

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
LINDA M. SANCHEZ**

VW 2016-194

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	10/19/2016
File #	2016-08017

NOTICE OF INTENT TO DENY PETITION

Petitioner, Linda M. Sanchez, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on August 24, 2016. The Notice of the petition appeared in the Florida Administrative Register on August 29, 2016, in Volume 42 Number 168; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on September 23, 2016, in Daytona Beach, Florida. At the hearing on this matter, Petitioner was not present and the Board was represented by Mary Ellen Clark, Senior Assistant Attorney General.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Petitioner is an applicant for licensure as a certified public accountant (CPA).
2. Rule 61H1-28.0052(1)(b), FAC, provides in part, "candidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed."
3. Petitioner passed the REG portion of the CPA examination on August 17, 2009, and credit for that portion of the examination expired on February 17, 2011. Petitioner passed the BEC portion of the CPA examination on February 17, 2010, and credit for that portion of the examination expired on August 17, 2011. Petitioner passed the FAR portion of the examination on September 8, 2014, and credit for that portion of

the examination expired on March 8, 2016. Petitioner passed the AUD portion of the examination on June 15, 2015, and credit for that portion of the examination will expire on December 15, 2016.

4. Petitioner has worked in public accounting for over fourteen years. During that time, she studied for the examination but was not able to pass all four parts within the rolling eighteen month window because of the impact of the deaths of her grandfather, father, grandmother and going into pre-term labor during a pregnancy.

5. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of 4 years and 4 months, and 3 years and 7 months, beyond the eighteen months provided in the rule to retain the passing scores on the REG and BEC portions of the examination through June 15, 2015, when she passed the fourth portion of the examination.

GROUND FOR DENIAL

The Board determined the petition should be denied on the following grounds:

6. Petitioner failed to establish that the Board's full application of Rule 61H1-28.0052(1)(b), FAC, to her circumstances would violate principles of fairness.

7. Petitioner failed to establish that, if she were granted the variance, the purpose of the accountancy examination statute would be met as required by Section 473.306, FS.

This Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 13th day of October, 2016, by
the Florida Board of Accountancy.



Veloria A. Kelly, Division Director ✓

NOTICE TO APPLICANT

You may seek review of this Order, pursuant to Sections 120.569 and 120.57, Florida Statutes, by filing a petition with the Division Director of the Board, 240 Northwest 76th Drive, Suite A, Gainesville FL 32607, within 21 days of receipt of this Order. If you dispute any material fact upon which the Board's decision is based, you may request a hearing before an administrative law judge pursuant to Section 120.57(1), Florida Statutes; your petition must contain the information required by Rule 28-106.201, Florida Administrative Code, a copy of which is enclosed, including a statement of the material facts which are in dispute. If you do not dispute any material fact, you may request a hearing before the Board pursuant to Section 120.57(2), Florida Statutes; your petition must include the information required by Rule 28-106.301, Florida Administrative Code, a copy of which is enclosed. If you request a hearing, you have the right to be represented by an attorney or other qualified representative, to take testimony, to call or cross-examine witnesses, to have subpoena and subpoena duces tecum issued, and to present written evidence or argument.

Pursuant to Section 120.573, Florida Statutes, you are hereby notified that mediation pursuant to that section is not available.

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified mail to Linda M. Sanchez, 9201 SW 101 Avenue, Miami, Florida 33176, and to Jesslyn Krouskroup, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and Mary Ellen Clark, Senior Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 19th day of October, 2016.

Brendan M. Nichols

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Sent to	Linda Sanchez	NOID
Street, Apt. No. or PO Box No.	9201 SW 101 Ave.	
City, State, ZIP+4	Miami, Florida 33176	

PS Form 3800, August 2009 See Reverse for Instructions

ELECTION OF RIGHTS FORM
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION
BOARD OF ACCOUNTANCY

Applicant Name: Linda Sanchez
Application Number: 324330
Date of Review: September 23, 2016

ELECTION OF OPTION TO SUPPLEMENT THE APPLICATION

I would like to supplement my application. I understand that any additional information must be submitted to the Board of Accountancy on or before the twenty-first (21) day from the date on which I received my Notice of Intent to Deny. I understand also that the Board will only reconsider its action if the additional material adequately addresses the deficiencies in my application. I understand further that my right to have a hearing will be lost if I do not now also elect to have a hearing.

