

SAMPLE – At-will Dismissal

[Date]

[Name]

[Address]

Via [Hand Delivery / Certified Mail No. _____]

Dear [Mr./Ms. Last Name]:

The purpose of this letter is to confirm our conversation of this date, wherein I advised you that you were being terminated from your at-will position with the State of West Virginia in the [agency/department name]. As you are aware, you serve in an at-will position, and may be released from employment without cause. Therefore, your termination is effective [immediately OR date - 15 calendar days after date of letter]. You will 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.]***

If the agency wishes to offer an explanation, the following language is suggested:

Though it would suffice to say that your dismissal is based on my loss of confidence in your ability to perform your duties (which is the case), I am compelled, for your benefit, to articulate the reason for my loss of confidence, that being your ***[brief descriptive statement of unacceptable conduct]***. However, my providing you with the reasoning for my decision to dismiss you should not be construed as vesting you with any property interest in continued employment with the [agency/department name]. ***[Provide details - Keep in mind that if the employee challenges the termination he or she must prove that the employer violated substantial public policy in doing so. Providing details may assist the employee in building a case.]***

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.

For any questions you may have regarding any retirement rights or benefits, including your eligibility for a retirement contribution refund, please contact the Consolidated Public Retirement Board at (304) 558-3570. Relevant paperwork from this agency is enclosed.

Our records indicate that you **[do or do not have health and/or life insurance with this agency. If he or she does, continue with remainder of paragraph]**. As such, you may be eligible to continue insurance coverage for up to three months following your dismissal. See W. VA. CODE §5-16-13(c). Additionally, upon expiration of any coverage granted by State law, the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), 29 USC Sec. 1161, may provide for an additional period of coverage. You should contact the Public Employees Insurance Agency, at (304) 558 7850, or 1-888-680-7342, for specific eligibility, coverage and premium information. Relevant paperwork from this agency is enclosed. 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.]**

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. **[Grievance rights are optional and do not apply to an employee of a constitutional officer unless he or she is covered under the civil service system. See W. Va. Code §6C-2-2(e)(3).]**

Sincerely,

[Appropriate Signature Authority]

Enclosures

c: Agency Personnel File
West Virginia Division of Personnel **[If applicable.]**

[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.*]

Receipt acknowledged by:

[employee's 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 6/2014. Ensure law, rule, and policy language is current.]