SAMPLE – Suspension – IT Misuse

[Date]

[Name]
[Address]

Via **[Hand Delivery / Certified Mail No._____]**

Dear **[Mr./Ms. Last Name]**:

The purpose of this letter is to advise you of my decision to suspend you without pay for ten (10) working days from your position as **[classification]** in the **[agency/department name]**. The reason for this suspension is your continued unacceptable conduct and performance **[*If performance is affected, how so and what is the negative impact of the unacceptable performance (e.g., deadlines not being met, cases being affected, services to clients suffering, etc.)*]**, particularly misusing State-owned and issued information technology resources. In addition, this letter shall serve as notice that any further inappropriate conduct or any other infractions will be viewed as unwillingness, rather than inability, to comply with reasonable expectations, and shall result in further disciplinary action, up to and including dismissal.

Your suspension will begin on **[day of week, mo./day/yr. - *must provide 3 working days' notice beginning with the day following the date of the letter*]**, and end at the close of business on **[day of week, mo./day/yr.].** You are expected to return to duty on **[day of week, mo./day/yr.]**, at the time of your regularly scheduled shift. This personnel action is in accordance with subsection 12.3 of the *Administrative Rule* of the West Virginia Division of Personnel, W. VA. CODE R. §143-1-1 *et seq*., and provides for a three (3) working day written notice.

During the period of suspension, you are restricted from all areas of the **[office name(s)]** with the exception of **[office name(s) (e.g., supervisor/manager/human resources office)]**. Further, you are not to remotely access the State's employee technology resources (email, mainframe, etc.) or otherwise perform work for **[agency/department name] [*Agencies should not permit the employee to take agency-issued phones or IT equipment with them while on suspension.*]**. If it is necessary for you to come to **[office name(s)]**, an appointment must be arranged in advance and **[name]** will meet you in the lobby. You may arrange such an appointment by contacting **[name]**, **[title]**, at **[telephone number]**.

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 suspension was 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 suspension is warranted.

More specifically, the reason(s) for this personnel action is/are as follows: **[*Give SPECIFIC reasons for suspension -- employee must be informed, with reasonable certainty and precision, of the cause of his suspension 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, and the consequences to the agency/public.*]**

EXAMPLE

On November 10, 2009, the West Virginia Office of Technology (WVOT) issued revised Policy No: WVOT-PO1001 **[*or other relevant WVOT policy based on technology used*]** regarding information security. On **[date]** you signed the acknowledgement form indicating that you had read and understood the contents of the policy. The policy is available on WVOT's web site at www.technology.wv.gov. I have enclosed a copy of the policy which provides, in pertinent part **[*include language from the relevant part of the policy – the example below pertains to pornography*]**:

> Unacceptable uses include, but are not limited to, the following:
>
> c. Any use for viewing, transmitting, receiving, saving or printing sexually explicit material.

[*Also cite and enclose any applicable agency policy. Include the date on which the employee acknowledged receipt of the policy.*]

Monitoring activities by WVOT revealed inappropriate usage of a computer under your unique log-in identifier **[*or applicable device*]** during the period of **[date(s)]**. A further review of your computer **[*or applicable device*]** use has substantiated multiple violations of the aforementioned policies. Specifically, you have used your State-owned and issued computer **[*or applicable device*]** to **[access pornography, participate in gambling, send harassing communications, etc. Include number of occurrences if appropriate]**.

A review of your personnel file indicates that there has been a history of you misusing agency-provided information technology resources. There are **[number, type, date, and details of previous actions]**.

[*If employee is a manager/supervisor*] As a **[title]**, 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. I conclude that your inappropriate 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. **[*Suspension is typically not recommended for high-level managers as they become ineffective in their leadership capacity. Either dismissal or a written warning with final notice of dismissal is usually recommended.*]**

> **[Provide detailed expectations regarding behavior and direct employee to attend relevant training. *The employee should know with certainty what he or she must do to meet expectations.*]**

The State of West Virginia and its agencies have reason to expect their employees to observe a standard of conduct that 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 misconduct is sufficient to cause me to conclude that you did not meet a

reasonable standard of conduct as an employee of **[agency/department name]**, thus warranting this suspension.

If your inappropriate conduct is the result of medical and/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.

It is unfortunate that I must take this personnel action; however, if you are interested in continuing your employment with this agency, you must comply with agency policy and observe a reasonable standard of conduct. 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. Accordingly, I must inform you that upon your return to work, you are expected to fulfill your responsibilities as a dependable and conscientious employee. Once again, any further inappropriate conduct or any other infractions will result in further disciplinary action up to and including dismissal.

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.

Sincerely,

[*Appropriate Signature Authority*]

Enclosure

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.*]