

**Regular Meeting #42 - 2020  
Fairfield County Commissioners' Office  
September 24, 2020**

**2020 Leadership Conference and Trainings**

The Commissioners met at 10:03 a.m. for the 2020 Leadership Conference and Trainings. Commissioner Davis called the meeting to order with the following Commissioners present: Steve Davis, Jeff Fix, and Dave Levacy. Also present were Carri Brown and Rachel Elsea. The list of those joining via teleconference is attached.

- Welcome

Commissioner Davis welcomed everyone to the meeting. He directed everyone to the State of the County videos posted on the County webpage.

Commissioner Levacy welcomed everyone as well. He mentioned he missed meeting with everyone in person and looks forward to having a vaccine and immunity.

Commissioner Fix expressed his regrets for not attending in person with the other Commissioners. He thanked everyone for attending.

Dr. Brown spoke of the training being in connection with CORSA. The County will receive a monetary benefit from CORSA because of everyone's participation, and that is just an extra benefit. The main benefit is improved organizational knowledge. She drew everyone's attention to the newsletter in the packet and reviewed the packet contents. For example, there is NACo High Performance Leadership training available for 2021. Along with Aunie Cordle and Jon Kochis, she is taking this online training now and recommends it for its quality and efficiency. As employees review the packet and consider this opportunity with their supervisors, please report to Carri Brown if you are interested in the NACo training in 2021. The dates for the training were in the packet.

Ms. Elsea reviewed some tips for participating virtually.

- Cybersecurity Training

Mark Conrad presented Cybersecurity training. The presentation is attached.

- Unlawful Harassment Training

Marc Fishel presented Unlawful Harassment training. The presentation is attached.

- Ethics Training

Marc Fishel presented Ethics training. The presentation is attached.

- Managing Employees in a Crisis

Jennifer George presented Managing Employees in a Crisis training. The presentation is attached.

**Adjournment**

On the motion of Dave Levacy and a second of Steve Davis, the Board of Commissioners voted to adjourn at 12:30 p.m. The remainder of the meeting will be held administratively.

Roll call vote of the motion resulted as follows:  
Voting aye thereon: Dave Levacy and Steve Davis

The next Regular Meeting is scheduled for Tuesday, October 5, 2020 at 10:00 a.m.

**Regular Meeting #42 - 2020  
Fairfield County Commissioners' Office  
September 24, 2020**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_  
that the September 29, 2020 minutes were approved by the following vote:

YEAS:

**NAYS:** None

**ABSTENTIONS:** None

\*Approved on October 29, 2020



Steven A. Davis  
Commissioner

  
Dave Levacy  
Commissioner

Dave Levacy  
Commissioner

Jeff Fix  
Commissioner

Jeff Fix  
Commissioner

Paul Galt

Rachel A Elsea, Clerk

## Administrative Leadership Conference Minutes

- Americans with Disabilities Act

Jennifer George presented Americans with Disabilities Act training. The presentation is attached.

- Reflections and Closing Remarks

Dr. Brown thanked the presenters, attendees, CORSA, HR, and the Commission for the leadership conference opportunity. She thanked Jennifer George for the outlines for the ADA presentation, as we quickly reviewed the topic to get back on schedule.

She also stated she received texts expressing thanks for the outlines which will be useful in the future.

Dr. Brown thanked everyone for taking the required and additional training, and she stated she looked forward to seeing everyone in person soon.

The training session concluded at approximately 1:10 pm.



## BOARD OF COMMISSIONERS

Commissioners  
Steven A. Davis  
Jeffrey M. Fix  
David L. Levacy

County Administrator  
Carri L. Brown

Clerk  
Rachel A. Elsen

### Leadership Conference Cybersecurity, Ethics, & CORSA related Training

When: September 24, 2020  
Location: Virtual

#### Purpose Statement:

The purpose of the Leadership Conference is for county leaders to further the mission of Fairfield County and improve the organizational knowledge base.

This session fulfills three training requirements (Cybersecurity, Ohio Ethics Law, and Unlawful Harassment) and offers additional, relevant training.

#### AGENDA

10 am	Welcome & Announcements	Commissioners Carri Brown
10:15 am	Cybersecurity	Mark Conrad
10:30 am	Unlawful Harassment	Marc Fishel
11 am	Ethics	Marc Fishel
11:30 am	Managing Employees in a Crisis	Jennifer George
12:15 am	Americans with Disabilities Act	Jennifer George
1 pm	Reflections & Closing Remarks	Carri Brown & All Participants

SERVE • CONNECT • PROTECT

---


Fairfield County Commissioners' Office • 210 East Main Street • Room 301 • Lancaster, Ohio 43130  
P: 740-652-7090 • 614-322-5260 • F: 740-687-6048 • [www.fairfieldcountyoohio.gov](http://www.fairfieldcountyoohio.gov)

**Elsea, Rachel A**

**From:** Fairfield County Commissioners <rachel.elsea@fairfieldcountyohio.gov>  
**Sent:** Monday, September 21, 2020 12:56 PM  
**To:** Elsea, Rachel A  
**Subject:** [E] September 2020 Commissioners Newsletter

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

September 2020 Newsletter - Preview



**FAIRFIELD**  
COUNTY • OHIO  
EDUCATION • ECONOMY • ENVIRONMENT


---

A MESSAGE FROM THE COMMISSIONERS' OFFICE

**Welcome! A note from Commissioner Davis**

Welcome to the September Fairfield County Connections Newsletter. Despite the COVID-19 pandemic, new, innovative technology has allowed us to continue vital services to the community. While we have had to cancel many in-person events, we are still able to communicate and provide essential services.

This year, the State of the County address looks a bit different. In an effort to continue to slow the community spread of the COVID-19 virus and to keep Fairfield County as safe as possible, the Commission will be providing an address of the State of the County with three videos posted on our website. Commissioner Steve Davis, President of the Fairfield County Commission, stated, "While we miss seeing everyone in person, we do want to continue to provide updates using technology and will remain available to the people in Fairfield County." Video presentations from Commissioners Davis, Levacy, and Fix can be viewed at <https://www.co.fairfield.oh.us/>. If anyone has a comment or a question, email can be sent here <https://www.co.fairfield.oh.us/ask-us.html>



---

**2020 Leadership Conference**

The pandemic has not stopped the Commission from meeting or disseminating information to county employees. On Thursday, September 24<sup>th</sup>, Fairfield County leaders will participate in a virtual Leadership Conference. This annual Leadership Conference includes training covering Cybersecurity, Unlawful Harassment, Ethics, Managing Employees in a Crisis, and the Americans with Disabilities Act. More than 110 leaders are registered. Attendance this year is expected to surpass that of previous years. Commissioner Dave Levacy, Vice President of the Fairfield County Commission, stated, "The annual Leadership Conference is an event we all look forward to attending. While we wish we could be together for this important training, we are encouraged with the opportunity to hold a virtual conference, especially because we expect more participation than ever."

