

SUPREME COURT OF STATE OF NEW YORK
COUNTY OF NASSAU

PRESENT:

HON. FELICE J. MURACA, A.J.S.C.

IAS/TRIAL PART 42

██████████,
 Petitioner,

-against-

HOFSTRA UNIVERSITY,
 Respondent,

For an Order and Judgment Pursuant to Article 78 of the
 Civil Practice Law and Rules.

DECISION & ORDER

Index No. 617230/2024

Motion Seq No. 001

XXX

E-filed documents 1-60 were reviewed in preparing this Decision and Order.

Petitioner moves by Order to Show Cause in this Article 78 Proceeding, seeking an order to (1) annul and vacate Respondent's decision denying her religious accommodations from its vaccine mandate; (2) declaring the denial as arbitrary, capricious and an error of law; and (3) awarding Petitioner reasonable attorneys' fees, costs and expenses. Respondent opposes, seeking an order dismissing the Petitioner's Verified Petition. Petitioner also requested and was granted a Temporary Restraining Order ("TRO") on October 1, 2024, enjoining Respondent from expelling Petitioner from Hofstra University until a decision was rendered. The parties appeared for oral argument on October 8, 2024, and a fact-finding hearing was conducted on October 17, 2024 and October 18, 2024.

Uncontested Facts and Administrative Decision

Respondent denied Petitioner's first application for a religious exemption by letter dated August 29, 2024 ("First Application").¹ Thereafter, Respondent continued to communicate with Petitioner and afforded her an in-person meeting on September 4, 2024. Two of the three members of the Religious Exemption Committee ("Committee"), Dr. Robert Stahl and Dr. Elfreda Blue, interviewed Petitioner in the library. The other Committee member, Dr. Shamim Ahmed was not present for the September 4, 2024 meeting. Thereafter, Petitioner submitted a second application for a religious exemption dated September 11, 2024 ("Second Application"). Respondent denied Petitioner's Second Application for a religious exemption by letter dated September 13, 2024, which was emailed to Petitioner.

¹ It must be noted that Petitioner's first application under the medical exemption is not at issue in this Petition.

Legal Standard

To succeed in an Article 78 proceeding, a petitioner must meet the high standard of showing that a determination was made in violation of lawful procedure, was affected by an error of law, was arbitrary and capricious or an abuse of discretion. (*Matter of Rosenberg v. New York State Off. of Parks, Recreation, & Historical Preserv.*, 94 A.D.3d 1006 [2d Dept. 2012]). An Article 78 proceeding must be commenced “after the determination to be reviewed becomes final and binding upon the petitioner.” CPLR § 7801. A “determination becomes final and binding when it has an impact on the petitioner.” (*Matter of Simon v. New York City Tr. Auth.*, 34 A.D.3d 823 [2d Dept. 2006]).

“In reviewing a determination rendered by a private educational institution where no hearing is required, a court will not disturb it “unless a school acts arbitrarily and not in the exercise of its honest discretion, it fails to abide by its own rules or imposes a penalty so excessive that it shocks one's sense of fairness.” (*Kamila v Cornell Univ.*, 182 AD3d 692 [3d Dept 2020]).

Article 78 - Legal Analysis

Petitioner proffered in support of her Petition, multiple religious exemption submissions including Hofstra's form applications, Affidavits, Hofstra Policies, Hofstra's Denial Letters, and a text message from her tennis Coach.

In support of its Opposition, Respondent submitted an Affidavit of Dr. Stahl. In Dr. Stahl's Affidavit, he states, “the committee concluded that...[Petitioner] had not demonstrated a sincerely held religious belief.” This was in reference to the August 29, 2024 denial (see Paragraph 20). On September 13, 2024, Petitioner's Second Application was denied stating “the committee concluded that adding boilerplate religious buzzwords did not transform her concerns into a sincerely held religious belief”. (see Paragraph 26).

