



## Employee Concerns Plan

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## Introduction

This plan is to demonstrate FermiForward and Fermilab's commitment to the Employee Concerns Program (ECP). The Plan:

- outlines the provisioning of resources for reporting concerns,
- explains employee rights regarding the ECP,
- identifies responsibilities for carrying out the ECP, and
- demonstrates support and methods of encouraging employees, users, and subcontractor employees to freely report their concerns without fear of retaliation or reprisal.

Fermilab direction is to investigate and resolve concerns effectively and efficiently and in a timely manner. Fermilab is committed to upholding respect, honesty, integrity, transparent communication, confidentiality and implementation of the zero tolerance for harassment, intimidation, retribution, or discrimination of all employees, users, and subcontractor employees. The ECP is designed to inform employees, users, and subcontractor employees about their rights and responsibilities to raise any employee concern, including concerns regarding environment, safety, health, security, quality, and management of DOE facilities and operations, as well as harassment, intimidation, retaliation/reprisal, or discrimination.

## 1.0 Definitions

**Employee Concern** refers to any issues, worries, or problems that an employee experiences within their workplace. Employee concerns can pertain to issues such as management practices, fraud, waste, safety, environmental, discrimination, harassment, policy or procedure violations. An employee concern is a good faith expression by concerned individual that:

- an activity, policy, or practice of DOE or one of its contractors or subcontractors – including but not limited to, that which is related to the environment, safety, health, security, quality and management of DOE facilities and/or operations – should be improved, modified or terminated, or
- he or she has been subjected to Harassment, Intimidation, Retaliation/Reprisal or Discrimination (HIRD: as defined by DOE Order 442.1B) by one or more of its contractors or subcontractors, for raising employee concern.

**Concerned Individual** is a current FermiForward or Fermilab contractor or subcontractor employee, User or Affiliate who expresses in good faith an employee concern through the ECP.

**Confidentiality** is a request by an individual associated with an employee concern to have their identity protected, to the extent allowable by law, from all persons except ECP staff and those other individuals supporting the ECP that may have the need-to-know.

**Conflict of Interest** is a situation in which the individual responsible for investigating an Employee Concern has either direct or indirect association with the Employee Concern, including situations where the individual with processing or investigatory responsibility has or had a personal relationship

related to the parties to the Employee Concern, or the Employee Concern itself, that may place their objectivity in question from an outside observer.

**Corrective Action** is an action taken to effectively address a substantiated or partially substantiated Employee Concern and to prevent the recurrence of the issue(s) that led to the Employee Concern.

**Harassment, Intimidation, Retaliation/Reprisal or Discrimination (HIRD)** is a type of Employee Concern that includes allegations of harassment, intimidation, retaliation/reprisal, or discrimination for raising an Employee Concern.

- **Harassment** is behavior or an action taken by one or more supervisors or co-workers against or toward a Concerned Individual to belittle, humiliate, or impeded that Concerned Individual in his or her work environment or job performance because the Concerned Individual raised an Employee Concern, Harassment may include, but is not limited to: threatening, restraining, coercing, blacklisting, mocking, humiliating, and/or isolating a Concerned Individual.
- **Intimidation** is any behavior or action taken by a supervisor or co-worker against or toward any employee to cause the employee to be fearful of filing an Employee Concern: cease from pursuing and Employee Concern; or otherwise, be afraid for his/her safety or job security as a result of filing an Employee Concern.
- **Retaliation/Reprisal** is an adverse action taken against or toward a Concerned Individual with respect to employment (e.g., discharge, demotion, or other negative action with respect to the Concerned Individual's compensation, terms, conditions or privileges of employment) because the employee raised an Employee Concern or engaged in protected activity.
- **Discrimination** is adverse treatment of a concerned individual because they raised an Employee Concern.

