

Ball & Gillespie Polygraph

190 West Dayton, Suite 103, Edmonds, WA 980201
(425) 775-9015



INDEMNIFICATION AGREEMENT

THIS AGREEMENT is made by and between Ball & Gillespie Polygraph, a division of TMB Enterprises Inc., a Washington Corporation and _____, hereafter referred to as "Indemnitor", both Washington Corporations.

RECITALS

1. Indemnitor has requested or may request Ball & Gillespie Polygraph to perform a polygraph examination or series of polygraph examinations on it's employees.

2. The employees who will be tested at the Indemnitor's request includes, but is not limited to the following named employees:

3. Ball & Gillespie Polygraph has explained to Indemnitor that current law in the State of Washington and the United States of America requires the following of the Indemnitor:

(a) No employer can require, either directly or indirectly, any employee, or prospective employee to submit to any polygraph examination as a matter of pre-employment or continued employment, unless that the Indemnitor is eligible to use the polygraph under an exemption described in either State and/or Federal Law.

(b) Under the Federal statute, an employer is also exempted from this prohibition of the use of a polygraph if:

(1) the test is administered in connection with an ongoing investigation involving economic loss or injury to the employer's business, such as theft, embezzlement, misappropriation, or an act of unlawful industrial espionage or sabotage;

(2) the employee had access to the property that is the subject of the investigation;

(3) the employer has a reasonable suspicion that the employee was involved in the incident or activity under investigation.

(a) The use of the polygraph as an investigative tool during internal investigations is allowed by exemptions contained within the Employee Polygraph Protection Act of 1988. The issue of "access" and "reasonable suspicion" are limiting issues to the use of a polygraph during these investigations. The Indemnitor is advised to consult with an attorney to ensure that their proposed use of the polygraph falls within the exemption provided within the EPPA and that The Indemnitor has met the other requirements of the EPPA. A copy of the Final Rule, adopted March 4, 1991 has been provided to the Indemnitor. Further clarification of the restrictions of the EPPA can be obtained by calling the Department of Labor at (202) 523-5610.

(b) The forms that have been provided by Ball & Gillespie Polygraph are provided as a convenience. By providing these forms Ball & Gillespie Polygraph does not assume any liability as to the completeness, accuracy or fitness of these forms to comply with the requirements of the EPPA. The Indemnitor is free to use these forms or to use any other forms or documents they desire. The use of the forms provided

by Ball & Gillespie Polygraph does not convey that Ball & Gillespie Polygraph is offering legal advice or involving themselves in the Indemnitor's decision to use the polygraph in any situation or that Ball & Gillespie Polygraph is offering legal advice to the Indemnitor to assist the Indemnitor in fulfilling its obligation to meet the requirements of the EPPA.

(c) The Indemnitor agrees that any advice or assistance Ball & Gillespie Polygraph provides in filling out the forms provided by Ball & Gillespie Polygraph is not construed as "legal advice." This advice is offered to assist the Indemnitor in filling out the forms. It is not offered, nor is it meant to be legal advice. Ball & Gillespie Polygraph is not responsible for, not involved in, the decision to use the polygraph technique in any situation, nor will Ball & Gillespie Polygraph assume any liability in anyway in the Indemnitor's proof that a request to take a polygraph examination has met the "access" and "reasonable suspicion" requirements of the EPPA.

(c) An employee has the right to refuse to take or submit to any polygraph examination. If an employee avails himself of this right and refuses to take a polygraph examination at the request of his employer, no adverse employment or personnel action can be taken against the employee for having refused to take the examination.

(d) Should an employee agree to submit to a polygraph examination, no adverse employment or personnel action may be taken against the employee solely on the basis of the results of the polygraph examination.

(e) The employee(s) asked to take the examination must agree to take the examination freely and voluntarily.

