

**Notice to Examinee
Employee Polygraph Protection Act**

U.S. Department of Labor



Wage and Hour Division

The Employee Polygraph Protection Act (EPPA) prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment. EPPA section 8(b) and U.S. Department of Labor regulations (29 C.F.R. § 801.22-25) require the following information to be provided to a prospective examinee orally and in writing before taking a polygraph examination that is permitted under the exemptions provided in sections 7(d), (e), and (f) of the Act. These exemptions are applicable to certain ongoing investigations, to security services, and to the security of controlled substances. Failure to provide this information will result in the employer's or prospective employer's inability to claim these exemptions. This notice conforms to Appendix A of the EPPA regulations, 29 C.F.R. Part 801, 56 Fed. Reg. 9064, Mar. 4, 1991; 56 Fed. Reg. 14469, Apr. 10, 1991.

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Section 8(b) of the Employee Polygraph Protection Act, and Department of Labor regulations (29 C.F.R. §§ 801.22, 801.23, 801.24, and 801.25) require that you be given the following information before taking a polygraph examination:

1. (a) The polygraph examination area **[does]** **[does not]** contain a two-way mirror, a camera, or other device through which you may be observed.
- (b) Another device, such as those used in conversation or recording, **[will]** **[will not]** be used during the examination.
- (c) Both you and the employer have the right, with the other's knowledge, to record electronically the entire examination.
2. (a) You have the right to terminate the test at any time.
- (b) You have the right, and will be given the opportunity, to review all questions to be asked during the test.
- (c) You may not be asked questions in a manner which degrades, or needlessly intrudes.
- (d) You may not be asked any questions concerning: Religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual preference or behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations.
- (e) The test may not be conducted if there is sufficient written evidence by a physician that you are suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination.
- (f) You have the right to consult with legal counsel or other representative before each phase of the test, although the legal counsel or other representative may be excluded from the room where the test is administered during the actual testing phase.
3. (a) The test is not and cannot be required as a condition of employment.
- (b) The employer may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against you based on the analysis of a polygraph test, or based on your refusal to take such a test without additional evidence which would support such action.
- (c) (1) In connection with an ongoing investigation, the additional evidence required for an employer to take adverse action against you, including termination, may be (A) evidence that you had access to the property that is the subject of the investigation, together with (B) the evidence supporting the employer's reasonable suspicion that you were involved in the incident or activity under investigation.

- (2) Any statement made by you before or during the test may serve as additional supporting evidence for an adverse employment action, as described in 3(b) above, and any admission of criminal conduct by you may be transmitted to an appropriate government law enforcement agency.
4. (a) Information acquired from a polygraph test may be disclosed by the examiner or by the employer only:
 - (1) To you or any other person specifically designated in writing by you to receive such information;
 - (2) To the employer that requested the test;
 - (3) To a court, governmental agency, arbitrator, or mediator that obtains a court order;
 - (4) To a U.S. Department of Labor official when specifically designated in writing by you to receive such information.
- (b) Information acquired from a polygraph test may be disclosed by the employer to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.
5. If any of your rights or protections under the law are violated, you have the right to file a complaint with the Wage and Hour Division of the U.S. Department of Labor, or to take action in court against the employer. Employers who violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees. The Secretary of Labor may also bring action to restrain violations of the Act, or may assess civil money penalties against the employer.
6. Your rights under the Act may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the Act, and agreed to and signed by the parties.

I acknowledge that I have received a copy of the above notice, and that it has been read to me.

(Date)

(Signature)

Public Burden Statement

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The information provided under this information collection is required in order to obtain a benefit for limited exemption provided in sections 7(d), (e), and (f) of the Act. The Department of Labor uses this information to determine whether an employer has met the exemption requirements. Failure to provide this information will result in the employer's or prospective employer's inability to claim these exemptions.

Public reporting burden for this information collection is estimated to average 1 minute. Comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden, may be sent to the U.S. Department of Labor, Administrator, Wage and Hour Division, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210. **DO NOT SEND THE COMPLETED FORM TO THIS OFFICE.**

