IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARY G.A. KERNS,

Plaintiff,

v. No. 16cv1258 MV/KK

UNIVERSITY OF NEW MEXICO,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER comes before the Court on *pro se* Plaintiff's Amended Complaint, Doc. 8, filed March 3, 2017. For the reasons stated below, the Court will **DISMISS** this case **without prejudice.**

Plaintiff's original Complaint alleged she was a student at the University of New Mexico and:

> By the end of January 2015, I had unexpected events that happened in my personal life . . . I went to the Dean of Students office and asked what I could do to get the semester off, and I would return in the fall. I went through all the proper channels at the school to make sure that I was doing the right thing for all my scholarships, financial aid, and my credits. The University gave wrong information to their policies and the law involving the Financial Aid office, the Bursar office, and the Dean of Students office.

Complaint at 3, Doc. 1, filed November 17, 2016. Plaintiff later received an unexpected bill from the University of New Mexico for over $3,000.00. The allegations in the Complaint suggest that University of New Mexico will not release Plaintiff's transcript until she pays the bill. Plaintiff stated: "I am trying to attempt to sue the University of New Mexico for discrimination of having a learning disability." Complaint at 3. Plaintiff did not cite the statutory basis for her suit.

After construing her original Complaint as making a claim pursuant to the Americans with Disabilities Act and/or the Rehabilitation Act, the Court set forth the elements necessary to state a

claim under the Americans with Disabilities Act and the Rehabilitation Act. The Court dismissed the Complaint without prejudice for failure to state a claim because Plaintiff did not allege that: (i) she is disabled under the ADA or the Rehabilitation Act; (ii) the University of New Mexico, in providing her with information regarding financial aid and withholding her transcripts until she pays her bill, failed to make reasonable modifications that would accommodate her disability; or (iii) the University of New Mexico discriminated against her solely by reason of her handicap. *See* Doc. 6 at 4-5. The Court granted Plaintiff leave to file an amended complaint.

Plaintiff's Amended Complaint fails to state a claim for the same reasons her original Complaint failed to state a claim. Page 1 of the Amended Complaint is a cover letter to the Court stating that Defendant University of New Mexico "made a large mistake," and "I know that I did no wrong and that they are at fault." Pages 2-6 of the Amended Complaint are identical to pages 3-7 of the original Complaint. Pages 7-14 of the Amended Complaint are copies of three letters that were attached to the original complaint. Page 15 of the Amended Complaint contains handwritten names, phone numbers and other notes. The remaining three pages of the Amended Complaint are copies from a University of New Mexico financial aid website.

The Court will dismiss this case without prejudice. In its Order dismissing Plaintiff's original complaint, the Court explained that the original Complaint failed to state a claim, listed the allegations necessary to state a claim, and granted Plaintiff leave to file an amended complaint to cure the deficiencies in her original Complaint. Despite the Court's explanation, Plaintiff filed an Amended Complaint which is essentially identical to the original complaint and fails to state a claim. Plaintiff is proceeding *in forma pauperis*. The statute governing proceedings *in forma pauperis* states: "the court shall dismiss the case at any time if the court determines that . . . the

action . . . fails to state a claim upon which relief may be granted." 28 U.S.C. § 1915(e)(2).

IT IS ORDERED that this case is **DISMISSED without prejudice.**

MARTHA VÁZQUEZ
UNITED STATES DISTRICT JUDGE