

EPPA Forms and Compliance
Las Vegas Polygraph & Investigations



Lie Detection & More

EMPLOYEE POLYGRAPH TESTING INFORMATION PACKET

lasvegaspolygraphs.com

EMPLOYER CHECKLIST AND GENERAL GUIDELINES

Las Vegas Polygraph & Investigations (LVPI) is furnishing the following information, which it believes is in good faith, and conforms with the Department of Labor's Regulations relating to polygraph tests for employees. Such information and forms are to be considered only as guidelines to assist in complying with the Act and Regulations and LVPI is disclaiming any liability in connection therewith. Clients should develop their own forms, using their own company letterhead, in place of the forms which are provided in this packet as sample guidelines. Please contact Las Vegas Polygraph at (702) 326-6251 in order to receive test appointment dates, time and location availability prior to completing any forms.

CHECKLIST FOR THE EMPLOYER AND BUSINESS OWNER

1. The incident must be an ongoing, specific investigation.
2. It must be an identifiable economic loss to the employer.
3. Obtain a copy of the Employee Polygraph Act of 1988. **(FORM 104)**
4. Provide the employee with a written statement that includes **(FORMS 101-A and 101-B)**:
 - a. Identification of the company and location of the employee
 - b. Description of the loss or activity under investigation
 - c. Location of the loss
 - d. Specific amount of the loss
 - e. Type of economic loss
 - f. How the employee had access to the loss (*Access alone is not sufficient grounds for polygraph testing*)
 - g. What kind of reasonable suspicion there is to suspect the employee of being involved in the loss.
(*Reasonable suspicion as defined under the Act includes inconsistencies between facts, claims, statements, information from a co-worker and the employer's behavior, demeanor or conduct*)
5. The statement provided to the employee **MUST** be signed by someone other than the polygraph examiner, who is authorized to legally bind the employer and **MUST** be retained for at least three (3) years.
6. Read the "48 Hour Notice" to Examinee to the employee, which should be signed, timed, dated and witnessed. **(FORM 102)**. (A copy must be sent to Las Vegas Polygraph)
7. Provide the employee with 48 hours advanced notice (not counting weekends or holidays) prior to the date and time of the of the scheduled polygraph test. **(FORM 102)**.
8. Provide employee with written notice of the date, time and location of the polygraph test, including written directions if the test is to be conducted at a location other than the place of employment.
9. Maintain a statement of adverse actions taken against the employee following a polygraph test.
10. Conduct an additional interview of the employee prior to any adverse action following a polygraph test and provide the employee with a copy of the polygraph report, along with the questions, conclusions and charts.
11. Maintain a record of ALL of the above for a minimum of three (3) years.
12. Employees may not waive their rights. Even if the employee volunteers to take a polygraph, you still must comply with the Employee Polygraph Protection Act.
13. Have your corporate attorney review your actions to assure your compliance.

EMPLOYER'S STATEMENT TO EMPLOYEE**WITH RESPECT TO ONGOING INVESTIGATION AND NOTICE OF
REQUEST FOR POLYGRAPH EXAMINATION****PAGE 1 of 2**

COMPANY NAME: _____

EMPLOYEE NAME: _____

COMPANY ADDRESS: _____

LOCATION WHERE EMPLOYEE IS EMPLOYED: _____

1. INCIDENT OR ACTIVITY BEING INVESTIGATED**A. Description of Incident or Activity:**

B. Date and Time Incident Occurred:

C. Location Where Incident Occurred:

D. Approximate Dollar Amount: \$ _____**2. TYPE OF ECONOMIC LOSS UNDER INVESTIGATION**☐ Theft☐ Misappropriation/Embezzlement☐ Check Kiting☐ Industrial Espionage☐ Product Tampering☐ Sabotage☐ Money Laundering☐ Secret Information☐ Intellectual Property☐ Other: _____

EMPLOYER'S STATEMENT TO EMPLOYEE

WITH RESPECT TO ONGOING INVESTIGATION AND NOTICE OF
REQUEST FOR POLYGRAPH EXAMINATION PAGE 2 of 2

3. IF INCIDENT OR ACTIVITY INVOLVED MONEY, MERCHANDISE OR OTHER
PROPERTY, AREA IN WHICH SUCH ITEMS ARE LOCATED AND THE EMPLOYEE'S ACCESS
THERE TO: _____

4. BASIS OF EMPLOYER'S REASONABLE SUSPICION THAT THE EMPLOYEE WAS INVOLVED
IN THE INCIDENT OR ACTIVITY UNDER INVESTIGATION:

A) Information from a co-worker or other individual: _____

(Note: The identity of the person providing information used to establish reasonable suspicion NEED NOT be revealed)

B) Inconsistencies between facts, claims or statements that surfaced during the investigation:

C) Employee's behavior or conduct:

D) Circumstances surrounding access or opportunity:

“48 Hour Notice”

**FORM
102**

NOTIFICATION OF POLYGRAPH EXAMINATION

This correspondence is to inform you that an incident has occurred involving **economic loss or injury** to your employer. The incident involved (identify loss or injury to the employer). _____

It appears as if this is the result of intentional wrongdoing, and it appears as if you had **access or opportunity** to have caused the incident, because (possess keys, working in the area, etc.) _____

Further, there is **reason to be concerned or suspicious**, because of (e.g., information developed during our internal investigation / secret witness information / physical evidence, etc.) _____

For these reasons, a polygraph examination has been scheduled for you by James Hannah at Las Vegas Polygraph & Investigations located at **4955 S. Durango Dr. STE #161, Las Vegas, Nevada 89113**, to be conducted on the _____ day of _____, 20____, at _____ AM/PM. You will be afforded your rights. You have the right to talk to an attorney, or an employee representative, before each phase of the test. You have the right to terminate the test at any time. The examiner will not be conducting the test if there is sufficient written evidence by a physician that you are suffering from a medical psychological condition or undergoing treatment that might cause abnormal responses.

I hereby agree to take a polygraph examination on the above referenced or later scheduled date.

Signature of Employee	Date	Time	Print Name (employee)
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Witnessed by: _____ Signature: _____

NOTICE TO EMPLOYEE

Employee Polygraph Protection Act

FORM
104

Section 8(b) of the Employee Polygraph Protection Act, and Department of Labor regulations (29 CFR 801.22, 801.2, 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 contain a video camera through which you may be observed and recorded. (b) Another device, such as those used in conversation or recording, will 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 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.

Employee Signature

Date

Time

Witness Signature