

SAMPLE – Demotion with Prejudice

[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 to demote you from your position of **[classification]**, Pay Grade **[#]**, to the position of **[classification]**, Pay Grade **[#]**, with a reduction in your monthly salary from **[current monthly salary]** to **[new monthly salary]**, effective **[date - 15 calendar days from the date of the letter]**. This action constitutes a demotion with prejudice because of your **[e.g., neglect of supervisory responsibilities, unacceptable conduct in your supervisory capacity, etc.]** which has resulted in my loss of confidence in your ability to discharge the functions of your position, and which has undermined the efficient operation of the **[agency/department name]**. This personnel action is in accordance with subsection 11.4 of the *Administrative Rule* of the West Virginia Division of Personnel, W. VA. CODE R. §143-1-1 *et seq.*, and provides for a fifteen (15) calendar day written notice. You are to report to **[add logistical information such as reporting date, location, supervisor, work hours, etc.]**.

On **[date]**, **[name]**, **[title]**, held a discussion with you regarding the nature of your **[e.g., neglect of supervisory responsibilities, unacceptable conduct in your supervisory capacity, etc.]**. At that time it was shared with you that your demotion was being considered. Your **[response was/responses were...]**. Although I have carefully considered your response, I have determined that I can no longer rely on you to responsibly and independently perform your supervisory functions and believe your demotion is warranted.

So that you may understand the specific reason for your demotion I recount the following **[Give specific and defensible reasons for demotion -- employee should be informed, with reasonable certainty and precision, of the cause of the demotion. 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.]**:

As a **[classification]**, you are required to observe a higher standard of conduct as you serve as a role model for employees. It is your basic responsibility to set an example for employees as to how they are to interpret and apply **[agency]** policies and procedures, and how to respond to problems they confront in their daily activities. The employees under your supervision rely on you for training, leadership, and direction in complying with the rules and regulations. It is then the subordinate's responsibility to apply your instructions in the workplace. It is your primary responsibility to plan, assign, supervise, and evaluate the work of your employees, as well as to secure the resources necessary to ensure the successful performance of the employees under your supervision. I conclude that your **[behavior/conduct]** makes it difficult, if not impossible, to enforce compliance with policy by your staff.

Your behavior causes you to be ineffectual in providing leadership and is not an acceptable behavior for employees to emulate. It is management's obligation to maintain good employee/employer relations within the workforce. If an employer were to permit behavior such as that which you have exhibited, it would create a source of mistrust of management's willingness to take appropriate action to ensure continued good labor relations.

I find that your **[e.g., neglect of supervisory responsibilities, unacceptable conduct in your supervisory capacity, etc.]** warrants your demotion, as 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. I believe the nature of your **[e.g., neglect of duty and disregard of the impact of your behavior on our clients' lives, intolerable conduct as a supervisor, etc.]** is sufficient to cause me to conclude that you did not meet a reasonable standard of **[conduct and/or performance]** and would cause you to be ineffectual in your position if you were to remain in a supervisory capacity with the **[agency/department name]**, thus warranting your demotion.

It is unfortunate that I must take this personnel action; however, if you are interested in continuing your employment with this agency, you must fulfill your responsibilities as a dependable and conscientious employee. I assure you it is my intention to maintain the integrity of our standard of conduct which provides the **[agency/department name]** and its employees with a means to ensure its efficient and effective operation. It is anticipated that this personnel action will cause you to understand the seriousness of your misconduct and cause you to alter your performance accordingly. Please understand that any further neglect of duty or any other infractions will be viewed as unwillingness rather than inability to comply with reasonable expectations and will result in further disciplinary action up to and including dismissal.

If your **[unacceptable conduct, level of attendance, etc.]** is the result of medical or personal problems, I suggest you may want to contact the physician, practitioner, or counseling service of your choice. Whether or not you choose to do so is your decision. I am, however, obligated to ensure that you **[report for duty as scheduled, observe established rules, meet performance expectations, etc.]**. You may also obtain information on the State of West Virginia's Employee Referral Program by contacting the Division of Personnel at (304) 558-3950, extension 57247, or by visiting the web site at www.state.wv.us/admin/personnel/classes/erp/refbook.pdf.

You may respond to me, in person and/or in writing, concerning the contents of this letter, provided you do so within fifteen (15) calendar 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.

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]

[NOTE: Revised 6/2013. Ensure law, rule, and policy language is current.]