

## **Opinion No. 65-110**

June 23, 1965

**BY:** OPINION OF BOSTON E. WITT, Attorney General Roy G. Hill, Assistant Attorney General

**TO:** Mr. Robert Lee Stamper, Registrar, New Mexico State University, Office of the Registrar, University Park, New Mexico

### **QUESTION**

#### QUESTION

There are two students one an adult, the other a minor who meet the following qualifications:

1. Lived in New Mexico over one year.
2. Paid New Mexico income taxes.
3. Have a New Mexico vehicle operator's permit.
4. Have registered for Selective Service in New Mexico.
5. Have filed a declaration of intention for U.S. Citizenship. The declaration was filed in New Mexico.
6. Claimed New Mexico as their residence.
7. Have declared themselves financially and otherwise independent of their parents.

May a student meeting these qualifications qualify for instate tuition?

#### CONCLUSION

See analysis.

### **OPINION**

#### *{\*188}* ANALYSIS

The problem of establishing *{\*189}* residency for college tuition purposes for both adults and minors has been discussed in several Attorney General Opinions. The most recent and one which covers all aspects of your question, with the exception of the citizenship question, is Attorney General Opinion No. 64-26 issued March 9, 1964. I have enclosed

a copy of this opinion and we cite you particularly to the portions we have indicated on pages 3, 4 and 5 for the rules governing the establishment of residence by both adults and minors.

We understand that both of the people involved are now foreign students who are in this country to be educated and then return home. Your facts recite that both of them have signed declarations of intention for United States citizenship. It is our opinion that the citizenship of the individuals you have described does not prevent them from being considered for resident tuition. Citizenship and residency are not synonymous terms. We see no reason why a citizen of one country cannot become a resident of another. We are of the opinion though that when a citizen of another country seeks to attend college on a resident tuition basis the evidence of residency offered by such person must be carefully considered. The evidence offered should show clearly that the foreign citizen has become a resident of this state. As outlined in Opinion 64-26 residency is something that must be established to the satisfaction of the institution involved. We leave the question of whether or not these individuals are residents of New Mexico to your determination. We only point out that their citizenship status does not preclude them from such consideration.