

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 an administrative law judge to conduct a public hearing on the application. ~~The 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 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 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, a 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.

Effective: 4/11/2023

Five Year Review (FYR) Dates: 10/12/2024

CERTIFIED ELECTRONICALLY

Certification

03/31/2023

Date

Promulgated Under: 119.03

Statutory Authority: 4112.04

Rule Amplifies: 4112.04, 4112.05, 4112.051

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