4. The Indemnitor agrees that they will be responsible for the decision to use the polygraph in any situation. The Indemnitor agrees that they are the sole judge of the use of the polygraph in any situation and the applicability of State and Federal laws prohibiting their use of the polygraph. The Indemnitor agrees that they are solely responsible for demonstrating to each employee asked to take a polygraph examination that the "access" and "reasonable suspicion" limitations under the EPPA have been fulfilled. Indemnitor agrees that if Ball & Gillespie Polygraph or TMB Enterprises, Inc., incur any liability in connection with the administration of or the use of the results or reports from those polygraph examinations, that Indemnitor will indemnify Ball & Gillespie Polygraph and TMB Enterprises, Inc. from any and all liability arising out of the administration of those polygraph examinations, including the cost of any attorney's fees incurred by Ball & Gillespie Polygraph or TMB Enterprises, Incorporated.

NOW, THEREFORE, the parties agree:

1. That the Indemnitor shall indemnify, reimburse and hold harmless, upon demand, Ball & Gillespie Polygraph and TMB Enterprises, Inc., their employees, stockholders, officers and their heirs from and against all liability, loss or expense, of any kind, including costs and/or attorney's fees, incurred or asserted against Ball & Gillespie Polygraph or TMB Enterprises, Inc., in connection with Ball & Gillespie Polygraph administering the polygraph examinations to any of its employees, or with any subsequent use of the polygraph tests, written reports, or utterances arising from the administration of these polygraph examinations, except liability, loss or expense arising from Ball & Gillespie Polygraph's negligence or willful misconduct in the administration of the examination itself.

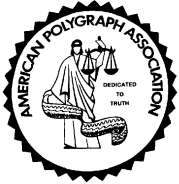
2. In any litigation over this agreement or its subject matter, the prevailing party shall be entitled to their respective attorney's fees and costs.

Dated: _____

Indemnitor

Dated: _____

Ball & Gillespie Polygraph



Ball & Gillespie Polygraph
190 West Dayton, Suite 103, Edmonds, WA 98020
(425) 775-9015



FORM 101
EMPLOYER'S STATEMENT TO EMPLOYEE
WITH RESPECT TO ONGOING INVESTIGATION AND
NOTICE OF REQUEST FOR POLYGRAPH TEST

Employer's Name: _____

Business Address: _____

Employee's Name: _____

Work Address: _____

EMPLOYER'S STATEMENT TO EMPLOYEE WITH RESPECT
TO ONGOING INVESTIGATION

1. Incident or Activity being investigated.

a. Description of incident or activity: _____

b. Date or time in which incident or activity is believed to have occurred: _____

c. Location(s) where incident or activity is believed to have taken place: _____

d. Incident or activity involved: Money Merchandise Other

e. Approximate dollar amount, if ascertained: \$_____

2. Type of economic loss under investigation.

- Theft Embezzlement Misappropriation
- Unlawful Industrial Espionage or Sabotage Check Kiting
- Money Laundering Misappropriation of confidential or secret information

Other_____

3. If incident or activity involved money, merchandise or other property, area in which such money, merchandise or property is located and Employee's access thereto:

4. Basis of Employer's reasonable suspicion that Employee was involved in the incident or activity under investigation.

a. Information from a co-worker or other individual:_____

b. Employee's behavior, demeanor or conduct:_____

c. Inconsistencies between facts, claims or statements that surfaced during the investigation:

d. Circumstances surrounding access or opportunity, such as its unauthorized or unusual nature:

e. Other basis for reasonable suspicion: _____

**NOTICE TO EMPLOYEE OF REQUEST FOR
POLYGRAPH TEST.**

a. You are requested to appear for a polygraph test at the offices of Ball & Gillespie Polygraph, 190 West Dayton, Suite 103, Edmonds, Washington 98020 (425) 775-9015 at the following time and date:

time: _____

date: _____

b. You have the right to consult with counsel or an employee representative before each phase of the polygraph test.

The undersigned, as an authorized representative of _____, hereby states as follows:

a. The information contained herein is true to the best of my knowledge, information and belief.

b. There is a reasonable suspicion that the Employee named herein was involved in the incident

or activity under investigation.

c. A copy of the above statement was delivered to the Employee named herein on:

time: _____

date: _____

Date: _____

Employer's Signature: _____

Please Print

Name: _____

Title: _____

Received a copy of the above Statement.