Fact-Finding Hearing

Petitioner called two witnesses at the hearing, the Petitioner and Dr. Stahl. The Court does not find Dr. Stahl's testimony convincing. Dr. Stahl's testimony was silent as to when he and the two other Committee members, Dr. Blue and Dr. Ahmed, reviewed the merits of Petitioner's Applications prior to writing the denial letters. When asked how the Committee conducted its investigations, Dr. Stahl testified that “we had some training on how to walk through them.” Dr. Stahl was then asked if there was a guideline or method on whether the decision needs to be unanimous and he responded, “we discussed and we have always been unanimous, and felt it should be unanimous.” Dr. Stahl then testified that this “unanimous” standard is not written down anywhere. Most significantly, Dr. Stahl

stated the Committee does not have any guidelines or protocols as how to conduct its final determination and that no guidelines were reviewed prior to denying Petitioner's application.

Dr. Stahl's testimony demonstrates that there is no set process or procedure utilized by Hofstra in reviewing requests for a religious exemption. After the first denial, Dr. Stahl and Dr. Blue inexplicably interviewed the Petitioner on September 4, 2024. Petitioner testified during the hearing that it was her understanding that she was being afforded a "last chance to send additional documents."

After the Form denial on August 29, 2024, Hofstra staff chose to interview the Petitioner without any policies or procedures in place to do so. The interview was not related to a pending application for religious exemption since the application was already denied, five days prior. The Petitioner submitted a Second Application on September 11, 2024, which Respondent also denied. Dr. Stahl stated the September 4, 2024 interview was considered as part of her denial on her Second Application. However, Dr. Ahmed was not present at the September 4, 2024 meeting, and there is no evidence that Dr. Ahmed was advised of the details of that conversation prior to the Committee's September 13, 2024 denial.

Respondents rely heavily on the fact that Petitioner's September 11, 2024 letter fails to erase all of Petitioner's prior representations. This Court has not been provided with any guidelines or standards by Respondent as to what extent prior applications and interviews of a student can be considered in evaluating future applications. It is unclear if Respondent's policies even allow multiple applications, especially since the August 29th denial letter stated it was the "final decision of the University."

Dr. Stahl's testimony failed to demonstrate that the Committee (all three members) discussed the respective applications and came to a unanimous decision on either and/or both of the denial decisions. The Court is unaware of any proper review by Dr. Blue and Dr. Ahmed as it relates to either application. The Court is left to speculate that the evaluations occurred properly, as Dr. Stahl could not provide any cognizable standard for the Committee's determination. In fact, Dr. Stahl's testimony is silent as to any actual meeting with the Committee in evaluating the Petitioner's exemption. Dr. Stahl's testimony also demonstrated that the Committee had a pre-disposition to deny Petitioner's Second Application based on the September 4, 2024 meeting.

Notwithstanding that Respondent has failed to demonstrate that it complied with its own policies and procedures, after the first denial letter was issued, Petitioner was still permitted to play tennis for the University team and begin her classes in September. It also must be stated that Respondent accepted her tuition, and as a result, Petitioner moved across the Country and moved into Respondent's dormitories. Respondent permitted Petitioner to continue supplementing her applications and conducted interviews with both Petitioner and Petitioner's mother after the first denial. Respondent

attempted to expel her on October 1, 2024, four weeks into her freshman semester. In light of these specific circumstances, Respondent's expulsion is clearly a penalty so excessive that it shocks one's sense of fairness. (*Kamila v Cornell*, 182 AD3d 692).

The Court finds that Respondent's denials of Petitioner's religious exemptions were arbitrary and capricious and an abuse of discretion, as the policies and procedures appear to be determined on a whim without any precise, written guidelines. Respondent's exemption process carries a serious penalty of terminating a student's enrollment. Respondent's own policies and procedures must be clearly stated and strictly followed before an exemption is denied. Therefore, the Court grants the Petition, annulling and vacating both the August 29, 2024, and September 13, 2024 exemption denials. In light of this, the TRO is vacated as moot.

Accordingly, it is hereby

ORDERED, that Petitioner's application seeking an order declaring Respondent's August 29, 2024 and September 13, 2024 Decisions arbitrary and capricious is **GRANTED**; and it is further

ORDERED, that Petitioner's application seeking an order to vacate and annul Respondent's August 29, 2024 and September 13, 2024 Decisions is **GRANTED**; and it is further

ORDERED, that Petitioner's request for attorney's fees and costs are **DENIED**.

Any relief requested not specifically addressed herein is denied.

This constitutes the Decision and Order of this Court

Dated: December 3, 2024
Mineola, NY

ENTER:


HON. FELICE J. MURACA, A. J. S. C.