The Northern Arizona Women’s Correction Facility (a privately run facility) had a problem with female inmates granting sexual favors to male prison guards, in return for contraband items. In response, prison officials fired many of the male guards, so there were now 25% male and 75% female guards. Three guard supervisor positions were advertised as “female applicants only”. Frank Gordon, an upstanding male guard at the prison for many years, sued for Title VII sex discrimination because he wanted to apply for the supervisor position. Prison officials contend that sex is a “bona fide occupational qualification” for the prison guard supervisor job, and the prison is entitled to summary judgment. The prison officials argue that male supervisors will allow the previous “sex for contraband” situation to happen again, and may even participate in it.

Does Frank have a chance of winning his lawsuit?

1. **a. Find the applicable statute dealing with employment discrimination and bona fide occupational qualifications. HINT: Use United States Code Service (the black set published by Lexis). What is the citation?**

42 usc 2000e-2(e)(1)

Index>Equal Employment Opportunities>BFOQ

**b. What case annotation note number deals with Corrections Officers and sex discrimination?**

Number 139 – Corrections Officers>Sex - - look at the list of terms after the outline of case notes

Number 83 – BFOQ - look at the list of terms after the outline of case notes

1. **Find two secondary sources discussing sex as a bona fide occupational qualification. One should be an ALR article and one a legal encyclopedia.**

110 ALR Fed. 28 – listed in annotations to the statute. Or Index>

AmJur - Job Discrimination>BFOQ> Sex> Job Discrimination 255-259

CJS – Employment Discrimination>Sex Discrimination>BFOQ>Civil Rights 250

1. **List two cases dealing with sex of a prison guard as a bona fide occupational qualification. Try to find a Ninth Circuit case, if possible.**

. [Breiner v. Nevada Dept. of Corrections, 610 F.3d 1202, 109 Fair Empl. Prac. Cas. (BNA) 1153, 93 Empl. Prac. Dec. (CCH) P 43930 (9th Cir. 2010)](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=2022482405&pubNum=0000506&originationContext=document&transitionType=DocumentItem&contextData=%28sc.UserEnteredCitation%29).

[Edwards v Department of Corrections (1985, MD Ala) 615 F Supp 804, 45 BNA FEP Cas 1540](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1985142406&pubNum=0000345&originationContext=document&transitionType=DocumentItem&contextData=%28sc.UserEnteredCitation%29)

Etc. Cases cited in the ALR annotation, Also cases cited in annotations to statutes

1. **Time permitting, find the Code of Federal Regulations Section discussing guidelines for sex discrimination, specifically bona fide occupational qualifications.**

29 C.F.R. § 1604.2

Index> Sex Discrimination>Guidelines