

Fisher v New York Univ.
2026 NY Slip Op 31585(U)
April 9, 2026
Supreme Court, New York County
Docket Number: Index No. 160132/2025
Judge: David B. Cohen
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DAVID B. COHEN PART 58

Justice

-----X

ARMANI FISHER

Petitioner,

- v -

NEW YORK UNIVERSITY,

Respondents.

-----X

INDEX NO. 160132/2025

MOTION DATE 07/31/2025

MOTION SEQ. NO. 001

DECISION + JUDGMENT

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 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, 37, 38, 39 were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

In this hybrid proceeding pursuant to CPLR Article 78 and plenary action, petitioner seeks to annul a disciplinary determination issued by respondent New York University (NYU) that resulted in petitioner’s dismissal from the University. Petitioner also asserts additional causes of action alleging disability discrimination in violation of the New York City Human Rights Law (NYCHRL) and the New York State Human Rights Law (NYSHRL), unlawful eviction under Real Property Law 768 arising from his removal from university housing during the pendency of his appeal, negligence based on respondent’s alleged failure to safeguard petitioner’s personal information in connection with a data breach, and intentional infliction of emotional distress (IIED) stemming from respondent’s alleged conduct during the disciplinary process.

Respondent opposes the petition and cross-moves, pursuant to CPLR 3211(a)(1) and (7) and CPLR 7804(f), to dismiss the petition and complaint in their entirety. Petitioner opposes the cross motion.

I. BACKGROUND

Petitioner was enrolled as a student in the NYU Rory Meyers College of Nursing (the College) beginning in the Spring 2024 semester. As a student in the program, petitioner was required to comply with the University Student Conduct Policy and NYU's Academic Integrity Policy (the Academic Policies), which prohibit academic misconduct, including cheating (NYSCEF 14, 18).

The record further reflects that petitioner requested and received disability-related accommodations during his enrollment. In December 2023, respondent granted petitioner a housing accommodation for an emotional support animal and a single room after receiving supporting documentation (NYSCEF 22–24). In October 2024, respondent granted petitioner academic accommodations consisting of time-and-a-half on examinations and access to a smaller proctored testing environment (NYSCEF 26).

Petitioner made a request for access to a subsidized laptop through the Rwei Hwa Su Laptop Scholarship Fund, which was denied (NYSCEF 12, 20).

In March 2025, respondent determined that petitioner had engaged in academic misconduct involving examinations (NYSCEF 2). According to respondent, its investigation revealed that a third party had completed petitioner's examinations in multiple courses beginning in November 2024 and that petitioner attempted to engage a third party to complete a pharmacology examination on March 18, 2025 (NYSCEF 2). Based on these findings, petitioner was dismissed from the program and assigned failing grades in several courses (*id.*).

On March 31, 2025, petitioner sent a letter to respondent appealing the dismissal. In a letter dated April 3, 2025, the Executive Vice Dean denied petitioner's appeal after reviewing petitioner's academic record, the exam honor code, and the applicable policies (NYSCEF 4).

The decision noted that petitioner had admitted during a March 21, 2025 meeting that he had taken a pharmacology examination on behalf of another student and that the College's review of computer logs and related data corroborated a pattern of cheating on examinations (*id.*). The appeal determination concluded that petitioner's conduct violated the Academic Policies and the ethical standards incorporated therein and therefore upheld the dismissal (*id.*).

II. DISCUSSION

Petitioner contends that respondent improperly dismissed him from the College following allegations of academic misconduct. He alleges that the disciplinary meeting preceding his dismissal was conducted without adequate notice and that he was denied a meaningful opportunity to prepare or obtain representation. Petitioner further argues that the sanction of dismissal was disproportionate to the conduct at issue and therefore arbitrary and capricious. He seeks reinstatement to the program and expungement of the dismissal from his academic record.

Petitioner also alleges that respondent failed to reasonably accommodate his disabilities and discriminated against him in violation of the NYCHRL and the NYSHRL. Petitioner further claims that respondent improperly denied him eligibility for a laptop scholarship and mishandled his financial aid, failed to provide adequate technological access despite his approved academic accommodations, and wrongfully required him to vacate university housing while his disciplinary appeal was pending. He also alleges that respondent exposed his personal information in a data breach and failed to safeguard his confidential information.

Respondent opposes the petition and cross-moves to dismiss the proceeding, arguing that petitioner was dismissed after respondent determined that he had engaged in academic misconduct involving examinations. Respondent maintains that the final determination was made pursuant to its Academic Integrity Policy, which prohibits cheating and authorizes

dismissal as a sanction for such violations. Respondent also asserts that petitioner was not eligible for the laptop scholarship referenced in the petition because he did not satisfy the eligibility requirements for that award.

