

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/24/2018
File #	2018-02954

**IN RE: PETITION FOR VARIANCE BY  
CARLOS SANTIAGO**

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**VW 2018-014**

**ORDER GRANTING PETITION**

Petitioner, Carlos Santiago, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on January 22, 2018. The Notice of the petition appeared in the Florida Administrative Register on February 1, 2018, in Volume 44 Number 22; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on March 23, 2018, in Jacksonville, Florida. At the hearing on this matter, Petitioner was present. 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 December 8, 2015, and credit for that portion of the examination expired on June 8, 2017. Petitioner passed the BEC portion of the CPA examination on December 15, 2016, and credit for that portion of the examination will expire on June 615 2018. Petitioner passed the AUD portion of the examination on March 20, 2017, and credit for that portion of the

examination will expire on September 20, 2018. Petitioner passed the FAR portion of the examination on November 15, 2017, and credit for that portion of the examination will expire on May 17, 2019.

4. During the 18-month window, Petitioner states that due to the 10-week delayed scoring period after taking the FAR portion of the examination on May 31, 2017, Petitioner's scores were not released until August 14, 2017. Petitioner was unable to reschedule the failed FAR portion of the examination prior to the expiration of the eighteen (18) month window due to unavailability of the testing centers after Hurricane Irma. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of five (5) months and seven (7) days beyond the eighteen months provided in the rule to retain the passing scores on the REG portion of the examination, when he passed the fourth portion of the examination on November 15, 2017.

#### **GROUND FOR APPROVAL**

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

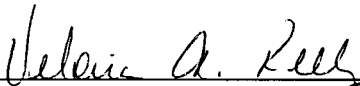
5. Petitioner established that the Board's full application of Rule 61H1-28.0052(1)(b), FAC, to his circumstances would violate principles of fairness and would impose a substantial hardship on him.

6. Petitioner established that, if he 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 18<sup>th</sup> day of April, 2018,

by the Florida Board of Accountancy.

  
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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 76<sup>th</sup> 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 Carlos Santiago, 5257 Garden Hill Circle, West Palm Beach, Florida 33415, and to Kenneth J. Plante, 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 24<sup>th</sup> day of April, 2018.

*Brandon M. Nichols*

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<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/22/2018
File #	

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

<b>RE</b>
JAN 22 2018
BY: .....

**Petitioner Information:**

Name: Carlos Santiago  
 Address: 5257 Garden Hill Cir, West Palm Bach, FL 33415  
 Phone Number: (561) 635-1691

**Attorney Information:**

Not Applicable

**VW 2018-014**

**RECEIVED**  
 JAN 25 2018  
 DBPR Agency Clerk

**Applicable Portions of the rules:**

**61H1-28.0052(1)(b) Number of Sittings, 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-months period, credit for any test section(s) passed outside the eighteen-months 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 wave 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:**

I am requesting a variance/waiver from the 18<sup>th</sup> months rule to request an extension until December 31, 2017 to the passing score of the (REG) section, which expired on June 08, 2017. My request is due to the following circumstances. On May 31, 2017, the 2<sup>nd</sup> window of 2017, the petitioner tested for (FAR), the last section left to comply with the 18 months requirement that started on December 09, 2015 upon receiving a passing score for the first section (REG) that expired on June 08, 2017. However, the petitioner was impacted by the 10-week delay in score reporting caused by the changes in the CPA exam of 2017 and did not receive a score until August 14, 2017. Unfortunately, the petitioner did not pass the (FAR) section taken on May 31, 2017, and was also unable to retake such section in the 3<sup>rd</sup> window of 2017 due to the limited amount of time left in such window, as well as the unavailability of testing centers that closed because of Hurricane Irma. Furthermore, the petitioner contacted NASBA and confirmed that NASBA would not allow candidates to retake an expired section until the latest exam score was released. Had the petitioner received the score for the (FAR) section tested on May 31, 2017 at an earlier time, it would have been possible to retake both the failed (FAR) section and the expired (REG) section within the 3<sup>rd</sup> window. As such, the petitioner ask the Board to consider the impact created by the 10-week delay in score reporting and ask for an extension of the (REG) section score until December 31, 2017.

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

To the petitioner's knowledge, he has met all the education requirements, is of good moral character and has worked in Public Accounting for the past five years. In addition, the petitioner sat again for the (FAR) section on **November 15, 2017** and passed the section with a score received on **December 19, 2017**. Therefore, the petition is based in the fact that the petitioner has substantially met all the examination requirements as he has passing scores on all four sections of the exam.

**Petitioner Statement:**

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

Thank you for your consideration,

  
Carlos Santiago