

Okafor v Department of Educ. of the City of N.Y.

2026 NY Slip Op 31041(U)

March 9, 2026

Supreme Court, Kings County

Docket Number: Index No. 507718/2024

Judge: Richard Velasquez

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This opinion is uncorrected and not selected for official publication.

At an IAS Term, Part 66 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 5th day of MARCH, 2026

PRESENT:
HON. RICHARD VELASQUEZ

Justice.

-----X
EUNICE OKAFOR,

Plaintiff,

-against-

Index No.: 507718/2024
Decision and Order
Mot. Seq. No. 1

THE DEPARTMENT OF EDUCATION OF THE
CITY OF NEW YORK,

Defendants,

-----X

The following papers NYSCEF Doc #'s 1 to 31 read on this motion:

<u>Papers</u>	<u>NYSCEF DOC NO.'s</u>
Notice of Motion/Order to Show Cause	
Affidavits (Affirmations) Annexed _____	1-9
Opposing Affidavits (Affirmations) _____	14-23
Reply Affidavits _____	27-31

After having come before the Court and the court having heard Oral Argument on December 8, 2021 and after review of the foregoing papers the court finds as follows:

Petitioner respectfully requests a judgment against Respondents as for equitable relief only as follows: 1. Equitable relief against the Respondent Department of Education of the City of New York, including but not limited to a declaration that the Respondent acted arbitrarily and capriciously and compelling the DOE to clear Petitioner through the PETS system, a name clearing hearing, incidental damages and such additional relief as this Court may deem just and proper under the circumstances.

Respondents oppose the same contending there was nothing arbitrary or capricious in the decision.

FACTS

From August 28, 2008, to January 21, 2009, Petitioner was employed by the DOE as a probationary Special Education teacher at Edward R. Murrow High School, Brooklyn, New York. see NYSCEF Doc. No. 6 at ¶ 7, pg 3. Petitioner's position was subject to a three-year probationary period. See *NY Education Law* § 2573(1)(a)(i). Petitioner was discontinued from her probationary appointment on January 21, 2009. See *Petitioner's Service History*, NYSCEF Doc. No. 16. Petitioner initially appealed the termination decision to DOE's Office of Appeals and Reviews, which upheld the discontinuance. See *Appeal Decision*, NYSCEF DOC NO 17. Petitioner subsequently appealed her discontinuance and "U" rating to the Commissioner of the New York State Education Department. See *Appeal Decision*, NYSCEF DOC NO 17. The Commissioner dismissed the appeal and upheld DOE's decision to discontinue Petitioner's probationary appointment. In said decision, the Commissioner relied on formal and informal observation reports that detailed concerns for Petitioner's lessons, behavior, performance as a teacher and her students' response to her teaching.

Specifically, the observations reported Petitioner's lateness to class, unprepared and ineffective lesson plans, poor student attendance and tardiness improper correction of students, misinformation in the contents of lessons, a rigid and uncomfortable classroom environment, and interpersonal difficulties with her colleagues. The Commissioner noted that Petitioner was provided with constructive criticism and detailed suggestions for improvement. The Commissioner noted that while there were

some positive comments in the record about her abilities, however the petitioner failed to establish she was terminated for a constitutionally impermissible reason, nor did she establish respondents acted in bad faith. Since her 2009 discontinuance, Petitioner has not been employed with the DOE. See Amended Petition, NYSCEF Doc. No. 6 at ¶¶ 3-9.

