

**O'Connor v Columbia Univ.**

2025 NY Slip Op 32896(U)

July 24, 2025

Supreme Court, New York County

Docket Number: Index No. 150532/2024

Judge: Nicholas W. Moyne

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

**PRESENT:** HON. NICHOLAS W. MOYNE **PART** **41M**

*Justice*

-----X

ANITA O'CONNOR

Petitioner,

- v -

COLUMBIA UNIVERSITY,

Respondent.

-----X

**INDEX NO.** 150532/2024

**MOTION DATE** 04/25/2024

**MOTION SEQ. NO.** 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 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 were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

Upon the foregoing documents, it is

The application by Petitioner Anita O'Connor ("Ms. O'Connor" or "Petitioner") for judgment pursuant to Article 78 of the Civil Practice Law and Rules seeking to annul and set aside Columbia University's decision to terminate her candidacy for the Doctor of Public Health (DrPH) program is hereby denied and the cross-motion by Respondent The Trustees of Columbia University in the City of New York to dismiss the Verified Petition is hereby granted.

**PROCEDURAL POSTURE**

Petitioner Anita O'Connor brings this Article 78 proceeding, arguing that Columbia University's decision to terminate her DrPH candidacy was arbitrary and capricious, violated due process, and conflicted with the University's own rules and regulations regarding dissertation revision timelines and appeal processes. Petitioner seeks an order vacating the termination decision, reinstating her, accepting her thesis, and permitting her to receive her doctoral degree.

Respondent Columbia University cross-moves to dismiss the Verified Petition, asserting that the petition is time-barred and that, even if timely, the University's decision was a rational exercise of academic judgment that substantially complied with its policies and procedures.

**FACTUAL BACKGROUND**

Petitioner Anita O'Connor was admitted into Columbia University's Mailman School of Public Health's (Mailman) DrPH program in the Department of Environmental Health Sciences (EHS) in Spring 2001. The DrPH program has an expected completion

time of seven years for both full-time and part-time students. Ms. O'Connor remained enrolled in the program for over twenty years.

In October 2019, Ms. O'Connor presented a thesis completion plan with a projected completion date of May 2020, which she did not meet. On February 5, 2022, Clare Norton, former Associate Dean for Enrollment Management, notified Ms. O'Connor that her candidacy would be terminated if she did not complete her dissertation by May 9, 2022.

Ms. O'Connor requested an appeal of this May 9, 2022 deadline. The EHS Department agreed to submit the appeal on her behalf, contingent on her developing a detailed thesis completion plan, meeting weekly with her advisor, and giving a formal presentation. On April 15, 2022, the appeal was submitted, requesting an extension until December 2022. On May 26, 2022, Dean Norton granted the appeal, extending Ms. O'Connor's candidacy until December 23, 2022. The notification explicitly stated that if the requirements were not completed by this date, her degree candidacy would be terminated, and that no additional appeal would be possible.

As the December 2022 deadline approached, Ms. O'Connor sought and received a six-week extension from Columbia's Office of Disability Services, extending her thesis deadline to March 1, 2023. Ms. O'Connor's dissertation defense was scheduled for February 27, 2023. Despite a requirement for submission four weeks prior, she submitted her manuscript on February 24, 2023, giving the committee only a weekend to review it. Her dissertation was conditionally accepted but was subject to major revisions. The Dissertation Committee stipulated that a list of specific revisions must be provided by March 1, 2023, and that revisions "must be presented to the full committee by 5/1/2023, with a final due date of 6/1/2023." The evaluation form further stated that if major revisions were not satisfactorily completed within the stipulated time, conditional acceptance would be void, and the dissertation would be designated "Not Accepted". These deadlines were reiterated to Ms. O'Connor on March 1, 2023.

On May 1, 2023, the deadline for initial revisions, Ms. O'Connor failed to provide them. Instead, she unilaterally requested an extension until May 8, 2023, citing a demanding new full-time job. Committee members, including Dr. Orjuela and Dr. Herbstman, responded that there was no flexibility regarding the May 1st deadline and that they needed the revisions as soon as possible.

