

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

DYLAN KEITH O'FLAHERTY and
NEAL PATRICK O'FLAHERTY,

Plaintiffs,

v.

No.1:20-cv-00239-MV-JFR

U.S. DEPARTMENT OF EDUCATION,
NORTHWEST COMMISSION ON COLLEGES
AND UNIVERSITIES, and STUDENT PRIVACY
POLICY OFFICE,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER comes before the Court on Plaintiffs' failure to timely file a third amended complaint.

Plaintiffs filed their original Complaint on March 16, 2020, asserting that the University of Nevada Las Vegas ("UNLV") has been in noncompliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g ("FERPA"). *See* Doc. 2. Plaintiffs sought injunctive relief against Defendants for allowing UNLV to violate FERPA.


The Court explained to Plaintiffs that the Complaint failed to state a claim because it did not state with particularity what each Defendant did to Plaintiffs. *See* Doc. 10, filed March 30, 2020. The Court granted Plaintiffs leave to file an amended complaint.

After granting Plaintiffs' motion for an extension of time to file an amended complaint, the Court notified Plaintiffs that their 67-page Amended Complaint did not state their claims in numbered paragraphs as required by Fed. R. Civ. P. 10(b) and granted Plaintiffs leave to file a second amended complaint that complies with the Federal Rules of Civil Procedure and the District of New Mexico's Local Rules of Civil Procedure. *See* Doc. 17, filed May 21, 2020.

Plaintiffs filed their Second Amended Complaint but none of the paragraphs on pages 21-62 of the Second Amended Complaint were numbered as required. *See* Doc. 18, filed May 25, 2020. The Court explained to Plaintiffs that Defendants cannot specifically deny designated allegations if each allegation is not numbered and granted Plaintiffs leave to file a third amended complaint. *See* Doc. 20, filed June 1, 2020; Fed. R. Civ. P. 8(b) (“A party that does not intend to deny all the allegations must ... specifically deny designated allegations”).

Instead of filing a third amended complaint by the June 22, 2020, deadline, Plaintiffs filed a motion seeking an extension to July 6, 2020, to file their third amended complaint. *See* Doc. 21, filed June 19, 2020. The Court granted Plaintiffs motion for an extension to July 6, 2020, to file their third amended complaint and notified Plaintiffs that failure to timely file a third amended complaint may result in dismissal of this case. Plaintiffs did not file a third amended complaint by the July 6, 2020, deadline.

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



MARTHA AZQUEZ
UNITED STATES DISTRICT JUDGE