

SEAC BACKGROUND AND RESOURCE GUIDE FOR ADDRESSING SEXUAL HARASSMENT AND VIOLENCE

SEAC Task Force on Sexual Harassment and Assault and
SEAC Executive Board, August 14, 2018

Adapted and modified from the American Association of Physical Anthropologists Statement on Sexual Harassment and Assault, <http://www.physanth.org/about/position-statements/aapa-code-ethics-sexual-harrasment/sexual-and-other-harassment/>, accessed 2018, and the Society for American Archaeology Background and Resource Guide for Addressing Harassment and Violence, <http://www.saa.org/AbouttheSociety/StatementonSexualHarassmentandViolence/tabid/1547/Default.aspx>, accessed 2018. Used with permission from the AAPA Executive Committee and the SAA Board of Directors.

Introduction and Scope of Policy

The Southeastern Archaeological Conference (SEAC) is committed to providing a safe space, free of threats, harassment, or assault, to all of our members regardless of their age, ethnicity, gender identity or expression, sexual orientation, disabilities, religion, marital status, or any other reason unrelated to professional performance. Experiences of harassment and assault and threats of those behaviors, especially those of a sexual- or gender-identity based nature, in educational and workplace contexts can shape an individual's ability to complete their training or pursue their career goals.¹ Professional training and research in archaeology often require many years of preparation, intensive collaboration, and research away from home institutional contexts. Both assault and harassment remain substantial issues in fieldwork situations,² and there are indications that these issues are also relevant at conferences.

This *SEAC Background and Resource Guide for Addressing Harassment and Violence* is intended to convey accepted guidelines for appropriate behavior for SEAC members and to provide

¹ Leskinen, Emily A., Cortina, Lilia M., Kabat, Dana B. (2011), "Gender Harassment: Broadening our understanding of sex-based harassment at work." *Law and Human Behavior* 35(1): 25-39; Einarsen, Ståle., Hoel, Helge, Zapf, Dieter, Cooper, Cary, Eds. (2011), *Bullying and Harassment in the Workplace: Developments in Research, Theory and Practice. Second Edition* (Boca Raton: CRC Press).

² Maureen Meyers, Tony Boudreaux, Stephen Carmody, Victoria Dekle, Elizabeth Horton, and Alice Wright (2015), "Preliminary Results of the SEAC Sexual Harassment Survey," *Horizon and Tradition* (Newsletter of the Southeastern Archaeological Conference) April 2015:19-35; Clancy, Kathryn B. H., Nelson, Robin G., Rutherford, Julienne R., Hinde, Katie., "Survey of academic field experiences (SAFE): Trainees report harassment and assault," *PLOS One* 9(7): see <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0102>. Over 90% of female and 70% of male study participants were trainees or employees at the time that they were targeted. For the purposes of this survey, sexual harassment was defined as sexual remarks and comments about physical appearance and/or cognitive sex differences and sexual assault as unwanted physical contact of a sexual nature, including touching, physical threats or rape.

targets of such behavior with resources for seeking legal and institutional recourse. In it, SEAC outlines best practices regarding the definition, prevention, and reporting of sexual and other types of harassment and violence in our professional community as well as our expectations for the professional behavior of SEAC members. Here we define “and other” specifically as those forms of harassment and violence based upon the targeted person’s attributes other than sex, for example, gender identity or expression, sexual orientation, ethnicity, disability, religion, and marital status. SEAC’s Detailed Statement is not intended to constitute legal advice. In the event of any conflict between it and applicable law or institutional policy, the applicable law or institutional policy prevails. SEAC members and institutions are encouraged to seek their own counsel for advice in any specific situation.

What are sexual harassment, rape, and sexual assault?

