

FORM 104

NOTICE TO EXAMINEE

Section 8(b) of the Employee Polygraph Protection Act, and Department of Labor regulations (29 CFR 801.22) requires 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 others 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 degrade or needlessly intrude.
- (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 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.
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.

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- (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 employers 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 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.

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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.

Signature of Employee

Date

NOTE: This notice to Examinee is in the same form as set forth in Appendix A to the Department of Labor's Interim Final Regulations effective December 27, 1988 (published in the Federal Register on October 21, 1988)