

**Colarusso v Pace Univ.**

2025 NY Slip Op 32349(U)

July 2, 2025

Supreme Court, New York County

Docket Number: Index No. 154868/2024

Judge: Ariel D. Chesler

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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. ARIEL D. CHESLER PART 62M**

*Justice*

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DEANNA COLARUSSO

Petitioner,

- v -

PACE UNIVERSITY,

Respondent.

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INDEX NO. 154868/2024

MOTION DATE 02/21/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

Upon the foregoing documents, it is

In this proceeding, Petitioner seeks an Order pursuant to Article 78 of the CPLR to reinstate her into the Doctor of Philosophy Program in Clinical Psychology with Health Care Emphasis (“the PhD Program”) as petitioner asserts that the University did not follow its procedures when dismissing her, that the decision to dismiss her was arbitrary and capricious and that the sanction of dismissal was an abuse of discretion.

**BACKGROUND**

Petitioner enrolled in the PhD Program at Pace University (“the University”) in the Fall semester of the 2019-2020 academic year. The program prepares students for careers in research and clinical practice, with rigorous training in ethics, assessment, intervention, and consultation. (Wang Aff., ¶¶ 6-7 [NYSCEF Doc. 24]). Throughout her enrollment, Petitioner was subject to multiple disciplinary actions stemming from repeated violations of ethical and professional standards. This misconduct came to the PhD Program’s attention when the University’s

Institutional Review Board (“IRB”) received complaints concerning Petitioner’s unacceptable treatment of study participants. (Wang Aff., ¶ 8 [NYSCEF Doc. 24]); (Suchday Aff., ¶ 20 [NYSCEF Doc. 29]).

During the Fall 2020 semester, Petitioner served as a lab member and research investigator in the Psychology Department’s Mind, Movement, Interaction and Development (“MMID”) lab study directed at understanding impacts of the COVID-19 pandemic on the parenting of children. In an effort to increase participation in the study, Petitioner was found, without approval, to have used Amazon’s MTurk<sup>1</sup> platform to pay people to participate. Petitioner failed to obtain the required approval from the Institutional Review Board (“IRB”) to pay study subjects nor were the identities of the subjects anonymous, in violation of the study’s approved protocols. Additionally, Petitioner directly contacted study participants and scolded them for their responses to the survey (Wang Aff., ¶ 30 [NYSCEF Doc. 24]; Suchday Aff., ¶ 20 [NYSCEF Doc. 29]).

Although the conduct was grave, the Program Committee opted for remediation rather than dismissal due to Petitioner’s early stage in the program (Wang Aff., ¶ 34 [NYSCEF Doc. 24]). She was suspended from human subject research and required to complete a reflective ethics paper. She was warned that future violations would warrant dismissal. (*id.* at ¶ 36). As a result of Petitioner’s misconduct, the MMID study was suspended and the investigators were directed not to utilize any data from the study in connection with publications until further notice (*id.* at ¶ 35; Suchday Aff., ¶ 21 [NYSCEF Doc. 29]). Petitioner completed the required reflection and continued through the program.

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<sup>1</sup> Amazon Mechanical Turk (MTurk) is a crowdsourcing marketplace that makes it easier for individuals and businesses to outsource their processes and jobs to a distributed workforce who can perform these tasks virtually.

In August 2021, Petitioner was again disciplined, this time for clinical misconduct at the McShane Center for Psychological Services. In a report of the Standing Disciplinary Committee for the PhD Program in Clinical Psychology (the “Disciplinary Committee”), Petitioner was found to have committed three violations, including: (1) a violation of the McShane Center’s policies regarding patient communications, and subsequent apparent attempt to mask her misconduct by deleting emails; (2) the provision of unlicensed care to a patient that resided outside of New York State in violation of licensing regulations and practice rules that prohibit the provisions of psychological services in a state where Petitioner’s supervisor was not licensed; and (3) falsification of the dates of services provided to the out-of-state patient, resulting in inaccurate patient medical records (Wang Aff., ¶ 39 [NYSCEF Doc. No. 24]; Suchday Aff., ¶ 23 [NYSCEF Doc. 29]).

While the PhD Program faculty considered whether Petitioner’s conduct warranted dismissal, ultimately, the majority continued to hope Petitioner could be remediated with more training and guidance (Wang Aff., ¶ 41 [NYSCEF Doc. No. 24]). Petitioner was placed on one year of academic probation and barred from courses, externships, and research. Instead, Petitioner was required to complete a tailored ethics curriculum and in-house clinical training (*id.*).

