



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION IV

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REGION IV

ALABAMA  
FLORIDA  
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March 1, 2022

**Via Email Only**

Dr. Berta Rios  
Interim President  
Carlos Albizu University  
2173 NW 99th Ave  
Miami, FL 33172  
Email: [brios@albizu.edu](mailto:brios@albizu.edu)

Re: OCR Complaint No. 04-21-2340

Dear Dr. Rios:

This letter is to advise you of the outcome of the U.S. Department of Education, Office for Civil Rights (OCR), investigation of the complaint filed on September 2, 2021, against Carlos Albizu University, alleging discrimination on the basis of disability.

The Complainant alleged that:

1. In August 2021, the University failed to provide the Complainant with academic adjustments to complete her pre-admissions test, after she provided the appropriate documentation.
2. The University treated her differently based on her disability when she was denied admissions to the University and after providing the admissions decision a University staff member told her that the University does discriminate.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department of Education, the University is subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

As a recipient of Federal financial assistance from the Department of Education and a public entity, the University is subject to these laws and OCR's jurisdiction.

Based on the above, OCR investigated the following legal issue:

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*  
[www.ed.gov](http://www.ed.gov)

Whether the University discriminated against the Complainant during the University's admissions process, based on her disability, in violation of Section 504 and its implementing regulation at 34 C.F.R. § 104.42 (a) and (b), and Title II and its implementing regulation at 28 C.F.R. § 35.130.

OCR reviewed and analyzed documents submitted by the Complainant and the University, including the University's Student Guide to Reasonable Accommodations, the Complainant's application materials, the University's admissions procedures, a description of the University's Master of Science Speech and Language Pathology Program, a list of students admitted into the University for the 2020 and 2021 academic years, as well as correspondence between the University and the Complainant. OCR also interviewed the Director of Enrollment Management and the University's Section 504 Coordinator.

Prior to the completion of the investigation, the University requested to resolve the complaint, based on Section 302 of OCR's Case Processing Manual. OCR determined that it is appropriate to resolve this issue because OCR's investigation has identified concerns that can be addressed through a resolution agreement.

### **Legal Standards**

The Section 504 implementing regulation at §104.42 (a) states that qualified disabled persons may not, on the basis of disability, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies. The Section 504 implementing regulation at §104.42 (b) states that in administering its admission policies, a recipient to which this subpart applies: (1) May not apply limitations upon the number or proportion of disabled persons who may be admitted; (2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on disabled persons or any class of disabled persons unless (i) the test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question and (ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Assistant Secretary to be available. (3) Shall assure itself that (i) admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to disabled persons; and (4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a disabled person but, after admission, may make inquiries on a confidential basis as to disabilities that may require accommodation.

The Title II implementing regulation at 28 C.F.R. §35.130 (a) states that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied

the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

### **Factual Findings**

The Complainant applied to the University's Master of Science Speech Language Pathology Program in Miami, which this letter will refer to as the Program, in May 2021 for the Fall 2021 semester. She previously received her undergraduate degree from Florida International University where she received accommodations to support her learning disability as a result of being diagnosed with epilepsy. Those accommodations included a sonocent notetaker, digital recorder, seizure/medic accommodation, double time on exams, and minimal distraction in exam room.

According to the Program's description and admission requirements, in order to be admitted into the Program, the applicant must provide evidence of having completed a bachelor's degree, completed a grade of "C" or higher in several prerequisite courses, present two letters of recommendation, a current resume, complete an interview with the Program's faculty, provide a statement of purpose which provides a clear indication of the applicant's interest in the field, short and long term career goals and how the applicant expects the institution to contribute to such goals, and provide a written article critique which is indicative of the applicant's critical thinking, writing and communication abilities. The article critique and statement of purpose are written electronically and timed, during the interview or as scheduled. Additionally, an applicant can transfer six credits from previous study to apply towards the Program degree, but only courses completed at an accredited institution of higher learning and passed with a grade of "B" or better will be accepted for transfer.

In an email on July 14, 2021, the Enrollment Management Specialist contacted the Director of Enrollment to let her know they received the documents to satisfy the Complainant's request to transfer her Acoustics class but were still waiting on the documents to transfer the English course at her previous university.

Sometime in July 2021 a large group of applicants completed their interview and statement of purpose/article critique portion of the application process. The Complainant did not complete the interview and statement of purpose with this group because she was enrolled in summer semester at Florida International University to complete a prerequisite for the Program. The Director of Enrollment Management told OCR that the Complainant was also still missing documents showing that she had completed the required prerequisite courses for the Program so the Complainant was unable to sit for the interview and statement of purpose/article critique that was conducted in July. The Director told OCR she did not recall which items the Complainant was missing.

In an email dated August 6, 2021, Complainant sent the Enrollment Management Specialist documentation showing completion of her summer biology course and notice that she had requested a transcript from Florida International University.

On August 24, 2021, the Complainant sent an email to the Enrollment Management Specialist asking if he had heard anything about her admission status and stated that she was concerned because she applied for the fall 2021 semester, which started the following week, but she had not yet received a response. The Enrollment Management Specialist did not reply.

On August 27, 2021, on her own accord, the Director of Enrollment sent an email to the Program's Director asking for a status update for the Complainant's application so that she could update the Complainant's file. The email inquired about the outcome of the Complainant's interview, presumably if it had taken place, so that the Complainant's admissions status could be updated. The Program's Director replied via email that the Complainant had not been scheduled for an interview but that she was copying the Administrative Assistant for the Program so that she could schedule the interview and statement of purpose/article critique for the Complainant.

