CITY COUNCIL AGENDA REPORT

Meeting Date: 2/21/2019

From: Stuart Schillinger, Deputy City Manager

Subject: Presentation of School Study Concerning the Baylands

Community Goal/Result

Community Building, Fiscally Prudent

Purpose

Develop an understanding of how development on the Baylands will affect primary and secondary education for future residents of Brisbane.

Recommendation

Receive report from the City's consultants reviewing the impact the Baylands will have on the primary and secondary education for future residents, as well as options the community has to provide alternative educational opportunities for future residents of Brisbane. This will include a presentation by the Skyline Community College as well.

Background

At the Council meeting of July 19, 2018 the City Council authorized the City Manager to enter into an agreement with consultants to provide information regarding the financial and student impact on the existing districts due to the potential development of the Baylands. The Council also authorized the Ctiy Manager to enter into an agreement to determine the processes available if a different configuration of school districts would provide better educational opportunities for Brisbane and the surrounding area residents.

The City entered into two separate agreements one concerning the financial and impact on existing school districts. This agreement was signed with the team of Ryland School Business Consulting and Capitol PFG. The second contract focused on the potential school district configurations and was with Ochoa and Moore Law Firm. The representatives of the firms are Terry Ryland, Cathy Dominico, Ralph Ochoa and Tom Griffen. All members of the team have performed similar work in the past.

The two sets of consultants made a presentation to the City's school education subcommittee on December 20, 2018. The Committee meeting was attended by interested parents and representatives of the three school districts currently serving Brisbane; Jefferson Union High School District, Brisbane Elementary School District, and Bayshore School District (the Baylands are within its boundaries).

Discussion

The presentation tonight will focus on three distinct aspects of education within Community. Ryland School Business Consulting and Capitol PFG will discuss the potential of the number of new students who may live in the Baylands (which will depend on the types of housing approved and built), as well as the financial impact these new students and development may have on the existing school districts. At this time they can only give a preliminary indication of the potential impact since without knowing the type of housing or the style of commercial development very broad assumptions need to be made which will be refined as the specific plan is approved.

Second, the Ocha and Moore Law Firm will discuss the potentials for school district reorganization and other options available as it relates to the education of students in Brisbane. Along with the options, the Law Firm will provide information concerning methods these may occur.

Finally, Skyline College will make a presentation on the possibility of working with the High School Disctrict to provide students a combined High School, Community College option.

Fiscal Impact

There is no direct impact to the City of Brisbane finances since this is a school district issues. However, depending on the decisions the City Council makes in the future it could affect the decisions the Council makes in negotiating a Development Agreement with the landowner.

Measure of Success

The future students of Brisbane have options, which enhance and maximize their educational opportunities.

Attachments

1. School District Reorganization and Other Options for the Brisbane Area Schools (Ochoa and Moore Law Firm)

Stuart Schillinger

Stuart Schillinger, Deputy City Manager

Clay Holstine, City Manager

THE OCHOA & MOORE LAW FIRM

SCHOOL DISTRICT REORGANIZATION AND OTHER OPTIONS FOR THE BRISBANE AREA SCHOOLS

A CONSULTANT'S REPORT

FEBRUARY 21, 2019

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CITY OF BRISBANE
BRISBANE AREA SCHOOLS STUDY

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OBJECTIVES OF REORGANIZATION

Some reasons that may be considered should there be an inclination to reorganize the Brisbane area schools might include the following:

1. Enhance the community identity of Brisbane by having a commonality between the area of the City of Brisbane and the schools which serve students in that area.

2. Establish and maintain a state-of-the-art high school within the Brisbane community.

3. Utilize the property tax revenues from the Brisbane territory, including the Baylands development, for the education of the students residing in Brisbane.

4. Potentially, reduce the commute time for Brisbane students traveling to high school.

5. Give students an opportunity to take advantage of advanced classes offered at local community college(s) for high school attendance.

6. Additionally, expand the number and types of classes colleges will offer high school students for advanced college credit.

7. Further, community colleges are offering credential and certificate two year career courses in a variety of skilled professions such as computer programming, construction administration, health careers, etc.

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LIST OF REORGANIZATION OPTIONS

The following is a list of possible options available for the reorganization of the Brisbane area schools. The options are listed in order of complexity of implementation; the higher the option is on the list, the easier it would be to implement; the lower options would be more difficult to implement. O & M has attempted to list, for discussion purposes only, all possible options; **the presence on the list of an option does not necessarily indicate that O & M recommends that option.**

1. Maintain the *status quo* with the Baylands Development remaining a part of Bayshore ESD and both Bayshore ESD and Brisbane ESD remaining a part of Jefferson Union HSD.

2. Create a Brisbane 8-12 charter school.

3. Convert Brisbane ESD into a K-12 charter district.

4. Negotiate an agreement between Brisbane ESD, Bayshore ESD, Jefferson Union HSD, Skyline College and the City of Brisbane covering attendance, transportation and sharing of tax revenues.

5. Transfer the Baylands Development from Bayshore ESD to Brisbane ESD and create a Baylands PK-12 charter school linked to Skyline College.

6. Create a Joint Powers Agency to operate a high school in the Brisbane/Baylands area with employees, attendance and funding provided by the participating agencies.

7. Merge Brisbane ESD and Bayshore ESD into a single ESD and create a Baylands PK-12 charter school linked to Skyline College.

