

<b>Matter of Pauyo v Adelphi Univ.</b>
2018 NY Slip Op 30540(U)
March 28, 2018
Supreme Court, New York County
Docket Number: 452827/15
Judge: Lynn R. Kotler
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**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: PART 8**

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In the Matter of the Application of  
DOMINIQUE PAUYO

**DECISION, ORDER AND  
JUDGMENT**

Petitioner,

INDEX NO.: 452827/15

For a Judgment under Article 78 of the  
Civil Practice Law and Rules

-against-

ADELPHI UNIVERSITY,

Present:  
Hon. Lynn R. Kotler, J.S.C.

Respodnent.  
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This is an Article 78 proceeding, whereby petitioner seeks a judgment pursuant to CPLR Article 78 “for reinstatement to the Program, a declaration that the actions taken against the petitioner were arbitrary and capricious, expungement of petitioner’s records, tuition refund, and damages from the breach of contract including lost career earning...”

In a decision/order dated April 21, 2017, the Honorable Joan Kenney granted respondents pre-answer motion to dismiss the claims under NYSHRL and ADA, only, and otherwise denied the motion. Respondents filed an answer.

After the instant proceeding was reassigned to this court, the petition was restored and calendared for December 19, 2017 (interim order dated October 17, 2017). The court’s decision follows.

In an Article 78 proceeding, the applicable standard of review is whether the administrative decision: was made in violation of lawful procedure; affected by an error

of law; or arbitrary or capricious or an abuse of discretion, including whether the penalty imposed was an abuse of discretion (CPLR § 7803 [3]).

Many facts are not in dispute. Petitioner began studying at respondent's School of Social Work in the Fall of 2011 in pursuit of a Master of Social Work degree (the "Program"). Petitioner subsequently took a leave of absence in December 2012, but ultimately completed her foundation year field placement in the 2013-2014 with passing grades at the YWCA Bergtraum High School. Petitioner was then terminated from two advanced year field placements at Kings County Hospital and Partnership for Children, and was ultimately dismissed from respondent's program as a result.

Petitioner's dismissal came as a result of a hearing held after petitioner was referred by Amina Basit, respondent's faculty liaison, based upon Petitioner's termination from the two field placements. The referral notice set forth the following reasons for referral:

Petitioner presents with difficulty in the integration and the application of the competencies in practice as it relates to individuals, families and groups. She had difficulty accepting constructive feedback and was unable to self-reflect and take ownership of her behavior. The following are competencies that have proved most challenging for [petitioner] to master.

- Student identifies as a professional social worker and conducts himself/herself accordingly:  
...
- Student demonstrates lack of professional self.

The referral notice goes on to delineate specific events which occurred at both placements.

In a notice dated April 2, 2015, petitioner was informed that a hearing was scheduled for April 16, 2015 before the Adelphi University School of Social Work Academic Standards Committee. A hearing was held, at which petitioner was present. By letter dated May 4, 2015 from Andrew W. Safyer, Ph.D., respondent's Dean and Professor of the School of Social Work, petitioner was informed that she was terminated from the program following the hearing.

Petitioner argues that her termination from the two field placements was "discriminatory, without a rational basis, and violative of [respondent's] own rules and regulations, and thus are insufficient to warrant [petitioner's] dismissal."

In a sworn affidavit, petitioner expounds on her experiences at both field placements. At Kings County Hospital, petitioner contends that she was assigned a supervisor who did not have prior experience training social work interns and "was not given the feedback or support necessary to be successful in this field placement." Petitioner further laments the "dehumanizing and unprofessional treatment" she was subject to by her supervisor at Kings County Hospital.

As for Partnership for Children, petitioner proffers that she requested not to be assigned at this agency because she had "previously been attacked by the parent of a student during a previous employment" and as a result now suffers from posttraumatic stress disorder. Petitioner's placement at Partnership for Children was terminated early, and she claims that her supervisor at this agency represented to Adelphi that the field placement should not be terminated early because petitioner was "showing improvement" and should be given more time.

Meanwhile, respondent contends that the petition should be denied, because petitioner “was terminated by two separate, independent institutions, wholly unrelated to the University, for poor performance during two consecutive and required field placements at two separate locations” (emphasis in the original). Respondent has provided a sworn affidavit by Safyer,. In his affidavit, Safyer claims that petitioner’s supervisors reported petitioner’s hostile temperament and inability to accept constructive feedback and follower her supervisors’ recommendations.

Following her termination from the Kings County Hospital placement, petitioner met with respondent’s faculty and entered into a field educational contract. Safyer explains that “[a] field educational contract is frequently used by field liaisons and professors as a learning tool for addressing issues that arise in field placement” and “creates a mutual understanding between the student and [respondent] that they will collectively address and work to improve identified issues in the field placement on a go forward basis.” Further, a student is not required to sign a field educational contract and there is no punishment for not doing so.

Petitioners first field educational contract identified two primary areas which petitioner was to work on:[1] “identify as a professional social worker and conduct myself accordingly”; and [2] “Demonstrate Professionalism.” Specific subcategories of these two areas included “[b]e receptive to feedback from field instructor, task supervisor, faculty field liaison and field staff” and “[d]emonstrate professional demeanor in behavior and communication with my field instructor and co-workers in a professional manner at all times.”

Petitioner signed a second field educational contract after she had begun her placement with Partnership with Children which largely identified the same areas needing improvement.

In *Matter of Olsson v. Board of Higher Educ. Of City of N.Y.*, the Court of Appeals explained that the decision of an educational institution with regards to the issuance of a diploma to one of its students is afforded great deference, and should only be disturbed “if an institution exercises its discretion in an arbitrary or irrational fashion (49 NY2d 408, 414 [1980]). This precedent is based upon public policy because “[w]hen an educational institution issues a diploma to one of its students, it is, in effect, certifying to society that the student possesses all of the knowledge and skills that are required by his [or her] chosen discipline” (*id.* at 413).

Here, the court cannot say that respondent’s decision to dismiss petitioner was either arbitrary or irrational. While petitioner offers various excuses for the problems she experienced at both of her placements, and claims that the placements otherwise did not conform to respondent’s standards and policies, the court cannot supplant its judgment for that of respondent’s as to whether petitioner is entitled to continue in the program. Respondent has offered a clear rationale for its decision to dismiss petitioner from the program. While petitioner maintains that she would have been successful at another placement, that reason, standing alone, does not warrant the relief she seeks. Indeed, social work is a field necessarily involving the public-at-large. Petitioner’s demonstrated difficulties in working with people support respondent’s determination.

Accordingly, based upon the foregoing, the petition is denied.

