

Policy Title: Faculty Dismissal Policy	Policy Number: BU-PP 705
Date Issued: March 21, 2000	Responsible Executive: President
Date Last Revised: April 27, 2020	Responsible Office: Provost

FACULTY DISMISSAL

Policy Statement

Dismissal of tenured faculty and full-time faculty with letters of appointment may be undertaken in accordance with grounds and process identified herein.

Reason for the Policy

The policy provides the appropriate rationale and process for dismissing a faculty member whose employment is secured—through tenure or other kinds of contractual letters of appointment.

Individuals/Entities Affected by this Policy

Tenured faculty, and full-time faculty with a letter of appointment

Exclusions

Adjunct faculty and part-time faculty without tenure

Any matter where process or termination of employment is required by statute, government regulation, or court decision (e.g., Section 51.255, “Failure to Report or False Report; Offenses” of Chapter 51, *Texas Education Code*.) In such case, the University will comply with the legal requirement.

Related Documents

University Policies

BU-PP 704
 BU-PP 022

Definitions

These definitions apply to terms as they are used in this policy.

Dismiss	Remove a covered (e.g., tenured) faculty member from employment against his or her wishes, revoking tenure where applicable.
Accused	Faculty member who has had a dismissal charge brought against him or her by a Charging Party.

Dismissal Committee	The duly appointed faculty committee that serves as the hearing committee when charges filed against a faculty member could lead to dismissal from the University. Specific responsibilities of the Dismissal Committee are set forth in this policy.
Charging Party	An individual or group who has brought the dismissal charge against the faculty member.
Title IX-related matter	A dismissal-related situation in which a Charging Party brings a Charge under this Faculty Dismissal Policy based on findings and/or underlying facts related to an allegation of sexual misconduct, dating or domestic violence or misconduct, stalking, or related retaliation made against a faculty member pursuant to the Title IX Policy, regardless of the finding as to whether the faculty member violated the Title IX Policy. The Title IX Policy and its associated process are highly regulated by law and regulatory guidance and provide respondents and complainants with multiple rights and protections in order to afford fair and impartial process. The Title IX Policy uses the same evidentiary standard (preponderance of the evidence) as used in this Faculty Dismissal Policy. Additionally, faculty members provide administrative oversight of the Process. Additional details of the process protections afforded by the Title IX Policy are available in the policy or by contacting the Title IX Coordinator.
Title IX Policy	Baylor University's Sexual and Gender-Based Harassment and Interpersonal Violence Policy.
Senate Bill 212 ("SB212")	The short-hand name for the amendment enacted by the legislature of the state of Texas, which was effective on January 1, 2020, and which added "Reporting Incidents of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking" to Chapter 51 of the Texas Education Code. These provisions are in Subchapter E-2 of the Code, sections 51.251, <i>et. seq.</i>
Preponderance of the Evidence	Evidence that, when considered and compared to that evidence opposed to it, has more convincing force and produces rational belief that the factual allegation(s) more likely occurred than not.
Substantial Evidence	Considering the record as a whole, evidence that a reasonable mind may accept as adequate to support a conclusion. A Substantial Evidence review begins from a presumption of regularity for the matter being reviewed.

Contacts

Subject	Contact	Telephone	Office email/web site
Policy Clarification	Provost	254.710.3601	https://www.baylor.edu/provost/
Process Implementation	Office of General Counsel	254.710.3821	http://www.baylor.edu/ogc/
Human Resources Support	Human Resources	254.710.2000	http://www.baylor.edu/hr

Responsibilities

President	Address matters that rise to a level of possible faculty dismissal under this policy. Perform in accordance with the policy.
Tenured Faculty, Department Chairs, Deans, and Provost	Address matters that rise to a level of possible faculty dismissal under this policy. Perform as a Charging Party in accordance with the policy.
Dismissal Committee	Receive and review the Charge and summary factual basis, conduct a Probable Cause Review, hold a hearing, and make recommendation(s) on matters that rise to a level of possible faculty dismissal under this policy.

Office of General Counsel	Provides legal support to the Faculty Dismissal process, to include providing the Legal Advisor for the Dismissal Committee and counsel for the Charging Party, as appropriate. Either or both roles may be performed by outside counsel hired by OGC.
----------------------------------	--

Principles

The policy and process are designed to uphold principles of academic freedom, while permitting termination of the faculty relationship when the faculty member's conduct or performance is inconsistent with University standards in ways that academic freedom is not intended to protect. The policy and process are also designed to address matters where termination of employment may be mandated by SB212. The process provides the faculty member whose employment at the University is being considered for termination, notice of the potential termination, and fair opportunity to respond.

I. Dismissal of Faculty Member with Tenure.

A. Grounds for Dismissal. A faculty member with tenure may be dismissed on one or more of the following Grounds:

1. Failure to perform assigned University duties in a competent manner;
2. Repeated or severe non-compliance with University policies or regulations as published in the Personnel Policies Manual, policies or regulations posted on the Provost's website, or specific orders of one of the following University officials: the Chair of the department in which the faculty member charged is employed, the Dean of the school or college in which the faculty member charged is employed, the Provost, or the President of the University.
3. Gross abuse of trust in faculty-student relationship; and/or
4. Misconduct involving moral turpitude, conduct constituting a felony under state or federal law, conduct constituting Failure to Report or False Report as defined by SB212, intemperance in the use of alcoholic beverages, use of illicit drugs, or other conduct materially inconsistent with the standard of conduct generally expected of a teacher in a university sponsored by Baptists.

B. Conflicts. If there is a conflict between this policy and the employment contract of a faculty member, the terms of the policy supersede the contract.

C. Process in Absentia. If a faculty member who is otherwise qualified for the process in this policy is unable to be physically present or participate in the process in this policy for a period of ninety (90) days or more, the process in this policy may proceed without the physical presence of the faculty member.

II. Dismissal of Faculty Member without Tenure.

The annual letter of appointment of a faculty member without tenure (including faculty members with Lecturer and Senior Lecturer letters of appointment, Clinical Faculty letters of appointment, letters of appointment for special library faculty designated as Academic Professionals or tenure-track probationary letters of appointment) may be canceled during the term of such letter of appointment on the same Grounds and by the same Faculty Dismissal Policy procedure before the Dismissal Committee as provided for a faculty member with tenure. Such cancellation shall terminate all rights arising from the letter of appointment, including the right, if any, to reemployment for another year.

Nothing herein in any way limits the right of the University not to renew the employment of a faculty member without tenure or Academic Professional at the end of the term of his or her letter of appointment provided notice specified in BU-PP 704, 716, 718, or 719, as appropriate, has been given

to Academic Professionals or those faculty members on tenure-track probationary appointments, Lecturer or Senior Lecturer appointments, or Clinical Faculty appointments.

III. Dismissal Committee.

A. Composition. The Dismissal Committee consists of three tenured faculty members from the College of Arts and Sciences and one tenured faculty member from every other academic unit (i.e., Business, Education, Engineering and Computer Science, Honors, Law, Libraries, Music, Robbins, Nursing, Truett Theological Seminary, and Social Work) for a current total of fourteen.

B. Term. Each member shall be appointed for a three-year term, with approximately one-third of the committee rotating each year (5-5-4). Unless circumstances dictate otherwise due to the limited size of an academic unit, no member shall begin a term on the Dismissal Committee who has served on the Committee at any time during the immediate previous three (3) years.

C. Appointments. Over a period of three years, the President appoints seven members to the Dismissal Committee according to the composition specified above. The Faculty Senate likewise appoints seven members to the Dismissal Committee according to the composition specified above. Therefore, in every six-year cycle, the appointments shall be as follows:

1. Year One: President - 3 members, Faculty Process - 2 members (Total 5);
2. Year Two: President - 2 members, Faculty Process - 3 members (Total 5);
3. Year Three: President - 2 members, Faculty Process - 2 members (Total 4);
4. Year Four: President - 2 members, Faculty Process - 3 members (Total 5);
5. Year Five: President - 3 members, Faculty Process - 2 members (Total 5);
6. Year Six: President - 2 members, Faculty Process - 2 members (Total 4).

D. Changes. When changes in the composition of the Dismissal Committee occur (for example, because of the need to represent additional academic units), or when committee members are unable to complete their terms, partial terms will be used as necessary in order to make the numbers of new Presidential and Senate appointments each year as close to equal as possible. The party responsible for the original appointment (President or Faculty Senate) shall make a replacement appointment in a timely fashion for the remainder of any unexpired term and convey the decision to the Chair of the Committee on Committees and to the Dismissal Committee.

E. Membership.

1. Department Chairs may not serve on this committee.
2. Each member of the Dismissal Committee will, at minimum, receive annual Dismissal Committee procedural training, to include how to conduct an investigation and hearing process that respects the rights of the Accused, consistent with the procedural guidelines here; protects the safety of victims; and promotes accountability, and information on the Title IX Policy and other relevant matters.
3. At the beginning of each academic year, the Dismissal Committee will elect its own Chair from among the members who have served at least one year on the Committee. No member may serve as Chair for more than one year during any one three-year term. After serving one term on the Dismissal Committee, a faculty member must rotate off for at least three years before becoming eligible for reappointment.

4. To the extent necessary, to avoid a tie vote, a member of the Dismissal Committee will serve as an alternate in each case brought before the Committee. The alternate shall be decided by lot, except that if a member of the Dismissal Committee is also a member of the department of the Accused, he or she will recuse himself or herself from that case. If, as a result of members of the committee recusing themselves the number of available committee members' falls below eleven (11), additional members shall be appointed jointly by the President and the Chair of the Faculty Senate.

IV. Process.

To revoke tenure and dismiss a tenured faculty member from employment, or to dismiss a non-tenured faculty member to whom this policy applies ("Dismiss") the following procedure shall be followed:

A. Charge and Charging Party.

1. Grounds. A written Charge shall be filed against the accused faculty member with the Faculty Dismissal Committee setting forth each applicable Ground for Dismissal and a summary of the accompanying factual basis to support each Charge.

2. Authorized Charging Party. Such written Charge and summary factual basis shall be filed by one (or more) of the following:

- a. a majority of the tenured faculty members of the department (excluding the subject faculty member) in which the faculty member charged is employed;
- b. the Chair of the department in which the faculty member charged is employed;
- c. the Dean of the school or college in which the faculty member charged is employed;
- d. the Provost; or
- e. the President of the University.

B. Notice and Response. A copy of the written Charge and summary factual basis shall be sent by the Chair of the Dismissal Committee to the Accused, along with notice that the Accused must submit a written Response to the Charge and summary factual basis with the Chair of the Dismissal Committee in not more than twenty (20) calendar days from transmission to the Accused of the written Charge and summary factual basis. The Accused's Response shall include (1) a specific admission or denial of the Charge and each summary factual basis in whole or in part, (2) a statement that despite reasonable inquiry, the Accused can neither admit or deny, as appropriate, or (3) a statement that he or she does not wish to contest the Charge and summary factual basis. Failure by the Accused to file a written Response within the prescribed time shall be regarded as an admission to the validity of the Charge and summary factual basis, in which case the Chair of the Dismissal Committee shall assume the Charge and summary factual basis are true and, following Committee deliberation, submit a recommendation as to dismissal of the Accused to the President for review within thirty (30) calendar days. In a Title IX-related matter, the alleged victim and/or advisor will be provided timely notice of the Accused's written Response and provided access to that portion directly related to his or her allegation(s).

C. Suspension or Reassignment. Prior to suspending an Accused or assigning him or her to other duties pending an ultimate determination of his or her status through a Dismissal hearing, the Provost shall consult with the Privilege of Position Committee when logistically possible and legally advisable. Suspension or reassignment of the Accused prior to the final decision regarding his or her Dismissal should only occur if immediate harm to the Accused or others (including the University at large, or any academic unit) is threatened by the Accused's continuance. Unless legal considerations forbid, any suspension should be with pay.

D. Representation. The Charging Party will work with Counsel employed and/or retained by Baylor, who may represent on all matters on behalf of the Charging Party. The Accused shall have the right to be represented by counsel of his or her choice. Generally, all communications will be directly with the Accused unless he or she is represented by a lawyer. Compliance with FERPA is required for any communications on topics that involve student matters (e.g., FERPA waiver by student prior to releasing information to the student's Title IX advisor). Counsel shall be permitted to participate in the proceedings in accordance with the procedures described herein, including the Appendix hereto. Any expense associated with counsel for the Accused, to include travel or counsel fees, will be born exclusively by the Accused, regardless of the outcome of the proceeding.

E. Probable Cause Review. Within twenty-one (21) calendar days after the receipt by the Dismissal Committee of the Charge and Accused's Response, or lapse of time for filing the Response, the Dismissal Committee shall review the Charge, alleged summary factual basis submitted with the Charge, and the Accused's Response (if any) and determine whether (1) there is probable cause to Dismiss the Accused (i.e., a reasonable basis may exist to Dismiss if the factual allegations are determined to be true in whole or in part) and, if so, (2) whether a hearing on the Charge is thereby warranted. The Dismissal Committee shall make this determination by majority vote of the members present as soon as reasonably possible after the Response is filed. A determination that a hearing is warranted is not in and of itself a determination that the alleged facts are true, but only that the Charge is serious enough to warrant a hearing. The Dismissal Committee shall make this determination by majority vote of the members present as soon as reasonably possible after the Response is filed.

F. Setting Hearing. If the Dismissal Committee decides that a hearing on the Charge is warranted, it shall set a date for the hearing and give written notice thereof to both the Charging Party and the Accused. The written notice must be provided at least fourteen (14) calendar days prior to the date of the first scheduled hearing. If the Dismissal Committee decides a hearing on the Charge is not warranted, it shall so indicate in writing to both the Charging Party and the Accused. In a Title IX-related matter, any such notice shall be provided simultaneously to the alleged victim and his or her advisor.

G. Committee Members. Dismissal Committee members should not have a "conflict of interest" or "bias" for or against the Accused, Charging Party, or an alleged victim. A "conflict of interest" or "bias" is a fact, relationship, status, and/or feeling such that the Committee member's ability to judge the facts and circumstances cannot be fair and impartial because the member's feelings about a party or type of claim are so strong that the member's decision will be influenced by these feelings, rather than based solely on the facts and circumstances presented to the Dismissal Committee. Each member is affirmatively obligated to disclose any such conflict or bias prior to the commencement of any proceeding. If any member of the Dismissal Committee is employed in the same department as the Accused, she or he shall be disqualified from participating in the consideration of any Charge or the hearing thereon. Any member of the Dismissal Committee may be challenged for cause by either the Charging Party or Accused on the basis of claimed conflict of interest or bias, as defined herein. If one or more Dismissal Committee member(s) is/are disqualified, causing the number of available Dismissal Committee members, to include alternatives, to fall below eleven (11), additional members shall be appointed jointly by the President and the Chair of the Faculty Senate.

H. Burden of Proof. At the hearing, the Charging Party or their representative must submit evidence to support the Charge to the Dismissal Committee. The Accused and his or her counsel shall have the right to hear and see such evidence, to challenge the same, and to present evidence in answer thereto. The Charging Party or their representative has the burden to prove the Charge by a Preponderance of the Evidence.

I. Witnesses. Ordinarily, witnesses shall testify in person and be subject to cross-examination, but the strict rules of evidence in court trials shall not be binding on the Dismissal Committee. For instance, depositions, sworn statements, or affidavits may be accepted when witnesses are not reasonably available, or when otherwise appropriate, as determined by the Committee.

BU-PP 705, Faculty Dismissal

J. Title IX-Related.

1. **Applicable Procedures.** When allegations of sexual misconduct, dating or domestic violence or misconduct, stalking, or related retaliation are made against a faculty member pursuant to the Title IX Policy, the Title IX office shall determine whether it will investigate. If the Title IX Office investigates, regardless of the finding as to whether the faculty member violated the Title IX Policy, after such an investigation (according to the standards applicable thereto), if an authorized individual or group then submits a Charge under this Faculty Dismissal Policy based on such finding and/or underlying facts, the hearing procedures set forth herein shall apply, with the following exceptions:
 - a. the Dismissal Committee shall accept as true the underlying facts as established by the Title IX investigation and associated contest of those findings under the Title IX Policy to the extent that the right of contest is exercised, with regard to the Accused's conduct on the matters alleged to the Title IX office and which they investigated, and will take no further evidence on that issue; and
 - b. the Dismissal Committee shall accept as true the finding as to whether the conduct violated the Title IX Policy, according to the standards applicable thereto.

Title IX processes are highly controlled by law and regulation. The application of Section J.1. is dependent upon a Title IX process that does not leave the final decision about Title IX responsibility in the hands of a single investigator unless the Respondent or Complainant in that process has waived rights of additional review or has failed to exercise rights of additional review.

2. **Committee Determination and Recommendation.** With respect to any Charge based on the findings of the Title IX investigation, the Dismissal Committee will determine whether the facts as found by the Title IX investigation, or a finding that the conduct violated the Title IX Policy, provide a Preponderance of the Evidence of the Charge and, if so, the Dismissal Committee will make a recommendation as to Dismissal.
3. **Rights of the Alleged Victim.** In any Title IX-related matter, the alleged victim has the same rights as the Accused to: access to portions of the investigation file directly related to the alleged victim; simultaneous notices; access to that portion of the written Charge and Response of the Accused related to the alleged victim; access to any Title IX-related information that directly relates to the alleged victim and that will be used during the hearing; representation by an advisor of his or her choice at his or her own expense; and attendance at the hearing process hereunder for portions related to the alleged victim and which are relevant as to consideration of potential dismissal. The advisor for the alleged victim may be anyone the alleged victim wishes, including but not limited to a friend, family member, colleague, community member, attorney, clergy person, or crisis advocate.

K. Record and Preservation of Evidence. The secretary of the Dismissal Committee shall preserve all papers and written evidence filed in a case, together with the recording (if applicable) and provide them to the Office of General Counsel (OGC). A recording of hearings shall be made and preserved as a part of the record of the case in OGC for an appropriate period of time as determined by OGC.

L. Recommendation. After the hearing, the Dismissal Committee shall make a finding whether each (or any) Ground in a Charge is supported by a Preponderance of the Evidence. The Dismissal Committee will also submit a recommendation regarding Dismissal of the Accused in the event any Ground submitted is supported by a Preponderance of the Evidence. The Dismissal Committee shall make each determination by majority vote of the members present. In the event that the Dismissal Committee has made a finding that a Charge of conduct constituting Failure to Report or False Report as defined by SB212, is supported by a Preponderance of the Evidence, the Dismissal Committee will recommend Dismissal of the Accused.

M. Review and Decision. Such findings and recommendation shall be submitted to the President of the University for review and final decision.

President Review and Decision. In the absence of (1) serious procedural error, timely raised by the complaining party, constituting a material denial of due process in the hearing which likely resulted in an adverse result, or (2) a finding as to a submitted Ground(s) by the President that there was no rational basis for the finding when applying Substantial Evidence standard, the findings shall be accepted by the President, but if the findings support one or more Ground(s) of the Charge, the President shall have the final decision regarding whether the Accused shall be Dismissed. In cases in which the President filed the Charge against the Accused, the review and final decision shall be made by the Provost. Notwithstanding the above, the President or Provost will comply with the mandatory termination provision of SB212.

N. Procedural Guidelines. The President, with consent of the Dismissal Committee, may issue additional dismissal procedural guidelines not inconsistent with this policy. (See appendix for legal details of procedural guidelines.)

Appendix:

PROCEDURAL GUIDELINES FOR DISMISSAL HEARINGS PURSUANT TO BU-PP 705

These guidelines shall be followed by the Faculty Dismissal Committee during dismissal hearings held pursuant to the Faculty Dismissal Policy, BU-PP 705. They supplement the policy and procedures provided in BUPP 705.

1. *Filing of the Charge / Notice of Factual Basis of the Charge*

The Charging Party shall file the Charge with the Chair of the Dismissal Committee. Notice to the Accused is in accordance with BU-PP 705. A copy of such notice shall be simultaneously provided to the Charging Party and, in a Title IX related matter, to the alleged victim.

2. *Disqualification of Dismissal Committee Members*

A challenge to a Committee Member shall be made as soon as reasonably possible following notice of sufficient facts to alert the complaining party to the alleged basis therefor. It may be submitted at any time during the proceedings, but not later than seven (7) days prior to commencement of the hearing. It shall be submitted in writing with a specific statement of the reasons for the challenge and the factual basis therefor. Any documents submitted or provided with respect to a challenge shall become part of the record. In case of such a challenge, the remainder of the permanent members of the Dismissal Committee shall consult with the challenged member regarding the challenge and then decide the challenge in closed session. The challenged member may file a Response, together with evidence and supporting documents, as necessary. If a hearing is required to determine the challenge, the hearing shall be recorded as part of the record. A hearing on such challenge shall be held only in the event a majority of the committee members present, excluding the challenged member(s), vote that such hearing is necessary. If the challenge is sustained by a majority vote of the remaining members present, the challenged member shall be disqualified from participating in the consideration of the Charge or the hearing thereon. The Chair shall notify both sides in writing of the result of the challenge. If the challenge is sustained, the Chair shall designate one of the alternates to act in the challenged member's place.

3. *Scheduling the Hearing / Mutual Exchange of Information*

If the Dismissal Committee determined that a hearing is warranted, the Dismissal Committee, through the Chair, shall give written notice of the date, time, and place for the hearing to the Accused, the Charging Party, and any alleged victim in a Title IX-related matter. Such notice may be given to their counsel or advisor, if appropriate.

If the Accused, or the alleged victim in a Title IX-related matter, requests a delay to the hearing in writing, the Chair will consider whether there is good cause for such a request. An advisor or counsel to either the Accused or the alleged victim in a Title IX-related matter should plan to make herself or himself reasonably available, and the University will not unduly delay the scheduling of meetings or proceedings based on the availability of the advisor and/or counsel for the Accused and/or the alleged victim.

Following the determination that a hearing is warranted and upon written request of the Accused, the Charging Party and the Accused shall exchange lists of witnesses who may be called to testify, a brief summary of their expected testimony, and a list of documents expected to be presented. Such a request does not extend the length of time provided for the Accused to Respond to the Charge.

4. *Nature of the Hearing and Attendance by the President or Provost*

The hearing shall be considered civil in nature, intended to permit both sides in the hearing a fair opportunity to present evidence in support of their position. The Accused and his or her advisor or counsel may attend the hearing, except for the deliberations of the Dismissal Committee on findings or recommendations. In a Title IX-related matter, the alleged victim and his or her advisor may attend the portion of the hearing that

is directly related to him or her, to include the portion on recommendations, and not the deliberations of the Dismissal Committee.

The hearing is not open to the public and no portion may be recorded except by the secretary of the Dismissal Committee, or his or her designee. Witnesses may attend only during their testimony, with the following exceptions: (1) in a Title IX-related matter, the alleged victim may attend even if he or she may be called as a witness; (2) the Charging Party may attend the entire hearing, even if the Charging Party is also a witness; and (3) the President (or the Provost if the President files the Charge) may attend the hearing.

5. *Presentation of a Preponderance of the Evidence to Prove the Charge / Recommendation*

The Charging Party shall have the burden to submit evidence to prove the Charge by a Preponderance of the Evidence.

The Charging Party will be permitted to open and close the hearing, and accordingly the right to present evidence, and speak, first and last. The Accused will present his or her case after the presentation of evidence by the Charging Party. The Charging Party may rebut evidence presented by the Accused.

In a Title IX-related matter, the alleged victim or his or her advisor will be given an equal opportunity to present relevant witnesses and other documents as that provided to the Accused only as to the appropriateness of Dismissal, and not to any underlying or unrelated Ground of the Charge. The alleged victim and his or her advisor in a Title IX-related matter shall have the same rights as the Accused and the University to participate in any process related to the notice, exchange of information, documents or witnesses directly related to the Title IX-offense(s).

In the event that the Dismissal Committee has made an administrative finding that a Charge of conduct constituting Failure to Report or False Report as defined by SB212, is supported by a Preponderance of the Evidence, no additional evidence is required for the Dismissal Committee to recommend Dismissal of the Accused.

6. *Legal Advisor to the Dismissal Committee*

Baylor will provide the Dismissal Committee with a Legal Advisor selected by Baylor. The Legal Advisor will be a licensed attorney experienced in litigation and the Rules of Evidence. The Legal Advisor will attend the hearing. The Legal Advisor will have the authority to rule on all procedural and evidentiary matters related to proceedings under this policy before the Dismissal Committee. The Legal Advisor will also have the authority to rule on offers of proof, procedural matters, and any objections to evidence during the hearing. The advisor should consider, but not be bound by, the Texas or Federal Rules of Civil Procedure and Evidence to guide these decisions.

7. *Submission of Evidence*

The Dismissal Committee shall not be bound by the strict rules of evidence as in court trials. Nonetheless, the Legal Advisor shall exclude evidence, upon objection or motion, that is irrelevant, immaterial, untrustworthy, privileged, and/or unduly repetitious to the Charge and/or recommendation.

The Charging Party and the Accused may stipulate to any factual matter. In a Title IX-related hearing, the alleged victim, Accused, and the University may stipulate to any factual matter.

In a Title IX-related matter, the alleged victim is entitled to submit evidence, either orally or in writing, in like manner as the Accused and the Charging Party with respect to the consideration of the Dismissal Committee's recommendation to the extent directly related to the Ground(s) arising out of the Title IX related matter.

8. Witnesses

Witnesses may retain counsel at their own expense, and such counsel may attend the hearing during the testimony of the witness the counsel represents. A witness who testifies may adopt a prior written statement made by the witness and the record shall include the prior written statement.

Upon objection or motion, the Legal Advisor will rule on whether witnesses may give testimony by telephone, video transmission, or video recording rather than in person when it would be inconvenient to the witness to testify in person, the witness is unwilling to testify in person, or it is otherwise deemed appropriate.

Upon objection or motion, the Legal Advisor will rule on whether depositions, affidavit(s), or sworn statements may be accepted without live testimony by the witness when the witness is not reasonably available, or when it is otherwise appropriate, including the witness's refusal to attend the hearing. In such event, the side seeking to use the deposition, affidavit, or sworn statement should give to the other side reasonable notice of the intended use of the statement and a copy of the statement. In a Title IX-related matter, this applies equally to the alleged victim.

9. Oral Argument

The Accused or his or her counsel and the Charging Party or his or her representative are entitled to oral argument before deliberation by the Dismissal Committee on findings and again before deliberation by the Dismissal Committee on the recommendation. The Charging Party or his or her representative is entitled to open and close such arguments.

In addition, in a Title IX-related matter, the alleged victim or his or her advisor is entitled to address the Dismissal Committee, either orally or in writing, on the topic of the recommendations by the Dismissal Committee.

10. Findings and Recommendation by the Dismissal Committee

The hearing shall be bifurcated: the first part shall address only the Charge, the alleged Ground(s) therefor, and factual basis, that is, whether there is a Preponderance of the Evidence in support of the Charge. If the Dismissal Committee finds there is a Preponderance of the Evidence in support of any Ground(s) for the Charge, the second part of the hearing will be to determine the Dismissal Committee's recommendation as to Dismissal. Additional evidence may be submitted with respect to the recommendation.