According to the United States Equal Opportunity Commission, sexual harassment includes comments directed at someone because of their sex as well as unwelcomed sexual advances or demands for sexual favors.³ The Department of Justice defines rape as forced penetration of any body part of another person without that person’s consent.⁴ This definition of rape acknowledges that the sex and gender of the perpetrator and victim is irrelevant, a victim is not required to physically resist, and a person may be unable to provide consent (e.g., due to intoxication, psychological coercion, physical incapacitation, or other physical and mental incapacities). Sexual assault includes actual or attempted physical attacks (e.g., rape) and any sexual contact (including fondling or groping) or behavior without explicit consent of the recipient.⁵

SEAC members are expected to conduct themselves in a manner consistent with applicable civil and criminal laws prohibiting sexual harassment, rape, and sexual assault.

As archaeologists, we conduct our professional business in diverse spaces including field settings, offices, conferences, workshops, classrooms, and laboratories on college and university campuses and in museums, cultural resource management (CRM) firms, and government institutions throughout the country and abroad, as well as online. Accordingly, sexual harassment and assault can occur in all of these spaces. Many (though not all) archaeologists work under the auspices of federally funded colleges and universities while many others work for federal, tribal, state, and local agencies and organizations. These persons are governed not only by local, state, tribal, and federal criminal and civil law but also by the

³ U.S. Equal Employment Opportunity Commission, “Facts About Sexual Harassment,” see <http://www.eeoc.gov/eeoc/publications/fs-sex.cfm>.

⁴ See, “Attorney General Eric Holder Announces Revisions to the Uniform Crime Report’s Definition of Rape,” January 6, 2012, available at <http://www.justice.gov/opa/pr/attorney-general-eric-holder-announces-revisions-uniform-crime-report-s-definition-rape>.

⁵ See “Sexual Assault,” Department of Justice, updated April 2, 2015. <http://www.justice.gov/ovw/sexual-assault>.

policies and rules of these institutions and agencies, including Title IX of the Education Amendments (1972), 20 U.S.C. §1681 et seq., and similar legislation in other countries.

Relevant United States federal laws pertaining to sexual harassment and assault

Numerous civil and criminal laws enacted at the local, state, and federal level provide varying and overlapping rights and obligations regarding harassment, rape, and sexual assault. These include, without limitation:

The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act (also known as the Hate Crimes Act), 18 U.S.C. §249, makes it a crime to willfully cause bodily injury to another person because of actual or perceived gender, sexual orientation, or gender identity. See <https://www.law.cornell.edu/uscode/text/18/249>.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq., which makes it unlawful for employers to make employment decisions (e.g., hiring, firing, promotion, and compensation) on the basis of sex or to limit, segregate, or classify employees or applicants on the basis of sex. It protects individuals (i.e., applicants and employees) from hostile environments (including sexual harassment) in employment. See <https://www.eeoc.gov/laws/statutes/titlevii.cfm>.

Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., specifically applies to education programs to protect individuals (e.g., visitors, volunteers, students, and faculty) from being excluded from participation, denied the benefits, or discriminated on the basis of sex. See <https://www.justice.gov/crt/overview-title-ix-education-amendments-1972-20-usc-1681-et-seq>.

The reauthorization of the Violence Against Women Act (VAWA) includes specific stipulations for issues concerning campus sexual violence (the so-called SaVE Act provision). See <https://www.federalregister.gov/documents/2014/10/20/2014-24284/violence-against-women-act>.

Criminal offenses for statutory rape vary by state in terms of minimum age of the victim, minimum age of defendant, and age differential between them. See <https://aspe.hhs.gov/report/statutory-rape-guide-state-laws-and-reporting-requirements-summary-current-state-laws>.

Civil Protection Orders (CPOs) vary by state. The American Bar Association has prepared charts summarizing CPOs for sexual assault and for stalking and harassment in the United States and the District of Columbia. See http://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/Charts/SA%20CPO%20Final%202015.authcheckdam.pdf

Many states have or are in the process of adopting legislation specifically regarding sexual misconduct on campus.

Many private firms and employers have non-discrimination policies and/or regulations that proscribe appropriate behavior for employees.

Members of the Register of Professional Archaeologists are bound by RPA's Code of Conduct: Sexual Harassment. See <http://rpanet.org/?page=RPACodeSexualHarassm>.

Generally, U.S. federal statutes set a baseline of protections upon which state and local authorities may provide additional or stronger protections; thus, the law of one jurisdiction may demand a higher standard of conduct than the law of another. The specific conduct required or prohibited varies from place to place as do the proscriptions (i.e., the acts, types of actor, types of victim, or types of setting). For any given circumstance and time, multiple laws apply. State human relations commissions are important resources and can refer individuals to the appropriate authority to handle situations involving civil and criminal laws.⁶ While it is beyond the scope of SEAC's statement to review all relevant law that may apply to SEAC members at any particular time, it is important to remember that depending on the circumstance multiple lines of redress may exist.

How does the Hate Crimes Act relate to sexual harassment and assault?

The Hate Crimes Act prohibits and prescribes penalties for anyone who commits, or attempts to commit, acts of violence against another person because of the actual or perceived "race,⁷ color, religion, or national origin" of any person, or because of real or perceived gender, sexual orientation, gender identity, or disability. The term "gender identity" means actual or perceived gender-related characteristics.

Such offenses include aggravated sexual abuse or an attempt to commit it. The law defines the term "bodily injury" as a cut, abrasion, bruise, burn, or disfigurement, physical pain, or illness; impairment of the function of a bodily member, organ, or mental faculty; or any other injury to the body, no matter how temporary. The law defines the term "serious bodily injury" as bodily injury that involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Readers should note that the Hate Crimes Prevention Act specifically excludes solely emotional or psychological harm to the victim (see below). However, in this area, Title VII of the Civil Rights Act of 1964 regarding workplace discrimination and Title IX of the Education Amendments of 1972 (see below) regarding hindrances to educational opportunity may apply

⁶ See <http://www.justice.gov/crt/legalinfo/stateandlocal.php>.

⁷ Here the SEAC Board stresses our recognition that "race" is a socially constructed category, but notes that it is one included in federal and state law and other documents and includes the term when quoting those documents.

to such threats to employee and student security and effectiveness in their respective situations.

How does Title IX relate to sexual harassment and assault?

In the United States, private and public colleges and universities that receive federal funds must comply with Title IX of the Education Amendments (1972), 20 U.S.C. §1681 et seq. Title IX prohibits discrimination on the basis of sex in educational programs, activities, and employment. Title IX applies regardless of whether federal financial assistance is received directly or indirectly. Title IX applies to all forms of sexual discrimination including sexual harassment, sexual misconduct, sexual violence, and all forms of gender-based harassment. Title IX applies equally to students, staff, and faculty, and is meant to protect students and employees from sexual harassment by any school employee, student, or nonemployee third party.

Title IX requires, among other things, that a school: 1) publish a non-discrimination statement; 2) appoint a Title IX coordinator; 3) adopt and publish grievance procedures that are prompt, equitable, and allow for adequate, reliable, and impartial investigation of complaints; 4) use and enforce appropriate remedies; 5) provide education and prevention programs; 6) provide general training for all campus community members about the school's policies and procedures; and 7) provide specific training for implementers and adjudicators about the school's grievance procedures and its response to complaints of sexual harassment and sexual violence. Therefore, all students and employees at colleges and universities receiving federal financial assistance should have access to these offices and resources. Under Title IX, if a school knows or reasonably should know about sexual harassment that creates a hostile work or learning environment, the school must eliminate the harassment, prevent its recurrence, and address its effects.

A school violates Title IX if it has "notice" of a sexually hostile environment and fails to take immediate and corrective action. A school is deemed to have notice if a responsible employee knew or, in the exercise of reasonable care, should have known about the harassment. A responsible employee includes any employee who: 1) has the authority to take action to redress the harassment; 2) has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees; or 3) a student could reasonably believe has the authority or responsibility to take action. Unlawful discrimination on the basis of sex includes rape, sexual assault, and sexual harassment (*i.e.*, hostile environment). Many SEAC members are affiliated with colleges, universities, and research institutions throughout the United States. Thus, members may be accountable to their colleges and universities via Title IX. Members outside the U.S. will also be bound by any similar legislation in their home country or country of employment.

How do Title VII of the Civil Rights Act and the Violence Against Women Act relate to sexual harassment and assault?

The Civil Rights Act of 1964 (Pub. L. 88-352) (Title VII), as amended, makes it illegal to discriminate against a person on the basis of “race, color, religion, or national origin,” and, most importantly in the case of sexual harassment and assault, because of sex. The act requires that employers not refuse to hire or discharge an individual or otherwise discriminate against them on the basis of their sex. Discrimination in terms of compensation, terms, conditions, and privileges of employment are also included. Retaliation against someone because they file a complaint or participate in a discrimination investigation is also illegal. As noted by the U.S. Equal Employment Opportunity Commission “*Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964.*”⁸ Any employer with 15 or more employees must comply with Title VII. Those who are pregnant, affected by childbirth, or medical conditions related to pregnancy or childbirth are also covered under the act.

The Violence Against Women (VAWA) Reauthorization Act (2013) prohibits sexual assault, domestic violence, dating violence, and stalking. “*VAWA primarily addresses certain types of violent crime through grant programs to state, tribal, and local governments; nonprofit organizations; and universities. VAWA programs target the crimes of intimate partner violence, dating violence, sexual assault, and stalking.*”⁹

Where do SEAC’s Statement on Sexual Harassment and Violence Background and Resource Guide for Addressing Harassment and Assault and Violence apply?

The statement applies to all physical (field, lab, office, university campuses, and conference settings) and online spaces in which archaeologists conduct professional business.

“Home”

“Home” refers to those spaces that encompass one’s day-to-day living, working, and research environments such as offices, laboratories, libraries, classrooms, conference rooms, museums, and so on. In these environments, one comes into contact with a variety of people in a variety of positions, and we are often involved in collaborative endeavors that enable us to engage with colleagues and students at all stages of their careers and from many disciplines. We encourage everyone to be aware of the rules surrounding appropriate behavior and the available resources in cases of abuses of any sort in any and all “home” environments.

⁸ U.S. Equal Employment Opportunity Commission, Facts About Sexual Harassment, see <http://www.eeoc.gov/eeoc/publications/fs-sex.cfm>.

⁹ “The Violence Against Women Act: Overview, Legislation, and Federal Funding, Congressional Research Service;” see <https://www.fas.org/sgp/crs/misc/R42499.pdf>.

Field contexts

Fieldwork is a central component of training and research in archaeology. These research trips often remove us from our home environments, and require us to engage with researchers, staff, and community members from areas around the world. They also require that work relationships be removed from their primary contexts and be situated in spaces that may have different cultural or professional rules. Due to their centrality in training in our discipline, we view the field as a workplace environment and an extension of our working environments at home. As such, SEAC holds that all employment, college, university, or other institutional rules regarding appropriate behavior apply in these fieldwork contexts, as do the SEAC Policy Statement on Sexual Harassment and Sexual Assault and the SAA Principles of Archaeological Ethics. If fieldwork is conducted under the aegis of a sponsoring institution (*e.g.*, university, museum, or private nonprofit), those laws and regulations, as well as avenues of recourse in cases of offenses against these, apply to the fieldwork situation. If fieldwork is conducted on land managed by federal, state, or local agencies, then the laws and regulations of those jurisdictions may also apply.

Social media, email, and other forms of digital socializing and communication

People engage in social media for varied reasons. Activities on social media may be subject to provisions of some or all of the applicable laws discussed above. If using social media professionally (including to network with colleagues or for purposes of public outreach), SEAC members are expected to approach the interface as members would a conference, understanding that there are many colleagues who are “friends” who can see the posts and who would hold the author of the post to a high standard of professional behavior.

Before posting or commenting to a professional audience (even if mixed with non-academic “friends”), SEAC members are expected to consider this information available to the public. Nothing shared online is truly private, and the information shared may last “forever.” Social media can serve as a megaphone, amplifying private conversations beyond the originally intended audience. When using social media, SEAC members should consider whether people are likely to interpret the writing in the way it was intended. The same temperament and attitude is also expected of SEAC members for email communication with colleagues (including faculty, students, and staff).

Conferences

SEAC is dedicated to providing a harassment-free meeting experience for everyone, regardless of sex, gender identity and expression, sexual orientation, disability, physical appearance, ethnicity, religion, or age. Due to their centrality in professional training and networking in our discipline, conferences are clearly an extension of the educational and workplace environment. As such, all office, agency, college or university, and other appropriate institutional rules regarding appropriate behavior apply in these contexts as does the SEAC Policy Statement on Sexual Harassment and Assault and the SAA Principles of Archaeological Ethics. However,

should an incident occur while at a SEAC-sponsored conference, meeting, or workshop, the SEAC officers, Executive Board, and session or workshop chairs should be considered safe authorities with whom incidents can be discussed. SEAC will not tolerate harassment of meeting participants in any form.

Suggestions for prevention

SEAC believes that it is the responsibility of each member of our organization to create safe spaces free of discrimination, harassment, or assault. There are clear steps that we can take to help to foster a supportive and safe professional community, in person, in the field, at meetings, and online.

All SEAC members should educate themselves about types of sexual and other misconduct (harassment, rape, sexual assault, assault with the intent to commit bodily harm) and commit to not perpetrating these acts.

SEAC members who are Principal Investigators are encouraged to create and enforce field-site specific codes of conduct.

SEAC members who are Principal Investigators are legally required and strongly encouraged to report all harassment and assault that occurs at their places of research.

SEAC student members are encouraged to research all field schools and programs before attending, should make themselves aware of what resources will be available on site, and should request a code of conduct from the field school administrators.

SEAC student members are also encouraged to discuss all potential field research experiences with a trusted advisor or peer mentor.

All SEAC members are encouraged to request a code of conduct from the Principal Investigators in charge of research and CRM project sites.

All SEAC members should inquire about appropriate reporting mechanisms and university and government resources, in the case that the Principal Investigator fails to provide this information.

SEAC encourages the supervisors of field schools or research experiences to make available: 1) their code of conduct prohibiting sexual and other assault and harassment, and 2) appropriate reporting mechanisms for those who do experience or witness sexual harassment or unwanted sexual contact of any type.

Bystander awareness

Bystanders are those who observe or are subsequently informed of instances of sexual misconduct. Individuals react differently when witnessing or learning about sexual misconduct. It is important that SEAC members know how to recognize sexual harassment, rape, or assault and consider safe, responsible, and effective ways to react or intervene.

In addition, SEAC recommends proactive engagement to foster a culture of respect and prevent sexual and other harassment, rape, and assault. The “It’s On Us Campaign,” which aims to establish a collective, societal ownership of the problem of sexual violence and to empower all of us to engage in shifting the cultural norms toward respect, has a useful toolkit that SEAC members may want to review and use.¹⁰

The following information is provided to help bystanders:

Ensure safety, then select the most appropriate approach

Be aware of your surroundings

Create a distraction

Interject yourself into the conversation

Use the power of the group, and tell another person about the situation

Ask the affected individual if he or she is ok

Speak out and/or tell an authority figure about the situation

Support the affected individual¹¹

Encourage the affected individual to report the incident

Respect the individual’s choice either to report or not to report the incident

Advise the affected individual to seek appropriate support

¹⁰ See www.itsonus.org; for tool kit see http://www.itsonus.org/wp-content/uploads/2017/04/IOU-Toolkit_Fall2016.pdf.

¹¹ For example, see <http://stepupprogram.org/topics/sexual-assault/#actionsteps>; <https://rainn.org/getinformation/sexual-assault-prevention/bystanders-can-help>.

