

WAC 162-16-240 Bona fide occupational qualification. Under the law against discrimination, there is an exception to the rule that an employer, employment agency, labor union, or other person may not discriminate on the basis of protected status; that is if a bona fide occupational qualification (BFOQ) applies. The commission believes that the BFOQ exception should be applied narrowly to jobs for which a particular quality of protected status will be essential to or will contribute to the accomplishment of the purposes of the job. The following examples illustrate how the commission applies BFOQs:

(1) Where it is necessary for the purpose of authenticity or genuineness (e.g., model, actor, actress) or maintaining conventional standards of sexual privacy (e.g., locker room attendant, intimate apparel fitter) the commission will consider protected status to be a BFOQ.

(2) A 911 emergency response service needs operators who are bilingual in English and Spanish. The job qualification should be spoken language competency, not national origin.

(3) An employer refuses to consider a person with a disability for a receptionist position on the basis that the person's disability "would make customers and other coworkers uncomfortable." This is **not** a valid BFOQ.

(4) A person with a disability applies for promotion to a position at a different site within the firm. The firm does not promote the person because doing so would compel the firm to install an assistive device on equipment at that site to enable the person to properly perform the job. This is **not** a valid BFOQ.

[Statutory Authority: RCW 49.60.120(3). WSR 99-15-025, § 162-16-240, filed 7/12/99, effective 8/12/99.]