



New York Athletic Club

# Safe Sport Policy

NYAC Board Approved July 18<sup>th</sup>, 2018

## I. SafeSport: Introduction

While the Safe Sport Act of 2017 focuses on preventing the sexual abuse of minors and young athletes, the New York Athletic Club recognizes that abuse can take many forms and that all athletes deserve to participate in sports free from bullying, hazing, sexual misconduct or any form of emotional or physical abuse.

In alliance with the initiatives of SafeSport, the NYAC is implementing a Safe Sport Policy in order to ensure that those Club members, staff members volunteers and other parties interacting with young athletes are trained and educated in how to recognize boundary violations and potential misconduct and abuse in sporting environments and in the course of athletics participation.

To that end, members of the NYAC's athletics staff, sports chairs, coaches, administrators, members of the Athletic Committee, those hired by the Club to work with its athletes or teams, and other groups identified by the New York Athletic Club will be required to attend Safe Sport education courses every two years, and to read and acknowledge by signature receipt of the NYAC Safe Sport Policy.

This Policy is applicable to all those stated above, and others as may be designated by the NYAC at any time of its choosing, regardless of whether the athletic activity(ies) is/are conducted on NYAC premises or at other locations, either for training or competition. Members of NYAC staff are also subject to the applicable stipulations of the New York Athletic Club's Employees' Handbook.

## II. Prohibited Conduct

The New York Athletic Club is committed to creating a safe and positive environment that is free from misconduct, including bullying, hazing, harassment (including sexual harassment), emotional misconduct, physical misconduct and sexual misconduct in order to protect its athletes' physical, emotional and social development.

## A. SEXUAL MISCONDUCT, ABUSE AND HARASSMENT

Sexual misconduct and abuse can take many forms. It can be of a minor by an adult (NB: the definition of a minor can vary by state. In New York, it is deemed to be an individual of less than 18 years of age); it can be of a minor by a minor (notably, when there is a significant difference in age or development); by a minor of an adult; and between adults. Further, sexual abuse and misconduct can be difficult to define.

Sexual abuse includes sexual inter-actions that are non-consensual or accomplished by force or threat of force, or coerced or manipulated, regardless of the age of the participants. Without limiting the aforementioned, any act or conduct described as sexual abuse, sexual misconduct or child sexual abuse under applicable federal or state law constitutes sexual abuse under this Policy.

It is the policy of New York Athletic Club that there shall be no sexual misconduct or abuse by any participant involved in any of its programs, whether the participant is an adult or a minor, a member, employee, volunteer, independent contractor or other involved party.

Sexual abuse of a minor is among the most egregious forms of misconduct. This occurs when an individual touches a minor for the purpose of causing the sexual arousal or gratification of either party. Sexual abuse of a minor is also deemed to have occurred if the minor is the instigator of contact at the request of, or with the consent of, the adult party for the purpose of sexual arousal or gratification.

Child sexual abuse includes all sexual interaction between an adult and a child, regardless of whether there is deception or if the child understands the sexual nature of the activity. Sexual abuse may also include non-touching offenses, such as: sexually harassing behaviors; an adult discussing his/her sex life with a minor or subordinate; an adult asking a minor or subordinate about his/her sex life; an adult requesting or sending nude or partial-dress photos to a minor; exposing minors to pornographic material; sending minors sexually explicit electronic messages or photos (e.g., "sexting"); deliberately exposing a minor to sexual acts; or deliberately exposing a minor to inappropriate nudity.

Sexual contact between or among children can also be abusive if there is a significant disparity in age, development or size; if one of those involved is an aggressor; or where there exists an imbalance of power and/or intellectual capabilities. The sexually abusive acts may include sexual penetration, sexual touching, or non-contact sexual acts such as exposure or voyeurism.

Minors cannot consent to sexual activity with an adult, and all sexual interaction between an adult and a minor is strictly prohibited. Neither purported consent by the minor to the sexual contact, mistake as to the participant's age, nor the fact that the sexual contact did not take place at the NYAC are defenses to a complaint of sexual abuse.

Many of the above behaviors may be categorized as sexual misconduct even though both individuals are above 18 years of age.

Sexual harassment takes the form of unwelcome sexual advances, requests for sexual favors, or other verbal, non-verbal or physical conduct of a sexual nature and it is strictly prohibited by this Policy. Certain conduct may be deemed to be sexual harassment even if the harasser and the individual being harassed are the same sex, and whether or not the participant resists or submits to the harasser, when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of participation in any activity;
2. Submission to or rejection of such conduct by a participant is used as the basis for decisions affecting the participant;
3. Such conduct is sufficiently severe, persistent or pervasive that it limits a participant's ability to partake in or benefit from a program or activity, or it creates a hostile or abusive environment.

