

Policy on Equal Employment Opportunity Program: Non-Discrimination, Affirmative Action, Anti-Harassment, and Non-Retaliation in the Workplace

1. Purpose

This policy sets forth the commitment of Fermi Research Alliance, LLC (FRA) to ensuring equal access to employment opportunity and providing a workplace free of discrimination, harassment, and retaliation.

2. Scope

This policy applies to all FRA work locations and to interactions and FRA decision-making when representing or associated with FRA off-site or online.

3. Applicability

This policy applies to all Fermi Research Alliance, LLC (FRA) employees and applicants. The policy applies to all aspects of the employment relationship, including recruitment, selection, hiring, supervision, working conditions, compensation, training and development, promotion, demotion, transfer, and termination.

4. Effective Date and Date Reviewed/Updated

The Equal Employment Opportunity Program policy consolidates, updates, and retires previous separate stand-alone non-discrimination, affirmative action, anti-harassment, and non-retaliation policies that became effective between April and August 2015. This policy is effective on **August 25, 2022**.

5. Policy

It is the policy of FRA to provide equal employment opportunities for all employees and applicants in compliance with all applicable laws and FRA policies. FRA is an Affirmative Action/ Equal Opportunity Employer and is committed to cultivating an inclusive and diverse work environment that supports scientific, technological, and operational excellence with people of all races and ethnicities, national origins, religions, genders, gender identities and expressions, sexual orientations, parental statuses, abilities, ages, educational backgrounds, intellectual perspectives, and socioeconomic statuses.

Violation of this policy can result in disciplinary action up to and including termination of employment and/or site-access privileges, including computing accounts.

Non-Discrimination

FRA prohibits discrimination against any person employed, seeking, or applying for or engaged in a paid or sponsored internship or training program leading to employment on the basis of protected

characteristics or classes including, race, color, national origin, religion, sex, gender, gender expression, gender identity, gender transition status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services, including protected veterans. This policy applies to all employment practices, including recruitment, selection, promotion, transfer, merit increase, salary, training and development, demotion, and separation.

Pay Transparency Non-Discrimination

FRA will not discharge or in any other manner discriminate against employees or applicants because they inquire about, discuss, or disclose their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants, as a part of their essential job functions, cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is: (a) in response to a formal complaint or charge; (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by FRA; or (c) consistent with FRA's legal duty to furnish information.

Affirmative Action

FRA will undertake affirmative action, consistent with its obligations as a federal contractor, for qualified underrepresented minorities and women, persons with disabilities, and protected veterans. Every good faith effort will be executed to achieve prompt and full utilization of underrepresented minorities and women in all segments of the workforce where deficiencies exist. Outreach and pipeline efforts conform to all current legal and regulatory requirements and are consistent with FRA standards of excellence.

Affirmative action will also be undertaken to ensure fair application of employment actions including placement, promotion, rates of pay or other forms of compensation, selection for training and development, and terminations, without regard to race, color, religion, gender, gender identity, or national origin across all job classes.

In conformance with federal regulations, an annual Affirmative Action Plan (AAP) is prepared and maintained by FRA.

Anti-Harassment

In the workplace and work-related settings outside the workplace, FRA prohibits harassment based on protected characteristics.

In addition, FRA prohibits sexual harassment of any kind.

Non-Retaliation

FRA prohibits retaliation for bringing a complaint of discrimination or harassment pursuant to this policy. FRA also prohibits retaliation against a person who assists another person with a complaint of discrimination or harassment, or who participates in any manner in an investigation or resolution of a complaint of discrimination or harassment.

Anti-discrimination laws prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices they reasonably believe discriminate against individuals, in violation of these laws.

