

A & L Sexual Harassment Prevention Policy

A) Introduction

1. A & L Cesspool Service Corp. (A & L) is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of A & L's commitment to a discrimination-free work environment.
2. Sexual harassment is against the law¹ and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with A & L's Safety Coordinator. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

B) Definitions

1. Employee: Any person who works for A & L and receives a salary, wage or compensation, or a thing of value for such work. The term employee, as described and used herein only, also covers those who are contractors, agents of A& L, interns (paid or unpaid) and those employed in either a full-time, part-time or on-call circumstance, regardless of immigration status. (Shall be referred to as "Employee")
2. Non-employees: Any person, other than an employee is a non-employee regardless of immigration status. (Shall be referred to as "Non-employee")
3. Sexual Harassment: Is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment based on a person's; anatomical sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender, regardless of immigration status.
4. Retaliation: Is any action, taken against a person, that causes any adverse condition of employment or life, away from the place of employment, when that person legitimately reports or complains about sexual harassment whether real or perceived.
5. Control Person: Any person who is a supervisor, manager, owner, or person that has any degree of control over another person in the company.

C) Policy

1. A & L's policy applies to all employees and non-employees. In the remainder of this document, the term "person(s)" refers to this collective group.
2. Sexual harassment will not be tolerated. Any person covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the person reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. A & L will not tolerate such retaliation against anyone who, in good faith, legitimately reports or provides information about suspected sexual harassment. Any person who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. Persons who believe they have been subject to such retaliation should inform a control person and the Safety Coordinator. Persons who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section **L. Legal Protections and External Remedies**.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject A & L to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Persons of every level who engage in sexual harassment, including control persons who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. A & L will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible incident of sexual harassment occurring. A & L will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All persons (including control persons), are required to cooperate immediately, accurately and truthfully with any internal investigation of sexual harassment.

¹ While this policy specifically addresses sexual harassment, harassment and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

6. All persons are required to report any harassment or behaviors that violate this policy. A & L will provide all persons a complaint form for persons to report harassment and to file complaints.
7. Control persons are required to report any complaint that they receive, or any harassment that they observe or become aware of to the Safety Coordinator.
8. This policy applies to all persons and all must follow and uphold this policy. This policy must be provided to all persons and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to persons upon hiring.

D) What else is considered “Sexual Harassment”

1. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:
 - a. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
 - b. Such conduct is made either explicitly or implicitly a term or condition of employment; or
 - c. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.
2. A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex as described in **B) Definitions 1. Thru 3.**
3. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.
4. Sexual harassment also occurs when a control person tries to trade job benefits or anything else of value relating to the employment of the prospective victim for sexual favors. This can include hiring, promotion, continued employment or any other favorable terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.
5. Persons who feel harassed should report any perceived harassment immediately so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

E) Examples of “Sexual Harassment”

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

1. Physical acts of a sexual nature, such as:
 - a. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - b. Rape, sexual battery, molestation or attempts to commit these assaults.
2. Unwanted sexual advances or propositions, such as:
 - a. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - b. Subtle or obvious pressure for unwelcome sexual activities.
 - c. Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
 - d. Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

3. Sexual or discriminatory displays or publications anywhere in the workplace are strictly prohibited. Examples are:
 - a. Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
 - b. Hostile actions taken against an individual such as:
 - i. Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - ii. Sabotaging an individual's work;
 - iii. Bullying, yelling, name-calling.

F) Targets of "Sexual Harassment"

1. Sexual harassment can occur between any persons.
2. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

G) Where can "Sexual Harassment" occur

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties or at their home. Calls, texts, emails, stalking and social media usage by persons can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

H) Retaliation

1. Retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:
 - a. Made a complaint of sexual harassment, or participated in an investigation relating to sexual harassment, either internally or with any anti-discrimination agency;
 - b. Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
 - c. Opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
 - d. Reported that another employee has been sexually harassed;
 - e. Encouraged a fellow employee to report harassment.
2. Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

I) Reporting "Sexual Harassment"

Preventing sexual harassment is everyone's responsibility.

1. A & L cannot prevent or remedy sexual harassment unless it knows about it.
2. Persons who have been subjected to behavior that may constitute sexual harassment are encouraged to report such behavior to a control person and the Safety Coordinator. Anyone who witnesses or becomes aware of potential instances of sexual harassment are required to report such behavior to a supervisor, manager and the Safety Coordinator.

