

OSEA Statement on Discrimination and Sexual Harassment

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OSEA is committed to the eradication of discrimination based on race, racial identification, color, sex, sexual orientation, gender, sexuality, religion, class, ethnicity, age, national origin, language, and culture. The motivation, mission and values of OSEA are premised on the basic human rights of respect, tolerance, understanding, acceptance, and equality of difference between persons and peoples. In this spirit, OSEA has developed educational services and activities, including research, training and exchange programs, to contribute to the elimination of discrimination and harassment.

In consideration of these values and its mission, OSEA is an organization that understands sexual harassment to be a pernicious and pervasive form of discrimination that requires special consideration and attention in order to be identified and eliminated. Sexual Harassment is against the law in the United States and in México and is a form of discrimination that is based on and targets gender, sexual orientation, sexual identification, and sexuality.

Towards these objectives, the OSEA Policy on Sexual Harassment provides guidelines regarding: its identification and the communication of its real, or potential, occurrence by victims, OSEA staff, participants, associates or other non-OSEA observers from the community; criteria for understanding different contexts in which it can manifest and how these can affect the meaning of interactions; procedures for registering, filing, adjudicating, addressing, and successfully resolving complaints.

OSEA is committed to updating and improving policy to maintain compliance with legal requirements in the workplace defined by EEOC. As well OSEA seeks to maintain policy and procedures involving sexual harassment in educational contexts that are commensurate with accepted norms and expectations that derive from Title IX even though OSEA is not a federally funded educational institution. In compliance with the EEOC and Title IX guidelines, OSEA policy prohibits discrimination and harassment of any kind. If the result of an investigation indicates that corrective action is called for, such action may include disciplinary measures, including immediate termination of the employment of the offender or dismissal of participant from program.

Sexual Harassment

It is unlawful to harass a person (an applicant or employee) because of that person's sex, gender, sexuality, or orientation. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. Both victim and the harasser can be of any sex or gender. Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive environment or when it results in adverse employment decision.

Harassment, or more grievous offences, and Discrimination can occur:

- Between persons of same or different sex, gender, sexualities, and orientations;
- Between employer and a member of the (teaching, research or administrative) staff;
- Between employer and a program participant (including interns, work study participants, research associates, and visiting lecturers);
- Between staff members, whether the staff persons are in hierarchical, “equal” or parallel positions and statuses of employment;
- Between program participants;
- Between staff and program participants;
- Between staff and members of the community where OSEA educational activities occur, including members of a homestay family;
- Between program participants and members of the community where OSEA educational activities occur;
- Between persons who are US citizens in México;
- Between persons who are US citizens in México and Mexican nationals, or US citizens and other foreign nationals;
- Between Mexican nationals and other, non-US foreign nationals in Mexico.

Incidents of sexual harassment or assault involving Mexican citizens or foreign nationals are reported to the US Consulate in Merida, Yucatán, México and to the appropriate Mexican law enforcement and civil authorities at the determination of the aggrieved in consultation with OSEA administrative staff and Director.

Harassment in contexts of Anthropological Research and Ethnography Field Schools

Harassment in Field Schools are particularly complicated and requires special attention and procedures due to multiple factors, such as cross-cultural misunderstandings, misleading expectations, and simultaneous overlaying of personal and professional roles in multiple field school contexts of learning, research, fieldwork, and study. Relevant resources are:

- <https://www.insidehighered.com/news/2014/08/13/researchers-react-study-about-sexual-harassment-scientists-field>
- http://depts.washington.edu/anthweb/resources/diverse_pdfs/archy.rec.nov.2014.sex.harass.pdf
- [“What Happens in the Field?” Preliminary Results of the SEAC Sexual Harassment Survey of Archaeology Field Schools](#)

