

County Human Resources

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ATTORNEYS AT LAW

Marc A. Fishel
Partner
mfishel@fisheldowney.com

ONE LAW FIRM, MANY STRENGTHS

FISHELDOWNEY.COM



Fishel Downey Albrecht & Riepenhoff LLC | 7775 Walton Parkway, Suite 200
New Albany, Ohio 43054 | P (614) 221-1216 | F (614) 221-8769

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Firm Profile

Fishel Downey Albrecht & Riepenhoff LLC (FDAR) is a mid-sized Columbus, Ohio, based law firm with a statewide practice. Today, FDAR represents hundreds of clients, with facilities in nearly three-fourths of Ohio's 88 counties, as well as out-of-state and international clients with an Ohio presence.



Our Clients

Our client base includes publicly traded and privately held companies, and public-sector clients, in a variety of industries including but not limited to: Manufacturing; Food Processing and Distribution; Shipping; Hotel; Janitorial; Finance; Development; Milling; Sales; the State of Ohio; Counties; Cities; Townships; Government Districts, etc. We represent hundreds of employers in Ohio, whether private or public sector.

Our Purpose

FDAR's purpose is to provide high-quality, affordable legal services. Our focus is meeting our clients' needs with respect to litigation, employment and labor, government liability, business disputes and contracts. FDAR began with a pro-management philosophy decades ago; that same philosophy remains. Our continuous growth is reflected in our ability to remain on the cutting edge of our areas of practice. We promote the development of systems and human resource management to control risk but are experienced and ready to litigate disputed matters through trial and appeal.

Our Strengths and Diversity

The firm's strength and diversity stems from, and is maintained by, our staff. Our attorneys hail from a wide variety of backgrounds, from rural farm communities to large cities. Our perspectives and ideology are similarly varied. This diversity is perhaps best reflected in our community involvement. FDAR attorneys serve leadership roles in, and are active members of, their churches and temples. They volunteer in a wide variety of community activities including school programs, Children's Hospital, assisted living communities, numerous youth activities, humane societies, museums, art galleries, and community centers. This diversity allows us to successfully interact with a wide range of individuals as well as analyze and address legal issues and problems from many perspectives.

Our Standards

FDAR has been recognized once again, in 2025 U.S. News-Best Lawyers® Best Law Firms in the areas of Employment Law-Management, Labor Law-Management, Litigation-Insurance, and Litigation-Labor & Employment. Additionally, several attorneys in the firm have been recognized by their peers as Best Lawyers®, Best Lawyers – Ones to Watch®, Super Lawyers® and Super Lawyers - Rising Stars® for their outstanding work in the areas of Civil Rights Law, Construction Litigation, Employment and Labor Law, Government Relations Practice, Insurance Law and Litigation.

Marc A. Fishel

Marc A. Fishel is a Partner with **Fishel Downey Albrecht & Riepenhoff LLC**. He received his J.D. from Ohio State University and a Bachelor of Arts degree in political science from Cleveland State University. Marc regularly represents public employers throughout the State of Ohio in all matters relating to labor relations.



Marc has extensive experience in areas of representation including collective bargaining matters, disciplinary matters (arbitration and civil service), contract negotiations, mediation, and conflict resolution procedures. He also represents employers in state and federal courts in employment related litigation. Marc is a former member of the Board of Directors of the Ohio Public Employers Labor Relations Association and has served as an adjunct professor of employment law at Wittenberg University.

Marc also represents private companies and public jurisdictions in other matters including regulatory compliance, contract matters and day-to-day operations issues.

Marc is a frequent speaker and lecturer on numerous issues relating to employment law and served as the editor of "Employment in Ohio – A guide to employment laws, regulation and practices," published by Matthew Bender. He has been named to the U.S. News listing of Best Lawyers® 2011-2025 and to the Super Lawyers® listing 2011-2025, recognized for his outstanding work in the areas of Labor and Employment Law and Litigation. In 2023, Marc was awarded the Lawyer of the Year distinction by Best Lawyers® for his work in Employment Law - Management.

Marc serves as the City of Bexley Law Director representing the city in various aspects of municipal law. Marc is also a member of the Supreme Court's Commission on Dispute Resolution.

Contact

(614) 453-7300 Direct

MFishel@FishelDowney.com



Fishel Downey Albrecht & Riepenhoff LLC
7775 Walton Parkway, Suite 200
New Albany, Ohio 43054

(614) 221-1216 - Telephone
(614) 221-8769 - Facsimile
www.fisheldowney.com

I. PERSONNEL POLICIES/PERSONNEL FILES

A. What is the Content?

1. Overtime
 - a. What counts towards calculation of overtime?
 - b. Compensatory Time- Caps.
 - c. Exempt employees.
2. Family Medical Leave Act
 - a. Must investigate situations when FMLA may apply.
 - i. Even if the employee does not mention FMLA or even wants to use it.
 - b. Notice to a supervisor is notice to an employee.
 - c. What is the 12 month period.
 - d. Paid leave use concurrent with FMLA leave.
 - i. Applicable leave to the situation.
3. Social Media
4. Unlawful Harassment
 - a. Complaint process.
5. Drug and Alcohol Policy
 - a. Medical and recreational use.
 - b. CBD Oil.

