

STUDENT SEXUAL MISCONDUCT POLICY

One of Clemson's stated goals is to maintain an environment that is healthy and safe. Sexual misconduct is not consistent with this goal and the University is committed to providing a living and learning environment that is free of such threats. It is the University's policy that acts of sexual misconduct will not be tolerated.

For purposes of this policy, "sexual misconduct" is defined as any attempted or actual act of non-consensual or forcible sexual touching. This would include, but is not limited to, fondling, kissing, groping, attempted intercourse (whether oral, anal or genital), penetration or attempted penetration with a digit or any other object.

"Consent" requires speech or conduct indicating a freely given, uncoerced agreement to engage in sexual contact. Consent may not be inferred from silence or passivity alone and a current or previous relationship is not sufficient to constitute consent. Consent may be withdrawn at any time prior to a specific sexual act by either person.

To be valid, the person giving consent must be physically and mentally able to:

- understand the circumstances and implication of the sexual act;
- able to make a reasoned decision concerning the sexual act; and
- able to communicate that decision in an unambiguous manner.

There are a number of factors which may limit or negate a person's ability to consent to a sexual act. These include impairment due to the influence of alcohol or drugs (illegal or prescription), a person's mental or physical impairment of which the other person is aware or should reasonably have been aware, unconsciousness, and fear or coercion.

Persons accused of sexual misconduct will be subject to disciplinary action in accordance with Clemson University's policies and procedures for student conduct. At the discretion of the University, persons accused of sexual misconduct may be immediately suspended or restricted from campus pending final disposition of any disciplinary proceedings. Individuals found to have committed sexual misconduct will be subject to sanctions, up to and including dismissal from the University.

In addition to student disciplinary action, persons accused of sexual misconduct may be subject to criminal prosecution by the law enforcement agency with appropriate jurisdiction in that case. South Carolina (S.C. Code Annotated, Sec. 16-3-651[h]) law defines "sexual battery" as "sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, of any part of a person's body or of any other object into the genital or anal openings of another person's body". Persons guilty of committing sexual battery with force (1st degree sexual conduct) or through coercion (2nd degree

sexual conduct) are subject to prosecution. In the course of a criminal investigation or prosecution, Clemson may choose or may be required to provide information and records related to its disciplinary proceeding involving the same act. However, Clemson's student disciplinary process is independent of and not dependent upon any criminal process. The decision to prosecute or not prosecute and the ultimate outcome of any criminal proceedings do not affect or influence the University's student conduct proceedings.