

APPROVED AND SIGNED BY THE GOVERNOR

Date 2-23-79

Time 2:00 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1979

— ● —

ENROLLED

HOUSE BILL No. 817

(By Mr. Prunty + Mr. Greer)

— ● —

Passed February 14, 1979

In Effect 90 days from Passage



ENROLLED

H. B. 817

(By MR. PRUNTY and MR. GREER)

[Passed February 14, 1979; in effect ninety 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
2 college shall give written notice to probationary faculty mem-
3 bers concerning their retention or nonretention for the en-
4 suing academic year, not later than the first day of March for
5 those probationary faculty members who are in their first
6 academic year of service; not later than the fifteenth day
7 of December for those probationary faculty members who
8 are in their second academic year of service; and at least
9 one year before the expiration of an appointment for those
10 probationary faculty members who have been employed two

11 or more years with the institution. Such notice to those
12 probationary faculty members who will not be retained shall
13 be by certified mail, return receipt requested. Upon request
14 of the probationary faculty member not retained, the president
15 of the state college, university or community college shall
16 within ten days and, by certified mail, inform the probationary
17 faculty member of the reasons for nonretention. Any pro-
18 bationary faculty member who desires to appeal the decision
19 may request a hearing from the board of regents within ten
20 days after receiving the statement of reasons. The board of
21 regents shall publish appropriate rules to govern the conduct
22 of the appeal herein allowed. The board of regents shall, by
23 such rules, prescribe either an unbiased committee of the board
24 or appoint a hearing examiner to hear such appeals. Such
25 hearing shall be held at the employing institution and within
26 thirty days of the request. The rules of evidence shall not
27 strictly apply. The faculty member shall be accorded sub-
28 stantive and procedural due process, including the right to
29 produce evidence and witnesses and to cross-examine wit-
30 nesses, and to be represented by counsel or other representa-
31 tive of his or her choice. If the committee of the board or
32 the hearing examiner shall conclude that the reasons for
33 nonretention are arbitrary or capricious or without a factual
34 basis, the faculty member shall be retained for the ensuing
35 academic year. The decision shall be rendered within thirty
36 days after conclusion of the hearing. The term "probationary
37 faculty members," shall be defined according to regulations
38 promulgated by the board of regents.

39 The rights herein provided to probationary faculty members
40 are in addition to, and not in lieu of, other rights afforded
41 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

Lawrence C. Churnish
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

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

W. H. Blankenship
Clerk of the House of Delegates

H. C. Brinkley
President of the Senate

[Signature]
Speaker House of Delegates

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

John D. Rhyne
Governor

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