

**Opinion No. 41-3833**

July 11, 1941

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. C. E. Needham President, New Mexico School of Mines Socorro, New Mexico

{\*76} I have your letter of July 8 requesting further information with respect to Chapter 212 of the Laws of 1939, Section 2 under the item "New Mexico College of Agriculture and Mechanic Arts."

In view of the fact that the University is a public institution supported by the taxpayers of the state, it is quite evident that the Legislature intended to give preference to residents of the state, or at least to charge the non-residents a reasonable amount for the services rendered, since the institution, as a public institution, is for the education of the residents of the state. Therefore, if students are bona fide residents of the state they are entitled to the same consideration and the same tuition as other residents of the state are charged. Consequently, the fact that students are married or "on their own" or that they are registered on the poll books as voters, is some evidence of the fact that they are residents of the state. The duty of determining whether or not they are residents in good faith rests on your board. The only criterion in determining this is their having lived in New Mexico for more than one year, coupled with the intention to become residents of the state. Residence of a person over twenty-one years of age for more than one year with that intention makes him a resident of the state, whether he be single or married; as to those who are under twenty-one, their residence is generally determined by the residence of their parents. It is with respect to them that the question of whether or not they are married is pertinent. A person who is married is certainly not under the control of his parents, and may acquire a residence of his own regardless of the legal residence of his parents.

By A. M. FERNANDEZ,

Asst. Atty. General