8. Merge Brisbane ESD and Bayshore ESD into a single ESD and create a Baylands PK-8 school and a Jefferson UHSD high school linked to Skyline College.

9. Unify the Brisbane ESD by itself.

10. Unify the Brisbane ESD and the Baylands Development into a single K-12 district, with a Baylands PK-12 school linked to Skyline College.

11. Unify the Brisbane ESD and the Bayshore ESD, with a Baylands PK-12 school linked to Skyline College.

12. Create a Joint Powers Agency through legislation to have its own employees, attendance and funding.

O & M's **preliminary** estimate of whether the option meets the criteria for reorganization set forth in Education Code Section 35753 is set forth in a table on page 7.

Each of the options has advantages and disadvantages as outlined on pages 8 and 9.

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PROCEDURE FOR REORGANIZATION OF SCHOOL DISTRICTS

The reorganization process starts with either alternative 1.A. or 1.B. below:

1.A. The County Committee on School District Organization
- may, on its own initiative, prepare tentative plans and recommendations for reorganization.
- shall adopt tentative plans and recommendations on receipt of
  - a Petition signed by 10 percent of the registered voters, or
  - a resolution of a city council, county board of supervisors, board of a special district or Local Agency Formation Commission (LAFCO).
- shall, following a public hearing, grant or deny the Petition.

If the Petition is granted, the County Committee shall adopt a tentative plan, hold public hearings in the territory. If the County Committee approves the final plan, it either sends it to the State Board of Education or calls an election.

1.B. Petition to Reorganize signed by
- owner of uninhabited land if tentative subdivision map or application for project has been filed.
- 25 percent of the registered voters in each district being reorganized, or
- a majority of each affected school board.
- The Petition must reasonably identify the territory to be reorganized but may include certain other provisions.
- A Petition by voters must contain an affidavit by collector of signatures and identity of chief petitioners.
- Petition is filed with the County Superintendent of Schools.

2. County Superintendent of Schools, within 30 days,
- verifies that the Petition is sufficient.
- verifies the number of required signatures (usually by request of the Registrar of Voters).
- sends verified Petition to the County Committee on School District Organization and the State Board of Education.

3. County Committee on School District Organization
- notifies the Local Agency Formation Commission
- with 10 days notice to affected districts, chief petitioners and others, conducts a public hearing in each affected district.
- with 10 days notice to all parties
  - makes available a description of the effects of reorganization under Education Code Section 35705.5 (see page 6 for list of subjects).
  - makes available an analysis of the nine criteria or conditions for reorganization (see page 5 for list of criteria).

- conducts one or more public hearings in each affected district within 120 days of first hearing
- recommends approval or disapproval of the Petition if
  -Petition is to form one or more new districts or
  -Petition is to divide a district into two or more districts.
- approves or disapproves the Petition if it is to transfer property between existing districts and either (1) all of the criteria or conditions for reorganization are met or (2) all affected districts consent to the transfer.
- The County Committee may augment the Petition with provisions relating to chartered city districts, governing boards, area of election, votes by district, trustee areas, funding calculations, division of property and obligations, election of first governing board and division of bonded indebtedness.

Except for transfers of territory, the County Committee sends its recommendation and findings to the State Board of Education.

The County Committee may grant the transfer of territory without an election if territory is uninhabited and all affected districts agree or if territory is less than 10% of the assessed valuation of the original district. For all other transfers of territory, the County Superintendent calls an election.

4. State Board of Education
   (No time requirements; current delay in hearing Petition is approximately 3 years.)
   - Approves or disapproves recommendation of County Committee.
   - Grants or denies appeal when Petition is granted or denied by County Committee.
- Where Petition is approved, Board also determines area of election.

Note: Whichever agency, the County Committee or the State Board of Education, makes the final decision, such agency becomes the lead agency for purposes of complying with the California Environmental Quality Act by adopting an exemption, a negative declaration or an Environmental Impact Report.

CITY OF BRISBANE
BRISBANE AREA SCHOOLS STUDY

CONDITIONS/CRITERIA FOR APPROVAL
OF REORGANIZATION PROPOSALS
EDUCATION CODE SECTION 35753

The general conditions for approval of a district reorganization proposal are found in Education Code Section 35753. Note that there are two qualifications to the conditions listed. First, the conditions may be substantially met, not necessarily strictly met. Second, the proposal may be approved even if the criteria cannot be applied literally and circumstances warrant approval of the proposal.

Section 35753 (a) The state board may approve proposals for the reorganization of school districts if the state board has determined, with respect to the proposaal and the resulting school districts, that all of the following conditions are substantially met:

(1) The reorganized districts will be adequate in terms of number of pupils enrolled.
(Title 5, Calif. Code of Regulations Sect. 18573: Elementary: 301; High School: 901; Unified: 1501)

(2) The school districts are each organized on the basis of a substantial community identity.

(3) The proposal will result in an equitable division of property and facilities of the original district or districts.

(4) The reorganization of the school districts will preserve each affected district's ability to educate pupils in an integated environment and will not promote racial or ethnic discrimination or segregation.

(5) Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

(6) The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the affected districts.

(7) Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

(8) The proposed reorganization is primarily designed for purposes other than to significantly increase property values.

(9) The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the affected district.

(10) Any other criteria that the state board may, by regulation, prescribe.

