



[Date]

[Name]

[Address]

Via [Hand Delivery OR Certified Mail No. _____]

Dear [Mr./Ms. Last Name]:

The purpose of this letter is to advise you of my decision *[or “confirm your verbal dismissal” if verbal dismissal was necessary. Include the name of the individual who verbally dismissed the employee and the date and time of notice.]* to dismiss you from employment as a [classification] with the [agency/department name], effective [date – 15 calendar days from the date of the letter]. Further, I am requiring your immediate separation from the workplace and you will be paid up to a maximum of fifteen (15) calendar days’ severance pay instead of being given the opportunity to work out the fifteen calendar day notice period. You do, however, still have the opportunity to respond to the matters of this letter, provided you do so by close of business on [date - 15 calendar days from the date of the letter]. These actions are being taken in accordance with subsection 12.2. of the *Administrative Rule* of the West Virginia Division of Personnel, W. VA. CODE R. §143-1-1 *et seq.* You will also be paid for all annual leave accrued and unused as of your last working day. **[Final wages must be paid within timeframes provided in the Wage Payment and Collection Act.]**

All property belonging to the State of West Virginia, which you have under your control or in your personal possession, must be returned and delivered to the control of [name], [title], immediately, or at a mutually agreed upon date, time, and location. Such property shall include, but not be limited to: keys to any State offices, access cards, and identification cards. You are to clear your office and desk of all personal effects by [time] today. You are not to enter the non-public areas of the [agency/department name] offices without prior authorization from me or an agent of my office.

On [date], [name], [title], held a discussion with you regarding the nature of your [misconduct, unacceptable performance, etc.]. At that time it was shared with you that your suspension without pay or dismissal from employment were being considered. Your [response was/responses were...]. After reviewing your response and having considered all the information made known to me, I have decided that your dismissal is warranted. **[The employee has a right to representation during this meeting. Also keep in mind that, if the employee is required to respond to questions under threat of discipline, Garrity rights may apply (an administrative warning regarding right to be free from compulsory self-incrimination during investigative inquiries into criminal misconduct).]**

So that you may understand the specific reason for your dismissal I recount the following **[Give specific and defensible reasons for dismissal -- employee should be informed, with reasonable certainty and precision, of the cause of the dismissal from employment. Be sure to give examples of deficiencies i.e., who, what, when, where and how. Provide specific details including dates of previous disciplinary actions, unacceptable performance and/or conduct, management intervention, training, policies violated, and the consequences to the agency/public.]:**

Paragraph III.D. of the *Drug- and Alcohol-Free Workplace* policy issued by the West Virginia Division of Personnel provides that “[t]he unlawful possession, use, manufacture, distribution, or dispensation of a controlled

substance or illegal drug; the reporting to work under the influence of a controlled substance or illegal drug; having an illegal drug in the body system; or possession of drug paraphernalia are all prohibited in the workplace.”

OR

Paragraph III.C. of the *Drug- and Alcohol-Free Workplace* policy issued by the West Virginia Division of Personnel provides that “[t]he possession, use, distribution, or dispensation of alcohol; the reporting to work under the influence of alcohol, or having alcohol in the body system at work, whether the alcohol was consumed at work or away from work, are all prohibited in the workplace.”

On **[date]**, you signed the *Drug- and Alcohol-Free Workplace* policy - *Employee Drug Awareness Certification Form*. By affixing your signature you certified that you understood that, pursuant to Paragraph III.G.5.a, employees who violate the Policy shall “*be subject to disciplinary action, up to and including dismissal.*” The West Virginia Public Employees Grievance Board has held that violations of the policy may constitute gross misconduct.

The State of West Virginia and its agencies have reason to expect their employees to observe a standard of conduct which will not reflect discredit on the abilities and integrity of their employees, or create suspicion with reference to their employees’ capability in discharging their duties and responsibilities. The nature of your misconduct demonstrates a willful disregard of the employer's interests or a wanton disregard of standards of behavior which the employer has the right to expect of its employees. I believe your misconduct is sufficient to cause me to conclude that you did not meet an acceptable standard of conduct as an employee of **[agency/department name]**, thus warranting your dismissal.

[If applicable] Your dismissal is not conditioned on, or limited by, the outcome of criminal charge(s) because your misconduct as an employee of the State was not inconsequential, but was of a substantial nature reflecting on your ability to perform the duties of your position. Additionally, I believe your misconduct impairs the efficient operation of the **[agency/department name]**, bearing a substantial relationship to duties directly affecting the rights and interest of the public. As a public employer, it is not only our responsibility to provide a working environment which ensures the health, safety, and welfare of the public, but also to provide a safe working environment for our employees.

You may respond to me, in person and/or in writing, concerning the contents of this letter, provided you do so within three (3) working days of its date. For any appeal rights you may have, please refer to W. VA. CODE §6C-2-1 *et seq.*, the West Virginia Public Employees Grievance Procedure. If you choose to exercise your grievance rights, you must submit your grievance, on the prescribed form, within fifteen (15) working days of the effective date of this action, to **[name and address of Chief Administrator]** at Level One of the Procedure. As provided in the statute, you may proceed to Level Three of the Procedure by filing your grievance directly with the Public Employees Grievance Board upon the agreement of the chief administrator, or when dismissed, suspended without pay, or demoted or reclassified resulting in a loss of compensation or benefits. You must provide copies of your grievance accordingly to the Public Employees Grievance Board at 1596 Kanawha Boulevard, East, Charleston, West Virginia, 25311; **[agency copy - name and address]**; and the Director of the Division of Personnel, Building 6, Room B-416, State Capitol Complex, Charleston, West Virginia, 25305. Details regarding the grievance procedure, as well as grievance forms, are available at the Board’s web site at www.pegb.wv.gov or you may telephone the Board at (304) 558-3361 or toll-free at (866) 747-6743.

If you should file a grievance **[Grievance only required if cause for dismissal is misconduct.]**, you may be eligible to continue your Public Employees Insurance Agency (PEIA) insurance benefits for three (3) months after the end of the month in which you are removed from the payroll, at no added cost to you. See W. VA. CODE §5-16-13(c). If you do not prevail in the grievance, and have elected to continue your coverage for these additional months, you will be required to reimburse the total premium for the months during which you continued



coverage **[This sentence is only applicable if cause for dismissal is misconduct.]** Additionally, under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), you may be eligible for up to eighteen (18) months of continued health coverage; therefore, you may wish to contact your payroll office or PEIA, at (304) 558-7850, or 1-888-680-7342, for specific eligibility, coverage and premium information. Other health coverage options may be available to you, including coverage through the Health Insurance Marketplace. Visit www.HealthCare.gov or call 1-800-318-2596 for more information. **[Make sure to provide the full COBRA notice to the employee along with the other separation forms. More information, including model notices, is available on the U.S. Department of Labor web site at www.dol.gov/ebsa.]**

Sincerely,

[Appropriate Signature Authority]

c: Agency Personnel File
West Virginia Division of Personnel

[OPTIONAL LANGUAGE - If the employer meets with the employee and hand delivers the letter, the employer may request that the employee verify receipt by signing the following acknowledgment typed at the bottom of the letter.]

I have received a copy and am aware of the contents of the foregoing letter

Employee Signature

Date

[OPTIONAL LANGUAGE - If mailed via U. S. Postal Service, the following certification may be typed at the bottom of the letter.]

The undersigned certifies that the above letter / notification was mailed to **[name]** by first-class and certified mail, return receipt requested, on the _____ day of _____, 20____.

[signature] _____
[typed name and title]