**Findings** are results of a review or investigation into Employee Concern which are documented on completion and consist of three types:

- **Partially Substantiated** is a type of finding with respect to an Employee Concern in which the DOE ECP Manager has corroborated only part of an Employee Concern, based on supporting evidence
- **Substantiated** is a type of finding with respect to an Employee Concern in which the DOE ECP Manager has corroborated the Employee Concern based on supporting evidence.
- **Unsubstantiated** is a type of finding with respect to an Employee Concern in which the DOE ECP Manager has not been able to corroborate the Employee Concern based on supporting evidence.

A **Whistleblower** is an individual who reports information that he/she reasonably believes evidences:

- Gross mismanagement of a Federal contract, including the FRA Prime Contract with the Department of Energy;

- Gross waste of Federal funds;
- Abuse of authority relating to a Federal contract;
- A substantial and special danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract).

A **Reasonable Belief** means that a disinterested observer with knowledge of the essential facts known to the employee can reasonably conclude that the actions complained of evidence a violation of law, mismanagement, waste, abuse, or danger. This standard excludes rumors, speculation, and nonspecific allegations (e.g., “harassment,” or “fraud”). The Whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities.

## 2.0 Responsibilities

### 2.1. Laboratory Director

- Hold the responsibility to assign ownership of the Employees Concerns Program (ECP).
- Hold the responsibility to ensure that the Employee Concerns Program complies and adequately follows DOE 442.1B and owner maintains the integrity, transparency and accountability of the ECP.

Director, Division Heads, Program Owners, Managers and Supervisors all hold responsibility to their teams, each other, sub-contractor employees, Users/Affiliates, and village residents to maintain a safe environment to report concerns and provide transparent communication to resolution progress and results.

### 2.2. Employee Concerns Owner/Director

- Is responsible to ensure implementation of ECP policies, procedures and guidance for all departments and areas of activities within Fermilab.
- Shall ensure the ECP aligns with DOE 442.1B requirements and guidance.
- Is responsible to ensure tracking of all concerns, the progress of resolution and the solutions.
- Holds responsibility to provided communications to all employees with the most current resources for reporting employee concerns and ensure the confidentiality to any employee, or subcontractor employee within the legal Federal and State parameters.
- Holds responsibility to coordinate with the DOE ECP Manager and his/her representatives in program assessment and processing concerns submitted to the DOE ECP.
- Notifies the contracting officer when Fermilab becomes aware of a formal complaint submitted pursuant to 10 CFR part 708, DOE Contractor Employee Protection Program, 41 USC 4712, Enhancement of Contract Protection from Reprisal for Disclosure of Certain

Information, or a complaint filed with the US Department Labor under 29 CFR 24, Procedures for Handling Retaliation Complaints.

### 2.3. Managers and Supervisors

- Are responsible for establishing open, transparent communications to enable employees to raise concerns and to address the concerns of employees under their supervision in a manner that is consistent with DOE Order 442.1B.
- Provide for the safe and efficient reporting of concerns and to effectively resolve the concerns and prevent a negative impact on the employee, department and laboratory.
- Managers will identify the degree of the concern (low, med, high or urgent) and ensure the timely review and resolution of the concern based on the grade.

### 2.4. Employees, Users/Affiliates, and Subcontractor Employees

- Are responsible for reporting conditions that may involve violations of policies and procedures, fraudulent, unethical, inappropriate behavior, or actions that impact the safety, health and welfare employees or the public. If confidentiality is desired, the reporting individual should describe their confidentiality request as part of the report. The request to maintain anonymity will be honored, to the extent allowable by law, from all persons except personnel who have a need-to-know in order to review, investigate, or resolve a concern.
- Are encouraged to report all concerns to any of the following:
  - Immediate Supervisor/Manager/Division or Department Leadership
  - HR Partners or Human Resources Leadership
  - The Office of General Counsel
  - The Fermilab Security Department
  - The Fermilab Concerns Reporting System, a third-party provided hotline/website hosted by Ethico where reporters may either self-identify or remain anonymous <https://fermilab.compliancelinemcr.com>; Phone Hotline: 877-785-0008 (USA)

