



In a letter dated May 18, 2011, the Department informed us of its intention to implement changes to the Specialized Assignment Screening Procedures. As a result, a meet and confer process was established to allow us to explore the desired changes and their effect on our membership. Chiefly, the Department seeks the ability to disqualify a candidate based solely on the results of a polygraph examination.

The procedure as it exists today states, in part, "The polygraph examination is a valuable tool in the overall evaluation of candidates being considered [for] highly sensitive and confidential assignments. However, *relying solely* (emphasis added) upon the polygraph examination would overstate its role in the selection process and understate the validity of other valuable selection criteria."

Currently, polygraph test results are considered in conjunction with other information obtained through the background check process and are not the sole determinate of selection. We met with the Department on several occasions to discuss our concerns and make our case against this policy change. Regardless, the Department has declared its intent to proceed with the change without further discussion. As a result, we have filed an unfair employee relations practice complaint.

The main reason we oppose this change is that the validity of polygraph evidence is still debated. The Employee Polygraph Protection Act (EPPA) of 1988 prohibits employers from, among other things, denying employment or promotion on the basis of the results of polygraph tests. Although, as local government employees, we are excluded from the EPPA, the existence of this piece of legislation illustrates that the use of polygraph testing raises concerns. More tellingly, polygraph examination results are generally inadmissible in court, and courts have recognized that "there is simply no way to know in a particular case whether a polygraph examiner's conclusion is accurate, because certain doubts and uncertainties plague even the best polygraph exams." *United States v. Scheffer* 523 U.S. 303, 312 (1998). And in fact, the Department's current procedures acknowledge that relying solely on polygraph examination results would "overstate [the test's] role in the selection process and understate the validity of other valuable selection criteria." Disqualifying candidates solely because of the results arrived at by an examination tool whose validity remains contested is, to us, problematic.

A second, and perhaps more significant, reason for opposing this change is that the Department is choosing the path of least resistance in making selections for specialized assignments. By immediately disqualifying you on the basis of polygraph results, rather than spending the time further investigating inconclusive results, it cannot be said that the Department is truly finding the most qualified candidates for these positions. It is neither in the best interest of the Department nor in the best interest of applicants who, if not selected for one of these positions, risk being associated with a failed or inconclusive polygraph result and will likely remain under a cloud of suspicion.

The polygraph is less of a science and more of an art form. While I appreciate the polygraph as an investigative tool, I do not want your future to depend solely on a polygraph examination.

Let me know what you think, accept responsibility for your actions and hold me accountable. It's why I'm here. Contact me at (213) 251-4554 or at [tylerizen@lappl.org](mailto:tylerizen@lappl.org). ❖