Ms. O'Connor did not submit revisions by her self-imposed May 8th deadline. On May 10, 2023, the Dissertation Committee, in conjunction with the EHS Department, decided to terminate Ms. O'Connor's candidacy due to her failure to meet the requirements and deadlines. Dr. Herbstman informed Ms. O'Connor of this decision on May 11, 2023. Committee emails reveal frustration with her repeated missed deadlines and a determination to uphold the integrity of the program. On May 23, 2023 (erroneously dated May 24, 2023), Dean Sandra Bernal Garcia sent Ms. O'Connor an official letter summarizing her previous appeal, the deadlines, and the termination of her candidacy due to her dissertation being declined for acceptance. Despite the termination, Ms. O'Connor submitted her revisions on May 31, 2023, stating her

University email had been unsynced from her phone. The Committee did not review this submission as her candidacy had already been terminated. Ms. O'Connor met with Dean Bernal Garcia on June 22, 2023, who reiterated that Ms. O'Connor had exhausted her appeal in May of 2022 and had no further right to appeal the termination decision.

In July 2023, Ms. O'Connor hired private counsel, Tara Fappiano, who contacted Columbia's General Counsel, Donna Fenn. On September 21, 2023, Ms. Fenn informed Ms. Fappiano that Columbia would not reconsider its decision, and it was final. Ms. Fappiano's request for an independent review or a formal appeal process was "rebuffed" on October 18, 2023, with Ms. Fenn confirming that Ms. O'Connor had exhausted her right to appeal in May 2022. Ms. Fenn noted these communications were for settlement purposes only and did not constitute a new decision.

## **LEGAL STANDARDS**

### **A. Scope of Judicial Review under Article 78**

Judicial review of decisions made by private universities, such as Columbia University, is limited in scope under Article 78 of the Civil Practice Law and Rules. Courts generally grant significant deference to a university's academic judgments, recognizing that such decisions involve professional expertise best suited to the institution itself. The Court's role is not to substitute its own judgment for that of the university but to determine "whether the determination was made in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion, including abuse of discretion as to the measure or mode of penalty or discipline imposed".

Unlike students at public institutions, students at private universities are not afforded the "full panoply of due process rights". Instead, judicial intervention is warranted only if the university failed to substantially observe its own established procedural rules or guidelines, or if its actions were arbitrary or irrational. "Perfect adherence to every procedural requirement... is not necessary to demonstrate substantial compliance". An action is considered "arbitrary and capricious where it is not rationally based or has no support in the record".

### **B. Statute of Limitations**

Proceedings under Article 78 are subject to a four-month statute of limitations period. This period begins to run when the determination becomes "final and binding on petitioner," meaning when the petitioner is on notice that all administrative appeals have been exhausted and the decision is conclusive. Pre-litigation settlement discussions do not extend the statute of limitations.

## APPLICATION OF LAW TO FACTS

### I. The Verified Petition is Time-Barred.

Columbia correctly argues that the Petition is time-barred. The final and binding determination to terminate Ms. O'Connor's candidacy was communicated to her on May 11, 2023, by Dr. Julie Herbstman. This was followed by an official written notification from Dean Sandra Bernal Garcia on May 23, 2023 (erroneously dated May 24, 2023), which explicitly summarized the prior appeal and the warning that "no additional appeal would be possible". This letter served as the "official notification" of her dismissal from the program. Director Nina Kulacki further reiterated on June 1, 2023, that Ms. O'Connor's thesis was not approved, and the committee was unable to consider it further.

The four-month statute of limitations period for an Article 78 proceeding began no later than May 23, 2023. Therefore, the deadline to file the Petition would have been in September 2023. Ms. O'Connor's Verified Petition was filed on January 19, 2024, approximately eight months after the final decision and well beyond the four-month statutory period.

Petitioner's argument that the decision became final only after her attorney's discussions with Columbia's General Counsel on September 21, 2023, is unpersuasive. Ms. Fenn explicitly stated that her communications with Ms. Fappiano were "for settlement purposes only". Settlement negotiations do not serve to extend the statute of limitations. Ms. O'Connor's counsel acknowledged in an August 4, 2023 letter that there was "no... appeal process" and in a November 10, 2023 email that "there was never a right of appeal from this determination in the first place--at least according to Columbia". This demonstrates that Ms. O'Connor was on notice of the finality of the decision well within the statutory period.

Accordingly, the Petition is time-barred and must be dismissed.

### II. Columbia's Decision Was Neither Arbitrary, Capricious, Nor an Abuse of Discretion.

Even if the Petition were timely, it fails to establish that Columbia's actions were arbitrary, capricious, or a violation of due process.