In addition, FRA employees and Fermilab Users/Affiliates may report directly to the Department of Energy (DOE) as follows:

- DOE Employee Concerns Program at the Chicago Consolidated Support Center – Hotline (800) 701-9966, or [scfieldecpc@science.doe.gov](mailto:scfieldecpc@science.doe.gov), or [employeeconcernsprogram@doe.gov](mailto:employeeconcernsprogram@doe.gov), or Fermi Site Office – Sean Wallace, Deputy, Site Office Manager, [sean.wallace@science.doe.gov](mailto:sean.wallace@science.doe.gov) DOE Fraud, Waste, and Abuse Hotline – (800) 541-1625 or [IGHotline@hq.doe.gov](mailto:IGHotline@hq.doe.gov)
- DOE Office of the Inspector General – (202) 586-4073, or [IGHotline@hq.doe.gov](mailto:IGHotline@hq.doe.gov), or <https://www.energy.gov/ig/complaint-form>. Individuals who contact the DOE/OIG Hotline may self-identify or remain anonymous.

## 3.0 Plan Description

The Fermilab ECP is intended to accomplish the following:

- Encourage transparency and open communication.
- Provide employees with information on how to report a concern.
- Provide employees with the information where to report their concerns.
- Demonstrate support to employees voicing concerns.
- Provide options for reporting concerns.
- Identify the responsibilities for reporting concerns.
- Demonstrate commitment to employees and their concerns.
- Document review of every concern, including “closure” of a concern when a full, formal investigation is not warranted.

Situations exist in which personnel may be afraid to contribute information for fear of reprisal or intimidation. In these instances, the employee concerns program provides mechanisms for ensuring identities will not be disclosed.

## 4.0 Processes

### 4.1. Routine Issue Resolution Processes

Employees are encouraged to first seek to resolve their concerns with their first-line supervisors or through other established issue resolution systems. Some concerns can be resolved informally or at the first-line supervisor level, and in some circumstances, it may be appropriate to take your concern “up the management chain.” Fermilab provides multiple options for reporting concerns to include anonymous reporting options.

Members of bargaining units should consult with their union stewards. If these avenues are unavailable or are not able to effectively deal with an issue, Fermilab provides alternative processes for evaluation and resolution.

### 4.2. Non-Routine Issue Resolution Process

In some cases, the standard approach in 4.1 may not be useful for several reasons, including:

- lack of awareness about routine issue resolution processes,
- the people who are supposed to help are the source of the problem,
- routine processes are ineffective, or
- fear of embarrassment or reprisal.

In these instances, many alternative reporting mechanisms exist. The characteristics of these reporting mechanisms vary depending on the nature of issues addressed, the managing organization, and the degree of identity protection desired.

Reporting options include:

- Immediate Supervisor/Manager/Division or Department Leadership
- HR Partners or Human Resources Leadership
- The Office of General Counsel
- The Fermilab Security Department
- The Fermilab Concerns Reporting System, a third-party provided hotline/website hosted by Ethico where reporters may either self-identify or remain anonymous <https://fermilab.compliancelinemcr.com>; Phone Hotline: 877-785-0008 (USA)

In addition, FRA employees and Fermilab Users/Affiliates may report directly to the Department of Energy (DOE) as follows:

- DOE Employee Concerns Program at the Chicago Consolidated Support Center – Hotline (800) 701-9966, or [scfieldecpc@science.doe.gov](mailto:scfieldecpc@science.doe.gov), or [employeeconcernsprogram@doe.gov](mailto:employeeconcernsprogram@doe.gov), or Fermi Site Office – Sean Wallace, Deputy, Site Office Manager, [sean.wallace@science.doe.gov](mailto:sean.wallace@science.doe.gov)
- DOE Fraud, Waste, and Abuse Hotline – (800) 541-1625 or [IGHotline@hq.doe.gov](mailto:IGHotline@hq.doe.gov)
- DOE Office of the Inspector General – (202) 586-4073, or [IGHotline@hq.doe.gov](mailto:IGHotline@hq.doe.gov), or <https://www.energy.gov/ig/complaint-form>. Individuals who contact the DOE/OIG Hotline may self-identify or remain anonymous.

