

STATE OF FLORIDA  
BOARD OF ACCOUNTANCY

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/6/2019
File #	2019-01972

IN RE:           PETITION FOR VARIANCE BY  
                  JULISSA SOLARES GOMEZ

ORDER GRANTING PETITION

**VW 2018-255**

Petitioner, Julissa Solares Gomez, filed a petition for a permanent variance from the requirements of Rule **61H1-28.0052(1)(b)**, Florida Administrative Code (F.A.C.), on December 28, 2018. The Notice of the petition appeared in the Florida Administrative Register on January 7, 2019, in Volume 45 Number 04. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on February 1, 2019, in Orlando, Florida. Petitioner was present. The Board was represented by Rachelle Munson, Assistant Attorney General. The petition is attached herein and incorporated by reference.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1.     **Rule 61H1-28.0052(1)(b), F.A.C.**, provides in pertinent 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.

2. Petitioner passed the REG portion of the CPA examination on March 20, 2017, and credit for that portion of the examination expired on September 20, 2018. Petitioner passed the FAR portion of the examination on June 25, 2018, and credit for that portion of the examination expired on December 25, 2019. Petitioner passed the AUD portion of the examination on December 10, 2018, and credit for that portion of the examination will expire on June 10, 2020. Petitioner passed the BEC portion of the CPA examination on December 10, 2018, and credit for that portion of the examination will expire on June 10, 2020.

3. During the 18-month window, Petitioner states that due to Hurricane Irma, the FAR section of the examination she had scheduled to take on September 10, 2017 was cancelled. Petitioner was unable to reschedule the FAR portion of the examination to count in the third testing

period. Petitioner states that she was unable to complete the examination within four testing periods within the 18-month period due to the cancellation for inclement weather. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of two (2) months, three (3) weeks, and five (5) days beyond the eighteen months provided in the rule to retain the passing scores on the REG portion of the examination, when she passed the fourth portion of the examination on December 10, 2018.

#### **GROUND FOR APPROVAL**

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

4. Petitioner established that the Board's full application of Rule 61H1-28.0052(1)(b), F.A.C., to her circumstances would violate principles of fairness and would impose a substantial hardship on her.

5. Petitioner established that, if she were granted the variance, the purpose of the accountancy examination statute would be met as required by Section 473.306, F.S.

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

**DONE AND ORDERED** this 27<sup>th</sup> day of February, 2019, by the  
Florida Board of Accountancy.

  
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Veloria A. Kelly, Division Director

#### **NOTICE OF RIGHT TO HEARING**

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 **Julissa Solares Gomez**, 8271 NW 165<sup>th</sup> Terrace, Miami Lakes, Florida 33016, and to Kenneth Plante, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and by electronic delivery to: Rachelle Munson, Assistant Attorney General, at [Rachelle.Munson@myfloridalegal.com](mailto:Rachelle.Munson@myfloridalegal.com) this 6<sup>th</sup> day of March, 2019.

Brandon M. Nichols

**FILED**  
Department of Business and Professional Regulation  
Deputy Agency Clerk  
CLERK Brandon Nichols  
Date 12/28/2018  
File #

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

Petitioner Information:

Name: Julissa Solares Gomez  
Address: 8271 NW 165<sup>th</sup> Terrace Miami Lakes, FL 33016  
Phone Number: (786) 473-1883  
Jurisdiction ID: Florida 01410411  
National Candidate ID: 000000000745620

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BY: .....

Attorney Information:  
Not Applicable

**VW 2018-255**

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 tests 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, FS – Examination

Type of Action Requested:

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

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

The petitioner had scheduled to take Financial Accounting and Reporting (FAR) on September 10, 2017. She was notified by the testing center on September 9<sup>th</sup> that the exam was cancelled due to Hurricane Irma and that she would not be able to reschedule the exam to count in the third testing period. The petitioner lives in Miami Dade County which was cited by the government as one of the disaster relief zones.

The petitioner planned to have four testing periods to take and pass the last three sections of the CPA examination before her Regulation exam score expired on September 20, 2018. She did not pass FAR on her first attempt during the fourth testing period of 2017. At which point, the petitioner, scared, of the tight passing constraints decided to take time off from work in order to focus on studying and passing the three pending exams (FAR, BEC and AUD).

The petitioner took AUD and BEC in the first testing period of 2018 but did not pass either. During the second testing period of 2018, the petitioner retook FAR, AUD and BEC passing FAR but not AUD or BEC. During the third testing period of 2018 the petitioner retook AUD and BEC for the

third time each but did not pass. During the fourth testing period of 2018 the petitioner retook AUD and BEC for the fourth time each and passed.

She was able to complete the exam within four testing period as originally planned but was unable to do so within the 18-month period due to the cancellation for inclement weather. All four exams have been completed and the petitioner has applied for licensure pending this petition.

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 and experience requirements and is of good moral character. All sections of the exam were passed, and the petitioner was unduly disadvantaged because she was not allowed to take the exam in the third testing period due to conditions that were outside of her control. The extension requested herein is minimal and reasonable under the circumstances.

Petitioner Statement:

Petitioner respectfully requests a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of two (2) months, three (3) weeks and five (5) days beyond the eighteen months provided in the applicable rule in order to retain the passing score on the REG portion of the examination, when she passed the fourth portion on December 11, 2018.