

SAMPLE – Probationary Dismissal

[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 dismiss you from your probationary employment as a [classification] with the [agency/department name], for your [unsatisfactory work performance and/or unacceptable conduct] during your probationary period. Although the dismissal will not be effective until [date – 15 calendar days from the date of the letter], 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 subsections 10.1, 10.5, and 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 dismissal from employment 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 dismissal is warranted.

Since the beginning of your employment, your supervisor, [name], [title], has shared [his/her] concerns with you regarding your performance deficiencies. More recently, on [date], [name] held a discussion with you regarding your continuing performance problems. At that time, it was shared with you that you were not being recommended for permanent status and that it was being

recommended that you be dismissed for failing to meet required standards of **[performance and/or conduct]**.

You were advised during the interviewing and orientation process that it would be necessary for you to successfully complete a six (6) month probationary period. This probationary period is a trial work period designed to allow the agency an opportunity to evaluate the ability of the employee to effectively perform the work of his or her position and to adjust him or herself to the organization and programs of the agency. The probationary period is an integral part of the examination process and is utilized for the most effective adjustment of a new employee and for the elimination of those who do not meet the employer's required standards of work. Having evaluated your work during your probationary period, I have concluded that you have not made a satisfactory adjustment to the demands of your position, nor have you met the required standards of work.

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.]*:

You were appointed to the position of **[classification]** on **[date]** to **[brief description of job purpose]**. Consistent with your classification of **[classification]**, your duties include **[brief description of job duties]**. A **[classification]** is required to **[state required knowledge, skills, and abilities. E.g., demonstrate analytical skills and the maturity and emotional stability to be able to respond to a multitude of problematic situations]**.

Throughout your employment, your supervisor provided you with periodic evaluations of your performance which I have reviewed and summarized below: *[Summarize each evaluation period, -- dates, specific examples of performance deficiencies, what and how the employee was expected to improve, and his or her comments to the evaluations — this information can be extracted from the evaluation form as well as any supervisory memos the employee may have been given.]*

The preceding is representative of your unsatisfactory **[level of performance and/or conduct]**. While any one issue would not necessarily constitute failure to meet expectations when viewed singularly, the cumulative effect is, however, one of unacceptable **[performance and/or behavior]**. Unfortunately, you have demonstrated no significant success in improving your **[work performance and/or conduct]**; therefore, I have no reason to believe that additional management intervention would bring your performance to an acceptable standard. For this reason, I believe it is in the best interests of this agency and the clients we serve that I take this personnel action.

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 **[misconduct and/or poor performance]** is sufficient to cause me to conclude that you did not meet an acceptable standard of **[conduct and/or performance]** as an employee of **[agency/department name]**, thus warranting your dismissal.

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. As a probationary employee, you may have a right to grieve this dismissal through the West Virginia Public Employees Grievance Procedure, contained in W. VA. CODE §6C-2-1 *et seq.* 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]

[NOTE: Revised 7/2014. Ensure law, rule, and policy language is current.]