Reporting channels are identified on the Inside Fermilab webpage under Quick Links, on the Office of General Counsel webpage, and in the Fermilab Code of Business Ethics and Conduct.

#### 4.3. Alternative Dispute Resolution Process (ADR)

In some cases, ADR may be used as a mechanism for resolving an Employee Concern. ADR involves the use of a neutral third party and may take the form of mediation. To resolve an Employee Concern through ADR, all parties must voluntarily agree to utilize the ADR process.

## 5.0 Concerns Related to Environmental, Safety & Health

ESH concerns are not exclusive to the internal sector, therefore establishing corrective action plans and tracking system for the varying ESH levels of potential and established concerns, hazards and incidents will be centralized, tracked and assessed routinely. The process, policies and procedures for ESH concerns reporting will be encouraged, supported, transparent, and implemented into training and resources provided at all levels. ESH employee concerns will implement and follow DOE order 442.1B guidance, OSHA requirements/guidance, and industry best practices for Environmental, Safety and Health.



### 5.1. Fermilab Concerns Reporting System

The Fermilab Concerns Reporting System is part of the Fermilab employee/user/subcontractor concerns program. The Fermilab Concerns Reporting System is a third-party provided platform for reporting all concerns, including violations of safety or health standards, standards of conduct, legal or ethical lapses, the environment, security, quality, management, or concerns regarding equity, diversity and inclusion. System reporters may identify themselves or remain anonymous. The Fermilab Concerns Reporting System is available for use by Fermilab employees, Users/Affiliates, and subcontractors. The Fermilab Concerns Reporting System can be found here: <https://fermilab.compliancelinemcr.com/> or through the phone hotline: 877-785-0008 (USA).

### 5.2. DOE Differing Professional Opinions

Managed by the Department of Energy, this system is intended for concerns involving technical issues with potential significant impact to the environment, safety and health that have not been adequately addressed through lower-level processes. You must provide your contact information.

The Differing Professional Opinion (DPO) process is described in Attachment 2 of DOE Order 422.1B. Employees who have made attempts to resolve technical issues with potential significant impact to ES&H may submit a (DPO) form at <https://ehss.energy.gov/forms/dpo/dpo.aspx>

Contact information for the current DPO Manager (*see office of science facility other than a hazard category 1,2, or 3 nuclear facility*) is listed here: <https://www.energy.gov/ehss/doe-differing-professional-opinions>

### 5.3. DOE Employee Concerns Resources

Fermilab's employees and subcontractor employees should report concerns regarding issues pertaining to environment, safety, health waste, fraud, or abuse to their supervisors. If an employee or subcontractor thinks resolution is not possible, fears reprisal, or requests confidentiality, he/she may contact the DOE Employee Concerns Program Manager at the following address:

- DOE Employee Concerns Program at the Chicago Consolidated Support Center – Hotline (800) 701-9966, or [scfieldecpc@science.doe.gov](mailto:scfieldecpc@science.doe.gov), or [employeeconcernsprogram@doe.gov](mailto:employeeconcernsprogram@doe.gov), or Fermi Site Office – Sean Wallace, Deputy, Site Office Manager, [sean.wallace@science.doe.gov](mailto:sean.wallace@science.doe.gov)

This program is managed by the Department of Energy and is intended for safety and efficient use of government resources. Reporter identification to DOE is required but will not be revealed to Fermilab.