### JFS Report to the Community

Fairfield County Job and Family Services recently released their 2020 Report to the Community. The report highlights Community Services, Protective Services, Workforce Development, and Child Support. JFS presented the report to the Commission on September 15<sup>th</sup> and discussed how services have continued during the pandemic. Commissioner Jeff Fix stated, "We continue to be impressed with the leadership and dedication of our JFS team. The presentation on September 15<sup>th</sup> highlighted the JFS Report to Community, and I encourage everyone to review the report. The summaries of the critical JFS services show how the agency is making a difference for the children and families in Fairfield County." The report can be accessed [here](#).



### Workforce Center Update

Workforce development has become the most important component to attracting and retaining businesses. But finding skilled employees continues to be a hurdle to overcome. The Career Readiness program and the Fairfield County Workforce Center are two major initiatives the county has implemented to help address this need.

There are 62% of high school graduates in Fairfield County that do not receive at least a 2-year degree after high school. Fairfield County's Career Readiness program addresses

this by introducing local students to local careers and making sure they have essential

job skills for employment. Two Career Navigators helped 162 students achieve a Career Readiness Endorsement this year to show they are ready to start a career.

Some of these graduates would benefit through additional training to receive certificates in specific industries. Individuals who are unemployed could also benefit from more local training options. To help meet these needs, the Fairfield County Workforce Center will offer training in skilled trades, manufacturing, and healthcare to upskill local workers.

Fairfield County partners with Hocking College and Ohio University to offer programming at the Center. The first program will be an HVAC training program for local heating and cooling businesses. Hocking College will provide certification for these employees starting on October 5. The Workforce Center will expand programming in the spring of 2021. Dr. Carri Brown, County Administrator, recently applauded Rick Szabrak, Economic and Workforce Development Director and his team, for their hard work in continuing to connect economic and workforce development. She said, "Aligning economic and workforce development is key to the success of Fairfield County's multiple industries. Rick Szabrak and his team are collaborating with the right partners to improve individual career development and growth, as well as to increase productivity for many companies and organizations."

---

### Domestic Violence Awareness Month

October is Domestic Violence Awareness Month. Did you know domestic violence remains a pervasive issue across Fairfield County with implications for personal and community health? It is important to remember, domestic violence does not discriminate and touches all communities regardless of age, race, disability, gender identity, or socioeconomic status. Research shows that by creating communities where people are connected, supportive, and caring, we can reduce incidents of domestic violence. Susan Nixon-Stoughton, Director of the Lighthouse, stated, "Every day in Fairfield County individuals and organizations play a part in supporting people impacted by domestic violence. They provide services to help - including therapeutic, legal, educational, housing, advocacy, and medical services." Employees in Fairfield County will be wearing purple on October 20<sup>th</sup> to help raise awareness for those recovering from domestic violence. Citizens are encouraged to join the effort and send pictures of people wearing purple in support to [SNixon-Stoughton@lancasterlh.org](mailto:SNixon-Stoughton@lancasterlh.org).



Fairfield County Commissioners | 210 East Main Street, Room 301, Lancaster, OH 43130

[Unsubscribe {recipient's email}](#)

[Update Profile](#) | [About our service provider](#)

Sent by [rachel.elsea@fairfieldcountyohio.gov](mailto:rachel.elsea@fairfieldcountyohio.gov) powered by

The NACo High Performance Leadership Academy is an innovative, completely online 12-week program created to equip frontline county government professionals with practical leadership skills to deliver results for counties and communities. (Click here to learn about NACo's Enterprise Cybersecurity Leadership Academy.)

With a robust curriculum developed by the Professional Development Academy in partnership with Fortune 1000 executives, public sector leaders, world-renowned academics and thought leaders, including General Colin Powell and Dr. Marshall Goldsmith, HPLA was designed specifically for the unique challenges and opportunities of serving in county government.

BY the end of the September, EMAIL CARRI BROWN IF YOU ARE INTERESTED  
Carri.Brown@fairfieldcountyohio.gov

2021 Dates

LAUNCH	CREDENTIALS	ON-BOARDING	KICK-OFF	GRADUATION
January	12/10/2020	12/16/2020	1/11/2021	4/16/2021
April	4/9/2021	4/14/2021	4/26/2021	7/30/2021
August	7/16/2021	7/21/2021	8/2/2021	11/5/2021
September	8/27/2021	9/1/2021	9/13/2021	12/17/2021



*“This is a transformational leadership program that has proven to be the most scalable, cost effective, and efficient way to make your leaders better.”*  
-General Colin Powell



## What makes HPLA innovative?

Unlike other webinar-based distance learning programs that emphasize solo learning, HPLA is built around interactivity and community, while retaining the convenience of self-paced learning. The program is guided by an expert moderator to help keep participants on track, and a world-class faculty of prominent public, private and academic sector leaders deliver engaging and thought-provoking sessions.

HPLA focuses on five practical skills:

- **LEAD:** Engage teams and stakeholders to foster positive climates and exceed common expectations
- **ORGANIZE:** Plan, lead and execute organizational change more effectively and consistently
- **COLLABORATE:** Establish alignment and strong partnerships through building stronger relationships
- **COMMUNICATE:** Create clarity, confidence and community
- **DELIVER:** Measure projects and processes to deliver results aligned with county and community priorities

A world-class faculty of prominent public, private and university sector leaders will deliver each course. All module content is guided by an expert moderator.

## Who should participate?

Anyone in county government can participate, but HPLA is designed for entry- to mid-level county professionals, particularly those who manage teams or are preparing to in the future.

## What is the time commitment?

HPLA is built to accommodate busy work schedules with self-paced learning. Each 12-week HPLA course is divided into 4 three-week modules. Each module includes a one-hour live webinar and one-hour breakout discussion, plus daily assignments ranging from 3 to 35 minutes. (Live webinars are recorded - so don't worry if you miss one!)

In addition to videos, reading, writing and reflection, participants are placed in a small group cohort where they'll build their network, receive support from peers facing similar challenges and opportunities and celebrate successes.

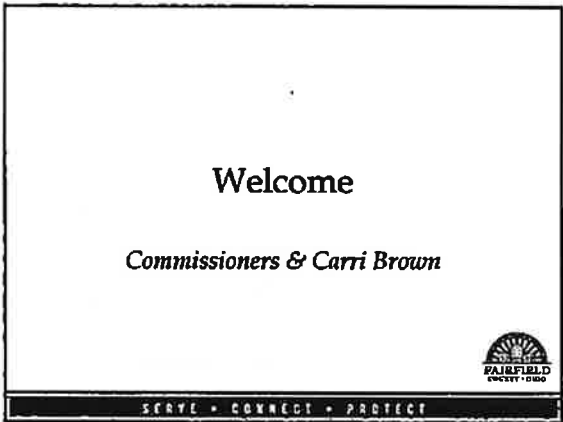
## For HPLA enrollees' managers

Managers will receive regular dashboard reports outlining the progress of their HPLA enrollee(s). We encourage managers to meet with participants and review the program content as it relates to individual development plans.