What to do if you believe you have a grievance

We strongly recommend that our members seek the appropriate authorities with which to file claims of sexual harassment and assault. Typically, the line of formal complaint is through the perpetrator's home institution or organization. All members should make themselves aware of the appropriate processes at their home institutions as well as the areas (i.e., legal jurisdictions) where fieldwork, meetings, and other business are conducted.

SEAC members should also be aware that the Register of Professional Archaeologists, with its Code of Conduct, has investigative powers and is in the position to act with regard to members who have violated that code.

Our goal is to foster a culture that makes our profession a safe and open working environment for all. The lines of formal reporting in all cases remain through the perpetrator's home institution. As stated before, however, should an incident occur while at a SEAC-sponsored conference, meeting, or workshop, the SEAC officers, Executive Board, and session or workshop chairs should be considered safe authorities with whom such incidents can initially be discussed.

Formal resources include, but are not limited to:

Campus resources

Office of Human Resources
Office of Diversity/Equity/Compliance/Human Rights
Office of legal counsel
Anti-Discrimination officer
Ombuds Office
Field Instructor/Research Office
Faculty Complaint Professor (formal or informal)
Title IX or Sexual Harassment Coordinator
Employee Assistance Program (EAP)
Codes of Conduct
Campus police
Local, state, and federal law enforcement
Local and state human relations commissions
State and Federal Attorneys General
Harassment and Discrimination Policies

Field and other resources

Site supervisor
Colleagues

Local, state, and federal law enforcement
Local and state human relations commissions
International security agencies (embassies, consulates)
Support services
Student Health Services
Medical Center Emergency Department
Counseling and Psychological Services
Local Crisis Response Center
Clergy

Summary

Sexual or other harassment, violence, and the threats of such behavior will not be tolerated in any form. SEAC is committed to providing safe physical and online spaces for all of its members.

Acknowledgments

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Additional Resources

Alteristic (also known as Greendot). <https://alteristic.org/>

American Association of University Professors Publications (AAUP). Sexual harassment policies 2002: <http://www.aaup.org/issues/sexual-harassment/policies-2002>. Current issues and trends: <http://www.aaup.org/issues/sexual-harassment/>. Resources on Sexual Harassment and Assault: <http://www.aaup.org/issues/sexual-harassment/resources-sexual-assult-and-sexual-harassment>.

Bystander resources: <http://nsvrc.org/bystander-intervention-background-and-general-information>.

Clancy, Kathryn B.H., Nelson, Robin G., Rutherford, Julianne R., Hinde, Katie. 2014. Survey of academic field experiences (SAFE): Trainees report harassment and assault. *PLOS One* 9(7): <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0102>

Department of Education Office of Civil Rights Publications: 2001 Revised Sexual Harassment Guidance: <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.html>

Dear Colleague Letter: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>

Gewin, Virginia. 2015. "Social behaviour: Indecent Advances" *Nature* 519: 251-253. <http://www.nature.com/naturejobs/science/articles/10.1038/nj7542-251a>

It's On Us Campaign: <http://www.itsonus.org/>

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Muckle, Bob. 2014. On Sexual Harassment and Assault in Archaeology. *The SAA Archaeological Record* November: 32-33.
<https://anthropology.washington.edu/sites/anthropology/files/documents/archy.rec.nov.2014.sex.harass.pdf>

Nelson, Robin G., Julienne N. Rutherford, Katie Hinde, and Kathryn B.H. Clancy. 2017. Signaling Safety: Characterizing Fieldwork Experiences and Their Implications for Career Trajectories. *American Anthropologist* 119, #4: 710-722.

Questions and Answers on Title IX and Sexual Violence (pdf):
<http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>

"We can Act" – a report developed by the American Philosophical Association Sexual Harassment Ad Hoc Committee
<http://c.ymcdn.com/sites/www.apaonline.org/resource/resmgr/sexualharassmentreport.pdf>

Wood, Bernard. 2015. Zero tolerance. *Period* (editorial). *Science* 350: 487.