

Students' brief awaits court action

By **TIM PARKER**
Government Editor

(Editor's note: This is the last of a four-part series on the intervisitation suit now before the state supreme court.)

The student-appellants' reply brief in the intervisitation suit now before the New Mexico Supreme Court responds to the answer brief prepared by university attorney

Ray O. Sage of Darden, Sage and Darden.

The reply was written on behalf of NMSU students Claire Futrell, Robert Holliday, James W. King, Thomas James Murray and Julia Thorson, individually, and in behalf of all others similarly situated, by Paul A. Phillips, a New Mexico Civil Liberties Union cooperating attorney.

"The court cannot take judicial

notice of all of the horrors which are set forth in the answer brief as constituting justification for the nonintervisitation rule. Throughout the answer brief, respondents assert dormitory rooms get turned into chambers of horror when intervisitation is permitted," the brief says.

The university brief says intervisitation would encourage premarital fornication, increase

venereal disease and student pregnancy, increase larceny, vandalism, assaults, rapes, drug and alcohol abuse, and interfere with the rights of the student whose roommate is visited "by a student of the opposite sex and who engages in fornication." The use of marijuana and alcohol would be increased, as well as pregnancy and venereal disease. Sexual assaults will be increased.

"All of these horrors are asserted without a shred of evidence supporting the possibility of their occurrence," the students brief replies.

The anti-visitation ruling does not prevent these "horrors", the brief says.

"Is there any evidence the incidence of rape increases where intervisitation is allowed? Is there any evidence one roommate desiring to engage in fornication will deprive another roommate the use of the premises?"

Intervisitation does not mean the use of dormitory corridors at any time of the day or night. There would be time restrictions and students would have a choice of living in either areas with intervisitation or areas without it, according to the brief.

There is no evidence intervisitation increases the use of drugs and alcohol, the brief says.

"Even if it were to be conceded the prevention of fornication is a legitimate state objective (and we have not so conceded) the regents have not established fornication increases with intervisitation," the brief says.

It is at least as reasonable to assume nonintervisitation between the sexes fosters, encourages and increases homosexuality as it is for

the regents to assume intervisitation increases fornication, the brief says.

"The absurdity of the regulation," the brief says, "is compounded by the recurring insults to the NMSU student body contained in the regents' answer brief.

"The regulation is defended on the grounds the NMSU male student body consists of young animals and hoodlums and the female student body consists of "babes in the woods" to be protected from those animals and hoodlums, except for some females who are so heterosexually active as to engage in that activity without regard to the right of their roommate.

"Persons who think that way should be wardens, not regents, and indeed...the argument is made NMSU proscribes the keeping of male and female prisoners in the same cell, the regents may proscribe the intervisitation of males and females in dormitory rooms!!"

"We concede the argument... "men are not women" and "men do not give birth." However, the statement "only women are raped" is known to every warden to be untrue. Perhaps it will become known to the regents to be untrue if their policy of prohibiting intervisitation between the sexes is upheld."