

Opinion No. 36-1451

October 20, 1936

BY: FRANK H. PATTON, Attorney General

TO: Mr. H. R. Rodgers, Superintendent, of Public Instruction, Santa Fe, New Mexico.

{*145} Your letter dated October 17th, 1936, requesting our opinion as to whether or not Mr. Frank Fuhrman could be considered a resident of this state, is hereby acknowledged.

Mr. Dugan states: "In Michigan, a student from another state does not gain residence in this state."

Under Sec. 4, of Article VII, of our State Constitution, a person can neither acquire nor lose residence "while a student at any school."

It has been held in a number of cases that constitutional provisions of this type do not prevent persons who are attending school in a state from acquiring a residence in that state if said persons actually have the intention so to do coupled with some overt act corroborating the aforesaid intention.

The fact of residence or non-residence within this state depends principally upon intention coupled and connected with some overt act. Intention is sometimes hard to determine. Therefore, we must look to anything of an evidentiary nature which would tend to reveal that intention.

If Mr. Fuhrman registered here for the purpose of voting and did vote at the last state election and further has done nothing indicative of an intention to remove his residence elsewhere then the aforesaid facts, in my opinion, would be an almost conclusive intention that this state is his residence.

It must be borne in mind, however, that every person has at all times one domicile, and no person has more than one domicile at a time.

From the brief facts submitted to us in the instant cause it is impossible to give other than a general opinion as above expressed.

By EDWARD P. CHASE,

Asst. Atty. General