Complaints

Individuals who believe they have been subjected to discrimination, harassment, or retaliation are encouraged to submit complaints through any of the following channels:

- Fermilab Concerns Reporting System – Complaints are assigned to the appropriate office or officer for review and investigation.
Website: <https://app.integritycounts.ca/org/fermilab>,
Phone Hotline: 866.921.6714 (USA), 00-800-2002-0033 (Switzerland)
- Manager or Division/Department Leadership
- HR Partner or Human Resources Leadership
- Fermilab Office of Equity Diversity and Inclusion
- Fermilab Office of General Counsel; ogc@fnal.gov; (630)840-3572
- Fermilab Security Department; emergency (630) 840-3131; non-emergency (630) 840-3414
- DOE Employee Concerns Program at the Chicago Integrated Support Center – Hotline (800) 701-9966, or scfieldecip@science.doe.gov, or employeeconcernsprogram@doe.gov, or Fermi Site Office – John Scott (630) 840-2250 or Scott@science.doe.gov
- Office of Inspector General (OIG) – Department of Energy; ighotline@hq.doe.gov; Hotline (800) 541-1625

Confidentiality

FRA personnel with responsibilities for implementing this policy and handling complaints will respect the confidentiality and privacy of individuals who report or are accused of discrimination, harassment, or retaliation to the extent reasonably possible. There may be situations where confidentiality cannot be maintained such as when the law requires disclosure of information or when disclosure is necessary in order for FRA to take corrective action or to protect the safety of others.

6. Definitions

Discrimination is the unfair or prejudicial treatment in employment of people and groups based on protected characteristics such as race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, disability, age (age 40 or older), or genetic information.

Protected Characteristics or Classes - The Civil Rights Act of 1964 (CRA) and subsequent federal laws and regulations prohibit discrimination against individuals or groups of individuals because of particular traits.

| Protected Characteristic | Federal Law Establishing Protected Status |
|---------------------------------|---|
| Race | Civil Rights Act of 1964 |
| Religious belief | Civil Rights Act of 1964 |
| National origin | Civil Rights Act of 1964 |
| Age (40 years and up) | Age Discrimination in Employment Act of 1975 |
| Sex* | Equal Pay Act of 1963 and Civil Rights Act of 1964 * Includes but is not limited to gender; gender identity and gender expression. |
| Pregnancy | Pregnancy Discrimination Act of 1978 |
| Citizenship | Immigration Reform and Control Act of 1986 |
| Familial status | Civil Rights Act of 1968 |
| Disability status | Rehabilitation Act of 1973 and Americans with Disabilities Act of 1990, as amended |
| Veteran status | Vietnam Era Veterans' Readjustment Assistance Act of 1974 and Uniformed Services Employment and Reemployment Rights Act |
| Genetic information | Genetic Information Nondiscrimination Act of 2008 |

Harassment is unwelcome conduct that is based on race, color, religion, sex (including sexual orientation, gender identity, or pregnancy), national origin, older age (beginning at age 40), disability, or genetic information (including family medical history). Petty slights, annoyances, and isolated incidents (unless extremely serious) do not rise to the level of prohibited conduct. Harassment causes a work environment that would be intimidating, hostile, abusive, or offensive to reasonable people.

Harassment is unwelcome or offensive conduct that creates an intimidating, abusive, offensive, or hostile work environment that negatively impacts the harassed employee and anyone else affected by the offensive conduct.

Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, age, sex, sexual orientation, pregnancy, appearance, disability, gender identity or expression, marital status or other protected status, including epithets, slurs, and negative stereotyping.

Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital status, or other protected status.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that creates an intimidating, hostile, or offensive working environment.

Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates), and verbal abuse or "kidding" that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.

Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex, suggestive or insulting sounds, leering, staring, whistling, obscene gestures, content in letters, notes, facsimiles, e-mails, photos, text messages, tweets and Internet postings, or other forms of communication that are sexual in nature and offensive.

Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and assault.

Retaliation is taking action including threats, intimidation, reprisal, and/or adverse actions related to employment, against someone who has engaged in protected activity such as making or corroborating a complaint of workplace discrimination or harassment based on protected characteristics.