3. Reports of sexual harassment may be made verbally (in person or by phone) or in writing (e-mail, text, letter, note). A form for submission of a written complaint is located inside this policy (**See Addendum A. Sexual Harassment Report Form. (2 pgs.)**). All persons are encouraged to use this complaint form. Persons who are reporting sexual harassment on behalf of other persons should use the complaint form and note that it is on another person's behalf.
4. Persons who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section **L. Legal Protections and External Remedies**.

J) Supervisory Responsibilities

1. Any control person, who exercises any degree of control or supervision over any other person, who receives a complaint or information about suspected sexual harassment, or who may observe what might be sexually harassing behavior, or for any reason suspect that sexual harassment is occurring, **is required** to report such suspected sexual harassment to a control person and the Safety Coordinator.
2. In addition to being subject to discipline, if they engaged in sexually harassing conduct themselves, control persons will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.
3. Control persons will also be subject to discipline for participating in any retaliation.

K) Complaint and Investigation of Sexual Harassment

1. All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be kept confidential to the extent possible.
2. An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.
3. Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment.
4. While the process may vary from case to case, investigations should be done in accordance with the following steps:
 - a. Upon receipt of complaint, the Safety Coordinator will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, the Safety Coordinator shall prepare a Complaint Form based on the verbal reporting.
 - b. If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
 - c. Request and review all relevant documents, including all electronic communications.
 - d. Interview all parties involved, including any relevant witnesses;
 - e. Create written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - i. A list of all documents reviewed, along with a detailed summary of relevant documents;
 - ii. A list of names of those interviewed, along with a detailed summary of their statements;
 - iii. A timeline of events;
 - iv. A summary of prior relevant incidents, reported or unreported;
 - v. The basis for the decision and final resolution of the complaint, together with any corrective action(s).
 - f. Keep the written documentation and associated documents in a secure and confidential location.

- g. Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- h. Inform the individual who reported the incident of the right to file a complaint or charge externally as outlined in the next section.

L) Legal Protections and External Remedies

1. Sexual harassment is not only prohibited by A & L, but is also prohibited by state, federal, and, where applicable, local law.
2. Aside from the internal process at A & L, employees may also choose to pursue legal remedies with governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.
3. In addition to those outlined below, employees in certain industries may have additional legal protections.

M) State Human Rights Law (HRL)

1. Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State regarding sexual harassment, and protects all persons. A complaint alleging violation of the HRL may be filed either, with the Division of Human Rights (DHR), or in New York State Supreme Court.
2. Complaints may be filed at DHR any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed an HRL complaint in state court.
3. Complaining internally to A & L does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.
4. You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.
5. DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to act to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.
6. DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov
7. Contact DHR at (888) 392-3644 or visit www.dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

N) Civil Rights Act of 1964

1. The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.
2. The EEOC does not hold hearings or award relief but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.
3. A person alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov
4. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

O) Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

P) Contact the Local Police Department

1. If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

Q) Training

1. Training is to be conducted as follows:
 - a. New Hires: Immediately; Via on-line training session located at: www.alcesspool.com/safety (See Sexual Harassment Policy). Training shall provide a User Feedback Form.
 - b. Other than New Hires: Annually via Contracted Instructor
 - c. Training shall provide a User Feedback Form.

R) Language

This Policy and all information related to it, are available, upon request, in the language of the user.

ADDENDUM A. SEXUAL HARASSMENT REPORT FORM

Instructions for Employers

If you receive a complaint about alleged sexual harassment, follow your sexual harassment prevention policy.

An investigation involves: Speaking with the employee, speaking with the alleged harasser, interviewing witnesses, Collecting and reviewing any related documents.

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible. Document the findings of the investigation and basis for your decision along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.

Deliver this form personally to the A & L Safety Coordinator at: 37-88 Review Ave, Suite 101, LIC, NY 11374, or via Fax: 718-729-5799, or via e-mail: safety@alcesspool.com

A & L Sexual Harassment Report Form

Will you tell us your name? Y or N	
If no, and you want to remain anonymous, how can we contact you?	
Your First Name	
Your Last Name	
Your Cell Phone Number	
Your Home Phone Number	
Your E-Mail	
Your Supervisor's First Name	
Your Supervisor Last Name	
Today's Date	
Date Incident Occurred	
Time Incident Occurred	
Location Incident Occurred	
First Name of the person you are making the complaint about.	
Last Name of the person you are making the complaint about.	
What is his/her relationship to you?	
Please describe what happened. If you need additional space, just use another 8 ½ X 11-inch paper and turn it in with this report.	