Date: _____

Employee's Signature: _____

Witnessed by: _____

- Note:
1. This statement must be in a language understood by the Employee.
 2. A copy of this statement must be delivered to the Employee at least 72 hours prior to the time of the polygraph test, excluding weekend days and holidays.
 3. A copy of this statement must be attached to Form 102 and sent to Ball & Gillespie Polygraph.
 4. This statement must be signed by a person (other than a polygraph examiner) authorized to legally bind the Employer and must be retained by the Employer for at least three (3) years.



Ball & Gillespie Polygraph

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FORM 102

EMPLOYER'S NOTICE TO BALL & GILLESPIE POLYGRAPH OF EMPLOYEE TO BE ADMINISTERED A POLYGRAPH EXAMINATION PURSUANT TO THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

Employer's Name: _____

Business Address: _____

Employee's Name: _____

Test Address: _____

PLEASE TAKE NOTICE that the above-named employee is to be administered a polygraph examination in connection with an on-going investigation, pursuant to Section 7(d) of the Employee Polygraph Protection Act of 1988 and the applicable Department of Labor Regulations.

Date: _____

Signature: _____

Please Print

Name: _____

Title: _____

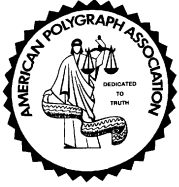
Received a copy of the above Notice

Ball & Gillespie Polygraph

Date: _____

Signature: _____

- Note:
1. A separate Form 102 should be filled out for each employee tested.
 2. Please attach a copy of Form 101 to this Notice before mailing.



Ball & Gillespie Polygraph
190 West Dayton, Suite 103, Edmonds, WA 98020
(425) 775-9015



FORM 103
POLYGRAPH EXAMINER'S NOTICE TO
EMPLOYEE-EXAMINEE REGARDING TEST

Polygraph Firm: Ball & Gillespie Polygraph
Business: 190 West Dayton, Suite 103, Edmonds, Washington 98020

Name of Examiner: _____

Employee's Name: _____

Home Address: _____

Employer's Name: _____

Business Address: _____

- 1. Date, Time and location of Polygraph test.
 - a. Date: _____
 - b. Time: _____
 - c. Location: _____

2. The Employee-Examinee has the right to obtain and consult with legal counsel or an employee representative before each phase of the test. (i.e.: the pretest (which is this phase); the actual testing phase; and the post-test phase.)

3. The polygraph test is for the purpose of determining the truthfulness of the Employee-Examinee's answers to the following relevant questions which shall be asked during the actual testing phase:

a. _____

b. _____

c. _____

d. _____

4. In addition thereto, the following questions will be asked the Employee-Examinee during the actual testing phase:

a. _____

b. _____

c. _____

d. _____

e. _____

f. _____

5. During the polygraph test, there will be:

- a. A pretest interview in which the polygraph examiner goes over the facts and reviews with the Employee-Examinee the relevant questions to be asked on the test.
- b. The test itself in which the Employee-Examinee is asked the relevant questions, as well as certain other questions (including those needed for comparison purposes) while his or her psychological responses are being recorded by a polygraph instrument. A minimum of two polygraph charts will be run in which the same relevant questions and other questions will be asked in the same or a different order. Also, a chart may be run during which the Employee-Examinee is asked a number of a card selected by the Employee-Examinee from several cards offered the Employee-Examinee by the polygraph examiner.

6. The polygraph instrument records the following physiological responses: (a) breathing or respiration; (b) blood pressure and pulse rate; and (c) electricity passing over the surface of the skin.

