

# State court studying intervisitation

By TIM PARKER  
Government Editor

*(Editor's note: This is the second in a four-part series concerning the briefs filed in the intervisitation suit now before the state supreme court.)*

A class-action suit against the NMSU Board of Regents in behalf of the students of NMSU is now before the New Mexico Supreme Court.

The complaint was dismissed in the District Court of Santa Fe County because the court did not feel the plaintiff's civil rights had been violated by the regents' refusal to allow intervisitation.

The plaintiff-appellants are Claire Futrell, Robert Holliday, James W. King, Thomas James Murray and Julia Thorson, individually and in behalf of all others similarly situated.

The defendants-appellees are R.L. Ahrens, Seaborn Collins, Malcolm Garrett, Avelino Gutierrez and William Humphries, members of the NMSU Board of Regents, Richard Pesqueira, vice president for student affairs, and NMSU.

A four-point brief-in-chief was filed in behalf of the appellants by Paul A. Phillips, a New Mexico Civil Liberties Union cooperating attorney.

Point I in the brief says, "the

regulation impinges on plaintiff's right of free association."

Point II says, "the regulation infringes plaintiffs' right of privacy."

The third point says, "the regulation on its face violates the New Mexico Constitution and the board of regents has the burden of showing justification."

Point IV says, "even if no constitutional rights of the plaintiffs were implicated, the regulation is invalid as arbitrary and unreasonable."

Under Point I the brief contends, "If the constitution means anything, it means persons have the right to come and go as

they please, to meet with whom they please whenever they please, so long as there results neither substantial disorder nor disruption of the routine nor the invasion of the rights of others.

"Yet the regents say a female may invite to her room and be visited there by as many females as she wishes; a male may invite to his room and be visited there by as many males as he wishes. But persons of opposite sexes may not in any number intervisit at any time.

"Nor does the trial court require the regents to give their reasons, if any they have, for this flagrant infringement of the right of the female person to associate with the

male and the male with the female."

"Students are adults," Point II argues, "who pay rent for the use of the dormitory premises and who come from varied backgrounds with parents of different degrees of strictness or permissiveness.

"These rules are not made by parents but by the state. By making such rules the state has impinged not only upon the right of privacy of students but also upon the right of parents to guide their own children."

The third point alleges the regents ruling is counter to the New Mexico Constitution.

It contends "the rights of enjoying life and seeking

happiness" as put forth in the New Mexico Constitution may not be infringed by a state agency so long as the exercise of these rights does not infringe upon the rights of others.

The brief also says the burden of justifying the intervisitation regulation is on the board of regents.

Additionally the brief says "the Equal Rights Amendment is violated by the ruling because "women may not visit men's dormitory rooms and men may not visit women's dormitory rooms.

"A person's sex must not be a factor in determining that person's rights, unless a compelling state interest be shown which requires discrimination on account of the person's sex be made," the brief says.

Point IV contends, "If a regulation bears no rational relationship to legitimate state objectives, it is arbitrary and, therefore, unconstitutional.

"The absolute prohibition of intervisitation by persons of opposite sex, we submit, bears no rational relationship to the accomplishment of any state objective. Far from fostering educational atmosphere, it tends to stultify it, tries to monasticize it and, in the process, sexualizes the educational atmosphere."

The brief asks the regents' regulation against intervisitation should be restrained or the case should be brought to trial again.