#### A. Deference to Academic Judgment and Rational Basis

The Court defers to Columbia's academic judgment in determining degree requirements and a student's academic performance. Columbia's decision to terminate Ms. O'Connor's candidacy was based on her "failure to meet the academic requirements necessary to obtain her Dr.PH degree". This decision was rationally based on a long history of Ms. O'Connor's non-compliance with academic expectations and deadlines, rather than being arbitrary. She was in a 7-year program for over 20 years. The Dissertation Committee members explicitly expressed their "frustration" and concerns about "the integrity of the program" due to Ms. O'Connor's repeated missed

deadlines and what they perceived as a lack of professionalism. This constitutes a rational academic judgment within the University's purview.

## B. Substantial Compliance with Policies and Procedures

1. **Dissertation Revision Deadlines:** Petitioner argues that the Dissertation Committee violated the DrPH Handbook by requiring revisions "no sooner than three months" from the defense date, noting her defense was February 27, 2023, and the May 1, 2023, initial submission deadline was "only two months and one day" later. However, the DrPH Student Handbook states that major revisions must be "completed no sooner than three months and no later than one year from the date of the dissertation defense". The committee set a final due date of June 1, 2023, for the dissertation to be certified as acceptable. June 1, 2023, is more than three months from the February 27, 2023 defense date, thus complying with the "no sooner than three months" provision for the final completion of revisions. The May 1, 2023 date was for initial revisions to the full committee, allowing for subsequent finalization by June 1, 2023. Ms. O'Connor missed both the May 1, 2023, deadline and her self-imposed May 8, 2023, extension. Her subsequent submission on May 31, 2023, was after the committee's decision to terminate her candidacy on May 10/11, 2023.

2. **Appeal Process and Due Process:** Petitioner claims she was denied an appeal for the termination decision and lacked notice of the "closed-door meeting". However, the Mailman Student Handbook provides for a "one-time appeal process" for students terminated due to poor satisfactory academic progress. Ms. O'Connor was afforded and utilized this appeal process in April 2022, when she successfully sought an extension of her candidacy deadline from May 9, 2022, to December 23, 2022. She was explicitly informed at that time that "No additional appeal will be possible" regarding her DrPH candidacy termination if she failed to meet the new deadline. Therefore, Columbia substantially complied with its own established appeal procedures. As a private university, Columbia is not required to provide the same full panoply of due process rights as public institutions. While Ms. O'Connor was not present at the May 10, 2023 committee meeting, she had clear prior notice from the May 2022 letter about the consequences of not meeting her deadlines.

3. **Inapplicability of Other Policies:** Petitioner's reliance on the University's "Standards and Discipline" handbook (for misconduct) and "Grade Grievance Procedures" (for contesting grades) is misplaced. These policies are not applicable to academic judgments concerning dissertation completion and program termination for academic progression failures. Ms. O'Connor's termination was for academic reasons, specifically her failure to meet dissertation requirements and deadlines, not for misconduct.

**Conclusion on Arbitrary and Capricious:** The record demonstrates that Columbia University's decision was a rational academic judgment, made after providing numerous extensions and accommodations over an extended period. The University substantially adhered to its own policies regarding deadlines and appeal processes for academic standing. Ms. O'Connor's prolonged enrollment and repeated failure to meet deadlines,

despite multiple chances, provided a rational basis for the University’s decision to uphold the integrity of the program and the degree.

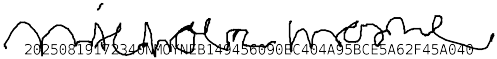
**CONCLUSION**

Based on the foregoing, the Court finds that the Verified Petition is time-barred. Furthermore, even on the merits, Petitioner has failed to demonstrate that Columbia University’s decision was arbitrary and capricious or that it failed to substantially comply with its own rules and regulations. The University’s decision to terminate Ms. O’Connor’s DrPH candidacy was a proper exercise of academic judgment, reached after due consideration and in accordance with its established policies and the appeals process afforded to the Petitioner.

Therefore, the Petition is **DENIED** in its entirety, and Respondent’s Cross-Motion to Dismiss is **GRANTED**.

**IT IS HEREBY ORDERED** that the Verified Petition is dismissed with prejudice.

This constitutes the decision and order of the Court.

  
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<u>7/24/2025</u> DATE		<u>NICHOLAS W. MOYNE, J.S.C.</u>
CHECK ONE:	<input checked="" type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> NON-FINAL DISPOSITION
	<input type="checkbox"/> GRANTED	<input checked="" type="checkbox"/> DENIED
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> OTHER
		<input type="checkbox"/> SUBMIT ORDER
		<input type="checkbox"/> FIDUCIARY APPOINTMENT
		<input type="checkbox"/> REFERENCE