

# VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

## CHAPTER 384

*An Act to amend and reenact §§ 2.1-114.5 and 2.1-804 of the Code of Virginia, relating to the powers and duties of the Department of Personnel and Training; acceptable Internet and computer use policy; state employees.*

[H 2343]

Approved March 24, 1999

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.1-114.5 and 2.1-804 of the Code of Virginia are amended and reenacted as follows:**

§ 2.1-114.5. Duties of Department.

The Department shall have the following duties:

1. Make recommendations to the Governor regarding the establishment and maintenance of a classification plan for the service of the Commonwealth, and recommend amendments thereto as may be necessary.

2. Make recommendations to the Governor regarding the establishment and administration of a compensation plan for all employees, and recommend amendments thereto as may be necessary.

3. Design and maintain a personnel information system which shall support the operational needs of the Department and of state agencies, and which shall provide for the management information needs of the Governor, his secretaries, and the General Assembly. The system shall provide at a minimum a roster of all employees in the service of the Commonwealth, in which there shall be set forth as to each employee, the employing agency, the class title, pay, status and such other data as may be deemed desirable to produce significant facts pertaining to personnel administration.

4. Establish and direct a program of employee-management relations designed to improve communications between employees and agencies of the Commonwealth.

5. Establish and administer a system of performance evaluation for all employees in the service of the Commonwealth, based on the quality of service rendered, related where practicable to specific standards of performance. In no event shall workers' compensation leave affect the total number of hours credited during a performance cycle for purposes of calculating incentive increases in salary based on such performance evaluations.

6. Establish and administer a system of recruitment designed to attract high quality employees to the service of the Commonwealth. In administering this system, applicants shall be rated on the basis of relative merit and classified in accordance with their suitability for the various classes of positions in the service of the Commonwealth, and a record thereof shall be maintained in the open register.

7. Design and utilize an application form which shall include, but not be limited to, information on prior volunteer work performed by the applicant.

8. Establish and administer a comprehensive and integrated program of employee training and management development.

9. Establish and administer a program of evaluation of the effectiveness of performance of the personnel activities of the agencies of the Commonwealth.

10. Establish and administer a program to assure equal employment opportunity to applicants for state employment and to state employees in all incidents of employment.

11. Establish and administer regulations relating to disciplinary actions; however, no disciplinary action shall include the suspension without pay for more than ten days of any state employee who is under investigation without a hearing conducted either by a level of supervision above the employee's immediate supervisor or by his agency head.

12. Adopt and implement a program of meritorious service awards to employees who propose procedures or ideas which are adopted and which will result in eliminating or reducing state expenditures or improving operations, provided such proposals are placed in effect.

13. Develop state personnel policies and, after approval by the Governor, disseminate and interpret state personnel policies and procedures to all agencies. Such personnel policies shall permit an employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of 1993 (29 U.S.C. § 2601 et seq.). *On and after December 1, 1999, such personnel policy shall include an acceptable use policy for the international network of computer systems commonly known as the Internet. At a minimum, the Department's acceptable use policy shall contain provisions which (i) prohibit use by state employees of the Commonwealth's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet and (ii) establish strict disciplinary measures for violation of the acceptable use policy. An agency head may*

*supplement the Department's acceptable use policy with such other terms, conditions, and requirements as he deems appropriate.* The Director of the Department of Personnel and Training shall have the final authority to establish and interpret personnel policies and procedures and shall have the authority to assure full compliance with such policies. However, unless specifically authorized by law, the Director of the Department of Personnel and Training shall have no authority with respect to the state grievance procedures.

14. Ascertain and publish on an annual basis, by agency, the number of employees in the service of the Commonwealth, including permanent full-time and part-time employees, those employed on a temporary or contractual basis, and constitutional officers and their employees whose salaries are funded by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel from the previous fiscal year. Effective July 1, 1995, the publication shall include net gains and losses in personnel for each agency for a three-year period.

§ 2.1-804. Definitions.

For the purpose of this chapter:

"Agency" means any agency, authority, board, department, division, commission, institution, institution of higher education, bureau, or like governmental entity of the Commonwealth, except the Department of State Police.

"Information infrastructure" means telecommunications, cable, and computer networks and includes the Internet, the World Wide Web, Usenet, bulletin board systems, on-line systems, and telephone networks.

"Sexually explicit content" means *content having as a dominant theme* (i) any *lascivious* description of or (ii) any *lascivious* picture, photograph, drawing, motion picture film, digital image or similar visual representation depicting sexual bestiality, a lewd exhibition of nudity, as nudity is defined in § 18.2-390, sexual excitement, sexual conduct or sadomasochistic abuse, as also defined in § 18.2-390, coprophilia, urophilia, or fetishism.

**2. That the heads of state agencies whose officers and employees are exempt from the Virginia Personnel Act pursuant to § 2.1-116 shall adopt the acceptable Internet use policy required by this act to be developed by the Department of Personnel and Training and may supplement the Department's policy with such other terms, conditions, and requirements as they deem appropriate.**