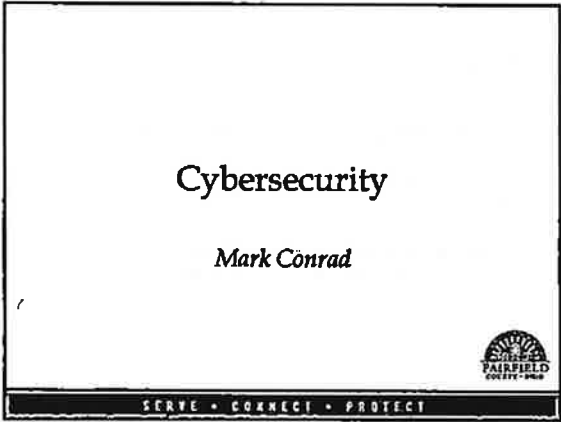




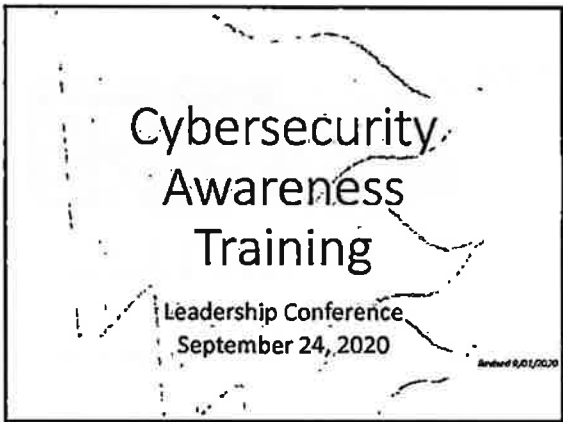
1



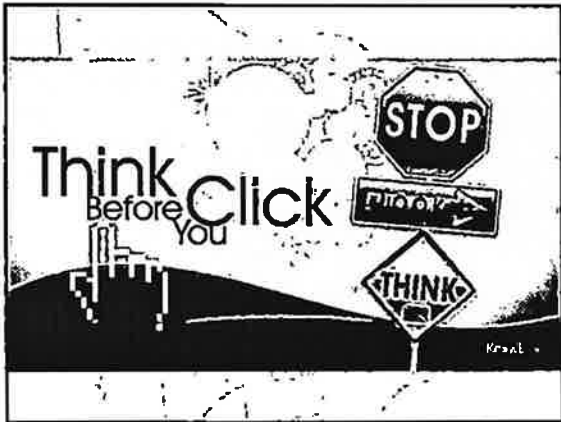
2



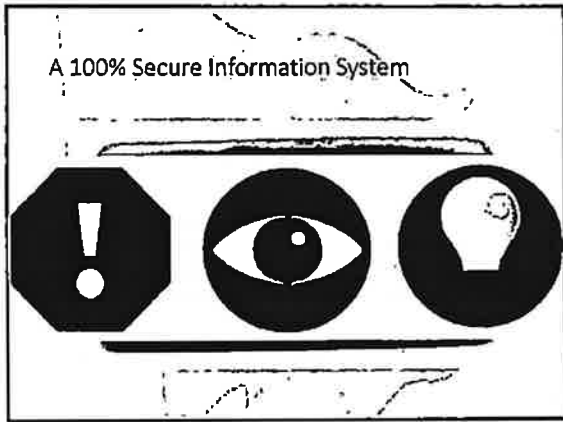
3



4

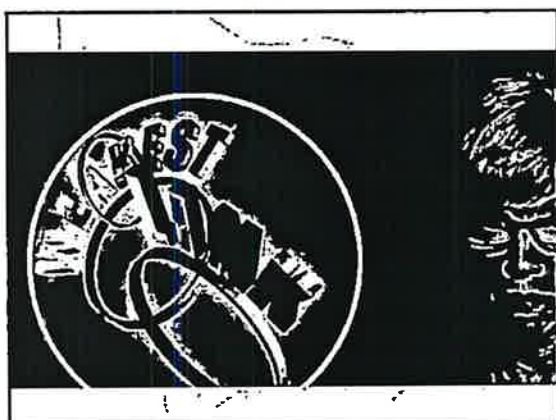


5



6

9/24/2020



7

### Social Engineering Red Flags

Red flags are signs of danger or a problem. Being aware of these warning signs can help you to protect yourself and your organization from a hacker's attack. Always be suspicious and keep your eyes open. When you encounter a red flag, make sure that you stop, look, and think before you take an action.



8

### Social Engineering Red Flags

- **Tailgating:** Someone following you or your co-workers inside. They may not have a badge or say their badge isn't working.
- **Unfamiliar Individuals:** Someone hanging or walking around without an escort. They may even look official and be dressed in a uniform.
- **Shoulder Surfing:** Someone standing behind you and watching over your shoulder while you type. They could be in line next to you at the coffee shop, hoping to watch you enter your username and password.

***It is better to be firm than to be insecure!***



9

### Social Engineering Red Flags

- **Unlocked Devices:** These provide easy access to your personal information and into your organization's network. For example: stepping away from your computer to get something from the printer, even if it's only for a second. You can lock your computer by pressing:



10

### Social Engineering Red Flags

- **Messy Desks:** Important documents, flash drives, and password lists left unsecured. Even in an area you believe is secure, these items can easily "disappear".
- **Fake Profiles:** These look like legitimate social media profiles, often with connections you recognize. They will contact you and attempt to trick you into taking an action that benefits them.



11

### Social Engineering Red Flags

- **Phishing:** Using malicious emails that are disguised as legitimate in order to trick you into providing sensitive information or taking a potentially dangerous action. This could look like an email from your bank asking you to open an attachment to review some "suspicious" charges.
- **Pretexting:** Someone contacting you and lying about who they are to trick you into giving them something they want. You might receive a phone call from IT, saying they need your help to verify that a patch was properly installed.



12

### Social Engineering Red Flags

- **Sense of Urgency:** A time-sensitive request that urgently needs you to take some type of action. This could be a message from your boss that says if you don't wire funds to a client in the next hour, an important account will be lost.
- **Vishing:** It's like phishing, but over the phone (voice phishing = vishing). It could be an official-sounding call or voice message asking you to provide information or take an action.
- **Smishing:** It's like phishing, but through text messages [Short Message Service (SMS) phishing = smishing]. It could be an unexpected text message asking you to verify some information by opening a link.

13

### Social Engineering Red Flags: How to Stay Safe

- If a request seems suspicious, call the person directly to verify it's legitimate. Use a phone number known to you.
- Pay attention to your surroundings.
- Be cautious before sharing any personal or organizational information.
- Always lock/secure your devices before walking away from them.
- Don't leave mobile devices unattended.
- Keep your desk clean and lock things up when they're not in use.
- Follow your organization's security policies.
- Always stop, look, and think before you take any action.

14

ONCE YOU CLICK

# YOU CAN'T GO BACK

THINK BEFORE YOU CLICK



15

### Security Tip

- A **USB attack** occurs when a USB flash drive is left outside to be picked up or mailed, marked to look official. A curious person plugs it into a computer to see what is on it.
- Never plug a discovered USB flash drive into your computer.
- Be suspicious even if someone you know hands you a USB flash drive for a valid reason. You do not know if they have kept their computer safe; that USB flash drive may contain malware.
- Stop, look, and think before plugging in any external media into your computer.

16

### Security Tip

- All file types, even text files, can be weaponized and include malware.
- All that you can do is verify that the file is legitimate.
- Do not use the contact information in the message itself for verification.