(b) The state board may approve a proposal for the reorganization of school districts if the state board determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

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ELEMENTS OF SCHOOL DISTRICT REORGANIZATION
TO BE DISCLOSED BY COUNTY COMMITTEE
(Employee rights, funding per pupil, application of city charter, size of governing boards, territory of election, voting in multiple districts, trustee areas, division of property and obligations, election of first governing boards)
(Education Code Section 35705.5(b))

(b) At least 10 days before the public hearing, or hearings, on the petition, the county committee shall make available to the public and the governing boards affected by the petition a description of the petition, including all of the following:

(1) The rights of the employees in the affected districts to continued employment.

(2) The local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per pupil, for each affected district and the effect of the petition, if approved, on that allocation.

(3) Whether the school districts involved will be governed, in part, by provisions of a city charter and, if so, in what way.

(4) Whether the governing boards of any proposed new district will have five or seven members.

(5) A description of the territory or school districts in which the election, if any, will be held.

(6) Where the proposal is to create two or more new districts, whether the proposal will be voted on as a single proposition.

(7) Whether the governing board of any new district will have trustee areas and, if so, whether the trustees will be elected by only the voters of that trustee area or by the voters of the entire school district.

(8) A description of how the property, obligations, and bonded indebtedness of original districts will be divided.

(9) A description of when the first governing board of any new district will be elected and how the terms of office for each new trustee will be determined.

CITY OF BRISBANE
BRISBANE AREA SCHOOLS STUDY
APPLICATION OF CRITERIA TO OPT

The following chart shows O & M's preliminary opinion on the application of the nine conditions for approval of a reorganization plan set forth in Education Code Section 35753. These conclusions follow only a cursory review of the available data and may change upon further analysis. "Yes" and "No" indicate O & M's opinion that the condition or criterion is substantially met or is not substantially met. "EC" indicates O & M's conclusion that the condition or criterion is probably not substantially met but that exceptional circumstances exist which justify approval of the proposal. "N/A" indicates O & M's opinion that the criterion or condition does not apply to that option.

OPTION	1 Size	2 Commun. Identity	3 Div of Prop.	4 Integ	5 Costs	6 Educ. Perf.	7 Facil. Costs	8 Prop. Values	9 Fiscal
1. *Status Quo*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*
2. Create 8-12 **charter *school***	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
3. Create K-12 **charter *district***	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4. Negotiate an agreement	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5. Transfer Baylands to Brisbane Elem.	Yes	Yes	Tes	Yes	Yes	Yes	Yes	Yes	Yes
6. Create JPA by agreement	N/A	N /A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7. Merge Brisbane & Bayshore ESDs w/ charter HS	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
8. Merge ESDs w/ JUHSD HS	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
9 Unify Brisbane by itself	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
10. Unify Brisbane and Baylands	EC	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
11. Unify Brisbane, Bayshore and Baylands	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
12. Create through legis.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

CITY OF BRISBANE
BRISBANE AREA SCHOOLS STUDY

EVALUATION OF REORGANIZATION OPTIONS

Abbreviations: "ADA" means Average Daily Attendance funding: "ESD" means Elementary School District; "HS" means high school; "JPA" means Joint Powers Agency; "JUHSD" means Jefferson Union High School District.