Any conduct of a sexual nature directed by a minor toward an adult or by an adult to a minor is presumed to be unwelcomed and shall constitute sexual harassment. Acts of verbal or physical aggression, intimidation or hostility based on sex, but not involving conduct of a sexual nature, may also constitute sexual harassment.

While other team members may be the perpetrators of harassment or sexual harassment, it is a violation of this Policy if any coach or other responsible adult knows or should know of the harassment or sexual harassment but takes no action to intervene on behalf of the targeted individual(s).

It shall be a violation for any employee, volunteer, independent contractor or other individual to harass an individual or individuals through conduct or communications of a sexual nature, or to retaliate against anyone who reports sexual harassment or participates in a harassment investigation. The NYAC shall investigate all indications, informal reports and formal grievances of sexual misconduct, abuse or sexual harassment by any member, employee, volunteer, independent contractor or other participant and appropriate corrective action shall be taken.

Corrective action includes taking all reasonable steps to end the harassment, to prevent harassment from recurring and to prevent retaliation against anyone who reports harassment, abuse or sexual harassment or who participates in an investigation of such allegations as may have been made.

The NYAC is committed to ensuring that its athletic programs are free of all behaviors that may be deemed to be sexually abusive and that all of its athletes, coaches, administrators and associated personnel may train and compete in an environment in which they feel safe, comfortable and respected.

## B. PHYSICAL MISCONDUCT

It is the policy of the NYAC that there shall be no physical misconduct towards (abuse of) any participant involved in any of its programs by any employee, member, volunteer, independent contractor, support staff or other participant.

Physical misconduct occurs when physical contact with a participant intentionally causes or has the potential to cause the participant to sustain bodily harm or personal injury. Physical misconduct also includes physical contact with a participant that intentionally creates a perceived or actual threat of immediate bodily harm or personal injury. Physical misconduct may also include intentionally hitting or threatening to hit a participant with objects or equipment.

In addition to physical contact or the threat of physical contact with a participant, physical misconduct includes the provision of alcohol to a participant under the age of consent, as determined by applicable laws, and the provision of illegal drugs, stimulants, ergogenic aids, or non-prescribed medications.

Without limiting the above, any act or conduct described as physical misconduct under applicable federal or state law constitutes physical misconduct under this Policy.

Physical misconduct does not include physical contact that is reasonably designed to coach, teach, demonstrate or improve an athletic skill relevant to a particular sport, including physical conditioning, team building and appropriate discipline. Permitted physical conduct may include communicating with or directing participants during a training session or competition by touching or moving them in a non-threatening, non-sexual manner.

### C. EMOTIONAL MISCONDUCT

It is the policy of the NYAC that there shall be no emotional misconduct towards (abuse of) any participant involved in any of its programs by an employee, member, volunteer, independent contractor or other participant.

Emotional misconduct involves a pattern of deliberate, non-contact behavior that has the potential to cause emotional or psychological harm to a participant. These behaviors may include verbal acts, physical acts or acts that deny attention or support. Examples of emotional misconduct prohibited by this policy include, but are not limited to: a pattern of verbal behaviors that demean or denigrate a participant (e.g., calling them worthless, fat or disgusting); repeated and excessive shouting at a participant or participants in a manner that serves no productive motivational purpose; physically aggressive behavior (e.g., throwing equipment, water bottles or chairs at participants, punching walls, windows or other objects) and acts that deny attention and support, such as ignoring a participant for extended periods of time or routinely or arbitrarily excluding participants from practice or training.

Constructive criticism about a participant's performance is not emotional abuse or misconduct. Furthermore, emotional abuse does not include generally accepted and age-appropriate coaching methods of skill enhancement, physical conditioning, motivation, team building, appropriate discipline, or means of improving athletic performance.

Note: Bullying, threats, harassment and hazing, as defined below, often involve some form of emotional misconduct.

#### D. BULLYING, THREATS AND HARASSMENT

The NYAC supports an environment for participation in sport that is free from threats, harassment and any type of bullying behavior. The purpose of this Policy is to create a climate in which all types of bullying, harassing or threatening behavior are regarded as unacceptable.

**Bullying** - Bullying is the use of coercion to obtain control over another person or to be habitually cruel to another person. Bullying involves an intentional, persistent or repeated pattern of committing or willfully tolerating physical and non-physical behaviors that are intended to cause fear, humiliation or physical harm in an attempt to socially exclude, diminish or isolate another person. Bullying can occur through written, verbal or electronically-transmitted expression or by means of a physical act or gesture.