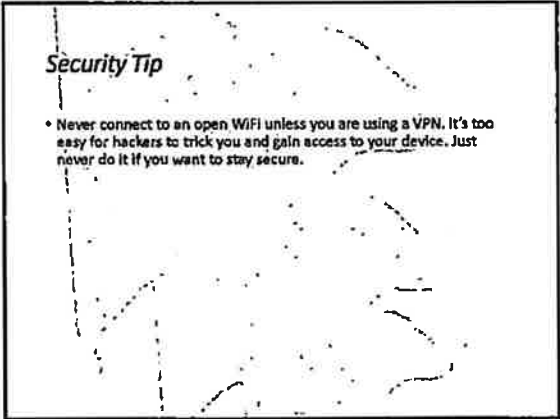
17

### Security Tip

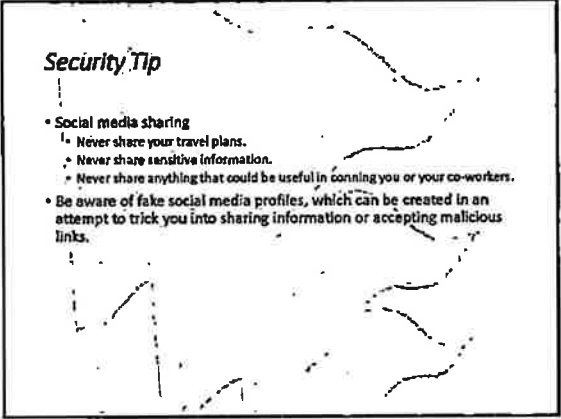
- **Websites**
  - Gambling, sexually explicit, and free downloads are the most notorious websites for spreading malware.
  - However, even valid websites can be a threat.

