



# **BROOKHAVEN** NATIONAL LABORATORY

## **Anti-Retaliation Policy** Effective October 1, 2018

Brookhaven Science Associates, LLC  
FOR ITS EMPLOYEES AT  
- Brookhaven National Laboratory

10/01/2018

## Brookhaven National Laboratory Anti-Retaliation Policy

### POLICY

Every employee at Brookhaven National Laboratory (BNL) must be free from harassment of any kind. Employees must not be subjected to abuse, derogatory comments, or slurs relating to race, color, religion, sex, national origin, age, disability, veteran status, marital or family status, sexual orientation, gender identity, genetic information, or medical condition. An employee who in good faith questions actions or inactions toward him or her that violate the foregoing is making a protected disclosure and that employee must be protected from harassment, retaliation, or disciplinary action as a response for raising the concern. Every employee has the right, without fear of retaliation, to raise good faith concerns about work-related issues.

BNL is committed to protecting employees and applicants for employment from interference with making a protected disclosure or from retaliation for having made a protected disclosure or for having refused an illegal order as defined in this policy. *This policy does not address the DOE Contractor Employee Protection Program, 10 CFR 708. <https://www.energy.gov/gc/10-cfr-708-doe-contractor-employee-protection-program>. (This policy is also referred to as the “Whistle Blower” Policy).*

In keeping with this policy, a BNL employee may not:

1. Retaliate against an employee or applicant for employment who has made a protected disclosure or who has refused to obey an illegal order
2. Directly or indirectly using or attempting to use the official authority or influence of his or her position or office for the purpose of interfering with the right of an applicant or employee to make a protected disclosure or file a complaint.

It is the intention of the Laboratory to take whatever action may be needed to prevent and correct activities that violate this policy.

### SCOPE AND DEFINITIONS:

This policy applies to complaints of retaliation or interference filed by employees or applicants for employment who have made or attempted to make a protected disclosure (“whistle blowers”) or refused to obey an illegal order. All employees, vendors, contractors, subcontractors, users or any other guests or visitors are required to adhere to this policy.

**Retaliation:**

Retaliation is a form of discrimination where an employee is subjected to an adverse employment action or harassment that creates a hostile or abusive work environment, solely because he or she opposed an unlawful employment practice. Opposing an unlawful employment practice includes filing a charge of discrimination, participating in an investigation, proceeding or hearing, or taking other similar action in opposition to the unlawful practice.

Every employee has the right to work in an environment free from unlawful retaliation. Any BNL employee who engages in unlawful retaliation is subject to disciplinary action, up to and including suspension or dismissal.

**Good Faith:**

Good faith means acting with a belief in the truth of the allegation.

**Interference:**

Direct or indirect use of authority to obstruct an individual's right to make a protected disclosure.

**Improper Governmental Activity:**

Any activity undertaken by the Laboratory or an employee in the performance of the employee's official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including but not limited to, corruption, malfeasance, bribery, theft of Laboratory property, fraudulent claims, fraud, coercion, misuse of Laboratory property and facilities, or willful omission to perform duty or (2) is economically wasteful or involves gross misconduct, gross incompetence or gross inefficiency.

**Protected Disclosure:**

Any good faith communication that discloses or demonstrates an intention to disclose information that may evidence either (1) an improper governmental activity or (2) any condition that may significantly threaten the health or safety of employees if the disclosure or intention to disclose was made for the purpose of remedying that condition.

**Illegal Order:**

Any directive to violate or assist in violating an applicable federal, state or local law, rule or regulation or order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

**Official Authority or Influence:**

Conferring or promising to confer any benefit; effecting, or threatening to effect, any reprisal; taking or directing others to take, or recommending, processing, or

approving, any personnel action, including, but not limited to; appointment, promotion, transfer, assignment, performance evaluation, suspension or other disciplinary action.

