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Sage v. CUNY Law Sch.

Supreme Court of New York, Appellate Division, Second Department

September 29, 1994, Argued ; October 17, 1994, Decided

93-03639

Reporter

208 A.D.2d 751 *; 617 N.Y.S.2d 825 **; 1994 N.Y. App. Div. LEXIS 9878 ***

In the Matter of Cynthia Sage, Appellant, v. CUNY Law School, Respondent.

Prior History: [***1] In a proceeding pursuant to CPLR article 78 to compel the respondent to change the petitioner's grade and reinstate the petitioner as a student, the petitioner appeals from a judgment of the Supreme Court, Queens County (Graci, J.), dated February 3, 1993, which granted the respondent's motion to dismiss the petition.

Counsel: Steven S. Weiss, New York, N.Y., for appellant.

G. Oliver Koppell, Attorney-General, New York, N.Y. (Lisa R. Dell of counsel), for respondent.

Judges: Bracken, J. P., Lawrence, Santucci and Goldstein, JJ., concur.

Opinion

[*751] [**826] Ordered that the judgment is affirmed, with costs.

The petitioner commenced this CPLR article 78 proceeding in October 1992 to challenge the respondent's giving her a failing grade in a clinical program and subsequently expelling her from CUNY Law School. The petitioner alleged that the respondent's acts were arbitrary, capricious, and an abuse of discretion.

Determinations regarding a student's academic qualifications rest upon the subjective professional judgments of trained educators (see, [Matter of Olsson v Board of Higher Educ., 49 NY2d 408](#)). On the present record before this Court, [*752] we find [***2] no evidence that the

respondent's professional judgment was rendered in an arbitrary and capricious manner. Thus, the petition fails to state a legally cognizable cause of action and was properly dismissed (see, [Matter of Susan M. v New York Law School, 76 NY2d 241](#)).

Bracken, J. P., Lawrence, Santucci and Goldstein, JJ., concur.

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