On August 30, 2021, the Complainant received an email stating that she would be required to complete the interview, statement of purpose, and article critique portion of the application on August 31, 2021, from home, by logging into a software which would serve as a proctor for the exam. The Complainant somehow misunderstood when she originally submitted her application to the University about the requirement to complete the statement of purpose/article critique at a specified date and time and she provided a pre-written statement of purpose/article critique in her original application. The pre-written statement of purpose and article critique were not accepted by the University. The Enrollment Management Specialist states that he advised the Complainant and all applicants that the statement of purpose and the article critique must be completed at the time of the interview. It is unclear of when this was communicated to the Complainant prior to this email. The email went on to say that the Complainant would have 90 minutes to write the statement of purpose and 90 minutes for the article critique; however, once started, she would have to complete it all in one sitting. The statement of purpose and the article critique would last from 9:00-12:00pm and the interview would begin at 1:00pm.

The Director of Enrollment told OCR the Complainant contacted her that same day to state that she had a disability and would need accommodations for the statement of purpose/article critique. The Director of Enrollment said she had never had a student who requested accommodations in the pre-admission process, so she referred the Complainant to speak to the Office of Student Affairs, who the Director of Enrollment said handles requests for accommodations. There was no email provided to OCR that shows the Complainant contacted the Office of Student Affairs. Instead, the Complainant contends that she was instructed by the Director of Enrollment to contact the Administrative Assistant for the Program to request an accommodation, which the Complainant did.

In an email also dated August 30, 2021, the Complainant contacted the Administrative Assistant and states that she was told by the Director of Enrollment to contact the Administrative Assistant to discuss her request for accommodations. The Complainant told the Administrative Assistant that she had received the schedule to conduct her interview and write her statement of purpose/article critique but that she had a disability and would need extended time. She attached a letter from her previous university which listed the accommodations she had at that university. The Administrative Assistant did not respond to the email but did forward it to the Program Director.

That same day, in response to the Complainant's accommodation request, the Director of Enrollment states that she was told by the Program Director that the Complainant submitted her documentation too late. Thereafter, the Director of Enrollment contacted the Complainant by phone and told her that unfortunately she did not turn in her disability paperwork in time to complete the process to receive accommodations for the statement of purpose/article critique, and the Complainant was welcome to wait until Spring 2022 to undergo the interview and write the statement of purpose and article critique, which was the next time available to apply.

The Complainant declined waiting until Spring 2022 and sat for the interview and statement of purpose/article critique. According to the University, the Complainant finished writing earlier than the time allotted.

On September 2, 2021, the Director of Enrollment sent the Complainant her admissions decision letter, which indicated that the Admissions Committee, which consisted of faculty and staff from the Program, could not offer her acceptance into the Program. In response, the Complainant emailed the Director of Enrollment asking why she was not accepted.

The Director of Enrollment replied to the Complainant's email stating that the Complainant did not score well on the interview and one of the writings, so her score was below the minimum requirement for admissions. The Director of Enrollment again told the Complainant she was welcome to reapply for the spring semester and added that if she provided a doctor's note, the University may be able to provide her with the necessary accommodations for the written portion of the interview process.

The University's Section 504 Coordinator told OCR she was never made aware of the Complainant's request and that the Complainant should have contacted her in the Office of Student Affairs directly and not the Administrative Assistant with the Program. The Section 504 Coordinator said that had the Complainant contacted her, she could have instructed the Complainant to provide the appropriate documentation and would have been able to give the Complainant the extended time almost immediately if everything checked out, which was the process the Section 504 Coordinator followed for admitted students.

The University's Student Guide to Reasonable Accommodations, which is provided to students after contacting the Section 504 Coordinator to request accommodations, states that in order to process a reasonable accommodation request, a student must disclose information about his/her disability, whether verbally, communicating his/her diagnosis and experiences as a person with disabilities, or in writing, by providing information certified by a physician, psychologist, or other health care professional to the Disabilities Service Coordinator. The student will have 15 days to complete the file at the Office of the Disabilities Service Coordinator. The Disabilities Service Coordinator is in the Office of Student Affairs at the Miami campus. This process indicated it was for students with disabilities who were requesting accommodations for their courses. There was no indication that this process could or could not be used during the admissions process, other than a section discussing "extended admissions," applicable to individuals seeking enrollment in Puerto Rico.

The Director of Enrollment and Section 504 Coordinator each said they had never received a request for accommodations in the pre-admission phase and were unsure if there were policies and/or procedures provided to applicants regarding how and when to make a reasonable accommodation request.

Prior to the conclusion of the investigation, the University expressed an interest in resolving OCR's compliance concerns. Once the University signs the attached resolution agreement, OCR will monitor its implementation until the University has fulfilled the terms and obligations of the resolution agreement. Upon completion of the terms and obligations under the agreement, OCR will close the case.

## **Conclusion**

This concludes OCR's investigation of the complaint and should not be interpreted to address the University's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in Federal court whether or not OCR finds a violation.

Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions about this letter, please contact Lachauna Edwards at [Lachauna.Edwards@ed.gov](mailto:Lachauna.Edwards@ed.gov) or at 404-974-9390.

Sincerely,

Michelle Vaughan  
Supervisory Team Leader