WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979

ENROLLED

HOUSE BILL No. 817

(By Mr. , , Mr. )

Passed February 14, 1979

In Effect 90 days from Passage
AN ACT to amend article twenty-six chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eight-c, relating to the retention or nonretention of probationary faculty members by the board of regents; providing for notice of nonretention with the reasons therefor to be furnished upon request; and requiring a hearing when requested.

Be it enacted by the Legislature of West Virginia:

That article twenty-six, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eight-c, to read as follows:

ARTICLE 26. WEST VIRGINIA BOARD OF REGENTS.

§18-26-8c. Notice to probationary faculty members of retention or nonretention; hearing.

1 The president of each state college, university or community college shall give written notice to probationary faculty members concerning their retention or nonretention for the ensuing academic year, not later than the first day of March for those probationary faculty members who are in their first academic year of service; not later than the fifteenth day of December for those probationary faculty members who are in their second academic year of service; and at least one year before the expiration of an appointment for those probationary faculty members who have been employed two
or more years with the institution. Such notice to those
probationary faculty members who will not be retained shall
be by certified mail, return receipt requested. Upon request
of the probationary faculty member not retained, the president
of the state college, university or community college shall
within ten days and, by certified mail, inform the probationary
faculty member of the reasons for nonretention. Any pro-
bationary faculty member who desires to appeal the decision
may request a hearing from the board of regents within ten
days after receiving the statement of reasons. The board of regents shall publish appropriate rules to govern the conduct
of the appeal herein allowed. The board of regents shall, by
such rules, prescribe either an unbiased committee of the board
or appoint a hearing examiner to hear such appeals. Such
hearing shall be held at the employing institution and within
thirty days of the request. The rules of evidence shall not
strictly apply. The faculty member shall be accorded sub-
stantive and procedural due process, including the right to
produce evidence and witnesses and to cross-examine wit-
nesses, and to be represented by counsel or other representa-
tive of his or her choice. If the committee of the board or
the hearing examiner shall conclude that the reasons for
nonretention are arbitrary or capricious or without a factual
basis, the faculty member shall be retained for the ensuing
academic year. The decision shall be rendered within thirty
days after conclusion of the hearing. The term “probationary
faculty members,” shall be defined according to regulations
promulgated by the board of regents.

The rights herein provided to probationary faculty members
are in addition to, and not in lieu of, other rights afforded
them by other rules and regulations of the board of regents.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J.C. Dillon, Jr.  
Clerk of the Senate

Clerk of the House of Delegates

H.C. Blade  
President of the Senate

Speaker House of Delegates

The within  is approved  this the 23  day of  February, 1979.

John D. Robb
Governor