended Complaint within 20 days of the date the Second Amended Complaint is filed.
- 10. On or by April 20, 2012, the counsel for plaintiff Wendy Walsh and prospective plaintiff Sh. W. shall take the hearing on Sh. W.'s Cal. Gov. Code § 946.6 petition (currently set for May 1, 2012 in Department 14 of the Kern County Superior Court, Case No. S-1500-MS-376) off calendar.

1	11. By entering into this stipulation, defendants Tehachapi Unified School District,			
2	Susan Ortega, and Paul Kaminski do not waive any procedural or substantive			
3	claims or defenses in this action, except as expressly set forth above.			
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5				
6	DATED: April 16, 2012	POLLAK, VIDA & FISHER		
7				
8		By: /s/ Daniel P. Barer Attorneys for Defendant Tehachani		
9		Attorneys for Defendant Tehachapi Unified School District		
10		Chilled School Bistrict		
11				
12	DATED: April 16, 2012	ROBINSON & KELLAR		
13	1			
14		By: /s/		
15		By:/s/ Michael C. Kellar Attorneys for Defendants Tehachapi		
16		Unified School District, Dr. Richard Swanson, Susan Ortega, and Paul Kaminski		
17				
18	DATED: April 16, 2012	RODRIGUEZ & ASSOCIATES		
19				
20		By:/s/		
2122		Attorneys for plaintiff Wendy Walsh and Prospective Plaintiff Sh. W.		
23		Flamun Sn. w.		
24		ORDER		
25	Based on the above stir	oulation IT IS ORDERED that:		
26	Based on the above stipulation, IT IS ORDERED that:			
27	1. No later than May 31, 2012, Wendy Walsh and prospective plaintiff Sh. W. may			
28	amend Wendy	Walsh's First Amended Complaint in this action by filing a Second		
0.F				

1		Amended Complaint to add Sh. W	V. as a plaintiff to the Negligent Infliction of	
2		Emotional Distress cause of action	n only, and only in regard to events on or after	
3		September 19, 2010;		
4	2.	Defendants SHALL file a respons	ive pleading within 20 days of the filing of the	
5		Second Amended Complaint.		
6	IT IS SO ORDERED.			
7	Dated: April 18, 2012		/s/ Jennifer L. Thurston UNITED STATES MAGISTRATE JUDGE	
8			UNITED STATES MADISTRATE JUDGE	
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