### **REPORTING MECHANISM:**

You may report actual or suspected unlawful activity or violation of Laboratory policy to:

- Supervisor or other member of employee's management chain
- Human Resources (HR), including the Diversity Office, Directorate Human Resource Managers (HRMs) and Labor Relations Office
- Employee Concerns Program
- Brookhaven Advocacy Council (BAC)
- Laboratory Protection Division
- Environmental Safety & Health (ES&H) (Hotline or Website)
- Internal Audit

### **FILING A COMPLAINT:**

A retaliation complaint may be filed pursuant to the applicable personnel policy or collective bargaining agreement grievance or complaint resolution procedure. Complaints will be investigated in accordance with the **Policy and Procedure for Investigations of Employee Concerns and Other Matters**.

### **CONFIDENTIALITY:**

All information regarding any specific incident will be kept confidential to the extent feasible within the necessary boundaries of the fact-finding process. Also, employees are reminded that Laboratory policy(s) require that all media inquiries be referred to External Affairs & Stakeholders Relations.

### **NO RETAILATION:**

BNL recognizes the importance of providing a safe environment for individuals who report incidents of possible unlawful activity or violations of Laboratory policy. It is improper to take any adverse job action against an individual because that individual, in good faith, reports any such incident to the Laboratory or to the Department of Energy (DoE). If you believe you have been improperly retaliated against, please contact your Directorate HRM, any member of management, Human Resources/Diversity Office, Labor Relations Office or Brookhaven Advocacy Council (BVA).

### **PROTECTED ACTIVITY:**

Employees who, in good faith, engage in protected activity are protected from retaliation. A complaint that is made with reckless or willful ignorance of facts that would disprove its truth or is not in good faith is not protected. Examples of protected activity(s) include:

- Opposing an unlawful practice or reporting incidents of possible harassment or discrimination
- Filing or threatening to file a complaint with a federal or state enforcement or administrative agency
- Testifying as a party, witness, or accused, regarding alleged unlawful activity or violation of Laboratory policy
- Associating with another employee who is engaged in any of the protected activities enumerated in this subsection
- Making or filing an internal complaint regarding alleged unlawful activity or violation of Laboratory policy
- Complaining about alleged discrimination, harassment, inappropriate jokes, statements or conversations in the workplace either against oneself or others
- Reporting a possible violation of law or Laboratory policy
- Requesting reasonable accommodation on account of a disability or religious belief

### **ADVERSE ACTION:**

This policy prohibits any adverse conduct that is taken as a result of an applicant, employee, contractor, guest, user, visitor, or vendor engaging in any form(s) of protected activity as defined above. Adverse action includes, but is not limited to, any of the following:

- Discharge, suspension, refusal to hire or promote, or demotion because of protected activity
- Denial of job benefits because of protected activity
- Transfer to position with reduced responsibilities or reduced supervisory authority because of protected activity
- Changing an employee's hours to the employee's detriment because of protected activity
- Placing an employee on corrective action because of protected activity
- Treating an employee poorly in an attempt to cause that person to fail, quit, or leave the organization (e.g. excluding them from group events, important meetings or withholding needed information) because of protected activity
- Reduced salary, benefits, seniority or responsibilities because of protected activity

## **RESPONSIBILITIES:**

Within the scope of the Laboratory's policy on anti-retaliation, it is the responsibility of each manager/supervisor to maintain a work environment free from unlawful retaliation.

All employees are responsible for:

- Assuring the Laboratory's policies and values, including compliance with respect to legal and regulatory requirements of BNL, harassment, discrimination and equal employment opportunity, are reflected in their day-to-day activities
- Cooperating during investigation; failure to cooperate during an investigation could lead to disciplinary action, up to and including termination

## **VIOLATING THE POLICY:**

Any employee found responsible for retaliation in violation of this policy will be subject to corrective action, up to and including termination. The severity of the corrective action will be based on the circumstances of the infraction or situation. Similarly, supervisory or management personnel who fail to report incidents of retaliation immediately, however minor, are also subject to corrective action up to and including termination.

Note: The following source documents were used to draft the above policy:

1. 10 C.F.R. 708: DOE Contractor Employee Protection Program
2. DOE – Prevention of Harassment (Including Sexual Harassment) and Retaliation Policy Statement
3. BNL – Policy and Procedure for Investigations of Employee Concerns and Other Matters
4. LBNL – Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints (Whistleblower Protection Policy – Revised 05/31/15)