

Opinion No. 42-4104

June 22, 1942

BY: EDWARD P. CHASE, Attorney General

TO: Mr. R. H. Reece Acting President New Mexico School of Mines Socorro, New Mexico

{*208} In your letter of June 20, you relate that a member of your faculty has completed the requirements of his 1941-1942 contract, and was given a contract for the 1942-1943 school term. You further relate that this person has now enlisted in the Navy, and you therefore assume that he will not be here to comply with the new contract for the school term of 1942-1943. This being true, you request our opinion as to whether or not the position must be held open for his return, or if his voluntary enlistment annuls the contract.

Chapter 10 of the Laws of 1941, provides for the reinstatement in civil positions of persons who enter the armed forces of the United States. I do not find anything within this act which in any way intimates that a person who volunteers to serve his country would not be entitled to the same benefits as a person who is drafted.

This being true, I am of the opinion that a person who volunteers to serve in either the Army, Navy or Marine Corps is entitled to the same benefits as set forth under Chapter 10, Laws of 1941, as is a person who is drafted.

The voluntary enlistment of the person in question in the Navy does not, in my opinion, annul the contract in question.

For your information, I enclose a copy of Attorney General's Opinion No. 3791, which also lends light on the instant question.

By HOWARD F. HOUK,

First Asst. Atty. General