18

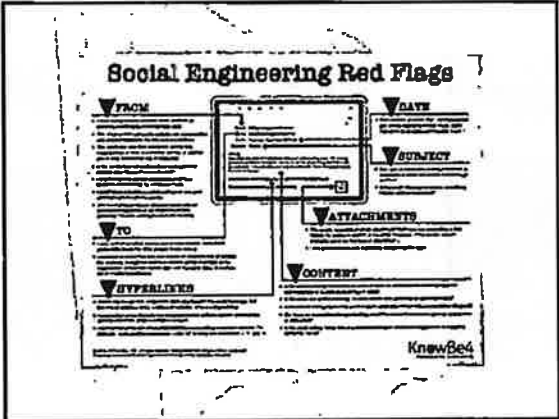
9/24/2020



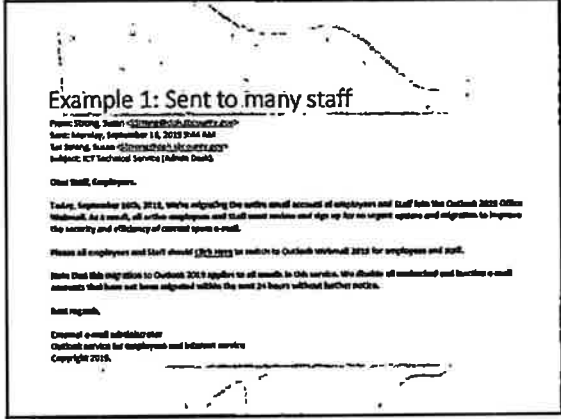
19



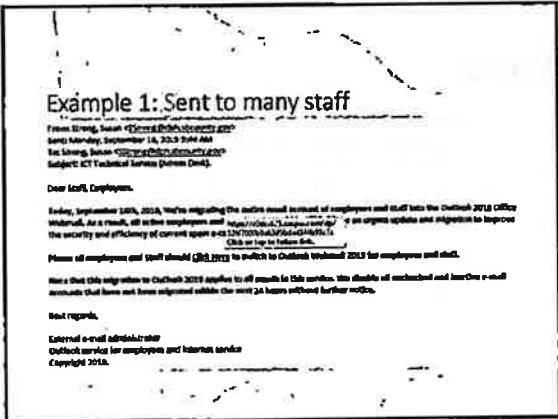
20



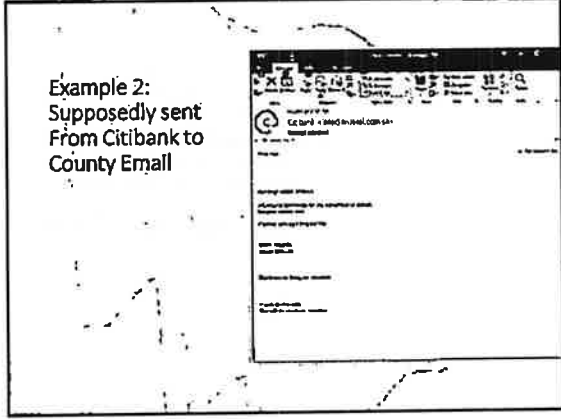
21



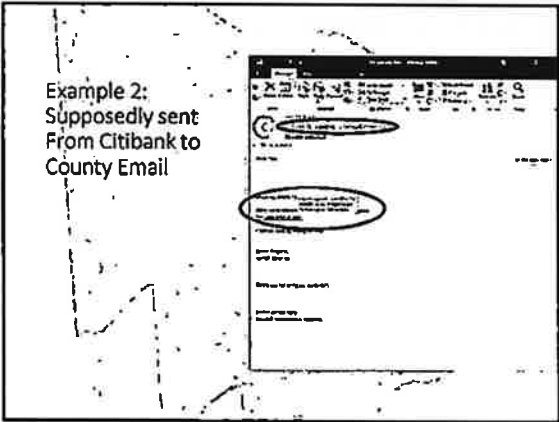
22



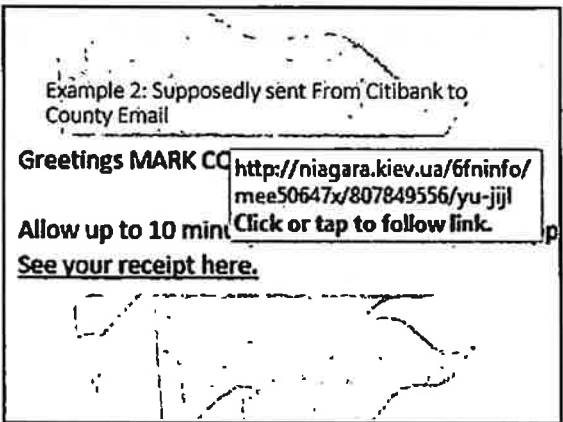
23



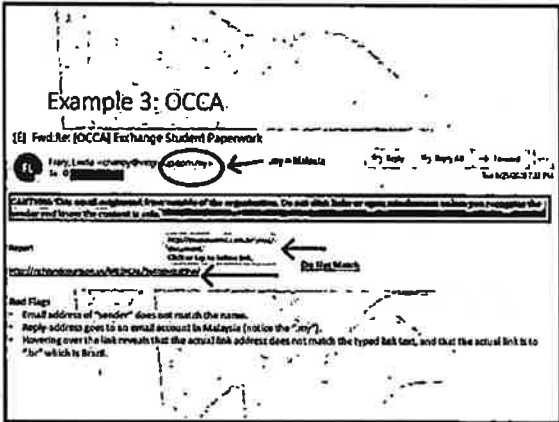
24



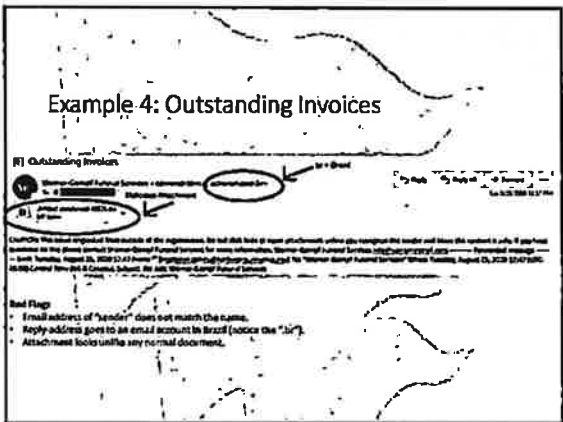
25



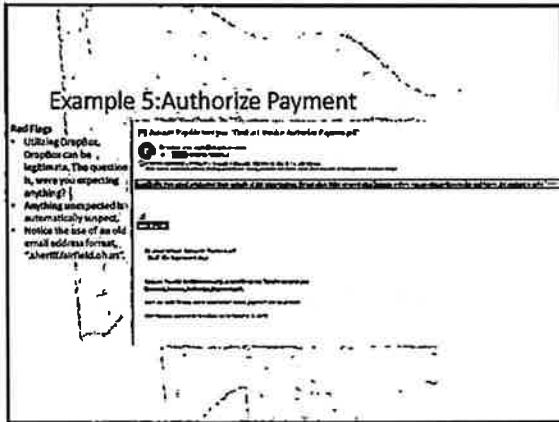
26



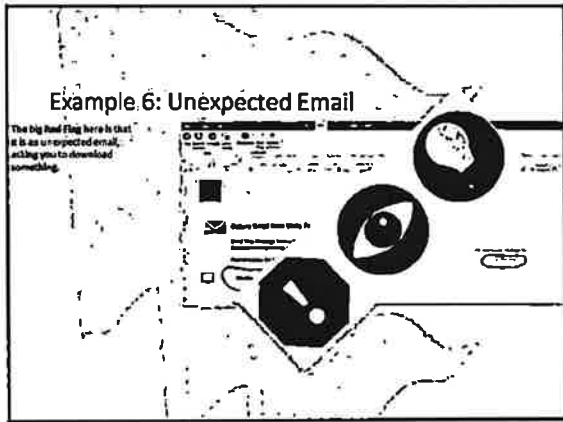
27



28



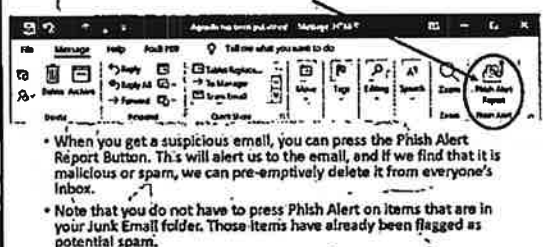
29



30

9/24/2020

### Phish Alert Report Button



31

### Proverbs 4:16 *The Message*

Evil people are restless  
unless they're making trouble;  
They can't get a good night's sleep  
unless they've made life miserable for somebody.

32

Questions?

Mark E. Conrad  
Information Technology Director  
Desk: 740-652-7076  
Mobile: 740-243-4933  
Email: [mark.conrad@fairfieldcountyohio.gov](mailto:mark.conrad@fairfieldcountyohio.gov)

You can also contact County IT at 7075.



