

Sexual  
MISCONDUCT  
&  
harassment

CLAFLIN UNIVERSITY  
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THE WORLD NEEDS VISIONARIES

## CATEGORIES OF MISCONDUCT

### **Sexual Assault**

Sexual assault can include, but is not limited to, the following:

- Non-consensual and deliberate sexual touching.
- Non-consensual and penetration through the use of coercion.
- Non-consensual penetration through the use of force (such as physical force or a weapon).
- Non-consensual penetration because of incapacitation and inability to give consent due to use of drug(s), including the use of alcohol. The drug may or may not have been administered by the accused person and could be consumed by the complainant of his/her own volition.

### **Sexual Violence/Sexual Exploitation**

Sexual violence is any form of unwanted sexual contact obtained without consent and/or obtained through the use of force, threat of force, intimidation, or coercion by any person(s) upon a person(s). This includes, but is not limited to, physical contact with the groin, genital area, inner thighs, buttocks and/or breasts; penetration that involves sexual, anal, or oral intercourse; or placing any object in the genital or anal opening. Premeditation is not required for one to be found guilty of sexual violence.

### **Sexual Harassment**

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other behavior of a sexual nature where

- Submission to such conduct is made either explicitly or implicitly a condition of employment or education.
- Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions.
- Such conduct has the purpose or effect of substantially interfering with academic and professional performance or of creating an intimidating, hostile, or demeaning employment or educational environment.

### **Acquaintance Rape**

Acquaintance rape is the most prevalent form of rape on college campuses. Over 90% of campus rapes are committed by dates, friends, acquaintances or friends of friends. Regardless of the relationship, if a person uses coercion or force to accomplish a sexual act, it is rape. The same criminal laws and penalties apply in cases of acquaintance rape as in cases of stranger rape. Many victims mistakenly believe they are to blame because they agreed to meet their assailant at a party, accept a ride, stop for a casual conversation or allow the assailant into their residence. Rape is never an excusable behavior. It is important to remember that regardless of the relationship, the rapist, not the victim, is responsible.

### **Relationship Violence**

Relationship violence (also known as Intimate Partner Violence IPV, dating or domestic violence) is a pattern of physically, sexually, and/or emotionally abusive behaviors, used by one individual to maintain power over or control a partner in the context of an intimate or family relationship.

### **Stalking**

Repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or the safety of any of the immediate family members of the community.

### **Bullying and Cyber-Bullying**

- Bullying is typically portrayed as aggressive behavior or intentional harm that is carried out repeatedly and over time and occurs within an interpersonal relationship characterized by an imbalance of power. Olweus (1999)
- It often includes comments about race, color, national origin, sex, sexual orientation and disability.
- It often involves an imbalance of power, aggression, and a negative repeated behavior.

### **Definition of Cyber-Bullying**

- Flaming, harassment, hazing, stalking
- Understand the difference through -
  - Kind of threat (name calling, threat of harm, bomb...)
  - Frequency of threat (how often it occurs)
  - Source and nature of threats

- Generally speaking, bullying is an on-going behavior.
- Hazing is often done once or twice during orientations or initiations, but may be more acute.
- See Layshock and Blue Mountain for good information on balancing free speech vs. bullying/harassment.

### **Consent**

Consent involves a freely given mutual agreement about sexual activity, with a shared understanding of the act to which all parties are consenting. Consent is invalid under the following circumstances:

- When it is obtained through the use of fraud or coercion– whether physical force, threats, or intimidation.
- When it involves
  - A. Minors under the age of consent, as defined by South Carolina state law.
  - B. Persons whose mental disabilities prohibit sound judgment about actions and their consequences.
  - C. Persons physically or mentally incapacitated as a result of alcohol or other drug consumption, whether voluntary or involuntary.
  - D. When it is assumed merely because of a previous and/or a current sexual relationship, a person’s attire, and/or money spent on a date.
  - E. Silence and/or non-verbal actions or expressions indicating resistance should also be interpreted as lack of consent.