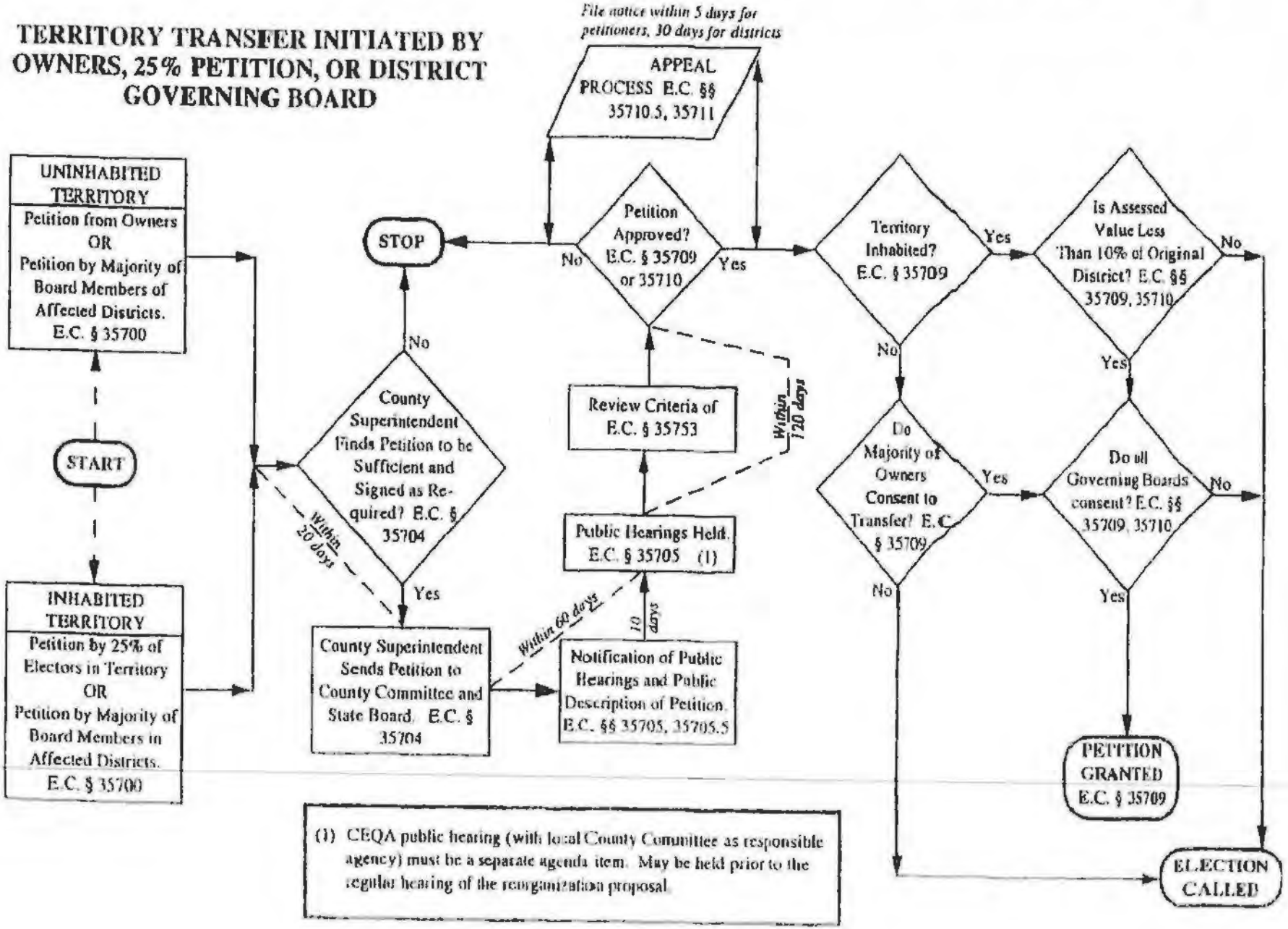
Option	Advantage(s)	Disadvantage(s)
1. Maintain the *Status Quo*	- Least complicated option. - Cont'd. Access to all JUHSD programs. - Cont'd vote for boards of JUHSD and Brisbane ESD. - Good high school program.	- No high school program in Brisbane. - Distance from Jefferson HS. - No guarantee of open enrollment. - Cont'd. Community disappointment for not having own high school.
2. Create a Brisbane 8-12 **charter** *school*	- HS program flexibility. - Local control of HS program. - Small high school. - Does not require approval of Bayshore or JUHSD.	- No HS property taxes. - Requires facilities. - Small high school. - No added income.
3. Create a Brisbane K-12 **charter** *distri*ct	- Maximum flexibility in building K-12 program. - Does not require approval of Bayshore or JUHSD.	- No HS property taxes. - Requires HS facilities. - Small high school. - No added income for HS. - Petition must be signed by 50% of teachers.
4. 5-Way agreement between Brisbane ESD, Bayshore ESD, JUHSD, and City Of Brisbane	- Establish rights of attendance, transportation, revenue sharing and other.	- Less permanent than reorganization. - Difficult to make permanent.

	- Avoids reorganization process. - Easier to amend than reorganization.		
5. Transfer Baylands to Brisbane ESD	- Enhances Brisbane identity. - Facilitates city/school programs.	- Does nothing for HS program. - Reduces future income to Bayshore ESD.	
6. Create a high school JPA by agreement with JUHSD	- Creates separate administrative agency and board. - Indirect local control by members. - Avoids reorganization.	- No taxing power. - Cannot claim ADA or hire teachers.	
7. Merge Brisbane & Bayshore ESDs w/Charter HS	- HS flexibility - Brisbane community identity	- Charter HS funding	
8. Merge Brisbane & Bayshore with Jefferson HS	- HS flexibility - Brisbane community identity	- Small HS - Requires HS building	
9. Unify Brisbane by itself	- Small high school. - Local control over K-12 program.	- Small high school. - Requires high school. - Requires agreement for attendance in Jefferson.	
10. Unify Brisbane and Baylands	- Maximizes community identity. - Smoother transition from 8th to 9th grades. - Retains Brisbane tax revenues.	- Small high school program. - Dilutes control of K-8 program.	
11. Unify Brisbane ESD with Bayshore ESD	- More high school options. - Some economy of scale.	- Brisbane ESD goes away. - Brisbane tax revenue spread district-wide. - Loss of JUHSD programs	
12. Create a high school JPA through legislation	- Additional option for all students. - Separate employer. - Separate district for attendance accounting.	- Local control is indirect. - No added funding.	