B. When Were the Policies Last Reviewed/Updated?

1. Who is responsible for reviewing and updating the policy?

C. How are Employees Made Aware of the Policies?

D. Which Offices and Elected Officials Follow the County Policies?

1. For those who do not follow the County policy, what policies do they have?

E. Who Maintains Personnel Files and What is in the Files?

1. Confidentiality of medical records
2. Records retention schedule

II. CIVIL SERVICE LAW

A. Classified/Unclassified

1. Employees are presumed to be classified unless they fall within a statutory exception.
 - a. Classified employees can only be disciplined for just cause. See O.R.C. § 124.34.
2. Have employees of the BCC been designated as classified or unclassified?
 - a. Designation does not always matter.
3. Generally, O.R.C. § 124.11 governs the designation of a position as classified or unclassified. Typically, if a person's position falls within any of the exceptions from the classified service enumerated in O.R.C. §§ 124.11(A)(1) through (31), that position is in the unclassified service. In contrast, all public employees not specifically included in the unclassified service hold positions in the classified service. It is important to note other specific provisions may exist elsewhere in the Ohio Revised Code regarding the classification of a position.
4. Examples of unclassified employees:
 - a. Elected officers or those appointed to fill vacancies in the elected offices (O.R.C. § 124.11(A)(1));
 - b. Members of all boards and commissions and heads of principal departments appointed by the governor, board of county commissioners or mayor/other city appointing authority or city school district (O.R.C. § 124.11(A)(3));

- c. Four clerical and administrative support employees for each of the elective state officers, four clerical and administrative support employees for each board of county commissioners and one such employee for each county commissioner, and four clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service commissions, that are authorized to appoint such clerical and administrative support employees (O.R.C. § 124.11 (A)(8));
- d. Deputies and assistants of state agencies authorized to act for and on behalf of the agency, or holding a fiduciary or administrative relation to that agency and those persons employed by and directly responsible to elected county officials or a county administrator and holding a fiduciary or administrative relationship to such elected county official or county administrator and the employees of such county officials whose fitness would be impracticable to determine by competitive examination (does not apply to county DJFS positions created pursuant to Chapter 329) (O.R.C. § 124.11(A)(9));
 - i. This section depends on an employee's actual job duties and not solely how they are designated.
 - ii. Job duties that create a higher level of trust than the average public employee.
 - iii. Examples of duties include:
 - Spending authority.
 - Recommending hiring and/or discipline.
 - Directing employees and approving leave.
 - Establishing a budget.
 - Signature for appointing authority.
 - Representing the appointing authority.
 - iv. Job duties performed in previous two years.
2. County directors of DJFS (O.R.C. §§ 124.11(A)(22), 329.021);
3. Directors of economic development hired pursuant to O.R.C. § 307.07(A) (O.R.C. § 124.11(A)(23));

4. Employees placed in the unclassified service by another provision of the Revised Code (O.R.C. § 124.11(A)(32)).

B. Discipline of Non-Probationary Classified Employees

1. O.R.C. § 124.34
 - a. Classified employees who have completed their probationary period may only be disciplined for just cause.
2. Investigation
 - a. Piper warnings
 - b. Garrity warnings
3. Pre-disciplinary Conference
 - a. Loudermill v. Cleveland Board of Education
 - i. Notice of charges
 - ii. Summary of employer's evidence
 - iii. Opportunity to respond
 - iv. Not intended to be a full hearing.
 - No right to call or cross-examine witnesses.
 - Written decision should not recommend discipline
 - v. **CHECK THE COUNTY POLICY AND COLLECTIVE BARGAINING AGREEMENT.**
4. Procedural Requirements
 - a. Approving the disciplinary order.
 - b. Serving the discipline.
 - i. Must be served on the employee on or before the effective date of the discipline.

- c. SPBR hearing
 - i. Employees may appeal suspensions of more than 24 hours or 48 hours (overtime exempt), demotions or termination.
 - ii. Appeal must be filed within ten days the notice is served on the employee.

C. Layoffs

- 1. Governed by O.R.C. §§ 124.321-328
- 2. Based on lack of funds, lack of work, or job abolishment
- 3. Job abolishment may be for reasons of economy, lack of work or as a result of reorganization for the efficient operations of the employer.
- 4. Statement of rationale
- 5. Approving the layoff/job abolishment
- 6. Notice to employees
 - a. Must be provided to the employee 14 days prior to the effective date if hand-delivered. 17 days if mailed.
- 7. Displacement rights.
 - a. Based on seniority within the same classification or lower position in the classification series.
- 8. Recall rights for up to one year.
- 9. SPBR appeal
- 10. Cost Savings Program - O.R.C. § 124.393
- 11. Modified Work Week - O.R.C. § 124.394

D. Donation of Paid Leave - O.R.C. § 124.391

- 1. Limit the amount on leave that can be used by an employee

2. Maximum amount of leave an employee can donate

E. Political Activity - O.R.C. § 124.57

1. Partisan political activity
2. Limitations apply to classified employees
3. Conflict of interest

F. Involuntary Disability Separation

III. COLLECTIVE BARGAINING- CHAPTER 4117

A. What Collective Bargaining Agreements Does the County Have and When Do They Expire?

B. Role of Commissioners as Employer

C. Role of Commissioners as Legislative Body - O.R.C. § 4117.10(B)

1. Wages
2. Health insurance
3. Grievance procedure

D. Collective Bargaining Process

1. Subjects of bargaining
2. Fact-finding and conciliation
3. Strikes

E. Management Rights

1. O.R.C. § 4117.08 vs. collective bargaining agreement

F. Direct Dealing