ANTI-HARASSMENT AND NON-DISCRIMINATION POLICY

I. Policy Statement

This document defines Clemson University's policy regarding harassment/discrimination. Clemson University is committed to an educational and work environment in which all individuals are treated with respect and dignity, free from harassment and/or discrimination. Accordingly, it is the policy of Clemson University that harassment/discrimination as defined in this policy, by employees, students or non-employees will not be tolerated. It is also the policy of Clemson University that retaliation against any person who has filed a complaint of harassment/discrimination or who has assisted or participated in any manner in the investigation and resolution of a complaint of harassment/discrimination is prohibited and subject to disciplinary action.

Clemson University will respond promptly to all complaints of harassment, discrimination, and retaliation. Immediate and appropriate corrective action will be taken when it is determined that harassment has occurred. The available complaint resolution processes are described below and differ depending on whether the person allegedly violating the policy is a student or non-student.

Violation of this policy can result in any disciplinary action that the University deems appropriate up to and including termination from employment (employees), dismissal from the University (students) or disassociation/removal from campus (visitors and other non-students). More information about possible sanctions can be found in section V of this policy.

The policy is intended to meet Clemson University’s responsibilities under Titles VI and VII of the Civil Rights Act 1964, the Pregnancy Discrimination Act of 1978, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination in Employments Act of 1967, the Age Discrimination Act of 1975, the Vietnam Veterans Readjustment Assistance Act of 1974, the Genetic Information Nondiscrimination Act of 2008, the Violence Against Women Act, and applicable provisions of the South Carolina Human Affairs Law.
II. Definitions

A. Discrimination

Discrimination is the denial or exclusion of an individual or group of individuals from participation in or receiving the benefits of any program or activity of the University. Discrimination based on race, color, religion, sex, sexual orientation, gender, pregnancy, national origin, age, disability, veteran’s status, genetic information or protected activity (e.g. opposition to prohibited discrimination or participation in the statutory complaint process, etc.) is prohibited. Examples may include exclusion from employment, benefits, or access to academic programs and opportunities.

B. Harassment

In general, harassment is unwelcome verbal or physical conduct, based upon race, color, religion, sex, sexual orientation, gender, pregnancy, national origin, age, disability, status as a military veteran, genetic information or protected activity (e.g., opposition to prohibited discrimination or participation in the statutory complaint process), that unreasonably interferes with the person's work or educational performance or creates an intimidating or hostile work or educational environment. Examples may include, but are not limited to, epithets, slurs, jokes or other verbal, graphic or physical conduct.

C. Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature including sexual violence. Sexual violence is defined as sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (see definition of consent below). A number of different acts fall into the category of sexual violence and are defined as follows:

1. Sexual Assault and/or Battery: Any attempted or actual act of nonconsensual 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 oral, genital or anal openings of another person’s body. This includes forcible or non-forcible sex offenses under the uniform crime reporting system of the Federal Bureau of Investigation:
   • Rape – The carnal knowledge of a person without the consent of the victim including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacitation;
   • Fondling – The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim including instances where the victim is incapable of
giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacitation;

• Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;

• Non-forcible sexual intercourse with a person who is under the statutory age of consent (In South Carolina the legal age of statutory consent is 16. However, individuals as young as 14 years old are able to consent to have sex with a partner who is 18 years old or younger.).

2. Sexual Coercion: The act of using pressure through threats, alcohol or drugs, or force to have sexual contact with someone against his or her will. Persistent attempts to have sexual contact with someone who has already refused is a type of sexual coercion.

3. Sexual Misconduct: Any other nonconsensual conduct of a sexual nature including but not limited to touching, fondling, kissing, groping, indecent exposure, sex-based cyber-harassment, peeping or other voyeurism, forcing others to view sexual activity, and/or the non-consensual photography, video or audio taping of sexual activity.

4. Dating/Relationship Violence: Dating/Relationship Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim where the existence of such relationship shall be based on a) the length of the relationship, b) the type of the relationship, and c) the frequency of interaction between the persons involved in the relationship. This includes sexual or physical abuse or the threat of such abuse.

5. Domestic Violence: A felony or misdemeanor crime of violence committed by:

   1. A current or former spouse or intimate partner of the victim;
   2. A person with whom the victim shares a child in common;
   3. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner.
   4. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
   5. Any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
6.  Stalking: Stalking is defined as a course of conduct\(^1\) directed at a specific person that would cause a reasonable person\(^2\) to -
   i.  fear for the person’s safety or the safety of others; or
   ii.  suffer substantial emotional distress\(^3\).\(^4\)

D. Consent

Every member of the University community should be aware that all sexual contact or behavior on the campus and/or occurring with a member of the University community must be consensual. Consent requires speech or conduct indicating a freely given, un-coerced 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 or during a specific sexual act by either person.

