

# Bfoq based on gender, age and race essay examples

[Business](#), [Company](#)



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## **When is preference okay?**

When we study Human Resource management in detail we realize that it is a science in itself, which involves an in-depth study of business dynamics; and, is responsible for careful selection, assessment and matching of requirements with the available resources. In many ways the Human resources department works in maintaining ethical standards while assuring that the profits of the business are enhanced by its careful selection of its workforce.

When on the topic of selection the important thing that helps set the selection standards is Bona Fide Occupational Qualification Standards (BFOQ). As per the United States law, these standards are defined as “employment qualifications that employers are allowed to consider while making decisions about hiring and retention of employees.” (USlegal, Inc. para. 1). Although it is stated clearly as a legitimate standard there are many aspects of these standards, which have been under scrutiny and considered to be bordering on discrimination. Especially since it allows compartmentalization under age, gender and race of an individual. In this

article we will examine if it is fair to evaluate a candidate based on these specific requirements of an organization.

### **BFOQ based on Gender, Age and Race.**

We are all aware of the cultural history of women tending to the household while the men of the household went out to the workforce to provide for the family. That scenario has long since changed with more women entering and successfully fulfilling positions that require high skill, strength and qualification. The BFOQ based on sex however does not only address the issue from the point of view of the female gender but both.

According to Title VII of the Civil Rights Act, if you can show that the job requires an individual to be of a particular sex, religion, or national origin, an employment decision based on these criteria may be lawful if the requirement meets the bona fide occupational qualification (BFOQ) standard. (Thomas. 2010. Para. 4)

The above mentioned criteria is applicable and also logical in situations where a certain gender is needed to handle a sensitive situation such as in a psychiatric ward or hospital or a potentially threatening situation in a law enforcement facility which can be proven beyond doubt. But in situations involving job functions that have equal impact on members of both sexes it may not be applicable. An example is as illustrated by Robin Thomas (2010) where, women of childbearing age were prohibited from employment citing dangers to unborn foetus from lead exposure. The situation was evaluated as equally dangerous to men for the same reasons and hence disregarded (para. 5). While the above example may seem logical and noble from the

company's point of view the BFOQ is able to draw the line between genuine reasons and those bordering on discrimination.

Similarly the said standard for age was based on a need internationally to put an end to inhumane practices of employing children to perform tasks that were unsuitable for their age, because of the working environment as well as nature of the job. There was a need for it as a result of the brutal working conditions during the industrial revolution in Europe. (Drusilla. 2001). When viewed from this point of view it seems fair that underage children should not be taken away from their secure homes to work under dangerous and life threatening conditions which can affect their future wellbeing. On the same token, we also see organizations, which set an upper limit on age for a required job function. While it is understandable in cases of jobs that require heavy lifting or functions that require younger people for obvious reasons, the line between fair and discrimination can be very thin in certain conditions. The BFOQ standards therefore require organizations to justify and prove beyond doubt that the job function is dangerous based on age. This brings us to the topic of mandatory age requirement set by company's to aid company growth as well as benefit their long-term employees. Jagadeesh Gokhale (2004), in his evaluation of the retirement age, says that some of the mandatory age limits to employments may not be applicable as the average fifty year old today is much healthier and stronger than decades earlier when these laws were imposed. This may as a result also cause shortage of skilled worker population as well as deny privileges to able bodied and capable hands. This is a situation that has not been addressed by the BFOQ. While there may be a need for re-evaluation on

certain aspects we can see that the “ mandatory retirement ages for bus drivers and airplane pilots for safety reasons,” (USlegal, Inc. para. 4) shows careful evaluation and consideration of public safety.

The BOFQ based on race is another standard that has been under scrutiny in recent years. Many countries impose employment restrictions and set salary standards based on race or nationality to increase employment for their own citizens and to ensure that the right kind of outside talent and skills are employed to aid in the country’s economic growth. The BFOQ also extends to certain religious denominations and allows it based on the specific job function and if the employer can prove that race is a BFOQ for that particular function (Panaro. 2003. para. 4) and also prove that the criteria is non-discriminatory. However as Gerard Panaro (2003) points out it does not rule out the probability of employment on the basis of appearance, thus allowing certain companies to discriminate based on good looks, height and build and “ not to hire ‘ ugly,’ plain, or ‘ unattractive’ applicants” (para. 9)

## **Conclusion**

As we have seen above, the BFOQ standards have been formulated based on extensive research and evaluation of societal needs. We cannot however ignore the fact that there is a need for constant re-evaluation in keeping with the immense economic developments, technological progress and the changing requirements of the general population.

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