APPENDIX
A

FLOWCHART A

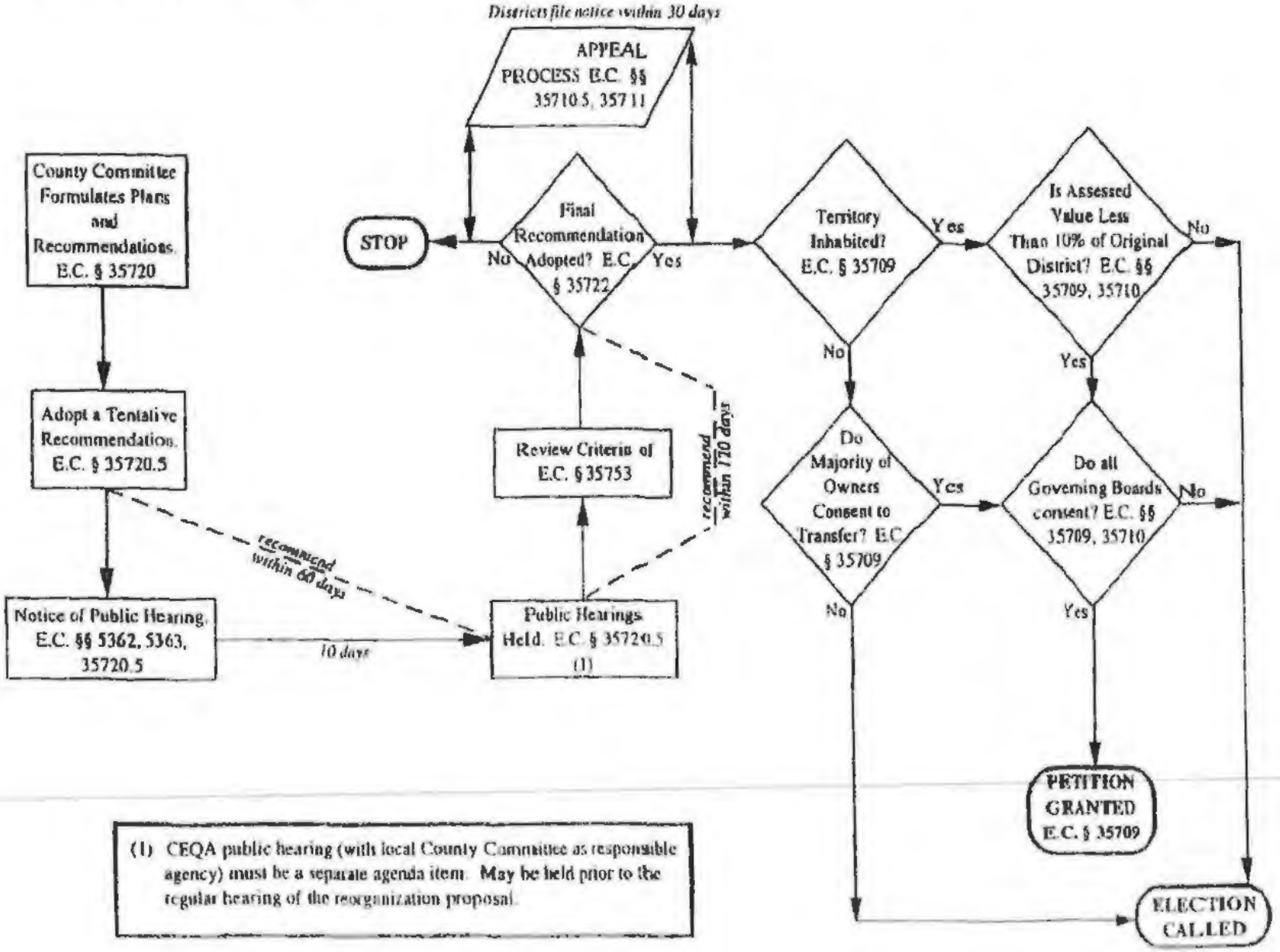
TERRITORY TRANSFER INITIATED BY OWNERS, 25% PETITION, OR DISTRICT GOVERNING BOARD



