

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
TANIA HERNANDEZ**

VW 2022-099

NOTICE OF INTENT TO GRANT PETITION

Petitioner, Tania Hernandez, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on September 1, 2022. The Notice of the petition appeared in the Florida Administrative Register on September 13, 2022, in Volume 48 Number 178. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Florida Board of Accountancy ("Board") on December 16, 2022, in Orlando, Florida. Petitioner was neither present nor represented by legal counsel. The Board was represented by Rachelle Munson, Senior Assistant Attorney General. The Petition is incorporated by reference herein and attached to this notice.

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 December 15, 2020, and credit for that portion of the examination expired on June 15, 2022. Petitioner passed the FAR portion of the examination on May 24, 2021, and credit for that portion of the examination expired on November 24, 2022. Petitioner passed the AUD portion of the examination on June 15, 2022, and credit for that portion of the examination will expire on December 15, 2023. Petitioner passed the BEC portion of the CPA examination on August 22, 2022, and credit for that portion of the examination will expire on February 22, 2024.

3. Petitioner, in relevant part, described the following circumstances as negative impacts regarding her ability to prepare and timely pass all sections of the CPA examination.

- Petitioner states her whole family in the household contracted COVID-19, causing an emotional and physical toll which abruptly interrupted her studies.
- Petitioner experienced a language barrier while taking the BEC portion of the exam, noting that Spanish is her native language.

4. Petitioner, at the time the petition was submitted, is approximately two (2) months and seven (7) days outside the 18-month window for passage of BEC pursuant to the rule requirement.

5. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), F.A.C., to allow an extension of the eighteen-month rule requirement.

GROUND FOR APPROVAL

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

6. Given the presented hardship information, the Board concluded that Petitioner's experience with COVID as the illness affected her personally and her household, not the language barrier, was the key consideration in granting the waiver.

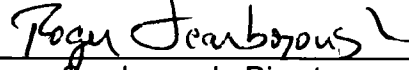
7. Petitioner established that the Board's strict application of Rule 61H1-28.0052(1)(b), F.A.C., to her medical and family circumstances, would violate principles of fairness or would impose a substantial hardship on her.

8. 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 Notice shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 22 day of December, 2022, by the
Florida Board of Accountancy.

FLORIDA BOARD OF ACCOUNTANCY



Roger Scarborough, Director
Division of Certified Public Accounting
for Steven Platau, Chair

NOTICE OF RIGHT TO HEARING


This notice constitutes final agency action if no request for a hearing is received by the Board on or before the twenty-first (21st) day after the applicant's receipt of the notice. The applicant may request a hearing by filing an appropriate petition with the Division Director of the Board at 240 Northwest 76th Drive, Suite A, Gainesville, FL 32607. The applicant or petitioner may petition for a hearing involving disputed issues of material fact before an administrative law judge pursuant to Section 120.57 (1), Florida Statutes, or for a hearing not involving disputed issues of material fact pursuant to Section 120.57 (2), Florida Statutes.

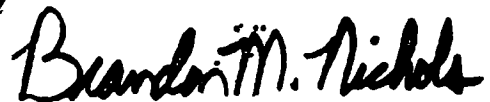
A petition for a hearing involving disputed issues of material fact must contain information required by Rule 28-106.201, Florida Administrative Code, ***including a statement of all disputed issues of material fact***. The Board may refer a petition to the Division of Administrative Hearings for assignment of an administrative law judge only if the petition is in substantial compliance with the rule requirements. A petition for a proceeding not involving disputed issues of material fact must contain information required by Rule 28-106.301, Florida Administrative Code, including a concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle petitioner to relief.

In accordance with Section 120.573, Florida Statutes, mediation is not available.

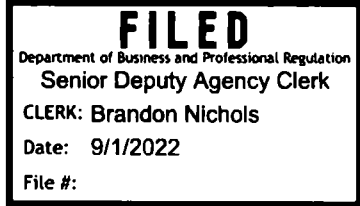
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified mail to **TANIA HERNANDEZ**, 2428 Timber Forest Drive, West Palm Beach, FL 33415 and at tania.hernandez20@gmail.com; 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, Senior Assistant Attorney General, at Rachelle.Munson@myfloridalegal.com; Cassandra Fullove at Cassandra.Fullove@myfloridalegal.com; and to Tracy Smith at Tracy.Smith@myfloridalegal.com;

on this 23rd day of January, 2022 



**PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)
EXAMINATION CREDIT EXPIRED – 18-MONTH RULE**



Petitioner Information:

Name: Tania Angelic Hernandez
Address: 2428 Timber Forest Dr. West Palm Beach, FL 33415
Phone: 561-876-6617
Email: tania.hernandez20@gmail.com
National Candidate ID: 000000000692761

VW 2022-099

Attorney Information:

Not Applicable

Application Portions of the Rules:

61H1-28.0052(1)(b): Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examinations, 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) must be retaken.

Citation o The Statute the Rule is Implementing:

Section 173.306 – Examination

Type of Action Requested:

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

Specifics facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify a waiver or variance for the petitioner:

Four years ago, the petitioner along with her husband and small child moved to South Florida from Puerto Rico. Pursuing her dreams and aspirations she started her journey to study for the CPA exam.

The petitioner studied and prepared for the exam, after two attempts she passed the first section of the CPA exam, Regulation. She then took the second section FAR, and after the second attempt, she also passed it. The petitioner struggled with the BEC part of the examination due to a language barrier. The petitioner's native language is Spanish and had been in the US for a short period of time. This section became especially challenging, to say the least. The taxpayer relentlessly continued to study and retook the exam. As the petitioner attempted to retake the exam for the six time, her child contracted Covid. By then, she had a second child which was also affected. Consequently, the whole family contracted Covid. This was a very difficult process since Covid made it impossible to study while taking care of her household and herself and trying to make it through. Covid caused an emotional and physical toll and of course, it abruptly interrupted her studies. A time that was already limited due to the number of times she had taken the exam. This additional unforeseen and uncontrolled event took away the fair chance she had. This unfortunate event jeopardized her chances of success. Once the petitioner and her family

PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)
EXAMINATION CREDIT EXPIRED – 18-MONTH RULE

healed, she continued to study for the exam, she studied and passed the AUD section of the exam. Right after, she proceeded to retake the BEC section of the exam for the seventh and final time. At this point, the first section of the exam REG had expired.

For all the reasons mentioned above, the petitioner is requesting this variance.

	DATE PASSED	DATE EXPIRED	SCORE
REG	12/16/2020	06/15/2022	83
FAR	05/25/2021	N/A	78
AUD	06/16/2022	N/A	78
BEC	08/25/2022	N/A	77

Reason why the variance or the waiver requested would serve the purposes of the underlying statute:

The petitioner has met all the educational and experience requirements and is of good moral character.

Petitioner statement:

The petitioner respectfully requests a permanent variance from Rule 61H1-28.0052(1)(b), FAC, and requests the 18-month window to be extended.