ELECTION OF RIGHT TO HEARING

I want to have a hearing. If I have also elected to supplement my application, I understand that the hearing will not be scheduled unless and until the Board declines to reconsider its denial of my application. **IF YOU HAVE ELECTED TO HAVE A HEARING, FLORIDA LAW REQUIRES THAT YOU ALSO DECIDE THE TYPE OF HEARING THAT YOU WANT TO HAVE. THERE ARE TWO TYPES OF HEARINGS UNDER THE LAW. YOU MUST CHOOSE ONE OR THE OTHER. IF YOU FAIL TO CHOOSE ONE AT THE PRESENT TIME, YOU WILL BE ACCORDED A HEARING UNDER OPTION #2.**

Option #1 I dispute the materials facts and want an evidentiary hearing pursuant to Section 120.57(1), Florida Statutes. This is a hearing before an independent Administrative Law Judge assigned by the Division of Administrative Hearings. To avail yourself of this option, the law requires that you submit a separate petition that complies with Section 120.57(1), Florida Statutes, and Rule 28-106.201 Florida Administrative Code. The petition must specify disputed issues of material fact. If you fail to include a separate petition or if that separate petition fails to meet the requirements of Section 120.57(1), F.S. and Rule 28-106.201, F.A.C., your request for this hearing will be denied and instead, you will be accorded the hearing described under option #2.

Option #2 I do not dispute the material facts and want a hearing pursuant to Section 120.57(2), Florida Statutes, and Rule 28-106.301, F.A.C. This is a hearing before the Board of Accountancy.

Please Note: The law requires that your request for hearing be received by the Board Office on or before the twenty-first (21) day after your receipt of the enclosed Notice of Intent to Deny. IF IT IS NOT RECEIVED ON OR BEFORE THE TWENTY-FIRST DAY, YOUR REQUEST FOR A HEARING MUST BE DENIED.

*Please print your name, address and telephone #:

Return this form to:

Board of Accountancy
240 Northwest 76th Drive, Suite A
Gainesville, FL 32607-6635
Phone: 352-333-3505
Fax: 352-333-2508
Att: Denise Graves
Denise.graves@myfloridalicense.com

**PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)
18 Month Rule**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/24/2016
File #	

Petitioner Information:

Name Linda M. Sanchez
Address 9201 SW 101 Avenue, Miami, FL 33176
Phone Number 305-904-9192

Attorney Information:

Not Applicable

VW 2016-194

Applicable Portions of the rules:

61H1-28.0052(1)(b) Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.

Candidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed. In the event all four test sections of the CPA Examination are not passed within the rolling eighteen-month period, credit for any test section(s) passed outside the eighteen-month period will expire and that test section(s) must be retaken.

The citation to the statute the rule is implementing:

Section 473.306 - Examination

Type of Action Requested:

The petitioner requests that the Board of Accountancy please waive Rule 61H1- 28.0052(1)(b), FAC stated above due to the following circumstances.

Specific fact that demonstrate a violation of the principles of fairness that would justify a variance for the petitioner:

The petitioner has been working in public accounting under the direction of certified public accounting firms for over fourteen years. During this time, she was in pursuit of studying for all four parts of the CPA exam but due to much hardship was not able to pass within the 18-month window. Due to the deaths of her grandfather, father, grandmother and going into pre-term labor, exams were missed and subsequently rescheduled for later dates.

Listed below is a chronological order of pass dates of the CPA exam sections along with a list of dates of the extreme circumstances causing delays in passing the exams.

<u>Section</u>	<u>Abbv.</u>	<u>Pass Date(s)</u>
Regulation	REG	8/01/09
Business	BEC	1/20/10
Financial	FAR	5/20/11, 8/24/14
Audit	AUD	6/16/15

<u>Family Member</u>	<u>Relation</u>	<u>Incident Date</u>	<u>Event</u>
Antonio Concepcion	Grandfather	1/05/2011	Date of Death
Rogelio Sanchez	Father	7/27/2011	Date of Death
Isabel Concepcion	Grandmother	5/04/2015	Date of Death
Skylar Rioseco	Son	1/31/2016	Early Labor (36 Weeks)

The passing of each of the petitioner's family members was extremely hard on her mental state and well-being. Between 2009 and 2011 she was actively pursuing her CPA license by taking each of the exams but the passing of both her grandfather and father was un-expectant and hard to deal with. After the passing of her father in 2011 in particular, it made taking any exam inconceivable as she was mentally incapable of focus and lost sight of her future.

In late 2014, the petitioner was able to gather herself mentally and emotionally and sought out to start her exams once again since she couldn't even bare to look at the copy of her father's death certificate. In the process, her grandmother unfortunately had succumb to illness and passed away adding some unrest with her family. The petitioner took solace her family members are at peace and has continued on her journey in passing her exams but later went into pre-term labor and added more hardship to the exam windows having to be on short-term disability earlier than expectant.

Given the extreme circumstances causing delays in passing the exams, the petitioner would have met the 18 month policy.

The reason why the variance requested would serve the purpose of the underlying statute:

To the petitioner's knowledge, she has met all the education requirements and is of good moral character.

Petitioner Statement:

The petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), F.A.C.