Additional Relevant Resources

- [Information on Mexican Law regarding sexual harassment in workplace](#)
- [Mexican laws against sexual harassment](#)
- [Laws of the US Equal Employment Opportunity Commission](#)
- [US legal definition of sexual harassment regarding employment](#)
- [News Article reporting on law professors criticism of Harvard's sexual harassment policy indicating complexities of issues at stake](#)
- [Indiana University Code of Student Rights, Responsibilities, and Conduct](#)
- [American Association of University Professors, Sexual Harassment Issues](#)

Mediation, Arbitration, and Filing a Formal Complaint with the EEOC

- <http://www.mediate.com/articles/whittenburyE.cfm>
- https://www.eeoc.gov/federal/fed_employees/filing_complaint.cfm

OSEA Sexual Harassment Policy and Procedures

Section 1. Definitions of Harassment / Sexual Harassment and Discrimination

Harassment is a form of discrimination and is defined as verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, gender, sexual orientation, national or ethnic origin, age, class status, disability or handicap, or veteran's status or any other characteristic protected by law or that of his/her relatives, friends or associates, and that: a) has the purpose or effect of creating an intimidating, hostile or offensive work, educational or living environment; (b) has the purpose or effect of unreasonably interfering with an individual's work or academic performance; or (c) otherwise adversely affects an individual's employment or educational opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is displayed on or circulated in the OSEA—The Open School of Ethnography and Anthropology educational facility and property.

Sexual harassment, sexual assault, or discrimination on the basis of other characteristics may occur but is not limited to occurring between: a) OSEA program participants, including intern staff, b) program participants and members of the Pisté, México community; and c) between OSEA staff, including interns and visiting research associates, and OSEA program participants.

Section 2. Sexual Harassment

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic evaluation; (2) submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting that individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive work, educational or living environment

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances these behaviors may include, but not limited to: conditioning a promotion, pay raise or course grade upon the receipt of sexual favors; unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.

Section 3. OSEA Policy

OSEA—The Open School of Ethnography and Anthropology strive to provide a work and learning climate for staff, faculty and program participants free of all forms of harassment, discrimination, exploitation, and intimidation. Every member of the OSEA community should be aware that the organization/school is strongly and categorically opposed to discrimination and harassment, including sexual harassment, and that this behavior is illegal under US and Mexican federal, state and local laws. Sexual Harassment and discrimination or conduct creating these experiences is unacceptable in the work, educational, and living environments, including any work or educational-related settings outside the OSEA workplace campus, e.g., that of field trips, business meetings, business and school-related social events, homestays, and community life. OSEA prohibits harassment and is committed to taking appropriate action to prevent, correct, and, if necessary, discipline behavior which violates this policy, e.g., reprimand, suspension, termination, or expulsion.

Section 4. Abiding By U.S. Laws and Regulations

Staff, faculty, researchers, and participants who are not from the United States must abide by both U.S. and Mexican laws and regulations while participating as members of the OSEA community on-site in Pisté, Yucatán, Mexico. A special effort is made to explain and clarify US rules and norms for those from other cultures who may not be familiar with such a code of behavior.

Section 5. Sexual Assault and Sexual Harassment

Sexual assault is defined as any sexual act that is perpetrated without consent of the victim. The type of force employed may involve physical violence, coercion, or the threat of harm to any person. A victim is considered unable to consent, and therefore, sexually assaulted if he/she is: (1) mentally incapacitated or physically helpless due to drugs or intoxicants; (2) mentally defective; (3) unaware that the sexual act is taking place; (4) under 16 years of age, except where the persons are married and the act is consensual, or under 18 years of age when the accused: (a) is a parent or entrusted by law to care for the victim; (b) uses a position of authority over the victim to persuade hi m/her to submit.

Sexual assault may fall by definition within the scope of sexual harassment and may be subject to criminal prosecution by Mexican law enforcement authorities. Examples of acts defined as sexual assault by US law and by OSEA policy include forcible rape by an acquaintance or stranger, incest, sexual abuse of minors, as well as sexual assaults that do not involve penetration.

Section 6. Reporting Sexual Assault

Any participant subject to assault, sexual or otherwise, must report such incidents to the OSEA staff. OSEA will assist in reporting to local civil authorities and the US Consulate in Merida, Yucatán, and in filing charges with Mexican law enforcement in accordance with the severity of the incident and the explicitly expressed decision of the person whether or not to pursue legal charges. Upon receiving a report of assault, sexual assault, harassment, or other conduct associated with such allegations, OSEA is required to open an internal

inquiry into the facts of the case in conjunction with and in addition to any external criminal proceedings in México or reporting to US Consulate.

Section 7. Dual, Mutual and Consensual Relationships

Mutual or consensual sexual relationships, excluding marriage, civil partnerships, civil unions, or domestic partnerships, between 1) faculty and staff and program participants, 2) between program participants, or 3) program participants and members of the on-site community locations in México are strongly discouraged and viewed as inappropriate. Such dual personal and professional relationships can create conflicts of interest, compromise the integrity, trust, supervision or evaluation of academic or working relationships or negative educational or working environments for other participants and staff. The reporting of such inappropriate relationships requires an inquiry into the facts of the case, including any effects and consequences thereof leading to a determination of appropriate disciplinary action, that can include official notification, suspension of employment without pay and termination of employment in case of employees, including interns, and official notification and dismissal from OSEA training programs in case of participants.

Employees and participants should be aware of conflicts of interest that are inherent in personal relationships where professional and educational careers are also involved, and potential abuses of authority. This is especially true of amorous or sexual relationships between faculty and staff, including temporary employees and interns or between staff and participants given the inherently unequal structure of power persons of different staff and participant statuses. Given the special relationship that exists between faculty members and OSEA participants, it is important that this relationship not be compromised, even if without intent, due to relationships of a personal nature. Even if a participant is not enrolled in a faculty member's class, the small size and the nature of the educational experience at OSEA means that the faculty member may be called on to evaluate, provide references for, or advise the participant.

It is the expectation that the educational relationship between teaching staff and participant, on the basis of mutually agreed understandings of the persons, may continue after conclusion program in the form of letters of reference, acknowledgment of support, academic advising, or related assistance; therefore, dual relationships between faculty members and former participants are also viewed as inappropriate.

Should an allegation of sexual harassment arise from such a dual relationship, the burden and cost of providing a legal defense falls on the faculty or staff member in case of any legal or judicial procedures. In the case of such an allegation, OSEA is mandated to initiate an internal inquiry into the facts of the situation conducted by the OSEA Director or a person acting in the capacity of OSEA Ombudsmen or a representative of the OSEA Academic Advisory Board. The inquiry must be conducted with all relevant staff, participants, homestay families, community authorities or other persons who may have relevant information with faithful observance of confidentiality. This inquiry may require the on-site presence of one or more Academic Advisory Board Members acting in the capacity of ombudsman or can extend past the program termination date and may be carried out by other than face-to-face in-person means of communication.

OSEA discourages sexual relations of a mutual or consensual nature between a supervisor and employee. If any employee engages in such a relationship, he/she should either divest himself/herself of supervisory responsibility for the employee involved or pursue other options such as resignation or job transfer within OSEA. If a dual relationship does exist, the burden of proving that the relationship is welcome rests with the supervisor.

Section 8. Retaliation is prohibited

OSEA prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports.

Section 9. Reporting an Incident of Harassment, Discrimination or Retaliation

Participants are strongly encouraged to report incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position, to OSEA staff, who in turn is required to report the incident to the Director. OSEA is deeply committed to the maintenance of confidentiality and privacy in the reporting and investigation of reports so far as this is possible in order to identify, document and verify the facts of the case. Individuals may decide, however, to first address the offender directly without going through formal reporting procedures.

Section 10. Consultation

Consultation is available for anyone who wishes to discuss issues related to sexual harassment and discrimination, whether or not such incidents have occurred, whether the person seeking information is a complainant or whether the person who believes his/her own behaviors may be the subject of criticism. Individuals may seek to discuss their concerns without identifying other persons who are involved and sometimes without identifying their selves. Consultations with OSEA staff are kept confidential .

