



Polygraph Testing

At Lowers & Associates, we have the experience and proven expertise to handle any polygraph need. Our polygrapher has been an active examiner since 1974 and a full member of the American Polygraph Association (APA) since 1975. He has conducted over 12,000 polygraph examinations for various law enforcement agencies (including the FBI), attorneys, security organizations, and a wide array of commercial businesses. He headed the polygraph unit of a major metropolitan police department for many years and in that capacity developed all operational policies, supervised other examiners and testified as an expert witness in numerous criminal prosecutions.

The Employee Polygraph Protection Act of 1988 (EPPA) established guidelines for polygraph testing and imposed restrictions on most private employers. This federal legislation applies solely to commercial businesses as Local, State, and Federal government agencies are not affected by the law nor are public agencies, such as school systems or correctional institutions. Commercial businesses having exemptions under the law include those under contract with the Federal Government involving security-related activities, etc.; the armored car industry; individuals involved in the design/installation and maintenance of alarm systems; or security personnel in facilities having a significant impact on health/safety issues such as a power plant, etc.; and companies that manufacture, distribute, or dispense controlled substances.

In general, businesses cannot request, suggest, or require a prospective applicant to take a pre-employment polygraph examination. Additionally, a current employee cannot be asked to submit to a polygraph examination under EPPA until specific requirements have been met and when not in conflict with any state law (District of Columbia and some states prohibit even asking). The employer cannot require any employee to take the examination, and if an employee refuses a request or suggestion, the employer cannot discipline or discharge that individual based solely on a refusal.

The following criteria must be met prior to an employer asking a current employee to take a polygraph examination under EPPA (again when not in violation of any law as noted above):

The request must pertain to an ongoing specific investigation involving an economic loss to the employer; the employee must have had access to the item(s) under investigation (physical presence or knowledge, such as the combination to a safe); the employer must have a reasonable suspicion that the employee was involved in the incident under investigation, which goes beyond having access; at least 48 hours prior to a scheduled polygraph examination the employer must give the employee a written statement, which describes the nature of the loss and the investigation, as well as the basis for the employers reasonable suspicion.