

ACTION: FINAL  
FILED

DATE: 10/07/2002  
08:50 AM

4112-3-15

**Application for bona fide occupational qualification.**

(A) Application. Any respondent seeking a bona fide occupational qualification (BFOQ) pursuant to division (E) of section 4112.02 of the Revised Code must submit a written application to the commission. The application must contain the following:

- (1) A list of the specific job classifications which are the subject of the application;
- (2) A full statement of the facts giving rise to the application;
- (3) A legal memorandum in support of the application containing appropriate citations; and
- (4) Supporting evidence, including affidavits and other documentation, which the applicant believes justifies the approval of the application.

(B) Consideration of application. After an application has been submitted in compliance with this rule, the commission may consider the application at a regularly scheduled meeting and either:

- (1) Grant or deny the application; or
- (2) Refer the application to the commission staff for further investigation; or
- (3) Refer the matter to ~~a hearing examiner~~ an administrative law judge to conduct a public hearing on the application. Such hearing shall be conducted consistent with rule 4112-3-07 of the Administrative Code.

(C) Disposition. Any application that is referred to the commission staff for further investigation or to ~~a hearing examiner~~ an administrative law judge for a public hearing shall be considered by the commission at a regularly scheduled meeting as soon as practical after receipt of an investigative report or ~~a hearing examiner's~~ the administrative law judge's report. The commission may grant or deny the application for a BFOQ after the hearing or further investigation.

(D) Denial of a BFOQ. In the event the commission denies the respondent's application for a BFOQ, such denial shall not preclude the respondent from asserting a BFOQ as a defense to a charge of discrimination at any subsequent public hearing

concerning the issues regarding which the application for a BFOQ was sought.

(E) Denial of a BFOQ is not appealable. The commission's denial of a request for a BFOQ, pursuant to this rule, shall not be deemed to be a final appealable order of the commission.

(F) Expiration of a BFOQ. Any BFOQ granted pursuant to this rule shall expire after two years, unless the respondent has applied for and been granted an extension by the commission.

Replaces: 4112-3-15

Effective: 10/17/2002

R.C. 119.032 review dates: 8/1/2002 and 08/01/2007

CERTIFIED ELECTRONICALLY

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Certification

10/07/2002 08:50 AM

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Date

Promulgated Under: 119.03  
Statutory Authority: 4112.04(A)(4)  
Rule Amplifies: 4112.02, 4112.05  
Prior Effective Dates: 7/12/1989