In reply, petitioner maintains that respondent's submissions do not cure the alleged procedural deficiencies in the disciplinary process and reiterates that the determination and the related actions taken by respondent were arbitrary, discriminatory, and otherwise unlawful.

A. Analysis

The petition principally challenges petitioner's dismissal from respondent's nursing school program and seeks reinstatement pursuant to CPLR Article 78. The petition also asserts several additional causes of action sounding in disability discrimination, unlawful eviction, negligence, and IIED. The Court first addresses petitioner's challenge to the disciplinary determination under Article 78. The Court then considers whether the remaining claims may proceed in this hybrid proceeding and, if so, whether the petition states viable causes of action.

1. Article 78 claim

Judicial review of disciplinary determinations made by private universities is limited to determining whether the institution acted arbitrarily, failed to abide by its own rules, or imposed a penalty so excessive that it shocks the conscience (*Matter of Storino v New York Univ.*, 193 AD3d 436, 437 [1st Dept 2021] citing to *Matter of Powers v St. John's Univ. Sch. of Law*, 25 NY3d 210, 216 [2015]).

Courts have repeatedly emphasized the strong policy reasons for judicial restraint in this context, recognizing that "the administrative decisions of educational institutions involve the exercise of highly specialized professional judgment [that] these institutions are, for the most

part, better suited to make” (*Maas v Cornell Univ.*, 94 NY2d 87, 92 [1999]; *see also Matter of Susan M. v New York Law Sch.*, 76 NY2d 241, 245-246 [1990]).

Accordingly, apart from its limited review, the court does not substitute its judgment for that of the institution in matters concerning student discipline (*see Matter of Storino*, 193 AD3d at 437; *Matter of Quercia v New York Univ.*, 41 AD3d 295, 296-297 [1st Dept 2007]).

Applying that standard here, petitioner has not demonstrated that respondent’s determination was arbitrary, irrational, or rendered in violation of its governing procedures.

The record reflects that respondent initiated disciplinary proceedings after concluding that petitioner engaged in conduct that violated the Academic Policies. Petitioner was notified of the allegations, participated in the disciplinary process, and pursued the internal appeal procedures available under the University’s policies. Following an investigation that included a review of petitioner’s computer records providing evidence of academic dishonesty, respondent determined that petitioner had violated the applicable conduct provisions and imposed the sanction of dismissal pursuant to its governing procedures.

Because respondent acted in accordance with its stated rules and its determination has a rational basis in the record, the disciplinary determination was not arbitrary or capricious and will not be disturbed.

2. Remaining Causes of Action

As an initial matter, claims seeking damages based on tort or statutory violations generally may not be maintained in an Article 78 proceeding, which is designed to provide judicial review of administrative determinations and limited equitable relief rather than monetary damages (*see CPLR 7801*; *CPLR 7806*). Where a petitioner seeks relief that is not available in

Article 78, such claims must be dismissed or, where appropriate, pursued in a plenary action.

Thus, petitioner's remaining causes of action are considered below.

i. Negligence

Petitioner also alleges that respondents negligently mishandled or disclosed confidential student information, including information related to petitioner's disability and accommodations, which he characterizes as a breach of respondents' duty to safeguard student data resulting in violations of Family Educational Rights and Privacy Act (FERPA) as well as Health Insurance Portability and Accountability Act (HIPAA). Respondent disputes that any such breach occurred and argues that petitioner fails to identify any legally cognizable duty independent of the University's internal policies and further fails to allege facts demonstrating an unauthorized disclosure of protected information or resulting damages.

Under New York law, claims challenging the manner in which a university investigates or adjudicates student discipline are not cognizable as tort claims where they merely restate a challenge to the institution's disciplinary determination (*see Maas v Cornell Univ.*, 94 NY2d 87, 92 [1999]; *Keles v Trustees of Columbia Univ. in the City of NY.*, 74 AD3d 435, 435-436 [1st Dept 2010]). Courts have consistently held that disputes concerning academic or disciplinary judgments must be reviewed, if at all, through a CPLR Article 78 proceeding rather than through tort causes of action (*id.*).

To the extent petitioner alleges negligence based on an alleged breach or disclosure of his student information, the petition likewise fails to state a claim. Petitioner does not allege facts demonstrating that respondents owed him a duty independent of their obligations under internal university policies, nor does he identify any specific unauthorized disclosure of protected

information or resulting damages. Absent such allegations, petitioner fails to plead the elements necessary to sustain a negligence claim.

