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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 102 SSM 8
In the Matter of Anthony J.
Russo,
Respondent,
v.
New York City Department of
Education,
Appellant.

Submitted by Kathy Chang Park, for appellant.
Submitted by Anthony J. Russo, respondent, pro se.

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On review of submissions pursuant to section 500.11 of the Rules, order insofar as appealed from reversed, with costs, New York City Department of Education's cross motion to dismiss the petition granted in its entirety, and certified question answered in the negative. We cannot say that "the penalty of [termination] . . . shocks the judicial conscience" (Matter of Kelly v Safir, 96 NY2d 32, 40 [2001]; see Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County, 34 NY2d 222, 234-235 [1974]). Chief Judge Lippman and Judges Read, Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

Decided April 7, 2015