33

## Unlawful Harassment

**Marc Fishel**



SERVE • CONNECT • PROTECT

34

## Ethics

**Marc Fishel**



SERVE • CONNECT • PROTECT

35

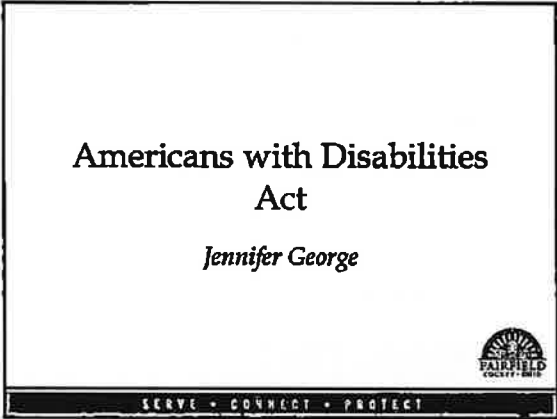
## Managing Employees in a Crisis

**Jennifer George**

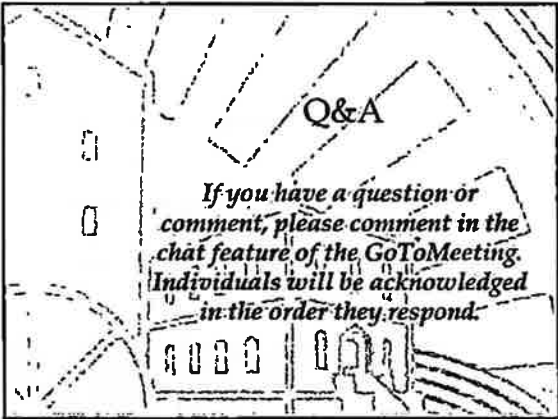


SERVE • CONNECT • PROTECT

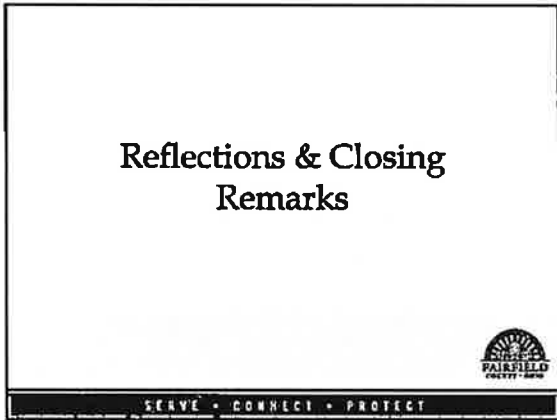
36



37



38



39



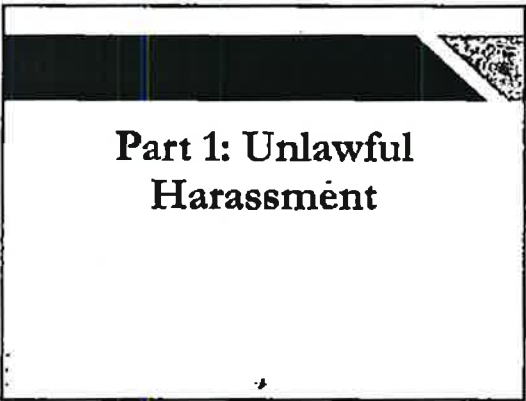
9/24/2020



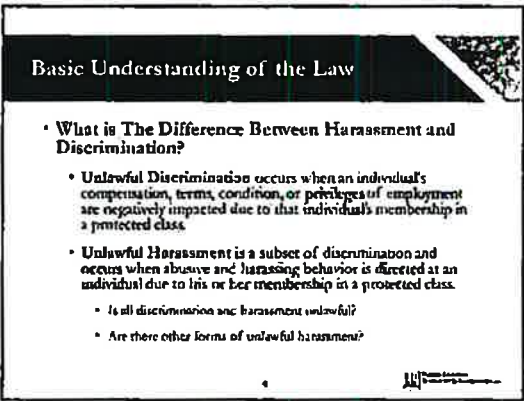
1



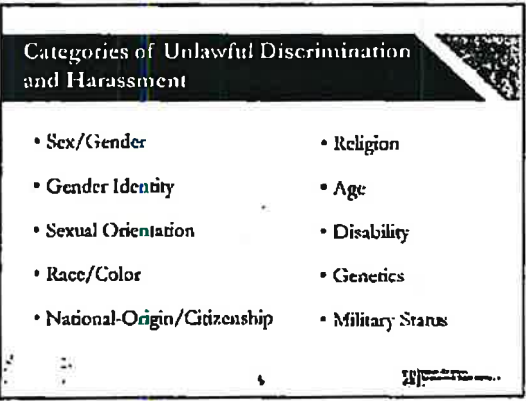
2



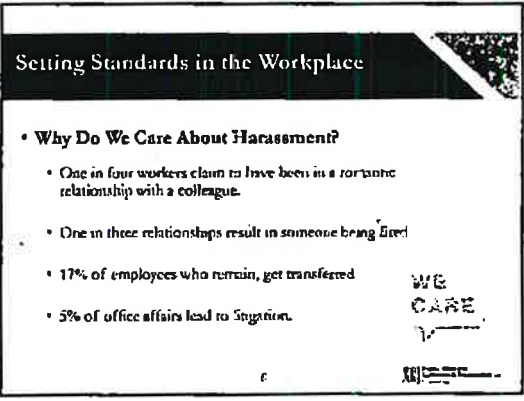
3



4



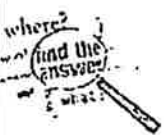
5



6

### Welcomeness


- Defense to Harassment?
- Factors to Consider:
  - Did the employee solicit or incite the behavior?
  - Was the conduct regarded as undesirable or offensive?
  - Did the employee tell the harasser to stop?
  - Who instigated the behavior?
- Can this Happen Off-Duty?



7

### What Am I Required To Do?

- Investigate
- Prompt Remedial Action



8


### Why Do I Need to Investigate?

- Employer obligations:
  - Once an Employer is put on notice it must act.
  - Supervisors and employees must know the policies and establish/follow expectations.
  - Understand obligations during investigation.

9

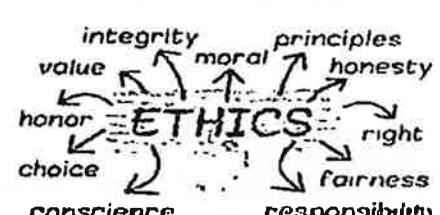
### What Should Supervisors Do?

- Report Immediately
- Confront the Harasser
- Keep Notes
- Follow Your Policy
- File an Internal Complaint
- Monitor Own Conduct



10

### Part 2: Ethics



11

### Ethics

- The Ohio Ethics Law and other related statutes are detailed in Ohio Revised Code Chapter 102 and Sections 2921.42 and 2921.43. These statutes generally are meant to keep public officials and employees from misusing their official positions for their own personal benefit or the benefit of their family members or business associates.


12

9/24/2020

Confidential Information

- If an official or employee has access to confidential information in his or her public job, he or she is prohibited from disclosing or using that confidential information, in any way, unless the public agency has authorized the person to disclose or use it. This restriction is in effect during and after a person's public service, as long as the information remains confidential. (R.C. 102.03(B))


13



Nepotism

- A public official is prohibited from authorizing or using the official's position to secure a public contract for the official, a member of the official's family, or any of the public official's business associates. R.C. 2921.42(A)(1).
- The term "public official" is defined as any person who serves a public agency, whether elected, appointed, or employed.


14



Nepotism

- The term "public contract" includes employment.
- A member of an official's family includes the following relatives:
  - Spouse
  - Children (whether dependent or not)
  - Siblings
  - Parents
  - Grandparents
  - Grandchildren
- Also includes any other person related by blood or by marriage and living in the same household (Ohio Rules Commission Advisory Opinion No. 98-001)


15




Thank You!


IF YOU HAVE ANY QUESTIONS, PLEASE ASK!

Marc A. Fishel  
7775 Walden Parkway, Suite 200  
New Albany, Ohio 43054

  
P: 614-721-1216  
[mfishel@fishel-downey.com](mailto:mfishel@fishel-downey.com)  
[www.fishel-downey.com](http://www.fishel-downey.com)

 FISHEL DOWNEY  
ALBRECHT & REPMANOFF  
Attorneys at Law

16



MANAGING EMPLOYEES  
DURING A CRISIS

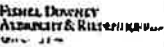



County Risk Sharing Authority

209 E. State Street

Columbus, Ohio 43215

PH: 614-221-5627



FX: 614-220-0209



1

ROADMAP


- Introduction
- Responding to a Crisis
- Employee Speech During a Crisis
- Employee Political Activity
- Professionalism Policies



2

RESPONDING TO A CRISIS


- County Concerns:
  - Maintaining Services
  - Employee Health and Safety
  - Public Health and Safety
  - Rapidly Changing Guidance
  - Policies/Job Descriptions/Collective Bargaining Agreements
  - RIFS



3

MAINTAINING SERVICES


- Essential and Non-Essential Employees
  - Job Descriptions
  - Collective Bargaining Agreements
- Workplace Considerations
  - Physical Modifications to Work Environment
  - Modifications to Work Schedule
  - Modifications to Public Access
    - Limiting Hours or Access to Services



4

ESSENTIAL V. NON-ESSENTIAL


- How do we determine?
- Why does it matter?
- What do we do?
  - “Work from home”
  - Paid Administrative Leave
  - Layoffs
  - Furloughs



5

TELEWORKING

- Should we allow employees to “work from home?”
- Teleworking considerations?
  - Hours of Work and Overtime
  - Supervision of Work
  - Cybersecurity
  - Application of Policies While Teleworking



6

1



737

9/24/2020

TELEWORKING POLICIES

When permitting telework, even temporarily, it is critical to have a policy in place to set forth teleworking standards.

- Hours of work
- Free of hazards and distractions
- No guests or personal meetings
- Regularly communicating with supervisors
- Limit social media or other personal uses of devices

7

TELEWORKING ACCOMMODATION



If a request for telework is received, the employer should evaluate the request as they would any other reasonable accommodation request; by engaging in the interactive process.




8


SICK LEAVE

Generally, Ohio public employees are entitled to sick leave for "absence due to personal illness, pregnancy, injury, exposure to contagious disease that could be communicated to other employees, and illness, injury, or death in the employee's immediate family." R.C. 124.38 (C).





9

EMERGENCY PAID SICK LEAVE ACT (EPSLA)



The Families First Coronavirus Response Act (FFCRA) provides paid sick leave to qualifying employees through the Emergency Paid Sick Leave Act (EPSLA).




