

**Matter of Cohn v Board of Educ. of the City Sch. Dist. of the
City of N.Y.**

2013 NY Slip Op 00418

Decided on January 29, 2013

Appellate Division, First Department

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Judiciary Law § 431.

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publication in the Official Reports.

Decided on January 29, 2013

Andrias, J.P., Sweeny, DeGrasse, Freedman, Richter, JJ.

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[*1]In re Mitchell Cohn, Petitioner-Appellant, —

v

**Board of Education of the City School District of the City of New York, et al.,
Respondents-Respondents.**

Richard E. Casagrande, New York (Ariana A. Gambella of
counsel), for appellant.

Michael A. Cardozo, Corporation Counsel, New York (Fay Ng
of counsel), for respondents.

Order and judgment (one paper), Supreme Court, New York County (Alice
Schlesinger, J.), entered October 27, 2011, which denied the petition seeking, inter
alia, to annul the determination of respondents denying petitioner's appeal of an
unsatisfactory rating (U-rating) for the 2006-2007 school year and dismissed the

proceeding brought pursuant to CPLR article 78, unanimously affirmed, without costs.

Petitioner has failed to show that the U-rating was arbitrary and capricious, or made in bad faith. The detailed observations in reports prepared by the principal and two assistant principals, describing petitioner's poor performance in class management, engagement of students, and lesson planning, provided a rational basis for the rating (*see Murnane v Department of Educ. of the City of N.Y.*, 82 AD3d 576 [1st Dept 2011]; *Batyreva v New York City Dept. of Educ.*, 50 AD3d 283 [1st Dept 2008]). While petitioner complains that he did not receive pre-observation conferences prior to every classroom observation, he has not demonstrated that the U-rating was made in violation of lawful procedure or any substantial right (*see Matter of Brown v Board of Educ. of the City School Dist. of the City of N.Y.*, 89 AD3d 486 [1st Dept 2011]; *Matter of Munoz v Vega*, 303 AD2d 253, 254 [1st Dept 2003]; *compare Matter of Kolmel v City of New York*, 88 AD3d 527 [1st Dept 2011]). To the contrary, the record demonstrates that, after petitioner received a U-rating at the end of the prior school year, he was provided with a professional development plan at the start of the 2006-2007 and, throughout the year, received professional support and had a [*2]series of classroom observations by the principal and two assistant principals, each one documented by a detailed letter to him noting areas of improvement and making specific recommendations for addressing continuing deficiencies.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: JANUARY 29, 2013

CLERK

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