SAMPLE – Verbal Dismissal with Severance

[Date]

[NOTE: A predetermination conference to advise the employee of the contemplated dismissal and provide an opportunity to respond to the charges is still required, even in cases of gross misconduct.]

[Name]
[Address]

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

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

The purpose of this letter is to confirm in writing your verbal dismissal from employment as a **[classification]** with the **[agency/department name]**, effective **[date – *15 calendar days from the date of the verbal notice*]. [*written confirmation must be sent within three (3) working days.*]** On **[date]**, I verbally advised you of your dismissal from employment. Whereas you were required to separate from the workplace immediately, 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. [See note below about severance pay.] 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.

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. In addition, you are not to enter the non-public areas of the **[agency/department name]** offices without prior authorization from an agent of my office or me.

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 decided that your dismissal was warranted.

So 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.*]**:

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, poor performance, etc.]** 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.

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 **[date of verbal or written notice]**, to **[name and address of Chief Administrator]**. As provided in the statute, you may proceed to Level Three of the Procedure 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 to the Public Employees Grievance Board at 103 Michigan Avenue, Building 18, Charleston, WV 25311; **[agency copy - name and address]**; and the Director of the Division of Personnel, State Capitol Complex, 1900 Kanawha Boulevard, East, Building 3, Suite 500, Charleston, West Virginia, 25305. Details regarding the grievance procedure, as well as grievance forms, are available at the Board's website 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 the 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.

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: Severance pay is not required when the dismissal is the result of gross misconduct. *Revised 11/2011. Ensure law, rule, and policy language is current.*]