Following this, on October 18, 2021, Petitioner, though not required to do so, sent an email to the Program committee with an attached document she prepared to respond to the Disciplinary Committee’s report that included excerpts from clinical records that she had anonymized. (Wang Aff., ¶ 44 [NYSCEF Doc. No. 24]). The McShane Center Policy manual provides that “[d]ue to the insecure nature of emails, intake reports and other forms of clinical information are not to be communicated via email even if de-identified in order to protect Private

Health Information of clients” (Wang Aff. ¶ 45 [NYSCEF Doc. No. 24]). She claimed informed consent permitted her use, but the Committee clarified that such consent was limited to treatment purposes and did not authorize the use of patient information for student training purposes. The incident was added to her record but did not result in separate discipline. The Program Committee did not impose additional discipline, but again warned Petitioner that further breaches of academic integrity expectations or ethical codes would be grounds for dismissal from the program (*id.* at ¶ 48).

Petitioner received an email stating she had fulfilled the terms of her disciplinary plan, and her probation was listed so she could enroll in classes for Fall 2023, and only needed to complete additional clinical experiences that the Director the McShane Center deemed necessary to bolster her skills upon her return, per the original disciplinary letter sent to Petitioner on August 18, 2021. However, throughout Fall 2023 and Spring 2024, Petitioner failed to complete these experiences, justifying in multiple emails why she felt that she did not need to engage in them to fulfill her remedial plan (Wang Aff., ¶ 50 [NYSCEF Doc. 24]). In light of this, in Spring 2024, the PhD Program faculty agreed that if Petitioner could demonstrate adequate clinical skills by passing the clinical comprehensive exam, she would be allowed to proceed in her clinical training without the recommended additional clinical experiences (*id.*). Yet, in April 2023, Petitioner failed her clinical comprehensive examination. She was told by Program Director Dr. Shirely Wang that she was required to retake the examination by the end of summer 2023 to continue in her clinical training. Petitioner never agreed to nor attempted to retake the exam (*id.*)

In or around late August 2023, all investigators listed on the COVID-19 study that was suspended in 2020 were informed by the IRB that there had been a Report of Continuing Non-

Compliance with the IRB's suspension of the MMID study. The investigators were all reminded that no data from the study was to be submitted for publication while the study was suspended (Wang Aff., ¶ 51 [NYSCEF Doc. 24]). Around August 2023, the PhD Program became aware that in late 2022 and early 2023, Petitioner had submitted presentation abstracts to two national conferences hosted by the APA and the Association for Psychological Science ("APS") in an effort to be accepted to present at the conferences in Spring 2023 (*id.* at ¶ 52). The abstracts not only listed Petitioner as an author, but listed co-authors without their consent or permission (Suchday Aff., ¶¶ 17, 25 [NYSCEF Doc. 29]). Additionally, the abstracts purported to present data and analysis from the MMID study that the IRB suspended in 2020 because of Petitioner's misconduct (*id.* at ¶ 56).

Petitioner did not apparently follow through to present at either the APA or APS conference. However, she continued to represent on her LinkedIn page that she authored the abstracts and, at the very least, implied that she had presented at the conferences by listing the dates of each conference along with the abstract title and conference name and location (Wang Aff., ¶ 57 [NYSCEF Doc. 24]). An Ad Hoc Committee of the Program Committee ("Ad Hoc Committee") convened to review Petitioner's conduct as it related to the submission of the conference abstracts. The Ad Hoc Committee recommended that Petitioner be dismissed from the Program. The Program Committee accepted the Ad Hoc Committee's recommendation and voted to dismiss Petitioner from the PhD Program (Wang Aff., ¶ 66 [NYSCEF Doc. 24]; Suchday Aff., ¶ 27 [NYSCEF Doc. 29]).

Pursuant to the dismissal procedures in the Manual and the Catalog, on October 24, 2023, Dr. Wang met with Petitioner and Ad Hoc Committee members to discuss her dismissal. During that meeting, Petitioner was informed that she could provide any information she wanted to be

conveyed to the Department Faculty when it convened to vote on her dismissal (Wang Aff., ¶ 67 [NYSCEF Doc. 24]). The Department met on October 27, 2023, to discuss Petitioner's dismissal and had the opportunity to ask questions of the Program Committee and engaged in deliberations. Ultimately, the majority of the faculty voted to accept the Program Committee's recommendation of dismissal (*id.* at ¶ 69.; Suchday Aff., ¶ 28 [NYSCEF Doc. 29]). Petitioner was notified of the faculty vote and her right to appeal on October 30, 2023.

Petitioner submitted a written appeal and listed twenty bases for her appeal (*see* NYSCEF Doc. 5). Petitioner first argued that the procedures set forth in the University Academic Integrity Code (the "AIC") were not followed, and that the procedures in the Manual and Catalog conflicted with the procedures in the AIC. Petitioner also argued that the Program Committee did not correctly summarize her prior discipline by the Program and Department. She stated that she had not been on "two remediation plans," and had not been on "two probationary semesters, nor one suspension and one probation semester" and claimed that she had consistently met all program requirements in terms of competencies and grades. Petitioner also took issue with the Ad Hoc Committee's finding that she did not receive consent or permission to her co-authors on the poster abstracts for the conferences and argued that she was not aware that she could not use data from the MMID study.

