County Employment Basics

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**Fishel Hass Kim Albrecht Downey LLP** (“FHKAD”) is a mid-sized Columbus, Ohio, based law firm. FHKAD’s purpose is to provide high-quality, affordable legal services to public and private sector clients. Today, FHKAD represents well over two hundred public sector clients throughout the State of Ohio. We represent municipalities, boards, commissions, agencies, and office-holders in over sixty-five of Ohio’s eighty-eight counties. Our client base varies from large metropolitan cities to villages, and from rural areas to the suburbs along with large and small counties. Additionally, the firm provides services that promote the development of systems and human resource management in the private sector. Our strength and continuous growth is reflected in our ability to remain on the cutting edge of our traditional areas of practice, while expanding our services to encompass the ever-changing areas of the law impacting our clients.

FHKAD began with a pro-management philosophy; that same philosophy has carried forward to the present. The firm’s strength and diversity stems from, and is maintained by, the strength and diversity of 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 FHKAD’s community involvement.

Our attorneys serve leadership roles in, and are active members of, their churches and temples. They volunteer in a wide variety of community activities including public and private 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 to analyze and address legal issues and problems from many perspectives.

FHKAD was recognized as one of the 2017 U.S. News-Best Lawyers® in areas of Employment Law-Management, Labor Law-Management and Litigation-Labor & Employment. Additionally, several attorneys in the firm have been recognized by their peers as Super Lawyers® and Best Lawyers® for their outstanding work in areas of Employment and Labor Law and Litigation.

**Firm Profile**

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Marc A. Fishel is a Partner in the law firm of Fishel Hass Kim Albrecht Downey LLP. He received his J.D. from Ohio State University and a Bachelor of Arts degree in political science from Cleveland State University. Mr. Fishel 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. Mr. Fishel also represents employers in state and federal courts in employment related litigation. Mr. Fishel 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. He is a frequent speaker and lecturer on numerous issues relating to employment law and is also the editor of “Employment in Ohio – A guide to employment laws, regulation and practices,” published by Matthew Bender. Marc has been named to the U.S. News listing of Best Lawyers® 2011-2017 and to the Ohio Super Lawyers® listing 2011 - 2017, recognized for his outstanding work in the areas of Labor and Employment Law and Litigation. Marc also serves as the City of Bexley Law Director.
I. PERSONNEL POLICIES/PERSONNEL FILES

A. What is the Content?
   1. Overtime.
   2. Family Medical Leave Act.
   3. Social Media.
   4. Unlawful Harassment.
   5. Conceal Carry.

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.
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));
e. County directors of DJFS (O.R.C. §§ 124.11(A)(22), 329.021);

f. Directors of economic development hired pursuant to O.R.C. § 307.07(A) (O.R.C. § 124.11(A)(23));

g. 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.

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. CHECK THE COUNTY POLICY.

4. Procedural requirements.
   a. Approving the disciplinary order.
   b. Serving the discipline.
   c. SPBR hearing.
C. Layoffs.

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.
5. Approving the layoff/job abolishment.
6. Notice to employees.
7. SPBR appeal.


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.

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

E. Management Rights.

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

F. Direct Dealing.