Section 11. Internal Mediation through Direct Communication

An individual may decide to communicate to the offender about the unwelcome behavior and request that it discontinue. If an individual considers that undesired escalation will not occur, then seeking a non-confrontational dialogue may be appropriate. Nonetheless, it is advised that a neutral third person witness the conversation. The individual may choose to consult with OSEA staff to inform the staff of this mediation and if requested it is possible for direct communication to occur in the presence of or be mediated by OSEA staff or designated proxy. In situations of particularly egregious experience: It is recommended that the individual request the presence of OSEA staff, specifically the OSEA director. It is not recommended that direct communication be attempted in the presence of another student participant or a homestay family member in cases of exacerbated grievance. Specifically the OSEA staff in positions of Director, Student Liaison and Community Liaison are available for participating in such mediation and resolution of complaints. The individual must therefore inform the OSEA staff with an informal or a formal report.

Section 12. Reporting, Formal and Informal

If for any reason an individual does not wish to address the offender directly through consultation process described above, or if such action does not successfully end the offensive behavior, the individual should contact one or more of the following persons immediately after the offense occurs in order to initiate either an informal or formal report. Formal and Informal reporting procedures can be initiated with any one or more of the persons indicated below:

On-Site Reporting During Program

- OSEA Teaching and Research Staff
- OSEA Assistant Field School Director
- OSEA Director, Quetzil Castañeda
- Pisté Community Liaisons (Gaspar Burgos, Russel Yam)

Reporting to Off-Site OSEA associates:

- OSEA Advisory Board Representative (see website listing of members)

Informal and Formal Reporting of complaints require an investigation of the facts of the situation by appropriate staff and may culminate in: consultation or mediation between parties, formalization of complaints in written statements and documentation; reporting to Mexican civil authorities or filing legal complaints with law enforcement authorities at town, county, district or state levels of government and law enforcement; the determination of appropriate disciplinary actions internal to OSEA; and reporting to and filing legal complaints with the US Consulate in Merida, Yucatán or Embassy in México City. Strict confidentiality is maintained to the extent consistent with adequate investigation and appropriate corrective action throughout the investigatory process, including any reporting, documentation, arbitration, mediation, or consultation.

Section 13. Procedures and Levels of Response to Reporting of Sexual Harassment

OSEA policy encourages victims and witnesses of sexual harassment to report incidents directly to staff or directly to the Director in order to initiate an inquiry. In cases when the individual prefers to report to a higher level of oversight, there are several options.

Level 0. Reporting to External Sexual Harassment Advocates and Counselors

In all cases of reporting it is imperative that the individuals who have experienced harassment be able to find safety and security. This may entail relocation from the arranged lodging to another location within Pisté, or to lodging in a different city or a return to their home community as appropriately determined by recipients of harassment and discrimination. In addition, OSEA encourages aggrieved persons to communicate with sexual harassment advocacy and counseling in the USA or in Mexico. OSEA suggests the use of Middle Way House in Bloomington, Indiana, or a similar advocacy and counseling organization that is located in closer proximity to the aggrieved person's home community.

Middle Way House: Phone: (812) 333-7404
communications@middlewayhouse.org

Additional Sexual Harassment Resources and hotlines and support organizations can be found at the Feminist Majority Foundation website:

<http://www.feminist.org/911/harass.html>

Level 1. Internal Inquiry supervised by the OSEA Director

This internal inquiry can lead directly to a) disciplinary action, including suspension from work, termination of employment, formal notification of inappropriate conduct, dismissal from program, with or without reporting to civil authorities or law enforcement, or b) can lead to internal mediation between the affected parties, including additional staff as appropriate, in order to find an appropriate resolution satisfactory to all parties. Internal consultation may or may not include reporting to civil authorities or Mexican law enforcement. Allegations of sexual assault involving a Mexican citizen can be reported to these officials if the aggrieved party so desires to press charges. OSEA staff can provide relevant information by which to make such a decision and options for locating a Mexican lawyer. If satisfactory resolution does not result, then the individual may have recourse to additional oversight.