APPENDIX B

TERRITORY TRANSFER INITIATED BY COUNTY COMMITTEE

FLOWCHART B

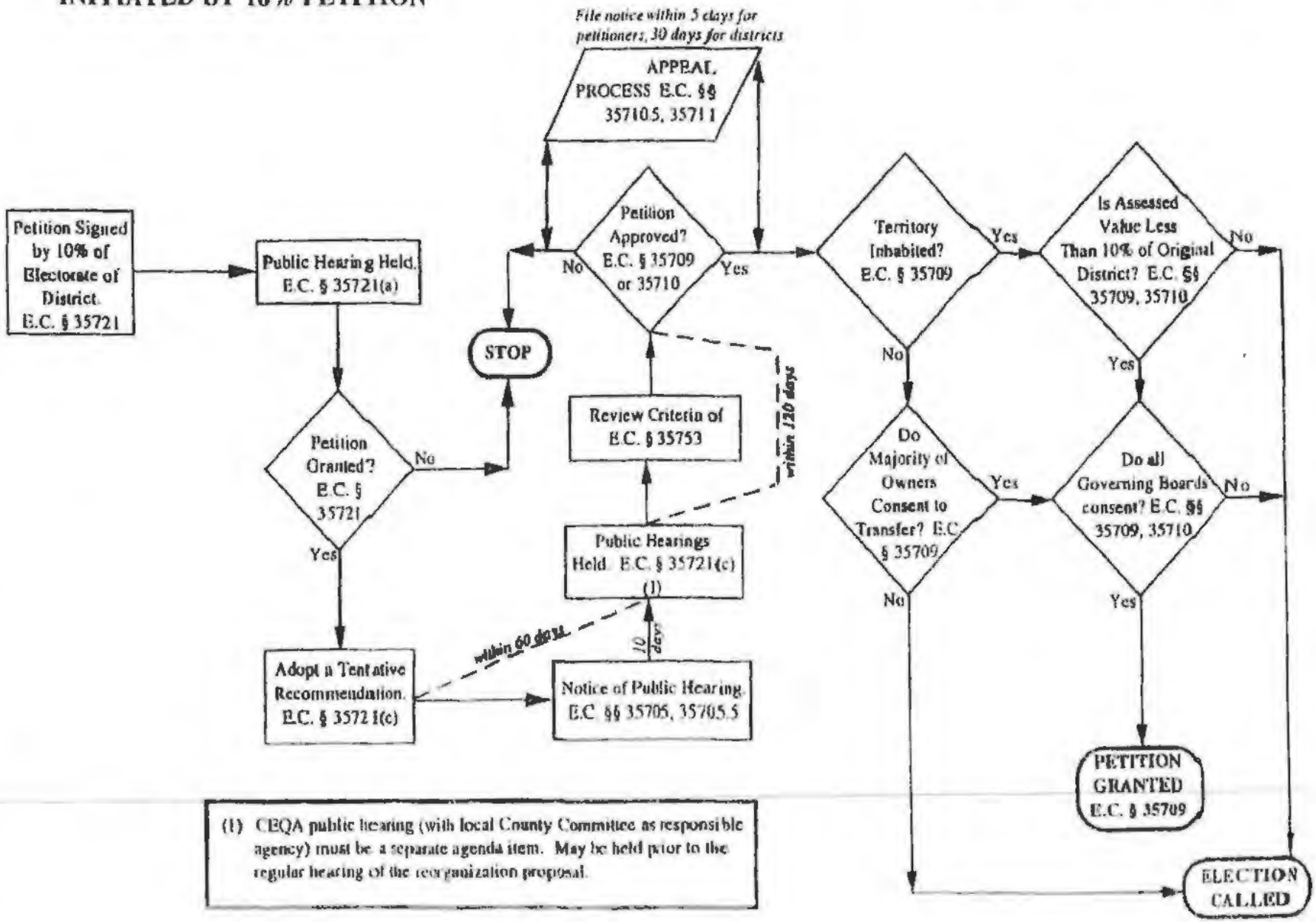


(1) CEQA public hearing (with local County Committee as responsible agency) must be a separate agenda item. May be held prior to the regular hearing of the reorganization proposal.

APPENDIX C

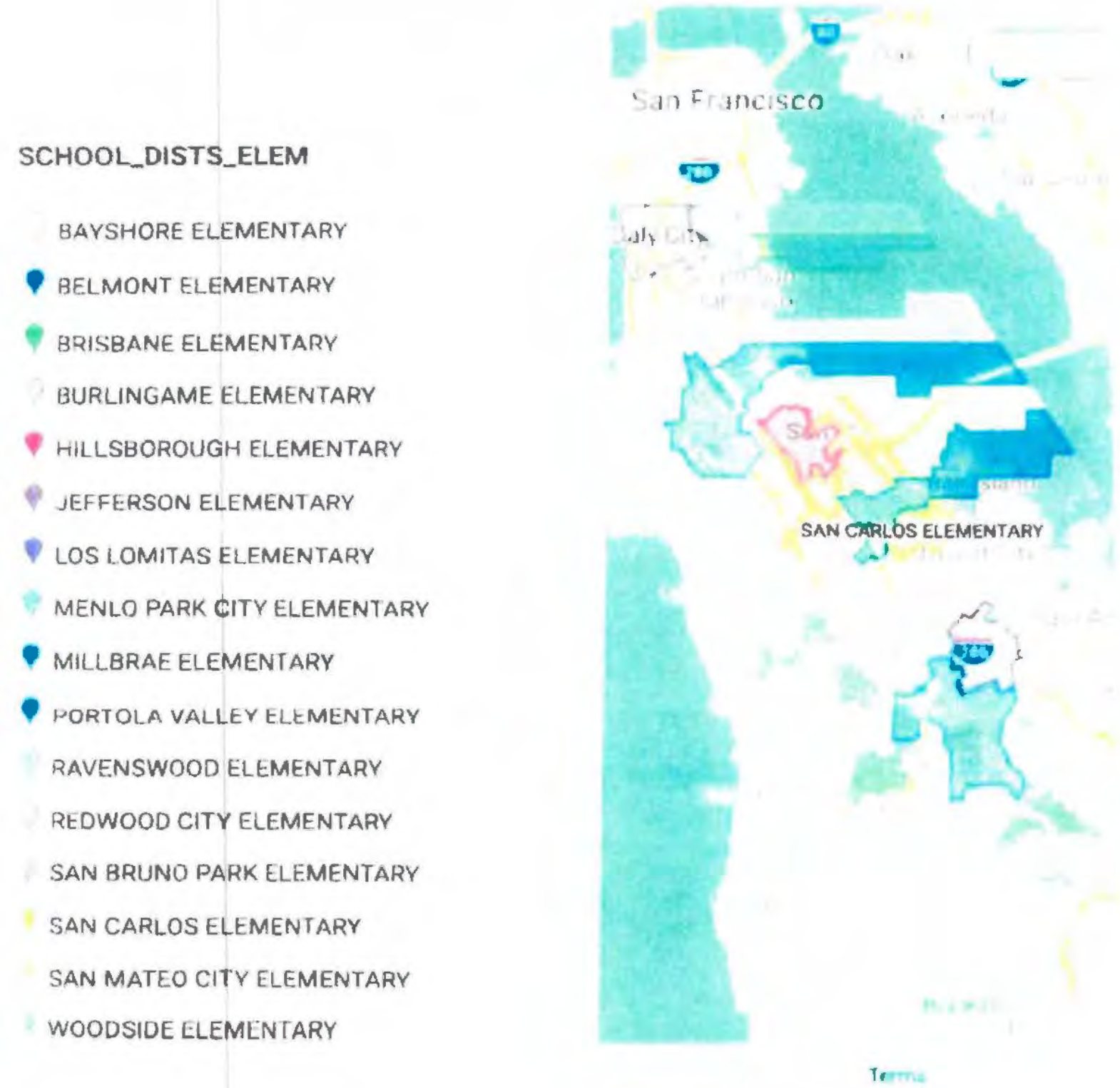
TERRITORY TRANSFER INITIATED BY 10% PETITION

FLOWCHART C



(1) CEQA public hearing (with local County Committee as responsible agency) must be a separate agenda item. May be held prior to the regular hearing of the reorganization proposal.

APPENDIX D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RAVENSWOOD ELEMENTARY
REDWOOD CITY ELEMENTARY
SAN BRUNO PARK ELEMENTARY
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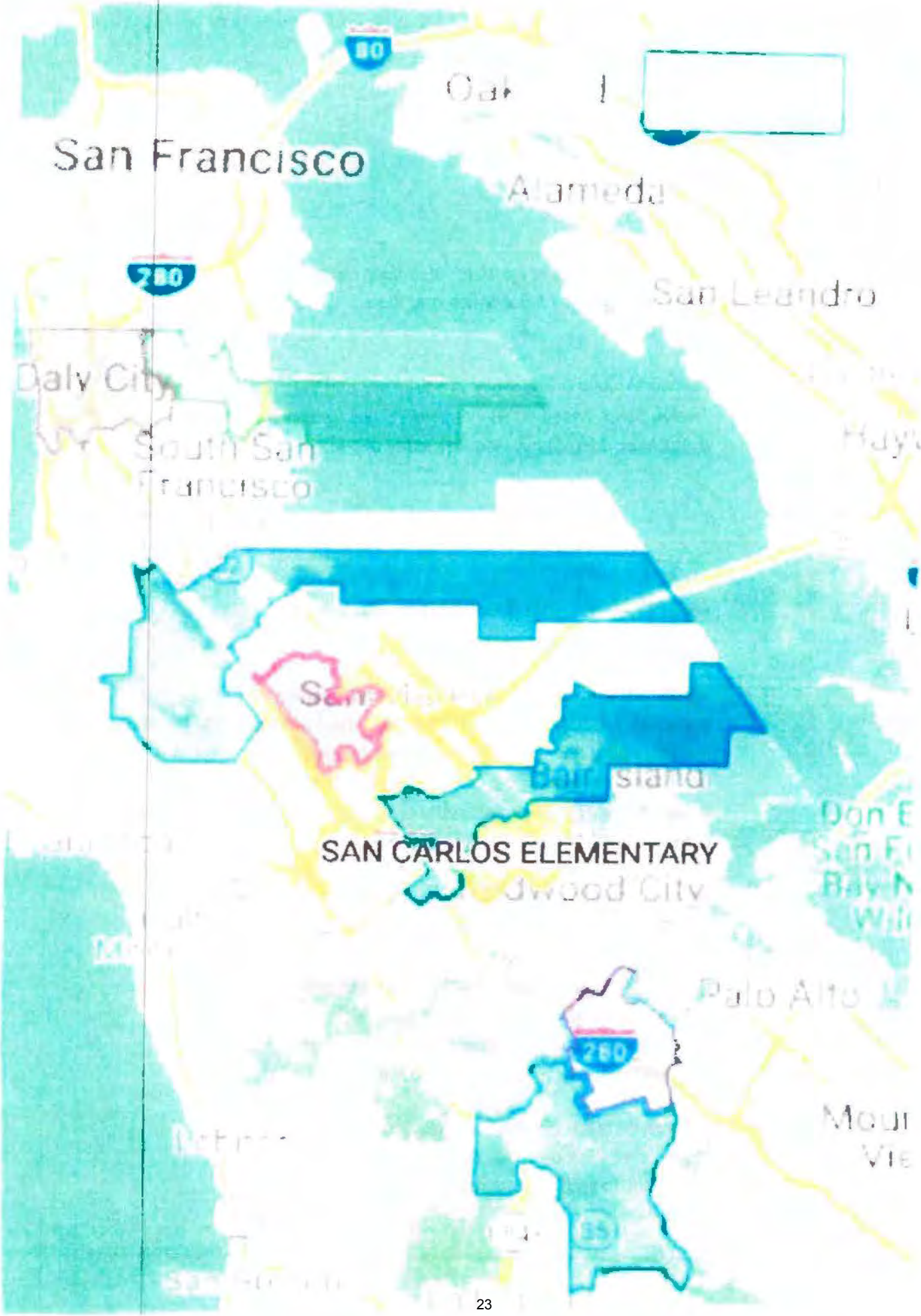
APPENDIX
E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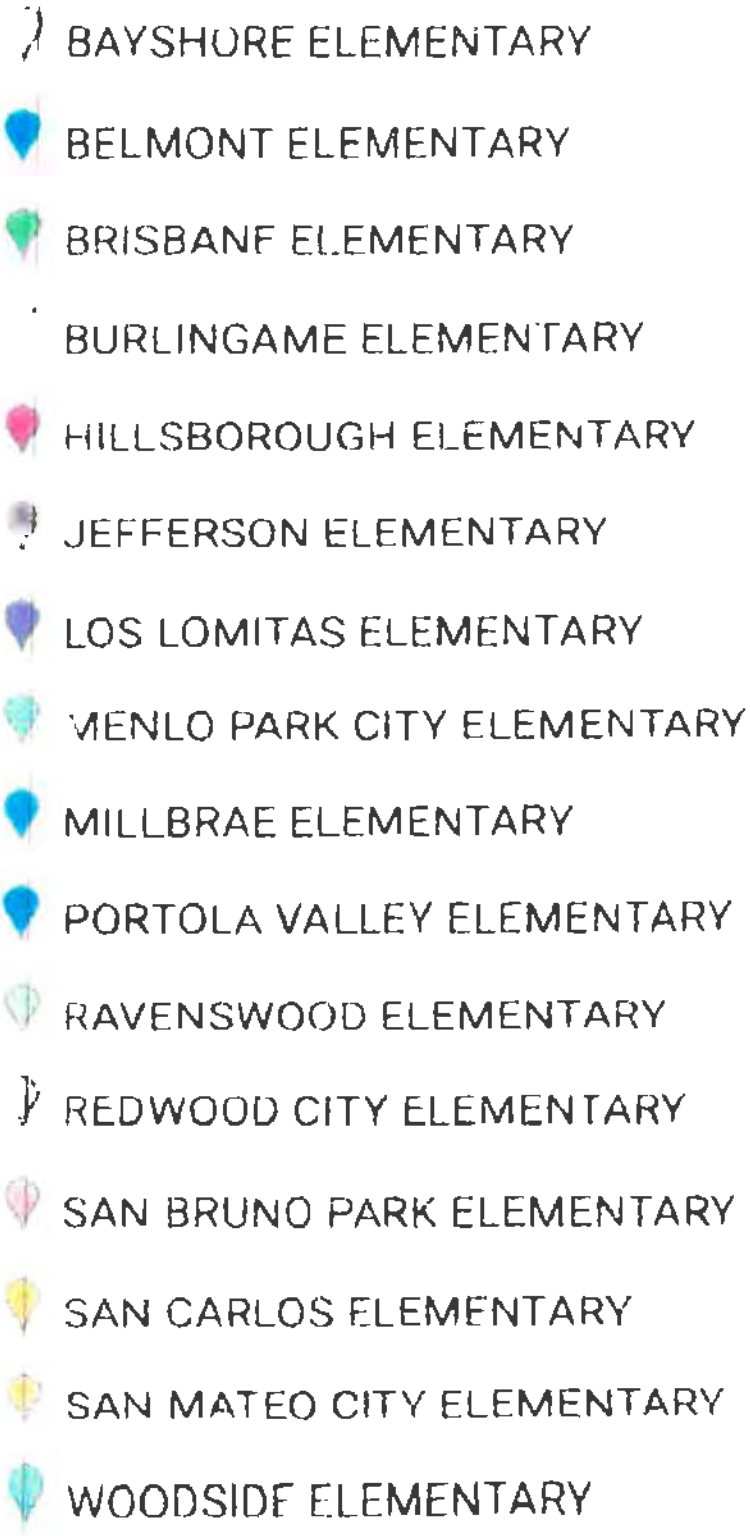