Pursuant to the manual's dismissal procedures, a three-person Ad Hoc Appeals Committee ("Appeals Committee") was appointed to review Petitioner's appeal. The Appeals Committee reviewed Petitioner's appeal, and ultimately, unanimously recommended that Petitioner should not be re-instated. Dr. Suchday agreed with the recommendation, and informed Petitioner that her appeal was denied on January 4, 2024 (Suchday Aff., ¶¶ 43-46 [NYSCEF Doc. 29]).

Petitioner then commenced the instant proceeding on May 24, 2024, challenging her dismissal.

## DISCUSSION

With respect to Article 78 proceedings, the nature of the Court's review is extremely limited. "The proper standard of review [in an Article 78 proceeding] is whether [the subject] determination was made in violation of lawful procedure, was affected by an error of law, was arbitrary and capricious, or was an abuse of discretion. If we find that the determination is supported by a rational basis, we must sustain the determination even if we conclude that we would have reached a different result than the one reached by the agency. Further, courts must defer to an administrative agency's rational interpretation of its own regulations in its area of expertise" (*Franklin St. Realty Corp. v NYC Envtl. Control Bd.*, 164 AD3d 19, 23-24 [1st Dept 2018] [internal citations omitted]).

Disciplinary actions taken by universities are subject to limited judicial review because "the administrative decisions of educational institutions involve the exercise of highly specialized professional judgment and these institutions are, for the most part, better suited to make relatively final decisions concerning wholly internal matters...." (*Meisner v. Hamilton, Fulton, Montgomery Bd. of Cooperative Educ. Servs.*, 175 AD3d 1653, 1655 [3d Dept. 2019]; *Powers v. St. John's Univ. Sch. of Law*, 25 NY3d 210, 216 [2015] [citations omitted] ["[c]ourts have a 'restricted role' in reviewing determinations of colleges and universities"]). Accordingly, when a student disciplined by a university challenges the discipline through an Article 78 proceeding, courts are limited to considering only if the university substantially complied with its own rules and procedures and whether its actions were in fact arbitrary or capricious (*Tedeschi v. Wagner College*, 49 NY2d 652, 660 [1980]; *Matter of Susan M. v. New York Law Sch.*, 76 NY2d

241, 246 [1990] [a court’s review of decisions of universities concerning the academic performance of students is “limited to the question of whether the challenged determination was arbitrary and capricious, irrational, [or] made in bad faith...]; *Meisner*, 175 AD3d at 1656; *Dequito v. New Sch.*, 68 AD3d 559, 559 [1st Dept. 2009]). A decision is arbitrary and capricious when it is made “without sound basis in reason and... without regard to the facts” (*Matter of Pell v. Board of Educ. of Union Free Sch. Dist. No. 1 of Towns of Scarsdale & Mamaroneck*, 34 NY2d 222, 231 [1974]).

Petitioner alleges that the procedures set forth in the University AIC were not followed, and that the procedures in the Manual and Catalog conflicted with the procedures in the AIC (*see* NYSCEF Doc. 5). Petitioner states that “Respondent failed to follow its own rules and regulations in dismissing Petitioner from the Graduate Program” (Petition, ¶ 24 [NYSCEF Doc. 1]). However, this argument is without merit. Rather, it constituted a breach of the professional and ethical conduct expectations set forth in the Program’s Manual (*see* Policies and Procedures Manual, [NYSCEF Doc.14]). The Manual expressly provides that breaches of professional conduct unrelated to coursework are to be adjudicated by the Program Committee. The AIC, for its part, acknowledges that behavioral misconduct is to be addressed under separate procedures. There is no conflict between the two policies. Therefore, the University acted appropriately in applying the procedures outlined in the Manual and Catalog.

Furthermore, the AIC itself directs that behavioral and ethical misconduct be decided under alternative procedures, and the Manual plainly provides that such cases fall within the jurisdiction of the Program Committee. The University’s actions in following the procedures set out in its internal Program documents, including referral to an Ad Hoc Committee, Program Committee deliberation, and departmental faculty vote, complied with its own rules.

Accordingly, Petitioner's procedural challenge based on the applicability of the AIC fails. The University was not obligated to apply the AIC where it was inapplicable, and the record reflects substantial compliance with the governing procedures for professional misconduct. Courts must be deferential to the professional judgment of academic institutions in matters of internal discipline and policy, particularly where the institution has followed its stated and standard procedures (*see Meisner*, 175 AD3d at 1656). Absent any showing of a procedural violation or bad faith, there is no basis to disturb the University's determination on this ground.