*Consent may be withdrawn at any time.*

### **Student Conduct Action**

Student conduct action will follow current university policy on due process. Refer to the Student Code of Conduct on Sexual Misconduct as listed in the Claflin University Student Handbook for procedures and possible sanctions. Any student charged with sexual assault, on or off campus, can be prosecuted under criminal statutes and disciplined under the campus Student Code of Conduct. Even if the criminal justice authorities choose not to prosecute, the university reserves the right to pursue student conduct action.

Consent in a student conduct hearing is an issue to be decided on a case by case basis. It is likely that two different versions of the same incident will be presented. There is no clear boundary line, except at the extremes, to determine where impairment from alcohol and/or drugs makes a victim incapacitated or physically helpless and thus unlikely to be able to give consent. It is important to remember that the Student Code of Conduct Judicial Board (composed of faculty, staff and students) is called upon to gather all available evidence and to determine whether victim incapacity or consent existed. The Student Code of Conduct Judicial Board will decide if university policy, not South Carolina law, was violated based upon a preponderance of the evidence. All cases will be handled with care, compassion and concern for all involved.

### **WHAT YOU SHOULD KNOW TO AVOID RAPE**

- Set sexual limits and communicate them clearly.
- Trust your instincts. It’s your right.
- Exercise control over your environment.
- Consider the possible consequences of your behavior.
- Avoid excessive use of alcohol.
- Accept the decision that “No means No.”
- Acknowledge or recognize that dating does not give you the right to abuse or violate another person.
- Don’t assume that previous permission for sexual contact applies to the current situation.

### **REPORTING/RESOURCES**

<b>Inform Campus Police</b>	(803) 535-5444
Student Development and Services	(803) 535-5341
Counseling Department	(803) 535-5285
Health Services	(803) 535-5328
University Chaplain	(803) 535-5150
CASA /Family Systems	(803) 534-2272

*Program the number(s) in your phone in case of an emergency.*

**Seek medical attention and testing:** It is crucial to seek medical attention as soon as possible to determine the possibility of physical injury, to prevent or treat sexually transmitted diseases (such as HIV), and to prevent pregnancy. A urine drug screen may be able to detect the presence of sedative drugs such as Rohypnol or GHB (“date rape drugs”) if the test is administered within 72 hours of consumption for Rohypnol and 12 hours for GHB. The Orangeburg Regional Medical Center can administer rape exams for victims. Support and advocacy will be provided.

**Preserve the evidence:** Avoid bathing, urinating, brushing your teeth, washing your hands, changing your clothes, or eating and drinking until evidence is collected. Also, don’t clean up or move items located where the assault occurred. Write down as many details as possible.

**Know your options:** Victims can seek help with the police or with the university without pursuing charges. Seeking assistance does not obligate the victim to take further action. However, reporting may provide a way to regain a sense of personal power and control. Prosecution may be initiated through the University Student Code of Conduct procedures and/or through the criminal justice system. University officials will assist in any way possible.

**Seek counseling:** A trained counselor can help the victim work through the trauma of the assault. The counselor may assist with changes in academic and on-campus living situations. Counselors can also help the victim’s family and friends.

### **Investigations**

A Title IX Coordinator and/or Campus Police Investigator will meet with a victim considering submitting a complaint, will outline the process for filing a complaint, and explain University procedures. Claflin University’s Title IX Coordinator and Deputy Coordinators are listed below:

#### **COORDINATOR**

Ms. Shirley Biggs  
Director of Human Resources  
Phone: 803-535-5268  
Email: sbiggs@claflin.edu

#### **DEPUTY COORDINATORS**

Dr. Leroy A. Durant  
Vice President for Student Development and Services  
Phone: 803-535-5341  
Email: ldurant@claflin.edu

Dr. Jerome Fitch  
Athletic Director  
Phone: 803-535-5549  
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Vice Provost for Academic Programs  
Phone: 803-535-5447  
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Ms. Marilyn Gibbs  
Librarian  
Phone: 803-535-5309  
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Mr. Steve Pearson  
Chief of Campus Police  
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