

Morgenroth v Aviles-Ramos

2025 NY Slip Op 34297(U)

November 12, 2025

Supreme Court, New York County

Docket Number: Index No. 161589/2025

Judge: Lyle E. Frank

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

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BENJAMIN MORGENROTH, DAVID FIRESTONE,
ANTHONY SEGRETI, PETER LITMAN

Petitioner,

INDEX NO. 161589/2025

MOTION DATE 09/01/2025

MOTION SEQ. NO. 001

- v -

MELISSA AVILES-RAMOS, THE BOARD OF EDUCATION
OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW
YORK,

Respondent.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 15, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28

were read on this motion to/for INJUNCTION/RESTRAINING ORDER.

Upon the foregoing documents, the order to show cause is denied and the cross-motion to dismiss the petition is granted.

Background

Petitioner Morgenroth is a Brooklyn teacher who was a candidate for the office of Teacher-Member of the Retirement Board for the NYC Teacher’s Retirement System in the 2025 election. The remaining petitioners are signatories to Petitioner Morganroth’s nominating petition. During the process of gathering signatures for his candidate nomination, Petitioner Morganroth added mailing instructions to the bottom of each petition, a practice that had been done by both him and the successful candidate in the 2024 election for the same position. In April of 2025, a teacher filed a written objection to Petitioner Morganroth’s petitions, on the grounds that the mailing instructions violated the BOE’s instructions that all petitions must use a proscribed form which may not be edited. In response, the BOE invalidated the edited petitions,

noting that the addition of one candidate's mailing address to the official form might give the impression of partiality. Petitioners brought the underlying Article 78 petition, seeking to challenge this decision. The present motion is Petitioners' order to show cause seeking the relief sought in the petition, and Respondents have cross-moved to dismiss the petition.

Standard of Review

A party may bring an Article 78 petition to challenge the final determination of an administrative agency. CPLR § 7801(1). A court must give great deference to the agency's decision and cannot "interfere unless there is no rational basis for the exercise of discretion or the action complained of is arbitrary and capricious." *Pell v. Board of Education*, 34 N.Y.2d 222, 231 [1974]. Judicial review is also available if the agency's determination was "contrary to law or procedure." *Barrett Japaning, Inc. v. Bialobroda*, 190 A.D.3d 544, 545 [1st Dept. 2021]. An action is irrational or arbitrary and capricious if "it is taken without sound basis in reason or regard to the facts." *Matter of A.Z. v. City Univ. of N.Y., Hunter Coll.*, 197 A.D.3d 1027, 1027 [1st Dept. 2021].

Discussion

Petitioners argue that the decision to invalidate the petitions for violating the BOE instructions violates both the state and U.S. constitutions, New York election law, and constituted arbitrary and capricious action. Respondents oppose and argue that the decision was not arbitrary and capricious, and that the constitutional articles cited by Petitioners do not apply to private elections such as the election at issue here. For the reasons that follow, the cross-motion to dismiss the petition is granted as the constitutional arguments are unavailing and the enforcement of the agency rule at issue cannot be said to be irrational.

The Decision to Invalidate the Petitions Was Not Arbitrary or Capricious

Petitioners argue that the invalidation decision was arbitrary and capricious because a candidate's petition cannot be invalidated unless it was permeated with fraud. They cite to cases where a petition was invalidated for fraudulent signatures. *See, e.g., Buchanan v. Espada*, 230 A.D.2d 676 [1st Dept. 1996]. But here, Petitioner Morganroth's petitions were not invalidated for fraudulent signatures, but for violating the agency guidelines about not editing the petition form. An agency's "construction and interpretation of its rules are entitled to greatest weight" in Article 78 proceedings. *Rosenkrantz v. McMickens*, 131 A.D.2d 389, 390 [1st Dept. 1987]. Here, it cannot be said to be an arbitrary or capricious interpretation of the agency's rules that the prohibition on editing the petition form includes adding a candidate's mailing information to the bottom of the form. The Court cannot substitute its own interpretation of the agency's rule when the agency's interpretation is not irrational.

Petitioners also cite to *McKeon* for the proposition that a "mere irregularity" does not invalidate a petition. *McKeon v. Municipal Credit Union of New York*, 58 A.D.2d 761, 761 [1st Dept. 1977]. But that case does not stand for the proposition that an agency may not invalidate a petition for violating an agency rule if the rule is minor. Furthermore, where a petition seeks mandamus relief, as is the case here, the petitioner "must have a clear legal right to the relief demanded and there must exist a corresponding nondiscretionary duty on the part of the administrative agency to grant that relief." *Scherbyn v. Wayne-Finger Lakes Bd. of Coop. Educ. Servs.*, 77 N.Y.2d 753, 757 [1991]. Petitioners have not here established that there is a nondiscretionary duty on the part of Respondents to accept petitions that have been edited in violation of the agency rules.

Petitioners' Constitutional Arguments Are Misplaced

Petitioners cite to the state and federal constitutions and argue that the decision to invalidate the petitions violated Petitioner Morganroth’s constitutional rights. Respondents rightly point out that the articles cited apply to public elections. The election for membership on the teacher retirement system board is a private election that is governed by NYC Administrative Code Section 13-507. Petitioners recognize the applicability of Section 13-507 in their amended petition, and do not allege that the decision to invalidate the petitions violated that code.

Accordingly, it is hereby

ADJUDGED that the order to show cause is denied; and it is further

ORDERED and ADJUDGED that the cross-motion to dismiss the petition is granted.

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11/12/2025
DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/>	SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE