

GRIEVANCE PROCEDURE UNDER TITLE IX

The following internal grievance procedures have been adopted for students and employees of Spring Arbor University who have complaints alleging a violation of Title IX, pertaining to sex discrimination, including harassment based upon sex. This includes complaints based upon the University's Sexual Harassment Policy and the Interpersonal Harm Policy involving sexual assault, dating violence, domestic violence, and stalking. Please note that these procedures do not apply to Title IX complaints from applicants for employment or from applicants for admission to the University, which is a private, postsecondary educational institution.

- I. **Sex Discrimination.** If an individual believes they have been discriminated against on the basis of sex, they may make a complaint that their rights under Title IX have been denied. Complaints of sex discrimination, including complaints of sexual harassment carried out by employees, other students, or third parties, may be filed under this Title IX grievance procedure. Such a complaint is sometimes referred to in these procedures as a "grievance". The person who has the grievance is referred to in these procedures as the "complainant". The person or entity against whom the grievance is made is referred to in these procedures as the "respondent".

- II. **Filing of a grievance.** A grievance should be set forth in writing, be signed by the complainant, and filed with the University's Title IX Coordinator, who will act as the Grievance Administrator under this Procedure, or designate another person to act as Grievance Administrator for a particular grievance, unless the grievance involves only employees. A grievance must contain
 - a. the name, address, and contact information of the complainant,
 - b. how the complainant believes he or she was discriminated against and identify the person or entity which the complainant believes engaged in the discriminatory action.

The grievance must be filed with the Title IX Coordinator within 180 days of the date the discrimination is alleged to have occurred. Failure to file a grievance within the required 180-day time period will result in the grievance being dismissed as untimely.

Filing of a grievance may be made by hand delivery, by first class mail, or by email.

The contact information for the University's designated Title IX Coordinator is:

Kayla Knapp
Dean of Students
Spring Arbor University
106 East Main Street
Spring Arbor, MI 49283;
telephone number (517) 750-6371;
email: kayla.knapp@arbor.edu.

If the Title IX Coordinator is alleged to have been involved in the discrimination or harassment, the grievance should be filed with the University's designated Assistant to the Title IX Coordinator, and the steps listed in these grievance procedures to be taken by the Title IX Coordinator shall be taken instead, by the Assistant to the Title IX Coordinator. If the grievance involves only employees, the Title IX Coordinator will designate the

University's Human Resources Director as his or her Designee, to process the matter under the Title IX Grievance Procedure, as it applies to employees. The Title IX Coordinator will maintain the files and records of the University regarding any grievance involving students, including student complaints or employee complaints which involve students. Files and records of the University regarding any grievance involving only employees, will be maintained by the University's Human Resources Department. Records shall be retained for seven years from the date of the conclusion of the grievance process and may thereafter be destroyed.

- III. **Receipt of grievance.** Once a grievance has been reduced to writing, is signed, and delivered to the Title IX Coordinator, it is referred to as the "formal complaint". The Title IX Coordinator may consolidate formal complaints if they are against more than one respondent, by more than one complainant, or by one party against the other party, provided the allegations arise out of the same fact or circumstances, and thereafter handle them as one procedure.

Upon receipt of a formal complaint the Title IX Coordinator shall determine if the University has jurisdiction to process the formal complaint under this Title IX grievance procedure.

The formal complaint must be dismissed if:

- a. the formal complaint was not filed timely, or;
- b. in the case of complaints of sexual discrimination or sexual harassment, the alleged conduct would not constitute sexual discrimination or sexual harassment under SAU's Title IX exemptions even if proved, or;
- c. the alleged conduct did not occur in the University's education program or activity.

If the decision is made that the formal complaint, as filed, does not qualify for processing under this procedure due to one or more of the above reasons, the complaint shall be dismissed, and the complainant will be notified of the dismissal. The dismissal is appealable under the appeal process of this procedure.

The University reserves the right to process the complaint under its other accountability procedures, if the complaint is dismissed on the basis that the University lacks jurisdiction. If it is determined that the University has jurisdiction to process the formal complaint under this grievance procedure, the Title IX Coordinator will designate a Grievance Administrator or may act as the Grievance Administrator, to handle the matter under this grievance procedure.

The Grievance Administrator also shall handle any requests for supportive measures from the complainant during the grievance procedure process. Supportive measures will not be intended as punitive for the respondent.

- IV. **Initial Notice of formal complaint.** Upon receipt of a formal complaint, the Title IX Coordinator shall provide a written notice to the parties that includes the following:
- a. discussion of the formal complaint process, including any informal resolution process;
 - b. the allegations of sexual harassment, or other complaint, including sufficient details known at the time and with sufficient time to prepare a response before any initial

interview, including the identities of the parties, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;

- c. a statement that the respondent is presumed innocent and that a determination of responsibility is made at the conclusion of the process;
- d. a statement regarding the right to an Advisor and to review and inspect evidence; and
- e. a statement informing the parties of any provision of the University's code of conduct that prohibits knowingly making false statements or knowingly submitting false information.

Within three days after the decision is made to proceed with the formal complaint the Grievance Administrator shall provide a copy of the formal complaint to the respondent and shall inform the respondent that he or she may file a written response to the formal complaint. That written response shall be due within ten calendar days of delivery of the formal complaint to the respondent. If the respondent files a written response to the formal complaint, the Grievance Administrator will provide a copy of that written response to the complainant within three days after receipt of the response.

There is a presumption that the respondent is not responsible for the allegations made in the complaint unless and until the Respondent is found responsible at the conclusion of the grievance process.

- V. **Informal resolution process.** At any time during the grievance process, the Grievance Administrator may inquire of the parties if they wish to participate in an informal resolution of the grievance. The informal resolution process is not available to resolve allegations that an employee sexually harassed a student. If both the complainant and the respondent agree to do so, and provide voluntary, written consent to participation in the informal resolution process, the Grievance Administrator will meet with them informally to attempt to resolve the grievance. If a resolution of the grievance is reached between the parties, the agreement shall be reduced to writing and signed by the complainant and the respondent, the grievance will be considered resolved and no further action will be taken on the grievance.

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to resume the formal complaint process.

- VI. **Other dismissal.** The University may dismiss a formal complaint if at any time a complainant notifies the Title IX Coordinator that he or she would like to withdraw their complaint, or the respondent is no longer enrolled or employed by the University, or specific circumstances prevent the University from gathering sufficient evidence to reach a determination. Upon a required or optional dismissal, the University will promptly and simultaneously send written notice of the dismissal to the parties.

- VII. **Investigation process.** The University's Title IX Investigator shall commence an investigation of the grievance within seven calendar days of receipt of the formal complaint. As a part of the investigation, the Investigator will interview the complainant and the respondent. Both the complainant and the respondent shall have the right to provide names and contact information of any witnesses they believe may have information regarding the facts involved in the grievance, and to provide any evidence

to the Investigator which they believe may be relevant to the grievance. In grievances involving employees, not filed by or against students, the Human Resources Director shall act as the Grievance Administrator and may also act as the Investigator or designate another individual to act as Investigator. The Investigator shall use his or her best efforts to locate any witnesses named by the complainant and respondent and to interview any available witnesses. Any interviews may be conducted in person, by telephone, or by a virtual meeting.

VIII. Involvement of Title IX Coordinator. It is the goal of the University that the investigation process be adequate, reliable and impartial, in order to fairly and adequately process complaints filed under this procedure. During the investigation process, the Investigator shall involve the Title IX Coordinator in the investigation to the extent reasonably necessary to ensure adherence to the requirements of Title IX and its implementing regulation, taking into consideration the University's Title IX exemptions. The Investigator shall discuss with the University's Title IX Coordinator the facts and evidence discovered during the investigation.

IX. Timing of investigation. The investigation process should be completed within thirty calendar days from the date of commencement of the investigation. If, in the judgment of the Grievance Administrator or Investigator, particular circumstances of the matter require that the investigation period be extended, the complainant, the respondent, and the Title IX Coordinator will be notified that additional time is required to complete the investigation. The notice shall include a date by which the investigation will be concluded, which should be not later than fifteen calendar days from the date of the notice, barring extenuating circumstances. The University will require that the complainant, the respondent, and their advisors, if any, sign non-disclosure agreements regarding the evidence and the information contained in the investigation report, prior to providing copies of any evidence or investigative report to them for review.

The Grievance Administrator will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, including the evidence the University does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a party or other sources, so that each party can meaningfully respond to evidence prior to the conclusion of the investigation. Prior to the completion of the investigative report, the University will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy and the parties shall have at least 10 days from the date of delivery to submit a written response, which the Investigator will consider prior to completion of the investigative report.

X. Findings of investigation. The Investigator shall review any written response provided under Section VIII, above, and shall thereafter create an investigative report that fairly summarizes the relevant evidence.

XI. Delivery of report. At least ten (10) days prior to the hearing date, the Investigator shall send to each party and the party's advisor, if any, the investigative report in electronic format or hard copy, for their review and written response, if they wish to make a written response, and a copy will also be provided to the Title IX Coordinator

and the Grievance Administrator within three days after completion of the report. The University shall make all such evidence subject to the parties' inspection and review available at any hearing, to give each party equal opportunity to refer to such evidence during the hearing, including for the purposes of cross-examination. For all delivery requirements under these grievance procedures, delivery shall be deemed to have been made as of the date of hand delivery, mailing by first class mail, or transmission by email, or fax.

XII. Remedial Steps. In cases involving employees only, if the report of the Investigator finds that discrimination based on sex has occurred, the University will thereafter take such steps as are necessary to ensure that the discriminatory effects on the complainant, and others, if appropriate, are corrected, and determine what sanctions are appropriate under the Sanctions section. In the case of complaints covered by Title IX involving sexual harassment, sexual assault, dating violence, domestic violence, or stalking, filed by students against other students or against University employees or third-parties, the Investigator does not make a determination as to whether or not the respondent is responsible for the actions as alleged in the formal complaint, as the decision of responsibility is to be made by a Hearing Officer under the University's hearing process for such cases.

XIII. Hearing Process. In cases of sexual harassment complaints, sexual assault complaints, or complaints of dating violence, domestic violence, or stalking, involving students, upon completion of the investigation report, the Hearing Process attached to, and made a part of this procedure, will be used to arrive at a determination as to whether the respondent is responsible or not responsible for the actions alleged in the formal complaint.

The standard of evidence will be the "preponderance of the evidence" standard, which is the standard used by the University in all of its accountability proceedings, and in formal complaints against employees, including faculty. A finding of responsibility under the "preponderance of the evidence" standard means that, taking all admissible evidence into account and taking into account any assessment of credibility by the hearing officer, it is more likely than not that the respondent engaged in the conduct alleged in the formal complaint. The burden of proof and the burden of gathering evidence rests on the University and not on the parties.

The parties and their Advisors will receive a copy of the non-testimonial evidence to be presented at the hearing, including a copy of an investigation report if available, at least ten days prior to the hearing. As noted herein, the parties and their Advisors must sign a non-disclosure agreement regarding the content of the investigation report, prior to receiving a copy of the report for review. The hearing will be a 'live' hearing, which may be conducted with all parties physically present, or at the University's discretion, participants may appear virtually, with technology enabling them to see and hear each other. At the requests of either party, the University will require the live hearing to take place with the parties located in separate rooms, with technology enabling the hearing officer and parties to simultaneously see and hear the part or the witness answering questions.

XIV. **Right of appeal.** If either the complainant or the respondent is dissatisfied with the outcome of the formal complaint, they may file an appeal with the person designated in the decision to handle any appeal. That person is referred to as the Appeal Decision-Maker. The Appeal Decision-Maker cannot be the same person as the hearing officer, investigator, or Title IX Coordinator, and will be a person who is free of bias and conflict of interest in the matter, and who meets the training requirements of the Title IX regulations.

The appeal must be in writing, designate the grounds upon which the party is appealing, be signed by the person making the appeal, and must be delivered to the Appeal Decision-Maker within ten calendar days of the date the decision was delivered to the person who is filing the appeal. If the Appeal Decision-Maker determines that the appeal is not timely filed, no further action shall be taken in regard to the appeal, and both parties will be notified that the appeal will not be processed due to being untimely. The decision of the hearing officer will then become a final decision.

XV. **Grounds for appeal.** Appeals of the outcome of the formal complaint may be brought on the following bases:

- a. A procedural irregularity occurred that affected the outcome of the case, or;
- b. new evidence exists that was not reasonably available at the time the determination or dismissal was made and that could affect the outcome of the matter, or;
- c. the Title IX Coordinator, investigator, or hearing officer had a conflict of interest or bias that affected the outcome of the matter.

XVI. **Appeal Procedure.** Upon receipt of a timely appeal, the Appeal Decision-Maker shall notify the other party in writing that an appeal has been filed and provide the other party with a copy of the written appeal. The Appeal Decision-Maker shall notify both parties in writing that both parties have ten calendar days in which to submit a written statement to the Appeal Decision-Maker in support of, or challenging, the outcome of the matter. After reviewing the written statements and such evidence as the Appeal Decision-Maker deems necessary to make an informed decision on the appeal, he or she shall issue a written decision describing the result of the appeal and the rationale for the result within fifteen calendar days following notification to the parties that they may submit written statements. The written decision of the Appeal Decision-Maker shall be delivered simultaneously to both parties. There is no appeal of an appeal decision.

NOTICE: Retaliation against individuals who file sex discrimination complaints or who participate in this grievance process is prohibited. Individuals who believe they have been retaliated against for filing a grievance or for participating in the grievance process should notify the University's Title IX Coordinator at the address and telephone number set forth above.

The University reserves the right to amend, change, or substitute, in whole or in part, any of the grievance procedures set forth herein, in the event there are changes in applicable law or regulations which require changes in these procedures.