The undersigned, a polygraph examiner employed by Ball & Gillespie Polygraph, hereby states as follows:

- a. The information contained herein is true to the best of his knowledge, information and belief.
- b. He is a member of the American Polygraph Association and the Northwest Polygraph Examiner's Association and meets or exceeds all requirements and qualifications described in the Employee Polygraph Protection Act of 1988.
- c. During the pre-test phase, he explained or caused to be explained, in a language understood by the Employee-Examinee, the contents of the above and foregoing Polygraph Examiner's Notice to Employee-Examinee Regarding Test and delivered a copy of the above Notice to the Employee-Examinee.
- d. Also, during the pretest phase, he read or caused to be read, in a language understood by the Employee-Examinee, the contents of a Notice to Examinee and delivered a copy of said notice to the Employee Examinee. Said Notice is in the same form as set forth in Appendix A to the Department of Labor Interim Final Regulation effective December 27, 1988 (published in the Federal Register on October 21, 1988).

Date: _____

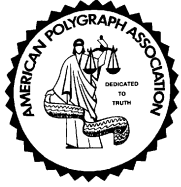
Signature: _____

Terry J. Ball

Received a copy of the above Notice

Date: _____

Signature: _____



Ball & Gillespie Polygraph

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FORM 104 NOTICE TO EXAMINEE

Section 8(b) of the Employee Polygraph Protection Act, and Department of Labor regulations (29 CFR 801.22) require that you be given the following information before taking a polygraph examination:

1. (a) The polygraph examination area 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 recording conversation or visual images, 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 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. _____

(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, government 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, the information disclosed is an admission of criminal conduct._____

5. If any of your rights or protection 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 or 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 access civil money penalties against the employer._____

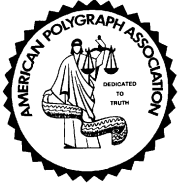
6. Your rights under the act may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action of complaint under the ACT, and agreed to and signed by the parties._____

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

Signed

Date

Witnessed - Terry J. Ball



FORM 105
EMPLOYER'S STATEMENT WITH RESPECT TO
ADVERSE
ACTION FOLLOWING A POLYGRAPH TEST OR
THE REFUSAL TO TAKE A POLYGRAPH TEST

Employer's Name: _____

Business Address: _____

Employee's Name: _____

Work Address: _____

1. Date of Interview: _____

2. Place of Interview: _____

3. Time period of Interview:

Beginning: _____

End: _____

4. Name of Interviewer: _____

5. If Employee took a polygraph test:

a. Date polygraph administered: _____

b. Name of Polygraph Examiner and Firm: Terry J. Ball, examiner. Ball & Gillespie Polygraph.

c. Date of Polygraph Examiner's report: _____

d. Opinion or conclusion of polygraph examiner:

Truthful Deceptive Inconclusive

6. If Employee refused a polygraph test:

a. Date of refusal: _____

b. Name of Individual to whom refusal was communicated:

7. Additional supporting evidence to support adverse action:

a. Facts indicating that the Employee had access to the missing or damaged property that is the subject of an ongoing investigation:

b. Facts leading to the Employer's reasonable suspicion that the Employee was involved in the incident or activity under investigation:

c. Admissions or statements made by the Employee before, during or following the polygraph examination:

d. Other evidence supporting adverse action:

8. Adverse action taken by Employer:

Discharge effective: _____
Date

Suspension effective: _____

Denial of promotion:

Other discipline: _____

The undersigned, as an authorized representative of the _____,
hereby states as follows:

- a. The information contained herein is true to the best of my knowledge, information and belief.
- b. I have delivered to the employee a copy of the polygraph examiner's written report, including all of the questions asked during the examination with the corresponding charted responses.

Date: _____

Signature: _____

Please Print

Name: _____

Title: _____

Note: 1. This Statement should be retained by the Employer for at least three (3) years. A copy need not be delivered to the Employee-Examinee.

2. It is unlawful for adverse action to be taken solely on the basis of the polygraph examiner's opinion or conclusion or solely because the Employee-Examinee refused to take the polygraph test.

3. Adverse action may be taken if there is additional evidence supporting the Employee-Examinee's involvement in the incident or activity under investigation.

4. Prior to taking an adverse action against the employee, please contact Ball & Gillespie Polygraph. The EPPA of 1988 requires that Ball & Gillespie Polygraph provide the employee with copies of the actual polygraph charts at the time the adverse action is taken.