To the extent that petitioner asserts violations of FERPA and HIPAA, those claims are denied as FERPA and HIPAA does not provide for a private cause of action (*Frazier v Fairhaven School Comm.*, 276 F3d 52 [1st Cir 2002] [FERPA]; *Bruno v CSX Transp., Inc.*, 262 FRD 131, 134 n.3 (ND NY 2009) [HIPAA]).

Accordingly, petitioner's negligence cause of action is dismissed.

ii. NYCHRL / NYSHRL

Petitioner also asserts claims under the NYCHRL and the NYSHRL, alleging that respondent's disciplinary determination was motivated by unlawful discrimination.

Respondent argues that these claims must be dismissed because the petition does not plead facts supporting a plausible inference that the disciplinary action was motivated by discriminatory animus.

To state a claim under the NYSHRL or NYCHRL, a plaintiff must allege facts supporting an inference that the defendant took adverse action at least in part because of a protected characteristic (*see Forrest v Jewish Guild for the Blind*, 3 NY3d 295, 305, 330 [2004]; *Melman v Montefiore Med. Ctr.*, 98 AD3d 107, 113, 143 [1st Dept 2012]). Conclusory allegations of discrimination, unsupported by factual allegations demonstrating a causal connection between the protected status and the challenged conduct, are insufficient to state a claim (*Forrest*, 3 NY3d at 330 n 7).

Petitioner contends that the disciplinary action was discriminatory because he suffers from a disability and that respondent failed to properly account for that condition during the disciplinary process. However, the petition does not allege facts plausibly suggesting that

respondent's determination was motivated by discriminatory animus or that similarly situated students without petitioner's alleged disability were treated more favorably (*see Melman* 98 AD3d at 114). Rather, the allegations reflect that respondent disciplined petitioner for conduct it determined violated the Academic Policies. Absent factual allegations connecting the disciplinary action to petitioner's alleged disability or any other protected characteristic, petitioner fails to state a claim under either the NYCHRL or NYSHRL.

Accordingly, those causes of action are dismissed.

iii. IIED

Petitioner further asserts a claim for IIED arising from respondent's conduct during the disciplinary proceedings.

To state a claim for IIED, a plaintiff must allege conduct that is "so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency," and that causes severe emotional distress (*Howell v New York Post Co.*, 81 NY2d 115, 121 [1993]). The standard is exceedingly high, and the tort is reserved for conduct that is truly egregious.

The conduct alleged here—respondent's investigation of alleged misconduct and its imposition of disciplinary sanctions pursuant to its policies—does not approach the level of extreme and outrageous conduct required to sustain a claim for intentional infliction of emotional distress.

Accordingly, petitioner's claim for IIED is dismissed.

iv. RPL § 768

Lastly, petitioner also asserts a claim under RPL § 768, alleging that respondent's conduct in connection with the disciplinary proceedings constituted an unlawful eviction.

RPL § 768 prohibits a landlord from unlawfully evicting or excluding a lawful occupant from a dwelling unit without resort to legal process. The statute is directed at circumstances in which an occupant is physically removed or locked out of residential premises without a court order.

Here, petitioner does not allege that respondent engaged in any conduct constituting an unlawful eviction within the meaning of the statute. The petition challenges respondent's disciplinary determination resulting in petitioner's dismissal from the University, not the unlawful removal of petitioner from a dwelling unit. Because the statute governs unlawful eviction from residential premises rather than academic discipline, it is inapplicable to the circumstances alleged. In any event, the housing policy submitted by respondents provides that student housing is granted pursuant to a license that may be terminated in the University's discretion, including where a student ceases to be enrolled or violates University policies.

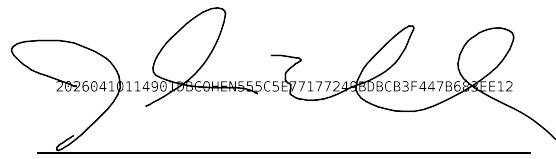
Accordingly, petitioner's claim under RPL § 768 is dismissed.

III CONCLUSION

For the reasons set forth above, petitioner has failed to demonstrate that respondent's disciplinary determination was arbitrary or capricious or rendered in violation of the University's governing procedures. The Court therefore declines to disturb the determination.

Petitioner's remaining causes of actions likewise fail to state viable claims and are dismissed.

Accordingly, it is hereby
ORDERED and ADJUDGED, that the petition is denied; it is further
ORDERED that the cross-motion is granted, and the proceeding is dismissed, and the
Clerk is directed to enter judgment accordingly.



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4/9/2026
DATE

DAVID B. COHEN, J.S.C.

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