- DOE Fraud, Waste, and Abuse Hotline – (800) 541-1625 or [IGHotline@hq.doe.gov](mailto:IGHotline@hq.doe.gov)

- DOE Office of the Inspector General – (202) 586-4073, or [IGHotline@hq.doe.gov](mailto:IGHotline@hq.doe.gov), or <https://www.energy.gov/ig/complaint-form>. Individuals who contact the DOE/OIG Hotline may self-identify or remain anonymous.

#### 5.4. Whistle Blower Rights and Protection

The Fermilab Whistleblower Rights and Protection Policy prohibits Fermilab employees from:

- retaliating against a whistleblower who made a protected disclosure,
- retaliating against a Whistleblower who has refused to obey an illegal order: or
- directly or indirectly making use of their authority for the purpose of interfering with a Whistleblower's right to make a Protected Disclosure.

All Retaliation Complaints will be independently and thoroughly investigated and appropriate relief will be provided to any Whistleblower harmed by violation of the Fermilab policy.

## 6.0 Concerns Related to Security

Fermilab recognizes the criticality of preserving the integrity and security of Fermilab activities, documentation, websites, and electronic systems. We are committed to the implementation of the highest level of policies, procedures and informational resources for employees, users, subcontract employees and village residents to report all levels of security concerns without fear of retaliation or reprisal.

Fermilab encourages employees, users, and subcontractor employees to report any security concerns, suspected or identified breeches.

DOE uses a process of determining unclassified or controlled critical information that may be an indicator or pathway to classified or sensitive activities requiring protection, whether for a limited or prolonged time. To ensure protection, employees should know and follow the applicable procedures and processes outlined in national and departmental policies.

## 7.0 Concerns Related to Human Resources (HR)

HR is one of the many resources for reporting concerns, however, in the instances an employee, User, or Affiliate identifies a concern within the HR department (or staff within or adjacent to HR), there are safe and secure resources for reporting concerns outside of that channel. The alternative reporting channels are listed above.

Confidentiality (to the extent possible under the law) and professionalism will be used to investigate and ensure support for all personnel involved in an Employee Concern related to HR. Appropriate subject matter experts are assigned to review or investigate the concern to avoid conflicts of interest in the review. Transparent communication on the progress and resolution will be provided by the appropriate delegate and employee rights will be preserved and adhered to.

## 8.0 Communications

Fermilab has communication procedures to ensure the DOE is made aware and is fully informed in the event of escalated investigations or assessments. There are also procedures in place to summon appropriate oversight from outside resources to address events where there are program limitations or an inability to address complex concerns.

This plan document is posted on the Fermilab “How to Report Concerns or Violations” webpage and linked on the Human Resources page. Additionally, periodic communications will be provided to employees that emphasize available Employee Concerns resources and reporting options. These communications will also support and reinforce understanding of reporting mechanisms and anti-retaliation protections.

## 9.0 Conflict of Interest

As part of the Fermilab commitment to honesty, integrity and support of any person reporting a concern, Fermilab will implement Organizational Conflict of Interest (OCI) policies, procedures, guidance, and training. This guidance will ensure a cultural understanding of OCI and what the process is in the event of an OCI. The policy and procedures will clearly identify tolerances and potential consequences of violating OCI. This information will be included in OCI training to all employees. Training shall conclude with a knowledge test to indicate they understand. A biannual review of the OCI and all related materials will be conducted to ensure the information is current and updated in the event of changes in requirements or contracts.

## 10.0 References

### [DOE Order O 442.1B - Employee Concerns Program](#)

Establishes a program that encourages prompt identification, reporting, and resolution of employee concerns regarding DOE facilities or operations in a manner that provides the highest degree of safe operations.

### [10 CFR 708 – DOE Contractor Employee Protection Program](#)

Protects workers from employer retaliation for disclosing information concerning danger to public or worker health or safety, substantial violations of law, or gross mismanagement; for participation in Congressional proceedings; or for refusal to participate in dangerous activities.