In 2021, Petitioner applied for a position with an independent provider, however, her application for security clearance was denied on February 18, 2021. See Exhibit 3. Factored into the decision to deny Petitioner's security clearance application were the following: 1) her termination in or around December 2020, from Urban Dove Charter school for insubordination or other disrespectful conduct (including refusal to follow her supervisor's lawful directives), violation of personnel policies, and unsatisfactory performance and conduct; 2) her termination as a teacher in or around June 2018, from Global Community Charter School; 3) her termination from Brooklyn Urban Garden Charter School due to ongoing performance issues that were not adequately being addressed, escalating concerns and complaints from students, parents and staff; 4) Petitioner's termination from Bronx Academy of Promise due to numerous instances of unprofessional interactions with colleagues and parents complaints; 5) Petitioner's termination from UFT Charter School where she worked from August 2012, to June 2014 as a teacher; 6) Petitioner's termination from Harbor Charter School where she worked from September 2010 to June 2011, as a Resource Room Teacher; and 7) Petitioner's termination from Brooklyn Excelsior where she worked from September 2009, to June 2010 as a teacher. *Id.*; See NYSCEF DOC No.18 at ¶11. As a result of Petitioner being denied a security clearance, a problem code was placed on Petitioner's

internal OPI file and Petitioner's Personnel Eligibility Tracking System ("PETS") status noted an ineligible work status as of February 2021. See *Rodi Aff.*, NYSCEF DOC #23 at ¶ 12. Petitioner was informed that she may not reapply for a position with the DOE or a DOE vendor until twelve months from the date of the denial letter. See NYSCEF DOC No.18.

ANALYSIS

Even if this Court may have acted differently in the agency's position, it may not substitute its judgment for that of the government. See, e.g., *Peckham v. Calogero*, 12 NY3d 424, 431 (2009) (wherein the court found "[E]ven if the court concludes that it would have reached a different result than the one reached by the agency," the court "must sustain the determination," provided that it is "supported by a rational basis."); *Arrocha v. Bd. of Educ.*, 93 NY2d 361, 363 (1999) ("[I]t is well-settled that a court may not substitute its judgment for that of the board or body it reviews unless the decision under review is arbitrary and unreasonable and constitutes an abuse of discretion.") (emphasis in original) (internal quotation marks omitted); *Mid-State Mgmt. Corp.*, 112 AD2d at 76. "The decision need not be the best which could have been made and need not be free from flaws—it must only have a rational basis." *Walker v. Franco*, 275 AD2d 627, 628 (1st Dep't 2000).

In the present case, petitioner has failed to allege any facts sufficient to warrant a vacatur of the award. The allegations are nothing more than disagreements with the factual and credible determinations, which are insufficient grounds for vacatur. See *Wein & Malkin LLP v. Helmsley Spear, Inc.*, 6 NY3d 471, 479 (2006). Over the span of a twelve-day hearing, the parties were afforded a full and fair opportunity to elicit

witness testimony, present relevant evidence, and state their arguments. The Hearing Officer issued an eighty (80) page decision that sustained four subsections based on credible witness testimony and evidence, engaged in an "analysis of the facts and circumstances, evaluated witnesses' credibility and arrived at a reasoned conclusion. See *Matter of Board of Educ. of City School Dist. of N.Y. v. Ostrin*, 120 AD3d 1105, 992 NYS2d 401 (Mem), 2014 NY Slip Op. 06249.

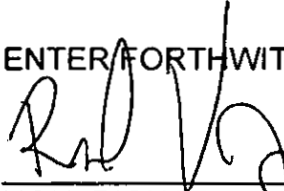
As such, petitioner fails to demonstrate that respondent's determination was arbitrary and capricious or an abuse of discretion. **"Arbitrary action is without sound basis in reason and is generally taken without regard to the facts."** *Id.* at 231, 356 NYS2d at 839, 313 NE2d at 325. No such showing has been made in the present case. As such Petitioner's Article 75 petition is hereby denied. Petitioner's conclusory statements, absent any case law, fail to set forth any basis for this court to find that the hearing officers determination was irrational arbitrary or capricious.

Accordingly, petitioners article 75 is hereby denied (MS#1)

This constitutes the Decision/Order of the court.

Dated: Brooklyn, New York
March 9, 2026

ENTER/FORTHWITH:



HON. RICHARD VELASQUEZ

Hon. Richard Velasquez, JSC

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