Bullying is prohibited in any manner connected with all NYAC sanctioned activities or events. Examples of bullying prohibited under this Policy include, without limitation: physical behaviors, punching, kicking or choking; and verbal and emotional behaviors, the use of electronic communications (i.e., "cyber bullying") to harass, frighten, degrade, intimidate or humiliate.

While other team members are often the perpetrators of bullying, it is a violation of this Policy if a coach or other responsible adult knows or should know of the bullying behavior but takes no action to intervene on behalf of the targeted individual(s).

Coaches may never direct bullying behavior towards their athletes.

**Threats** - A threat to harm others is defined as any written, verbal, physical or electronically-transmitted expression of intent to physically injure or harm someone else. A threat may be communicated directly to the intended victim or communicated to a third party. The NYAC prohibits threatening behavior of any kind in all circumstances.

**Harassment** - Harassment includes any pattern of physical and/or non-physical behaviors that are: (a) intended to cause fear, humiliation or annoyance; (b) offend or degrade; (c) create a hostile environment; or (d) reflect discriminatory bias in an attempt to establish dominance, superiority or power over an individual participant or group based on gender, race, ethnicity, culture, religion, sexual orientation, gender expression or mental or physical disability.

Examples of harassment prohibited by this Policy include, without limitation, such non-physical offenses as: (a) making negative or disparaging comments about an individual's gender, sexual orientation, gender expression, mental or physical disability, race, religion, skin color, ethnic traits or other legally protected grounds; (b) displaying offensive materials, gestures or symbols; and (c) withholding or reducing practice or time available to a participant based on his/her sexual

orientation, gender expression (not to include prohibitions on participation when eligibility is based on gender), disability, religion, skin color, ethnic traits or any other legally protected grounds.

Sexual misconduct, abuse and harassment is also strictly prohibited by this Policy. The subject of sexual misconduct, abuse and harassment is addressed in section IIA of this document.

#### E. HAZING

It is the policy of the NYAC that hazing of any individual involved in any of its programs by any member, employee, volunteer, independent contractor, support staff or other participant is prohibited.

Hazing includes any conduct which is intimidating, humiliating, offensive or physically harmful that serves as a condition for joining a group or being socially accepted by a group's members. Examples of hazing prohibited by this policy include, but are not limited to: requiring or forcing (including through peer pressure) the consumption of alcohol or illegal drugs; tying, taping or physically restraining a participant; sexual simulations or sexual acts of any nature; sleep deprivation or the withholding of water and/or food; anti-social actions (e.g., grossly inappropriate or provocative clothing) or public displays (e.g., public nudity) that are illegal or mean to draw ridicule, restrictions on eating, paddling or other forms of physical assault.

Activities that fit the definition of hazing are considered to be hazing regardless of a person's willingness to cooperate or participate. Hazing does not include club or team activities that are meant to establish normative team behaviors or promote team cohesion so long as such activities do not have reasonable potential to cause emotional or physical distress to any participant. Examples of activities that do not constitute hazing include directing or allowing a younger participant to pick up or fill water bottles or giving seasoned athletes first preference to team assignments, responsibilities, accommodations, facilities or equipment.

While other team members are often the perpetrators of hazing towards their teammates, it is a violation of this Policy if a coach or other responsible adult participates, knows or should know of the hazing but takes no action to intervene on behalf of the targeted individual(s). Hazing includes any act or conduct described as hazing under federal or state law.

### III. Reporting

A constituent must report his/her knowledge or suspicion of any form of misconduct, including bullying, hazing, harassment (including sexual harassment), emotional misconduct, physical misconduct and sexual misconduct as set out in this Policy.

The report shall be made to the Secretary of the New York Athletic Club and/or to the General Manager of the New York Athletic Club.

The New York Athletic Club will accept a report in whatever form is most comfortable for the individual making the report, including in-person, verbally, or by completing a New York Athletic Club incident report. Incident reports are available upon request in the City House and Travers Island management offices.

Regardless of how an individual chooses to file a report, it is helpful if the report includes the following information:

- the name(s) of the complainant(s);
- the type of misconduct alleged;
- the name(s) of the individual(s) alleged to have committed the misconduct,
- the date(s) on which the misconduct occurred;
- the names of other individuals who may have information regarding the alleged misconduct; and,
- a summary statement of the reasons to believe that misconduct has occurred.

An individual with knowledge or suspicion of any form of misconduct, abuse or harassment and who knowingly fails to report that knowledge or suspicion is in violation of this Policy and may be subject to disciplinary action up to and including civil and criminal charges.

#### IV. Confidentiality, Anonymous Reporting and Bad Faith Allegations

To the extent permitted by law, and as appropriate, the New York Athletic Club will keep confidential the names of the complainant(s), the reported victim(s), and the alleged perpetrator(s). Anonymous reporting may make it difficult for the New York Athletic Club to investigate or properly address allegations, although an anonymous report will not constitute reason to not investigate an allegation to the fullest extent possible.

Regardless of outcome, the New York Athletic Club will support the complainant(s) and his or her right to express concerns in good faith. The New York Athletic Club will not encourage, facilitate, allow or tolerate attempts from any individual to retaliate against any individual(s) who reports a concern in good faith. Any allegations of such retaliation should be reported using the same process as for reporting an initial concern.

A report of abuse, misconduct or policy violations that is malicious, frivolous or made in bad faith is prohibited. Depending on the nature of the allegation, a person making a malicious, frivolous or bad-faith report may be subject to civil or criminal proceedings, in addition to such measures as the NYAC may deem appropriate.

## V. Investigation and Resolution

### Claims of Sexual Misconduct

The New York Athletic Club will, upon receipt of a report involving sexual misconduct, refer the investigation to an appropriate third party. Reports of this nature may also be referred to appropriate law enforcement authorities.

### All Other Claims

The NYAC will retain the authority to investigate and resolve all other alleged violations that are non-sexual in nature, including physical misconduct, emotional misconduct, bullying, hazing and harassment, although it may exercise the discretion to refer these instances to an appropriate governing body or bodies.

#### Non-Sexual Complaints Made Against an NYAC Member

In instances where a complaint of a non-sexual nature is made against a member of the NYAC, the Club will work within the grievance process as outlined in its Constitution for investigating and resolving these claims. The NYAC may exercise the discretion to refer these instances to an appropriate authority.

#### Non-Sexual Complaints Made Against a Non-Member or Club Employee

In instances where a complaint of a non-sexual nature is made against a non-member – be they an employee, gate list registrant, privilege card holder, guest, volunteer, or other participant - the claim may be investigated and resolved pursuant to the appropriate procedures as determined by the New York Athletic Club. For example, employment matters will be determined by the New York Athletic Club's policy and procedures affecting New York Athletic Club employees. The NYAC may exercise the discretion to refer these instances to an appropriate authority.

## VI. Education

The individuals listed in the Addendum Item 1 must complete the Safe Sport awareness training and education program every two years and must read, acknowledge and adhere to the NYAC Safe Sport Policy as outlined in this document.

The individuals listed in the Addendum Item 2 must read, acknowledge and adhere to the NYAC Safe Sport Policy as outlined in this document.

To the extent possible, the required education and training will be based on materials and information available from the U.S. Center for Safe Sport.

## Acknowledgment & Acceptance

I have received a copy of the New York Athletic Club SafeSport Policy; I have read and understand the Policy, and I agree to comply with the Policy.

Print Name

Title/Position

Signature

Date

RETURN COMPLETED ACKNOWLEDGEMENT FORMS TO:

NEW YORK ATHLETIC CLUB  
180 Central Park South  
New York, NY 10019

Attention: OFFICE OF THE SECRETARY

# NYAC Safe Sport Policy

## Addendum Item 1

Those listed below must complete the Safe Sport awareness training and education program every two years and must read, acknowledge and adhere to the NYAC Safe Sport Policy as outlined in this document.

- Athletic Office Staff
  - Director of Athletics
  - Assistant Director of Athletics
  - Associate Director of Athletics
  - Athletics Coordinator
- Athletic Chairmen
- NYAC Coaches
- SMP Coaches
- Day Camp Assistant Director
- Day Camp Nurse
- Day Camp Administrators
- Day Camp Aquatics Director
- Day Camp Counselors
- SMP Counselors
- Head Squash Pro
- TI Field House Manager
- Director of Tennis Program at TI
- Jr. Program Instructors
  - Sailing
  - Paddle Boarding
  - Swim and Dive
  - Lifeguards
  - Lacrosse Clinic
  - Friday Basketball Instructors
  - Tennis Academy Instructors
  - Fencing Instructors
  - Jr. Water Polo Instructors

## Addendum Item 2

Those listed below must read, acknowledge and adhere to the NYAC Safe Sport Policy as outlined in this document.

- Athletic Trainers
- Massage Therapists
- Chiropractors
- Doctors
- Team Administrators
- Lifeguards