In a Title IX-related matter, the Dismissal Committee shall only make a determination as to whether the Title IX finding of fact(s) is Sufficient Evidence of a Ground of a Charge, and if so shall proceed to provide a recommendation as to whether the Accused should be Dismissed. In such a case, the Dismissal Committee shall accept as true the underlying facts as established by the Title IX investigation with regard to the Accused's conduct, and will take no further evidence on that issue; and the Dismissal Committee shall accept as true the finding as to whether the conduct violated the Title IX Policy.

In the event that the Dismissal Committee has made a finding that a Charge of conduct constituting Failure to Report or False Report as defined by SB212 is supported by a Preponderance of the Evidence, the Dismissal Committee will recommend Dismissal of the Accused. Because termination from employment is mandated as a matter of law for employees who commit such an offense, the second part of the hearing will be abbreviated with limited or no evidence.

To facilitate findings and the recommendation, the University shall prepare a findings worksheet with respect to each of the Ground(s) charged and presented and a recommendation worksheet. The findings worksheet will identify each Ground for the Charge with a "yes" or "no" vote space¹ to identify whether there was a finding of a Preponderance of the Evidence for each such Ground in the Charge. The subsequent

¹ With the general instruction: "A 'yes' answer must be based on a Preponderance of the Evidence to prove the Ground presented."

vote on the recommendation of Dismissal is a vote to recommend, or not recommend, Dismissal, and not a vote on the Ground or Grounds on which to Dismiss.

The Chair of the Dismissal Committee shall sign the findings worksheet and the recommendation worksheet. Voting will be by secret ballot. A finding or recommendation requires the vote of a majority of the members of the Dismissal Committee voting.

Deliberations of the Dismissal Committee shall be in closed session, which will not be recorded. Only the voting members of the Dismissal Committee, and their Legal Advisor, may be present during deliberations.

The Dismissal Committee shall make its findings and recommendation promptly after submission of the evidence and oral argument. The Dismissal Committee shall deliberate continuously with reasonable breaks until it makes its findings or recommendation, and the members should not perform any other duties during deliberations. Deliberations by the Dismissal Committee should occur only when all the voting members who have heard the evidence are present for deliberations.

11. Record of the Hearing

The secretary of the Dismissal Committee shall preserve all papers and written evidence filed in the case. Evidence that is excluded shall also be preserved even though it is not to be considered by the Dismissal Committee.

An official recording of the hearing may be made by a representative of Baylor at the direction of the secretary of the Dismissal Committee and, if made, such recording shall be preserved for a reasonable time by Baylor as part of the record of the case. Transcription of the recording is not required, but either Baylor or the Accused may arrange transcription at the requesting party's own expense. In a Title IX-related matter, the alleged victim may request a transcript of the portion of the hearing relevant to that Charge.

The findings and recommendation worksheets shall also be preserved as part of the record.

12. Allegations of Noncompliance with the Procedural Guidelines

An allegation that either the Accused or the Charging Party have not complied with the procedural guidelines shall be made in a prompt and timely manner to the Chair of the Dismissal Committee by objection or written motion, so as to avoid harmful procedural error. The Dismissal Committee, with and through its Legal Advisor, shall consider and rule upon any such claimed departure from procedural guidelines, and the remedy therefor, if appropriate. The complaining party may appeal the ruling to the President (or Provost if appropriate) in a prompt and timely manner so as not to unduly delay the proceedings. The President may review the alleged procedural failure or not, in her or his sole discretion. "In a timely manner" means the allegation is made at the earliest time it would be possible to point out the claimed error and obtain relief. For example, in the event that the alleged procedural deficiency occurred before the hearing, such allegation must be raised prior to the commencement of the hearing, unless it is unknown, or good cause exists (and is adequately shown) for the failure to raise the matter prior to the hearing. A failure to raise any such matter by objection or motion in a prompt and timely manner shall waive the objection or claim of procedural irregularity. Procedural protections for a Title IX-related alleged victim do not create contractual rights or other rights for an Accused. Thus, any procedural deficiency associated with a protection for a Title IX-related matter alleged victim shall not invalidate the proceedings for the Accused.