10

EMERGENCY PAID SICK LEAVE ACT (EPSLA)

An employee may be entitled to such leave if they need to:

- Quarantine or isolate under a federal, state, or local order;
- Comply with an order to self-quarantine by a health care provider or professional;
- Seek a medical diagnosis for COVID-19 symptoms;
- Care for an individual in their household subject to an order described in (1) or (2); or
- Care for their child whose school or childcare provider is closed for reasons related to COVID-19.



11


EMERGENCY PAID SICK LEAVE ACT (EPSLA)

An employee may be entitled to such leave if they need to:

- Quarantine or isolate under a federal, state, or local order;
- Comply with an order to self-quarantine by a health care provider or professional;
- Seek a medical diagnosis for COVID-19 symptoms;
- Care for an individual in their household subject to an order described in (1) or (2); or
- Care for their child whose school or childcare provider is closed for reasons related to COVID-19.

Up to 80 hrs of paid sick leave at the employee's regular rate



Up to 80 hrs of paid sick leave at 2/3's the employee's regular rate



12

THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)



Employees are entitled to an additional 10 weeks of paid FMLA leave, on top of EPSL, when they are unable to work because they are caring for their son or daughter whose school or child care provider is closed or unavailable because of reasons related to COVID-19 through the Emergency Family and Medical Leave Expansion Act (EFMLEA).



13

THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)


- **Qualifications:** The employee must have been employed for at least 30 calendar days.
- **Pay:** 2/3's their regular rate of pay.
- **Duration:** The program began on April 1, 2020 and will run through December 31, 2020.



14

PAID ADMINISTRATIVE LEAVE, LAYOFFS & FURLOUGHS



- **Paid Administrative Leave**
  - Administrative Leave, O.R.C. § 124.388(A).
- **Layoffs**
  - Layoffs are governed by R.C. 124.321-.328
- **Reasons for Job Abolishments O.R.C. § 124.321(D).**
- **County Cost Savings Program (CSP's) - O.R.C. § 124.393.**
- **Modified Work Schedules**



15

ADA CONCERNS


- **Review EEOC Guidance**
- **Mandating Use of Sick Leave**
  - Questions Regarding Symptoms
  - Quarantining
  - Policies/Collective Bargaining Agreements
- **Temperature Checks**
- **Hiring Issues**



16

HEALTH AND SAFETY


- **Implementing Standards**
  - What to Consider?
- **Role of Supervisors**
- **Insubordination**
- **Discipline**
- **Return to Work Guidelines**
- **Unions**



17

INSUBORDINATION

- **Willful refusal to follow a supervisor's directive**
  - Clear Order
  - Exceptions:
    - Health and Safety
    - Unlawful Order
- **Supervisor Responses**



18

9/24/2020

### EXAMPLES OF INSUBORDINATION DURING CRISIS

- "Call Law Enforcement, the Employee won't leave my office!"
- "I won't wear a mask or social distance in the breakroom!"
- "I have to use the bathroom...look away, I am going right here!"
- "I am not comfortable returning to the office, so I won't be in!"
- Confrontation with supervisor regarding safety plan.
  - What are your responses?



19

### PROFESSIONALISM

- Under certain circumstances, employers are permitted to impose limitations on the speech of employees when such speech violates the employer's workplace policies.
  - Policies must be enforced regularly and in a non-discriminatory manner.
  - Regulations for both on- and off-duty conduct and speech may be imposed, subject to limitations.



20

### ON-DUTY USE

**On the Employers' Devices:** Employers may entirely prohibit an employee's personal use of employer-owned devices. This includes restricting access to social media sites like Facebook, Instagram, and Twitter, as well as personal email sites.

**On the Employees' Devices:** Employers may entirely prohibit employees from using their personal devices, including cell phones, during working hours.



21

### OFF-DUTY USE

**On the Employers' Devices:** Employers may prohibit the off-duty use of their devices for personal use, however, employers may not prohibit employees from using employer-owned devices to communicate with one another about working conditions.

**On the Employees' Devices:** Employers may restrict employees' speech regarding management or coworkers, confidential information, or using the employer's logo.



22

### SOCIAL MEDIA AND A CRISIS

- What can an Employer do in response to employee and public concerns posted online during a crisis?
  - Policies
  - First Amendment
  - Fourth Amendment
  - Just Cause



23

### CONSTITUTIONAL PROTECTIONS FOR PUBLIC EMPLOYEE SPEECH

- **First Amendment.**
  - The First Amendment protects public employees' right to speak on matters of political, social, or other community concerns so long as their speech does not outweigh the government's interest in maintaining an orderly and efficient operation.
- **Fourth Amendment.**
  - The Fourth Amendment protects public employees from unreasonable searches and seizures, which generally prohibits employers from searching through an employee's personal belongings.



24



TRANSITION FROM THE COVID CRISIS TO ELECTION 2020

- Various state and federal laws permit varying levels of political expression, depending on the content of the speech, where the speech was made, and to whom the speech was made.
  - Political activity- the partisan political activities of public employees are regulated by R.C. 124.57 and OAC 123:1-46-02.
  - Nepotism- federal laws require fair and impartial hiring and state laws prohibit public employees from providing employment benefits to family members.
  - Free Speech- public employees have a First Amendment right to speak on matters of political, social, or other community concerns; however, this right is not unlimited.

25

POLITICAL ACTIVITY

- Under Ohio law, classified officers and employees are prohibited from participating in partisan political activities.
  - "Classified service"- all persons in active pay status serving in the competitive classified civil service of the state, unless explicitly exempted by the Revised Code.
  - "Political activity"- partisan activities, campaigns, and elections involving primaries, partisan ballots, or partisan candidates.

26

POLITICAL ACTIVITY HYPOTHETICALS

- Jan is a public employee working for the County Sheriff's Office and wants to be more involved in the politics of her local community. With the upcoming election in 2020, Jan is determined to get her favorite candidate, Molly, elected. Which of the following activities may Jan engage in?
  - 1. Can Jan give money to Molly's campaign?
  - 2. Can Jan go to Molly's campaign rallies after work?
  - 3. Can Jan wear her Molly-2020 pin to work?

27

POLITICAL ACTIVITY HYPOTHETICALS

- Which of the following activities may Jan engage in?
  4. Can Jan distribute flyers at work advocating for Molly in the upcoming election?
  5. Can Jan attend a campaign dinner in support of Molly which requires attendees to pay \$600 a ticket?
  6. During the dinner, several supporters of Molly's opponent start yelling insults about Molly's campaign policies. Jan knows their claims about Molly's policies are false and wants to set the record straight. Can Jan take the stage and set the record straight on Molly's policies?

28

POLITICAL ACTIVITY HYPOTHETICALS

- Brian is an employee for the County Sheriff's Office. He has been frustrated with the current Sheriff and believes anyone else would be better. Can Brian engage in any of the following activities? Why or why not?
  1. In a Facebook post, Brian liked the Sheriff's opponent.
  2. Brian stood outside the polling place in a campaign t-shirt and instructs customers to vote for the opponent.
  3. Frustrated his preferred candidate lost, Brian has decided to start his own campaign to run for Sheriff in the next election.