To be valid, the person giving consent must be physically and mentally able to:
   1.  understand the circumstances and implication of the sexual act;
   2.  make a reasoned decision concerning the sexual act; and
   3.  communicate that decision in an unambiguous manner.

In the absence of mutually understandable words or actions, it is the responsibility of the initiator, or the person who wants to engage in the specific sexual activity, to make sure that he/she has the consent from his/her partner(s) prior to initiating sexual activity.

   •  Effective Consent is active, not passive.
   •  Effective Consent to one form of sexual activity is not Effective Consent to other forms of sexual activity.
   •  The person who is the object of sexual advances is not required to physically or otherwise resist.
   •  Silence, previous sexual relationships or experiences, and/or a current relationship may not, in themselves, be taken to imply consent.

Inability to Consent - There are a number of factors which may limit or negate a person’s ability to consent to a sexual act. These include but are not limited to age, impairment due to the influence of alcohol or drugs (illegal or prescription), an intellectual or other disability, a person’s temporary or permanent mental or physical impairment, unconsciousness, fear and/or coercion. In order to find no consent under one of these circumstances, there must be a finding that the

\(^1\) Course of Conduct means two or more acts, including but not limited to, acts in which a stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

\(^2\) Reasonable Person means a reasonable person under similar circumstances and with similar identities to the complainant.

\(^3\) Substantial Emotional Distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

\(^4\) Stalking is not always directed at someone due to his/her gender/sex. Even if it is not related to sex or gender, it is prohibited and will be addressed through this policy and the appropriate procedures for handling complaints.
complainant was unable to consent and a finding that the respondent knew or had reason to know the complainant was unable to consent.

Intoxication of the respondent is not an excuse for failure to obtain consent or failure to know of the complainant’s inability to consent.

E. Protective Measures

The following Protective Measures may be implemented by the University in Responding to Harassment/Discrimination Complaints:

1. **No-Contact Orders:** A no-contact order may be issued to the complainant, the respondent, witnesses or other individuals as appropriate under the circumstances.

2. **Interim Measures:** At any point during the process, interim actions may be taken to protect parties or witnesses to the investigation including but not limited to separating the parties, reassignment, alternative work or student housing arrangements, providing an escort to ensure that the complainant can move safely between classes and activities, or other types of temporary measures. Interim measures may become permanent depending on the outcome of the investigation.

F. Responsible Employee

A Responsible Employee is an employee who has the authority to take action to address sexual violence on campus under Title IX and who has been given the duty of reporting incidents of sexual violence or any other sexual misconduct to the Title IX Coordinator. **At Clemson University, Responsible Employees under Title IX are defined as:** Clemson University faculty, staff who work directly with students, Student Affairs staff, advisors to recognized student organizations, community and graduate community directors, resident assistants, athletic coaches, managers, supervisors and administrators.

Exceptions to the definition of Responsible Employees are:

1. Confidential Resources (see paragraph IV of this policy)
2. Aspire Program Facilitators or other facilitators of sexual violence awareness or prevention programs such as Take Back the Night or others that may be developed.

G. Retaliation

Retaliation is conduct causing any interference, coercion, restraint or reprisal against a person initiating a complaint of harassment/discrimination or against a person assisting in any way in the investigation and resolution of the complaint. Retaliation is a violation of this policy and will not be tolerated. Appropriate sanctions/disciplinary actions shall be taken against any person found to have participated in any acts of retaliation.
G. **Title IX Coordinator**

Title IX of the Education Amendments of 1972 is a federal law that states “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subject to discrimination under any education program or activity receiving Federal financial assistance.” The Title IX Coordinator is the person(s) designated by Clemson University to oversee its Title IX compliance efforts, carry out the University’s responsibilities under Title IX, and investigate any complaints alleging actions prohibited by Title IX. Gender based discrimination is prohibited under Title IX and includes sexual harassment as defined above.

- The Executive Director of Equity Compliance in Access and Equity is the University Title IX Coordinator - (864) 656-3181

III. **Reporting Harassment/Discrimination**

Clemson University will respond to and investigate all claims of harassment/discrimination and will take steps to ensure that no retaliation will be taken against any person making a complaint or participating in the investigation process, and that any person against whom an allegation is made is treated fairly. Reports of harassment/discrimination should be made as soon as possible to enable the University to more effectively investigate the allegations.

There are two options for reporting Harassment/Discrimination as described below. A criminal complaint and an on-campus complaint through the Office of Access & Equity can be made simultaneously:

A. **Criminal Reporting** – If the alleged harassment/discrimination is a crime, a report should be made to the Clemson University Police Department or other appropriate law enforcement agency if the incident occurred off campus. Sexual assault, sexual battery, and other forms of sexual violence/misconduct are criminal acts and Clemson University encourages victims to meet with police officers as soon as possible in order to receive prompt medical attention and allow officers to gather information in a timely manner. The sooner law enforcement becomes involved, the greater the likelihood of identifying, arresting, and convicting the perpetrator. If a report is made to the Clemson University Police Department (CUPD), the department will provide an advocate to ensure that medical treatment and counseling services are offered, regardless of the person’s decision to pursue the matter criminally.
To make a report on campus, concerned persons should call 911 or (864) 656-2222 immediately to reach the Clemson University Police Department (CUPD). Away from campus, concerned persons should call 911.

**In addition to the criminal process or for harassment/discrimination complaints that are not violations of criminal law, the following on campus reporting options are available:**

**B. Non-criminal Internal Complaint Process** – In addition to the criminal process, the following internal complaint process is available. The process includes a prompt, fair, impartial investigation and resolution. It is conducted by individuals who receive annual training on issues related to sexual assault, domestic violence, dating violence and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Both the complainant and respondent are entitled to the same opportunity to have an advisor present at institutional disciplinary proceedings and/or related meetings. Both the complainant and respondent will be simultaneously informed in writing of the outcome of the process, any changes to the outcome before it becomes final, and when the outcome is final. In student cases, the complainant and the respondent have the same rights of appeal.

Complaints alleging sexual assault, domestic violence, dating violence and stalking committed by a student (undergraduate or graduate), employee, or someone affiliated with Clemson University should be immediately reported to the Title IX Coordinator, Alesia Smith. Persons found in violation of the university’s Anti-Harassment and Non-Discrimination Policy will be subject to appropriate disciplinary action.

**A&E is the office of the university’s Title IX Coordinator.**

Contact information for A & E is 110 Holtzendorff Hall, telephone: 656-3181 (voice) or 656-0899 (TDD).

A & E complaint procedures can be found at: [http://www.clemson.edu/campus-life/campus-services/access/procedure.html](http://www.clemson.edu/campus-life/campus-services/access/procedure.html).

**IV. Confidentiality**

The University recognizes that a complainant may desire confidentiality and may request that the University not investigate or pursue resolution of an allegation of harassment/discrimination. In such cases, the University will maintain confidentiality to the extent permitted by law and other safety and welfare considerations. However, the University may determine that it must investigate and pursue resolution of a report, and take whatever measures it deems necessary in response to an allegation of harassment/discrimination in order to protect the rights, interests and personal safety of the Clemson community. As such, the University may have to disclose the harassment allegation and the identity of the complainant to the accused, other University officials,
and others (to implement interim measures) as appropriate. Nevertheless, we will only share information on a limited basis and will keep information confidential to the extent permitted by law.

Confidentiality and Allegations of Sexual Violence
If a complainant alleging sexual violence requests that his/her name not be revealed to the alleged perpetrator or asks that the school not investigate or seek action against the alleged perpetrator, the complainant must understand that honoring this request may severely limit the ability to fully respond to the complaint, including pursuing disciplinary action against the alleged perpetrator. All such requests will be referred to and reviewed by the Title IX Coordinator. A range of factors will be considered in evaluating these requests including by not limited to:

- Whether there have been other sexual violence complaints about the Respondent;
- Whether the Respondent threatened further violence against the Complainant or others;
- Whether the alleged sexual violence was perpetrated with a weapon;
- Whether the school possesses other means to obtain relevant evidence (e.g. security cameras, witnesses, physical evidence etc.)

If a complainant wishes to speak to a confidential resource, the following resources are available:

A. **Counseling and Psychological Services for Students:** Student victims of sexual violence can seek confidential crisis counseling services through Counseling and Psychological Services (CAPS). During normal business hours, CAPS can be contacted by calling 864-656-2451. After hours and on weekends, CAPS can be contacted by calling 864-656-2222 asking for the CAPS on-call counselor.

B. **Employee Assistance Program:** The Office of Human Resources offers confidential, professional referral assistance to faculty and staff by contacting the Employee Assistance Program at 864-656-3360 or 864-656-2726.

C. All victims of sexual violence may seek crisis counseling services through the Pickens County Advocacy Center at 864-442-5500.

The University provides many other, non-confidential resources to students who have been victims of harassment/discrimination and sexual violence. Although the University encourages all students to seek help by means of speaking to someone, it is important to keep in mind that the University is required by law to review and attempt to resolve any allegation of sexual violence that is reported to any University official with the exception of those receiving parties that are confidential resources.

The University also has a duty to report sexual misconduct to the Clemson University Police Department for federal statistical reporting purposes (as dictated by the Clery Act). All personally identifiable information is kept confidential, but statistical information must be reported regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the annual Security and Fire Safety Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.
V. Sanctions

Persons found to be in violation of this policy will be subject to immediate and appropriate disciplinary action, proportional to the seriousness of the offense. In cases involving violations by students, sanctions will be determined in accordance with the Student Code of Conduct. Possible sanctions include but are not limited to reprimand, disciplinary probation, suspension, or dismissal. In cases involving violations by non-students, sanctions may include but are not limited to: oral or written reprimand, reassignment, demotion, suspension or termination of employment, and/or removal from campus.

VI. Filing with External Agencies

In addition to, or in lieu of, the procedures outlined above:

1. Students (either undergraduate or graduate) may file formal complaints with the following agency:

   United States Department of Education, Office for Civil Rights
   61 Forsyth St. S.W., Suite 19T70, Atlanta, GA 30303-3104
   Telephone: 404-562-6350; TDD: 404-331-7236
   (Must file within 180 calendar days from date of discrimination).

2. Employees may file formal complaints with the following agencies:

   South Carolina Human Affairs Commission
   2611 Forest Drive, Suite 200, Post Office Box 4490
   Columbia, SC 29240
   Telephone: (803) 737-7800; TDD: (803) 253-4125
   (Must file within 180 calendar days from date of discrimination).

   OR

   U. S. Equal Employment Opportunity Commission
   301 North Main Street, Suite 1402, Greenville, SC 29601
   Telephone: (864) 241-4400; TDD: (864) 241-4403
   (Must file within 300 calendar days from date of discriminatory act, or 30 days after receiving notice that the state or local agency has terminated its processing of the charge, whichever is earlier).
A. Students:
1. **Title IX Coordinator**: The Clemson University Title IX Coordinator is Alesia Smith who is also the Executive Director of Equity Compliance. Anyone can make a complaint about discrimination based on sex or gender or a complaint of sexual harassment including sexual violence to the Title IX Coordinator. 864-656-3181 alesias@clemson.edu

2. **Office of Community and Ethical Standards**: OCES is responsible for resolving student conduct issues. The Student Code of Conduct extends to incidents that occur on University property, at University-sponsored activities and off-campus. OCES can assist students with making complaints related to the Anti-Harassment and Non-Discrimination policy. 864-656-0510

3. **Office of Advocacy and Success**: Advocacy and Success provides care and support to all CU students. Can assist students in identifying campus resources and making complaints related to the Anti-Harassment and Non-Discrimination policy. 864-656-0935

4. **Counseling and Psychological Services**: Student victims of sexual violence can seek crisis counseling services through Counseling and Psychological Services (CAPS). During normal business hours, CAPS can be contacted by calling 864-656-2451. After hours and on weekends, CAPS can be contacted by calling 864-656-2222 asking for the CAPS on-call counselor. All victims of sexual violence may seek crisis counseling services through the Pickens Rape Crisis Council at 864-442-5500.

5. **CUPD Victim Assistance**: The Clemson University Police Department assists all campus crime victims with referrals, transportation, court familiarization and compensation. 864-656-2222

B. Employees:
1. **Title IX Coordinator**: The Clemson University Title IX Coordinator is Alesia Smith who is also the Executive Director of Equity Compliance. Anyone can make a complaint under the Anti-Harassment and Non-Discrimination policy to the Title IX Coordinator. 864-656-3181 alesias@clemson.edu
2. **Employee Assistance Program:** The Office of Human Resources offers confidential, professional referral assistance to faculty and staff by contacting the Employee Assistance Program at 864-656-3360 or 864-656-2726. Assistance is available for personal problems (including depression, emotional problems and substance abuse) that may impact job performance. Initial counseling is generally provided through qualified state agencies at no charge.