Petitioner further asserts that the University failed to follow its internal procedures during the appeal process, alleging that the Appeals Committee was "biased" and improperly constituted. However, the record reflects no procedural deviation, and Petitioner fails to identify any violation of a governing policy or rule that would warrant setting aside the outcome of the appeal.

Under the applicable Program Manual, the appeals process is triggered by a written appeal to the Department Chair, who is then tasked with forming a three-member faculty Ad Hoc Appeals Committee. The Manual does not prescribe any specific qualifications, affiliations, or disqualifications for faculty members selected to serve. Rather, it vests discretion in the Chair to appoint appropriate members of the Department. In this case, the Department Chair followed the prescribed process, appointing three faculty members, two of whom were not core members of the PhD Program and none of whom had a direct supervisory relationship with Petitioner during the relevant academic year. The formation of the Appeals Committee thus complied with the essence of the governing procedure (see Policies and Procedures Manual, [NYSCEF Doc.14]).

Although Petitioner speculates that the faculty were biased against her, there is no support in the record for this claim. Mere disagreement with the outcome is insufficient to

establish bias. Notably, the Appeals Committee went beyond what the Manual requires by meeting directly with Petitioner to hear her concerns, and its written recommendation demonstrates a reasoned and deliberate review of the record, including Petitioner's statement, prior disciplinary actions, prior second chances, and the Program's findings. The final determination, consistent with the Manual, was made not by the Appeals Committee itself but by the Department Chair, who accepted the Committee's recommendation (*see* NYSCEF Doc. 8; NYSCEF Doc.14).

The First Department has rejected similar challenges where a Petitioner failed to demonstrate that the composition of an academic review body violated any explicit policy or that its procedures lacked fundamental fairness (*see Dequito*, 68 AD3d at 559 [rejecting claim of improper process where professor who reported the misconduct also sat on the committee, as school policies did not prohibit it]). Here, Petitioner identifies no such violation. The appeals process complied with the Manual and offered Petitioner an opportunity to be heard and for her written submissions to be reviewed. The committee's structure and procedures do not warrant judicial interference.

Accordingly, the Court finds no merit to Petitioner's claim that the University failed to follow its appeals procedures or that the Appeals Committee was improperly or unfairly constituted. The University acted within the bounds of its published procedures, and no irregularity appears on the record that would justify disturbing the outcome.

Petitioner contends that her dismissal lacked a rational basis and was motivated by bad faith. However, the record before the Court does not support such a conclusion. Rather, the University's determination reflects a careful and deliberate process, supported by substantial documentation and input from multiple faculty committees and advisors. The record establishes

that Petitioner engaged in a pattern of unprofessional and unethical conduct over multiple years, beginning with research violations involving human subjects, followed by clinical misconduct, and culminating in misrepresentation relating to conference abstracts.

Despite the seriousness of these incidents, the University repeatedly and compassionately opted for remediation over dismissal. Petitioner was placed on academic probation, assigned specialized ethics training, and warned explicitly that further violations could result in her removal from the program. Despite everything, Petitioner continued to engage in conduct that violated professional norms and institutional policies, prompting a final round of review that included: an Ad Hoc Committee investigation, recommendation by the Program Committee, a vote of the full faculty, and an appeal process involving an independent committee and final review by the Department Chair. This multi-level process, as documented in the record, supports the reasoned basis for the University's decision (*see* NYSCEF Doc. 20; NYSCEF Doc. 29). The Court is mindful that dismissal from a doctoral program is a severe sanction, with potentially career altering consequences.

Petitioner's denial of wrongdoing, while noted, does not suffice to overcome the reasoned and multi-leveled institutional response reflected in the record. It is not a single incident but rather the cumulative nature of Petitioner's conduct, across research, clinical, and ethical domains, that supports the University's conclusion that she no longer met the standards of professional conduct expected of a PhD candidate.

Accordingly, the Court finds that the University's decision to dismiss Petitioner was not arbitrary, capricious, or an abuse of discretion. Rather, it was the result of a reasoned and well documented process that complied with regular procedures and reflected the University's legitimate academic and ethical standards.

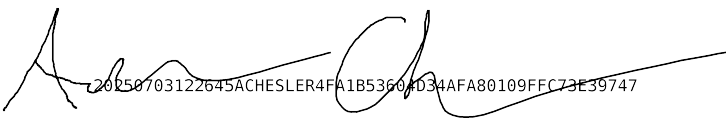
Accordingly, it is hereby

**ORDERED**, that the Petition is denied and the proceeding dismissed, with prejudice; and

it is further

**ORDERED**, that there being no other applications, this proceeding is closed.

This constitutes the Decision and Order of the Court.



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7/2/2025

DATE

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ARIEL D. CHESLER, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE