BOARD AUTHORITY

The Board is charged with the responsibility of governance of the District; governance includes the making of responsible choices in managing the finances and personnel of the District. *Stidham v. Anahuac Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 205-R2-687 (1990) (upholding reduction in force due to financial exigency)*

The District is always free to change its organizational structure as it seeks to increase its efficiency. *Wasserman v. Nederland Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 171-R1-784 (1988)*

CONSIDERATION FOR OPEN POSITIONS

The Commissioner has held that, when a position is eliminated due to a necessary reduction in force, the District must transfer the employee to a different position if the teacher meets the District's objective criteria for that position. Objective criteria may include credentials, education, experience, applying for the position, and interviewing for the position. The District need not offer a position to a teacher who refuses to apply and interview for an open position. *Amerson v. Houston Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 022-R2-1202 (2003)*

PROBATIONARY CONTRACT

A probationary contract employee may be discharged at any time for good cause as determined by the Board. If the employee is protesting proposed action to terminate a probationary contract before the end of the contract period on the basis of a financial exigency declared under Education Code 44.011 [see CEA], the employee is entitled to a hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or a hearing under Education Code Chapter 21, Subchapter F (hearings before independent hearing examiner) [see DFD], as determined by the Board. *Education Code 21.104(a), .1041, .159*

The Board may terminate a probationary contract at the end of the contract period if in the Board's judgment such termination will serve the best interests of the District. *Education Code 21.103(a)*

TERM CONTRACT

The Board may terminate a term contract and discharge a term contract employee at any time due to a financial exigency that requires a reduction in personnel. *Education Code 21.211(a)*

An employee who is protesting proposed action to terminate a term contract at any time on the basis of a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel must notify the Board in writing not later than the tenth day after the date the employee receives notice of the proposed action. The employee is entitled to a hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or a hearing under Education Code Chapter 21,

Subchapter F (hearings before independent hearing examiner) [see DFD], as determined by the Board. *Education Code 21.159*

CONTINUING CONTRACT

An employee employed under a continuing contract may be discharged at any time for good cause as determined by the Board. *Education Code 21.156*

Continuing contract employees may be released from employment by the District at the end of a school year because of a necessary reduction of personnel. A necessary reduction of personnel shall be made primarily based upon teacher appraisals administered under Education Code 21.352 in the specific teaching fields and other criteria as determined by the Board. *Education Code 21.157*

A hearing of a proposed action based on a declaration of financial exigency shall be conducted in the manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or in the manner provided under Education Code Chapter 21, Subchapter F (hearings before independent hearing examiner) [see DFD], as determined by the Board. *Education Code 21.1041, .159*

FINANCIAL EXIGENCY

The Board may adopt a resolution declaring a financial exigency for the District. *Education Code 44.011* [See CEA]

HEARING EXAMINER

The independent hearing examiner process does not apply to a decision to terminate a probationary or term contract before the end of the contract period or terminate a continuing contract at any time, based on a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel, unless the Board has decided to use this hearing process. *Education Code 21.251*

WARN ACT

Local governments are not covered by the federal Worker Adjustment and Retraining Notification Act (WARN Act) (plant closings and mass layoffs). *20 C.F.R. 639.3(a)(ii)*