

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: July 2, 2026

CV-25-0490

In the Matter of JANE DOE,
Appellant,

v

STATE UNIVERSITY OF NEW
YORK et al.,
Respondents.

MEMORANDUM AND ORDER

Calendar Date: May 26, 2026

Before: Reynolds Fitzgerald, J.P., Ceresia, McShan, Mackey and Ryba, JJ.

Stewart Lee Karlin Law Group, PC, New York City (*Stewart Lee Karlin* of counsel), for appellant.

Letitia James, Attorney General, Albany (*Frederick A. Brodie* of counsel), for respondents.

Mackey, J.

Appeal from a judgment of the Supreme Court (Sara McGinty, J.), entered January 6, 2025 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to CPLR article 78, to review a determination of respondents dismissing petitioner from a graduate program.

Petitioner was enrolled as a student in the Communications Disorders Graduate Program (hereinafter the program) at respondent State University of New York at New Paltz (hereinafter SUNY New Paltz). Among other requirements, students in the program were to demonstrate satisfactory performance in completing practical clinical experience

over the course of multiple practicums. Nearing her completion of the program, petitioner began her third and final practicum at a public school through the New York City Department of Education (hereinafter NYCDOE). On the third day of the clinical experience, site supervisors dismissed her from the practicum. An inquiry was conducted to determine the reasons for petitioner's dismissal, and she was thereafter provided with an opportunity to meet with program faculty and administrators to respond. After being advised that the program's faculty had recommended her dismissal, petitioner was formally dismissed from the program in November 2023. Petitioner's subsequent administrative appeal of her dismissal was unsuccessful.

Petitioner thereafter commenced this CPLR article 78 proceeding seeking, as is pertinent here, her reinstatement to the program on the grounds that her dismissal was arbitrary and capricious and made in bad faith as it was procedurally improper and contravened respondents' relevant policies.¹ Respondents opposed. Supreme Court dismissed the petition and upheld the determination, finding that respondents had adhered to their policies and that the determination to dismiss petitioner from the program was supported by a rational basis. Petitioner appeals.

"Courts have a restricted role in reviewing determinations of colleges and universities" (*Matter of Powers v St. John's Univ. Sch. of Law*, 25 NY3d 210, 216 [2015] [internal quotation marks and citation omitted]), as "these institutions are, for the most part, better suited to make relatively final decisions concerning wholly internal matters . . . [as they] are peculiarly capable of making the decisions which are appropriate and necessary to their continued existence" (*Maas v Cornell Univ.*, 94 NY2d 87, 92 [1999] [internal quotation marks and citation omitted]). Said differently, inasmuch as the "administrative decisions of educational institutions involve the exercise of highly specialized professional judgment" (*Doe v State Univ. of N.Y., Binghamton Univ.*, 201 AD3d 1075, 1076 [3d Dept 2022] [internal quotation marks and citation omitted]), "[d]eference should be accorded to a college's determination, and judicial review is circumscribed to whether the college failed to substantially comply with its internal rules and whether its decision was arbitrary and capricious or made in bad faith" (*Matter of*

¹ Petitioner also alleged that respondents had violated the Americans with Disabilities Act (*see* 42 USC § 12182) and the Human Rights Law (*see* Executive Law § 296). However, she has not pursued such claims in her brief on appeal and has thus abandoned any related arguments in this regard (*see Matter of Castronuova v Nunziato*, 227 AD3d 1357, 1359 n 3 [3d Dept 2024], *appeal dismissed & lv denied* 41 NY3d 1006 [2024]).

Hansbrough v College of St. Rose, 209 AD3d 1168, 1171 [3d Dept 2022] [internal quotation marks, brackets and citation omitted]; see *Matter of Powers v St. John's Univ. Sch. of Law*, 25 NY3d at 216; *Matter of Schwarzmuller v State Univ. of N.Y. at Potsdam*, 105 AD3d 1117, 1118 [3d Dept 2013]).

At the heart of petitioner's challenge is whether SUNY New Paltz properly notified her of any alleged deficiencies in her academic and practicum performance and, assuming such deficiencies existed, whether she was afforded an appropriate remediation plan. SUNY New Paltz's policy concerning academic dismissal provides, in relevant part, that the "[f]ailure of a practicum places the graduate student on probation status." Under the policy, probation is set forth in a two-tier escalating scheme. The "first course of probationary action" requires that the student "be informed within a reasonable time . . . explaining in detail which standard is not being met and how it is not being met. The student will be given the opportunity to remediate the problem through self-assessment and self-correction using a plan developed by the student in consultation with the instructor or clinical supervisor." In the event that "there is insufficient progress in the area of concern within the timeframe specified in the resulting plan or if there is a significant breach in the plan," then the probationary process may proceed to the second tier. At that point, "[r]epetitive and/or significant breaches in professional standards *and lack of progress in self-remediation* will be reviewed by the faculty and appropriate staff" (emphasis added). Pending investigation, where appropriate, "[t]he student may be removed from the practicum site" and, ultimately, an adverse finding may be punishable by the student's dismissal from the program.

Here, however, nothing in the record indicates that petitioner was ever placed on probation in accordance with SUNY New Paltz's policies – whether for her practicum performance, grades, or otherwise. Even assuming that her performance was sufficiently poor in her mere three days in the third practicum, so as to constitute a failure thereof sufficient to trigger her placement on probation status, and that she had notice of same, the record nevertheless reveals that she was not afforded any opportunity to remediate her performance pursuant to a plan and timeline developed as required under the probation policy. Indeed, no such plan appears to exist. Accordingly, there was no basis to proceed to the second tier of the probationary process so as to permit petitioner's dismissal from the graduate program, as the policy requires that even where a "significant breach[]" in professional standards has occurred there must also be a "lack of progress in self-remediation." In any event, we do not find that a rational basis supports the determination that petitioner's alleged deficiencies constituted such a breach. To the contrary, the record demonstrates that petitioner's academic performance fell within program requirements,

she remained in good standing throughout the program, and she ultimately passed her first two practicums. To the extent that her performance in the third practicum was deficient, it is significant that petitioner had only participated in that clinical experience for a mere two days and that the concerns raised by the site supervisors at that time were unspecified, unrelated to safety, and had not been directly communicated to petitioner at a time when she could have addressed them. Nor does it appear that petitioner was provided with a two-week period of "[o]rientation and observation at the site," as envisioned in SUNY New Paltz's Affiliate Practicum Handbook.

Because SUNY New Paltz's dismissal of petitioner from the program was in contravention to its own applicable policies, Supreme Court erred in upholding the determination and in dismissing the petition (*compare Matter of Powers v St. John's Univ. Sch. of Law*, 25 NY3d at 217-218; *Matter of Hansbrough v College of St. Rose*, 209 AD3d at 1171; *Matter of Schwarzmuller v State Univ. of N.Y. at Potsdam*, 105 AD3d at 1118-1119; *see generally Matter of Kamila v Cornell Univ.*, 182 AD3d 692, 694 [3d Dept 2020], *lv denied* 35 NY3d 913 [2020]). Accordingly, as is relevant here, that part of the petition seeking petitioner's reinstatement to the program should have been granted. The parties' remaining contentions have either been rendered academic by our determination or have been considered and found unavailing.

Reynolds Fitzgerald, J.P., Ceresia, McShan and Ryba, JJ., concur.

ORDERED that the judgment is reversed, on the law, without costs, determination annulled, and petition granted to the extent that respondent State University of New York at New Paltz is directed to reinstate petitioner to the graduate program.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court