29

THE ADA

Qualifications, Requests for Accommodation, Fitness-for-Duty Examination, and Disability Separations


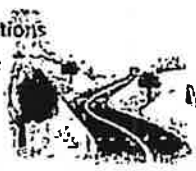
County Risk Sharing Authority  
209 E. State Street  
Columbus, Ohio 43215  
  
PH: 614-221-5627  
FX: 614-220-0209

30

9/24/2020

ROADMAP


- Introduction to ADA
- Applicability
- Reasonable Accommodations
- Undue Hardship Defense
- Disability & Discipline
- Fitness for Duty Testing
- Managing Complaints



31

INTRODUCTION


- **Purpose**  
The ADA was enacted to ensure that individuals with disabilities are given the same consideration for employment that individuals without disabilities are given.
- **Protections**  
The Americans with Disabilities Act of 1990 ("ADA") makes it unlawful for an employer to discriminate against an employee on the basis of a disability.



32

"QUALIFIED INDIVIDUAL"



- An individual with a disability must be qualified to perform the essential functions of the position with or without reasonable accommodation. Whether an individual is a "qualified individual" depends on a two-part inquiry:
  - First, the employer must determine if the individual is "otherwise qualified."
  - Second, the employer must determine if the individual can perform the "essential functions" of the position with or without a "reasonable accommodation."



33

AN OTHERWISE "QUALIFIED INDIVIDUAL"


An employee is otherwise qualified if he or she satisfies the prerequisites for the position, such as possessing the appropriate educational background, employment experience, skills, licenses, etc.



34

ADA PROTECTIONS



- ☐ Have a physical or mental impairment that substantially limits a major life activity.
- ☐ Have a record of a substantially limiting impairment; or
- ☐ Are regarded as having a substantially limiting impairment.



35

PHYSICAL & MENTAL IMPAIRMENTS

A physical or mental impairment is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of several body systems, or any mental or psychological disorder.




36

REGARDED AS SUBSTANTIALLY LIMITED IN A MAJOR LIFE ACTIVITY

Courts will often look to whether or not the employer regards the individual as having a disability by looking at the employer's conduct towards the employee. Employers often have concerns that may result in excluding individuals with disabilities. Such concerns include:

- Productivity;
- Safety;
- Insurance;
- Liability;
- Attendance;


- Cost of accommodation and accessibility;
- Workers' compensation costs; and
- Acceptance by coworkers and customers.



37

MEDICATIONS & DISABILITIES


- For purposes of determining whether a worker suffers from a disability as defined by the ADA, it makes no difference whether the major life function is affected directly by a disability, or indirectly by the side effect of medication taken for a medical or physical condition.
  - Verity Property Management, Inc. Settlement, 2019.
  - *Fehr v. McLean Packaging Corp.*, 860 F. Supp. 198 (E.D. Pa. 1994).
  - *Franklin v. U.S. Postal Service*, 687 F. Supp. 1214 (S.D. Ohio Western Division, 1988).




38

MITIGATING MEASURES & DISABILITIES

- An employee may be “disabled” under the ADA if their impairment would render them “substantially limited in a major life activity” - absent a mitigating measure.
- Exceptions: eye glasses and contacts.






39


REASONABLE ACCOMMODATIONS

- A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability:
  - To participate in the job application process;
  - To perform the essential functions of the job; or
  - To enjoy the benefits and privileges of employment equal to those enjoyed by employees without disabilities.




40

DENYING REASONABLE ACCOMMODATIONS




If an applicant or employee refuses to accept a reasonable accommodation, then the individual may be considered non-qualified.



41

REASONABLE ACCOMMODATIONS

- Examples of reasonable accommodations include:
  - The acquisition or modification of equipment or devices;
  - Job restructuring;
  - Part-time or modified work schedules;
  - Adjusting or modifying examinations, training materials or policies;
  - Reassignment to a vacant position;
  - Providing readers and interpreters; and
  - Making the workplace readily accessible to and usable by people with disabilities.



42

9/24/2020

### UNDUE HARDSHIP

- An accommodation poses an undue hardship when it is:
  - Unduly costly;
  - Substantial;
  - Disruptive; or
  - Fundamentally alter the employer's business.



43

### INTERACTIVE PROCESS

- Employers should engage in an interactive process with the employee to determine whether an accommodation is reasonable.
  - The employee bears the initial burden of identifying an accommodation.
  - If an accommodation is not obvious to the employee, the employer must make a reasonable effort to identify a reasonable accommodation by engaging in an interactive process with the employee.
  - If an employee requests an unreasonable accommodation, the employer must work with the employee to find a reasonable one.



44

### DISABILITY & DISCIPLINE

- The ADA requires employers provide reasonable accommodations for employees with qualifying impairments, but it does not require employers to tolerate misconduct.
  - *Curley v. City of N. Las Vegas*, 772 F.3d 629 (9th Cir. 2014).
  - *Landefeld v. Marion General Hospital, Inc.*, 994 F.2d 1178 (6th Cir. 1993).
  - *Leatherwood v. Houston Post Co.*, 54 F.3d 553 (5th Cir. 1995).



45

### FITNESS FOR DUTY TESTING

When an employer believes an employee's disability interferes with the employee's ability to do their work, the employer may require the employee complete a fitness for duty exam before returning to work.

- The exam must be job related and consistent with business necessity.
- The employer's belief must be based on objective criteria that either:
  - The employee's ability to perform essential job functions is impaired by the medical condition; or
  - The employee poses a direct threat due to the medical condition.



46

### MANAGING EEOC COMPLAINTS

1. Review the EEOC notice charge and follow the instructions within.
2. Consider EEOC mediation.
3. Respond to any additional requests for more information by the EEOC.
4. Protect Employees from Retaliation.
5. If the EEOC determines there is no probable cause for discrimination, their investigation ends, and the employee is issued a "Notice of Right to Sue."
6. If the EEOC finds discrimination has occurred, they will first attempt conciliation.
  - If conciliation is successful, neither party may sue, and the conciliation decision is implemented.
  - If conciliation is unsuccessful, the EEOC may bring a lawsuit against the employer on behalf of the employee or release the matter for the individual employee to pursue the claim in court.



47

### MANAGING OCRC COMPLAINTS

1. Once an employee files a charge against you, you will be asked whether you will agree to mediate the claim.
2. If the employee and employer do not agree to mediation, then the OCRC assigns a neutral investigator to determine whether there is enough evidence to support the discrimination charge.
3. The investigator will generally request the employer respond to the charge with a position statement.
4. If the OCRC investigator determines that there is probable cause showing discrimination occurred, you will be offered a chance to try to resolve the charge. You may also request the OCRC reconsider the charge.
5. If the OCRC finds no probable cause of discrimination, the employee will be issued a "Notice of Right to Sue" and may bring their complaint to court.



48

9/24/2020

Thank You!



County Risk Sharing Authority


209 E. State Street

Columbus, Ohio 43215

PH: 614-221-5627

FX: 614-220-0209





FRUITLAND  
ALUMINUM & RADIATION

49

9

745

•

•