Level 2. The reporting to the OSEA Advisory Board.

The reporting individual may contact the OSEA Advisory Board representative who is charged with receiving such reports. This representative may change year by year and thus it is the obligation of OSEA to provide this information prior to the program start date with a the OSEA Policy on Sexual Harassment. The Advisory Board representative will request a report from the OSEA Director and may initiate further investigation directly or by an appropriate proxy that they designate. This may result in a) additional internal mediation with OSEA Academic Advisory Board member or other appointed ombudsman; b) formal mediation on-site with appropriate civil authorities, Mexican mediators, or lawyers; or c) post-program formal mediation with a US licensed mediation service (see below).

Level 3. Reporting to Mediation Services in the USA

The reporting individual may directly contact the Community Justice and Mediation Center located in Bloomington Indiana to initiate mediation between parties. The CJAM services does not entail further investigation of the allegations or documentation of statements.

<https://ciamcenter.org/>

(812) 336-8677

[ciam@ciamcenter.org](mailto:cjam@ciamcenter.org)

Administrative hours: Monday – Friday 10:00am-6:00pm

Level 5. Reporting to EEOC if you are an OSEA employee

The aggrieved individual must report to an EEOC Counselor to initiate a process of investigation and counseling that may or may not culminate in a formal complaint. Please review the process at https://www.eeoc.gov/federal/fed_employees/counselor.cfm .

To file a Charge of Discrimination, see <https://www.eeoc.gov/employees/charge.cfm>

Section 15. Inquiries of Allegations of Sexual Harassment

Once allegations of sexual harassment is reported to an OSEA staff person, they are required to report the OSEA Director, who in turn is required to report the OSEA Advisory Board Representatives and OSEA Community Advisors. A formal inquiry is initiated by the Director who may enlist the assistance of staff, Advisory Board Members, Community Advisors by conducting interviews with individual participants, including homestay family members, program participants, teaching faculty, and employees. In accordance with compliance with rules of confidentiality, this internal investigation is tasked to document and verify the facts of the case by means of the collection of written, oral or audio recorded statements by all program participants, staff and community members as well as the collection of any additional documents directly related to allegations.

This internal inquiry by OSEA shall result in consultation between the indicated persons and OSEA staff as quickly as feasible following formal reporting of incident. If requested by either party, this mediation may be internal to OSEA or may involve OSEA Director and appropriate staff and local civil authorities as appropriate in accordance with a) the nationalities and statuses of the persons involved in the allegations; b) the nature, gravity and location of the alleged incidents; and c) the stated desires of the aggrieved to pursue formal reporting with Mexican law enforcement and Mexican civil authorities.

In those cases when OSEA internal consultation: a) is not successful in creating a shared understanding and resolution; b) is not conducted because either party does not agree to participate; or c) was not possible to conduct due either to the physical relocation of parties from the OSEA on-site community location in Pisté, Yucatán, México, or to the unavailability of one of the parties involved, then the case may be taken to higher level. In such cases the OSEA Director appoints an ombudsman in discussion with the Academic Advisory Board representatives to conduct an independent inquiry, including further collection of statements and documents, and to conduct mediation between the parties.

Section 16. Communication and Training & Education Programs

OSEA will use an array of methods to inform OSEA staff, employees, interns, research assistants and associates, program participants, homestay families, and other community associates. Additionally, OSEA will provide training and education activities to the OSEA network of staff, participants, and families about a) types of conduct which constitute harassment, b) the responsibilities of employees and managers in adhering to OSEA's harassment policy, including how to file complaints, report incidents of harassment, c) the strict prohibition and illegality of retaliation, and d) types of and procedures for reporting and investigation.

Section 17. Commitment to Policy Review and Updating of Policy

OSEA is committed to continual review and periodical updating of its policy, guidelines and procedures on Sexual Harassment and Discrimination.