APPENDIX F

BIOGRAPHIES OF PRESENTERS

RALPH M. OCHOA

Ralph M. Ochoa is the senior and managing partner of the Ochoa and Moore Law Firm of Sacramento, California. Mr. Ochoa and the firm provide a wide range of consultation and representation of school districts and other public agencies, including representation before the Legislature, the State Board of Education, the State Allocation Board, the State Department of Education, the State Department of General Services and other state agencies. Mr. Ochoa has extensive experience in school law and employment law, as well as employment discrimination matters and school district reorganization.

Further, Mr. Ochoa has served as the Chief of Staff to former California Assembly Speaker Leo T. McCarthy. He has also served on the school boards of private high schools and served on the U.C. Board of Regents and several other California Boards and Commissions.

Mr. Ochoa received his B.S. degree in Biology with a minor in Chemistry from U.C.L.A. and his J.D. degree also from U.C.L.A. Law School. In addition, he did post-graduate work in law at the University of Pennsylvania.

THOMAS M. GRIFFIN

Thomas M. Griffin is the principal consultant on the Brisbane area schools study. From 1972 to 1983 he served as Chief Counsel to the State Department of Education and the State Board of Education. In that capacity, he participated in the analysis of dozens of reorganization proposals for the State Board. More importantly, he drafted legislation that completely re-wrote the Education Code provisions related to district reorganization. His draft became Chapter 1192 of the Statutes of 1980. Most of those provisions are still in effect as Education Code Sections 35500 through 35780. Since 1983, Dr. Griffin has advised and represented a large number of school districts and county offices of education in all aspects of school law including school district reorganization. He has also taught school law in the graduate schools of education of several universities.

Dr. Griffin earned his B.A. degree in Political Science from U.C. Berkeley, his J.D. from U.C. Hastings College of The Law and his Ph.D. in Education Administration from U.C. Berkeley.