Underrepresented Minorities (URMs) in STEM include African Americans/Black, Latinx, American Indians and Alaska Natives.

Disability is a physical or mental impairment that substantially limits one or more of an individual's major life activities (i.e., walking, talking, standing, sitting, etc.)

Disciplinary Action is the means of applying corrective action to employees who fail to abide by established performance standards, policies and rules.

Termination is the separation from employment due to a voluntary resignation, layoff, retirement or dismissal.

Gender is the sex of a person, including a person's gender identity, and gender expression.

Gender Expression is a person's gender-related appearance or behavior, or the perception of such appearance or behavior, whether or not stereotypically associated with the person's sex assigned at birth.

Gender Identity refers to each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender.

7. Responsibilities

Laboratory Director is responsible for reporting complaints of discrimination, harassment, or retaliation that the Director receives to the CEDIO for handling and for documenting the complaint and its resolution.

Chief Equity, Diversity and Inclusion Officer (CEDIO) is the owner of this policy and is responsible for ensuring it is up-to-date. The CEDIO also is responsible for handling and for documenting relevant complaints.

Chief Human Resources Officer (CHRO) is responsible for reporting complaints of discrimination, harassment, or retaliation to the CEDIO, and recording received complaints in proxy to the Fermilab Concerns Reporting system. Additionally, the CHRO is responsible for ensuring Human Resources functions, personnel, policies, practices, initiatives, and programs uphold this policy.

Human Resources Business Partners (HR Partners) are responsible for receiving and recording received complaints in proxy to the Fermilab Concerns Reporting system. HR Partners also are responsible for review and investigation of complaints and concerns relating to discrimination, harassment, or retaliation.

Chiefs, Division Heads/Section Heads/Project Directors, Supervisors, and Hiring Committees are responsible for receiving and reporting complaints of discrimination, harassment, or retaliation to the CEIDO or their Human Resources Business Partner to record received complaints by proxy to the Fermilab Concerns Reporting system.

The Office of General Counsel (OGC) is responsible for supporting, as requested by the CEDIO or HR Partners, the review or investigation of complaints of discrimination, harassment, or retaliation.

FRA Employees are responsible for complying with this policy.

Parties receiving and addressing complaints related to this policy are responsible for utilizing appropriate discretion and levels of confidentiality in handling the information.

8. Authorities

- Title VII of the Civil Rights Acts of 1964, as amended
- Age Discrimination in Employment Act (ADEA) of 1967
- Americans with Disabilities Act (ADA) of 1990, as amended
- Executive Order 11246 of 1965
- Older Workers Benefit Protection Act (OWBPA) of 1990
- Pregnancy Discrimination Act (PDA) of 1978, Sex Discrimination Act of 1975
- GINA Law - Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA, Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law.
- VEVRAA – Vietnam-Era Veteran Readjustment Act of 1974 and
- Section 503 of the Rehabilitation Act
- Equal Opportunity clauses of FRA prime contract with the Department of Energy:
 - Prime Contract Clause I.26(c)(2) – FAR 52.222-26 Equal Opportunity
 - Prime Contract Clause I.28(b) – FAR 52.222-35 Equal Opportunity for Veterans
 - Prime Contract Clause I.29(a) – FAR 52.222-36 Equal Opportunity for Workers with Disabilities
 - Prime Contract Section J, Appendix M – Contract Guidance for Preparation of Diversity Plan
- 41 CFR §60-1.35(c) Contractor Obligations and defenses to violation of the nondiscrimination requirement for compensation disclosures

9. Owner

The Chief Equity, Diversity and Inclusion Officer is the owner of this policy.

10. Review Cycle

This policy shall be reviewed every 3 years.

11. Communication Plan

The Chief Equity, Diversity and Inclusion Officer is responsible for the communication of this policy.

Periodic training shall be provided to Chiefs/Division Heads/Section Heads/Project Directors and Hiring Committees.

This policy shall be available in the Fermilab policy database.