

OHIO CIVIL RIGHTS COMMISSION
CERTIFICATION FOR BONA FIDE OCCUPATIONAL QUALIFICATION
EFFECTIVE MAY 18, 2017 – MAY 18, 2019

Board of Commissioners:

Leonard Hubert, Chairman

Lori Barreras

Juan Cespedes

William Patmon, III

Madhu Singh

Governor John R. Kasich

G. Michael Payton, Executive Director

***In the Matter of:* Cuyahoga County**

Board of Developmental Disabilities

1275 Lakeside Ave. East

Cleveland, Ohio 44114-1129

On **May 18, 2017**, the Ohio Civil Rights Commission considered the application submitted by the Cuyahoga County Board of Developmental Disabilities for re-certification of a bona fide occupational qualification (BFOQ) based on sex for the positions indicated in this certification. The BFOQ is GRANTED, subject to the limitations and conditions set forth below.

BASIS FOR REQUEST

1. The Cuyahoga County Board of Developmental Disabilities (CCBDD) offers a full range of services, such as in-home early intervention programs, senior programs, specialized therapies, psychological services, family resources, respite care, supported living, vocational training, community employment, and crisis intervention.
2. CCBDD operates eight facilities for persons with developmental disabilities as part of its Adult Activities Department. These facilities provide participants with training and experience to aid with their personal independence and integration into the community.
3. The Substitute Workshop Specialist and Community Integrated Employment Specialist positions are care giving positions responsible for teaching, monitoring, and modeling skills such as personal hygiene and eating.
4. Community Integrated Employment Specialists supervise individuals, using appropriate behavioral support techniques and strategies; provide for physical management and development; and assist with personal care.
5. Substitute Workshop Specialists provide physical management and development to individuals as needed and assist with personal care and daily living activities, including hygiene needs, toileting and dressing.
6. In order to ensure the safety, personal privacy and dignity of individuals, CCBDD seeks to distribute certain assignments to members of the same sex as the participants. In support, CCBDD submits that 61% of the persons receiving care are *male*; while 61% of the staff are *female*. Further, CCBDD submits nearly one-half of program participants need assistance in the restrooms.
7. CCBDD indicates the agency has a sufficient number of female staff members to handle personal care giving for female participants. However, CCBDD asserts a need for more male staff members to accommodate personal care giving for male participants. There are 473 female participants and a total of 147 female direct care workers (*approximately 1 worker for every 3-4 participants*), compared to 731 male participants and a total of 97 male CCBDD direct care workers (*approximately 1 worker for every 7-8 participants*).
8. Additionally, CCBDD relies on the opinion of Richard Cirillo, Ph.D., who attests to the needs for same sex supervision in restrooms to prevent major acts of aggression by individuals served, many of whom have psychiatric illness, cognitive limitations, developmental disabilities or a combination thereof.

LIMITATIONS

This certification for a BFOQ based on sex is granted only as it is necessary for the CCBDD and is limited to the positions of Community Integrated Employment Specialist (formerly certified under the title of “Adult Program Specialist”) and Substitute Workshop Specialist (formerly certified under the title of “Habilitation Specialist”).

CONDITIONS

1. This certification shall be valid for a period of two years.
2. A copy of this notice must be conspicuously posted at all of CCBDD’s facilities and a copy will also be maintained at the OCRC’s Central office and will be available for public dissemination.
3. This certification is strictly limited to the positions, facilities and conditions described above.
4. This certification shall in no way be construed to limit or abridge the opportunity of any employee or applicant for employment with the CCBDD to be promoted, transferred, hired, assigned, trained, or assume any other position, classification, or job title for which they would otherwise be considered or qualified.
5. If CCBDD by its agents, subsidiaries, assigns, or contractors, invokes this certification to refuse employment, transfer or promotion; to demote or deny promotion; or to terminate any current employee, notice of such event and the particulars shall be given to the Commission’s Compliance Department.