

**OHIO CIVIL RIGHTS COMMISSION  
CERTIFICATION FOR BONA FIDE OCCUPATIONAL QUALIFICATION**

**EFFECTIVE JUNE 25, 2015 – JUNE 25, 2017**

Governor John R. Kasich

G. Michael Payton,  
Executive Director

**Board of Commissioners:**

Leonard Hubert, Chair  
William Patmon III  
Tom Roberts  
Lori Barreras  
Madhu Singh

Re:  
Cuyahoga County Board of  
Developmental Disabilities  
1275 East Lakeside Ave. East  
Cleveland, Ohio 44114

On **June 25, 2015**, the Ohio Civil Rights Commission considered the application submitted by the Cuyahoga County Board of Developmental Disabilities (CCBDD) for re-certification of a bona fide occupational qualification (BFOQ) based on gender for the selection and placement of Habilitation Specialist and Adult Program Specialist. The **BFOQ is GRANTED** subject to the limitations and conditions set forth below.

**BASIS FOR REQUEST**

- A. The CCBDD operates eight facilities for persons with developmental disabilities as part of its Adult Activities Department. These facilities provide participants with training and experiences to enable them to achieve some degree of personal independence and to integrate into the community.
- B. The Habilitation Specialist and Adult Program Specialist positions are care giving positions responsible for teaching, monitoring, and modeling skills such as personal hygiene (including toileting and dressing) and eating. Individuals in these positions are also required to assist and supervise participants in restrooms on a regular basis. Specifically, the Adult Program Specialists supervise and monitor individuals and use appropriate behavior support techniques and strategies; provide for physical management and development of individuals; and assist with personal care. The Habilitation Specialists provide for physical management and development as needed and assist with personal care and daily living activities, including hygiene and dressing.
- C. In order to ensure the safety, personal privacy, and dignity of the participants, CCBDD feels it is necessary to distribute certain assignments to members of the appropriate sex. In support, CCBDD states 61% of the consumers are male; while 62% of care giving staff members are female. Nearly one-half of the consumers need assistance in the restrooms and scheduling becomes a problem when staff absences occur at night.
- D. As of the time of application (April 10, 2015), CCBDD had a sufficient number of female staff members to handle the personal care giving for female participants. The agency claims a need for more male staff members to accommodate the personal care giving for male participants.
- E. Richard Cirillo, Ph.D., attests to the needs for same gender supervision in restrooms – to prevent major acts of aggression. He opines that the characteristics of the support person will have direct relevance to the response of the patient, particularly for those with a history of physical or sexual aggression.

**LIMITATIONS**

This certification for a BFOQ is granted only as it is necessary for CCBDD to hire for the specific positions of Habilitation Specialist and Adult Program Specialist based on gender to ensure a sufficient number of employees are available to assist consumers with personal care activities at eight area centers. This certification shall not apply to any other position, classification, assignment or duty, and is limited to these two positions.

**CONDITIONS**

The Ohio Civil Rights Commission grants this certification under the following conditions. Failure to meet these conditions shall subject CCBDD to immediate cancelation of this certificate.

1. This certification is effective June 25, 2015 and shall be valid for a period of two years from that date.
2. A copy of this notice must be conspicuously posted at the CCBDD's main office, as well as *all eight centers in the Adult Activities Department*. Such posting must be maintained for the duration of this certification. This notice 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 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. Each time that CCBDD, its agents, subsidiaries, assigns, or contractors, invokes this certification to refuse employment, transfer, demotion, or assignment to any position within the organization, notice of such event shall be given to the Commission's Compliance Department. Such notice must include the name and gender of the person(s) being denied the position, the name and gender of the person placed in the position, and the date of the appointment.

Please note that, notwithstanding this certification, any charge brought before the Ohio Civil Rights Commission in which the validity or application of this certification is at issue will be examined on its own merits. This certification does not relieve One Way Farm of Fairfield, Inc. of any other obligation imposed by any state or federal statute, rule or regulation. If you have any questions regarding this certification, please contact Desmon Martin, Director of Enforcement & Compliance at (614) 466-2785.