

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TYRONDA HOBBS,)
)
 Petitioner,)
)
 vs.) Case No. 10-0054
)
 CRIMINAL JUSTICE STANDARDS AND)
 TRAINING COMMISSION,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

Administrative Law Judge (ALJ) Daniel Manry conducted the final hearing of this case for the Division of Administrative Hearings (DOAH) on February 24, 2010, by video teleconference in Tallahassee and Orlando, Florida.

APPEARANCES

For Petitioner: TyRonda Hobbs, pro se
1515 Windridge Circle
Sanford, Florida 32773

For Respondent: Grace A. Jaye, Esquire
Department of Law Enforcement
Post Office Box 1489
Tallahassee, Florida 32302-1489

STATEMENT OF THE ISSUE

The issue in this case is whether Petitioner is entitled to credit for 14 challenged examination questions in the State Officers Certification Examination (SOCE) for Law Enforcement Officers.

PRELIMINARY STATEMENT

Petitioner took the SOCE for the third time on September 30, 2009. Respondent denied Petitioner's challenge to 14 exam questions, Petitioner requested a final hearing, and Respondent referred the request to DOAH to conduct the final hearing.

At the hearing, Petitioner testified, presented the testimony of one other witness, and submitted one composite exhibit for admission into evidence. Respondent called three witnesses and submitted one composite exhibit for admission into evidence.

The identity of the witnesses and exhibits and the rulings regarding each are reported in the Transcript of the hearing filed with DOAH on March 10, 2010. Respondent timely filed its proposed recommended order (PRO) on March 16, 2010. Petitioner did not file a PRO.

FINDINGS OF FACT

1. Petitioner challenged 14 questions after failing the SOCE for the third and final time on September 30, 2009. The challenged questions are numbered 32, 62, 63, 79, 87, 128, 139, 154, 155, 156, 170, 187, 212, and 236.

2. During the hearing, Petitioner withdrew her challenges to questions 79, 87, 155, and 212. Ten questions remain at issue in this proceeding.

3. A preponderance of the evidence does not support Petitioner's challenges to the 10 questions at issue. Expert testimony shows the challenged questions were validated through appropriate field testing.

4. The questions are accurate to the curriculum and perform sufficiently during testing. The correct answer to each challenged question was identified in the curriculum by expert testimony during the hearing.

5. The statistical probability of an examinee answering a question correctly is identified in the record by a "P" value. For challenged question 32, the "P" value was 0.80, which means that 80 percent of examinees answered the question correctly. Only 78 of 5,220 examinees chose the answer chosen by Petitioner for question 32.

6. The "P" value for challenged question 62 was 0.76, meaning that 76 percent of examinees answered the question correctly. Only 222 of 1,655 examinees chose the response that Petitioner chose for question 62.

7. The "P" value for challenged question 63 was 0.95, meaning that 95 percent of examinees answered the question correctly. Only 150 of 3,387 examinees chose the response that Petitioner chose for question 63.

8. The "P" value for challenged question 128 was 0.59, meaning that 59 percent of examinees answered the question

correctly. Approximately 2,142 of 4,456 examinees chose the response that Petitioner chose for question 128.

9. The "P" value for challenged question 139 was 0.93, meaning that 93 percent of examinees answered the question correctly. Only 20 of 568 examinees chose the response that Petitioner chose for question 139.

10. The "P" value for challenged question 154 was 0.90, meaning that 90 percent of examinees answered the question correctly. Only 51 of 4,331 examinees chose the response that Petitioner chose for question 154.

11. The "P" value for challenged question 156 was 0.80, meaning that 80 percent of examinees answered the question correctly. Only 404 of 5,721 examinees chose the response that Petitioner chose for question 156.

12. The "P" value for challenged question 170 was 0.81, meaning that 81 percent of examinees answered the question correctly. Only 596 of 4,681 examinees chose the response that Petitioner chose for question 170.

13. The "P" value for challenged question 187 was 0.90, meaning that 90 percent of examinees answered the question correctly. Only 28 of 2,908 examinees chose the response that Petitioner chose for question 187.

14. The "P" value for challenged question 236 was 0.92, meaning that 92 percent of examinees answered the question

correctly. Only 133 of 2,449 examinees chose the response that Petitioner chose for question 236.

CONCLUSIONS OF LAW

15. DOAH has jurisdiction over the subject matter of and parties to this proceeding pursuant to Chapter 120, Florida Statutes (2009), and Florida Administrative Code Chapter 28.¹ DOAH provided the parties with adequate notice of the final hearing.

16. Petitioner has the burden of proof in this proceeding. Petitioner must show by a preponderance of the evidence that the challenged questions are faulty, arbitrarily or capriciously worded or graded, or that Respondent arbitrarily or capriciously denied Petitioner credit through a grading process devoid of logic or reason. Horac v. Department of Professional Regulation, 484 So. 2d 1333, 1338 (Fla. 3d DCA 1986); State ex. Rel. Glaser v. J.M. Pepper, 155 So. 2d 383 (Fla. 1st DCA 1963); State ex Rel. I.H. Topp v. Board of Electrical Contractors for Jacksonville Beach, Florid, 101 So. 2d 583 (Fla. 1st DCA 1958). For the reasons stated in the Findings of Fact, Petitioner did not satisfy her burden of proof.

17. A preponderance of the evidence shows that Respondent properly implemented and administered the challenged examination questions within the meaning of Subsection 943.17(e). Subsection 943.13(10) and Section 943.1397 prohibit Respondent

from certifying Petitioner without an acceptable score on the challenged examination. Respondent complied with the requirements of Florida Administrative Code Rules 11B-30.0062(1) through (3) and 11B-30.012.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law it is

RECOMMENDED that the Criminal Justice Standards and Training Commission enter a final order denying Petitioner's challenge to the 10 examination questions from the September 20, 2009, Law Enforcement State Officer Certification Examination numbered 32, 62, 63, 128, 139, 154, 156, 170, 187, and 236.

DONE AND ENTERED this 9th day of April, 2010, in Tallahassee, Leon County, Florida.



DANIEL MANRY
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 9th day of April, 2010.

ENDNOTE

^{1/} References to chapters, sections, and subsections are to Florida Statutes (2009), unless otherwise stated. References to rules are to rules promulgated in the Florida Administrative Code in effect at all times material to this proceeding unless otherwise stated.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.