**CUPD Victim Assistance:** The Clemson University Police Department assists all campus crime victims with referrals, transportation, court familiarization and compensation. 864-656-2222

**Off Campus Resources**

a. **Pickens County Advocacy Center:** The mission of Pickens County Advocacy Centers is to provide optimum quality direct services to the victims of sexual assault and their families in Pickens County. The Pickens County Advocacy Center aims to provide an advocate that can be there for any victim in their time of need, and to show each victim that someone does believe them and is on their side. 864-442-5500 [http://www.pickensrcc.org/](http://www.pickensrcc.org/)

b. **Foothills Sexual Trauma Center (Anderson and Oconee Counties):** Foothills Alliance is a nonprofit agency that encompasses three programs: Sexual Trauma Center, Child Advocacy Center, and Prevent Child Abuse. The Sexual Trauma Center is a multi-services program responding to the needs of child and adult sexual trauma survivors in Anderson and Oconee counties. The center provides support for survivors, family members and others involved in the survivor’s recovery. 1-800-585-8952 [http://foothillsalliance.org/](http://foothillsalliance.org/)

c. **MARYS House (Domestic and Relationship Violence):** MARYS House provides emergency shelter and services to families fleeing domestic violence. The MARYS House family (staff, volunteers, and Board of Directors) works toward the prevention and cessation of domestic violence through intervention, education, and outreach. 864-859-9191 [http://maryshouse.com/](http://maryshouse.com/)

d. **Safe Harbor (Domestic and Relationship Violence):** Safe Harbor is an organization that provides safe shelter, counseling and advocacy for victims of domestic violence as well as leadership for education and prevention efforts throughout its four-county area of Anderson, Greenville, Oconee and Pickens, South Carolina. Safe Harbor offers a continuum of services, providing safe
emergency shelter, counseling, legal advocacy, and transitional housing, as well as community outreach and teen dating violence education.
1-800-291-2139 http://safeharborsc.org/

South Carolina Coalition Against Domestic Violence and Sexual Assault:
SCCADVASA works to make the community aware of issues, problems, policy and legislation regarding Domestic Violence & Sexual Assault. SCCADVASA supports domestic violence and sexual assault member programs, provides education, and advocates for social reform to eradicate interpersonal violence in South Carolina.
1-803-256-2900 http://www.sccadvasa.org/

RAINN: Rape, Abuse & Incest National Network: RAINN is the nation's largest anti-sexual violence organization. RAINN created and operates the National Sexual Assault Hotline (800-656-HOPE and online.rainn.org). RAINN also carries out programs to prevent sexual violence, help victims and ensure that rapists are brought to justice.
1-800-656-4673 http://www.rainn.org/

National Coalition Against Domestic Violence: NCADV is comprised of people dealing with the concerns of battered women and their families. They represent both rural and urban areas. The Mission of the National Coalition Against Domestic Violence (NCADV) is to organize for collective power by advancing transformative work, thinking and leadership of communities and individuals working to end the violence in our lives.
Anonymous and Confidential Help 24/7 – 1-800-799.Safe (7233), 1-800-787-3224 (TTY) http://www.ncadv.org/

Additional Off-Campus Resources

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<tr>
<th>Pickens County Sheriff's Office</th>
<th>216 C. David Stone Rd. Pickens, SC 29671</th>
<th>(864) 898-5500</th>
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<tbody>
<tr>
<td>Oconee County Sheriff's Office</td>
<td>300 S. Church St. Walhalla, SC 29691</td>
<td>(864) 638-4111</td>
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<tr>
<td>Anderson County Sheriff's Office</td>
<td>305 Camson Rd. Anderson, SC 29625</td>
<td>(864) 260-4400</td>
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<td>Baptist Easley Hospital</td>
<td>200 Fleetwood Dr. Easley, SC 29640</td>
<td>(864) 442-7200</td>
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<td>Oconee Medical Center</td>
<td>298 Memorial Dr. Seneca, SC 29672</td>
<td>(864) 482-3100</td>
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<td>AnMed Health Medical Center</td>
<td>800 N. Fant St. Anderson, SC 29621</td>
<td>(864) 512-1000</td>
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<td>Greenville Memorial Hospital</td>
<td>701 Grove Rd. Greenville, SC 29605</td>
<td>(864) 455-7000</td>
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<td>Battered Women’s Shelter</td>
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<td>Foothills Rape Crisis Center</td>
<td>216 E. Calhoun St. Anderson, SC 29621</td>
<td>(864) 231-7273</td>
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<tr>
<td>Pickens County Family Court</td>
<td>214 E. Main St. Pickens, SC 29671</td>
<td>(864) 898-5598</td>
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<td>(emergency order of protection)</td>
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<td>Pickens County Magistrate</td>
<td>216 C. David Stone Rd. Pickens, SC 29671</td>
<td>(864) 898-5592</td>
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<tr>
<td>Pickens County Courthouse</td>
<td>214 E. Main St. Pickens, SC 29671</td>
<td>(864) 898-5598</td>
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