

FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS
ON November 24, 2008

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

MARTIN I. DANK, Ph.D.
License No. 1080

TO PRACTICE PSYCHOLOGY
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Psychological Examiners (hereinafter "the Board") upon receipt of a complaint from M.B. alleging that the Respondent, Martin I. Dank, engaged in professional misconduct. Specifically, the complainant alleged that the respondent in his role as a consulting psychologist for the Ramsey School District assessed his child, A.B. who is a classified special needs student,

at the request of the Director of Special Services without the knowledge of the parents. Written releases were not obtained from the parents prior to Dr. Dank's observation and assessment of A.B. It was further alleged that Dr. Dank was to be present at the annual child study team meeting concerning A.B. to discuss his assessment. The complainant was opposed to Dr. Dank's presence at the child study team meeting as neither he nor his wife were ever advised or authorized the District's actions. The complainant and his wife filed a complaint with the NJ Department of Education on May 9, 2007 objecting to Dr. Dank's involvement in their son's annual IEP meeting. A notice of agreement was entered into by the Ramsey Board of Education and the complainants whereby the school district acknowledged that due to an "inadvertent error" the parents were not properly notified of the school psychologist's observation of A.B. The District further agreed that for the remainder of the 2006-2007 school year and the 2007-2008 school year no observations and/or evaluations of A.B. would be undertaken without his parent's consent. Further, the district agreed to provide the parents with a written report of the school psychologist's observation of A.B. on June 7, 2007.

Upon review of the record, the written response of the respondent and correspondence submitted by the Ramsey School District's attorney, Eric L. Harrison, Esquire, the respondent corroborated that he was asked by the Ramsey school district to gather pertinent history and development information and observe the child during the school day in order to render an objective opinion with respect to the fit between the child and the program. Dr. Dank also acknowledged that he is a part-time psychological consultant for the Ramsey Board of Education and has over forty years of experience in both clinical and school psychology. Dr. Dank indicated in his written response that he

inquired and was assured by the District that the necessary steps were taken prior to his observation of the child. The District's attorney corroborates that he did not advise the District nor Dr. Dank that parental consent was needed for the child to be observed during the school day. He opined that parental consent is required before an "evaluation" or an "assessment" as part of a formal initial evaluation or reevaluation. Mr. Harrison reiterated that he disagreed with the mediator for the Department of Education that prior parental consent was necessary for observation of the child in the school, however he acknowledged his client generally accept the Department of Education's interpretation of its own regulations.

Respondent further acknowledges that he did not conduct any formal testing, assessment or evaluation of A.B. No psychological or psychometric instruments were utilized. A written report was not prepared initially. The respondent prepared a written report as a provision of the mediation agreement entered into between the parents and the school district. Both the verbal report made by the Respondent to the child study team and the written report included observations, diagnostic speculations and recommendations.

Having reviewed the entire record, including the complaint submitted by M.B. on behalf of his son, A.B. and the respondent's written response to the complaint as well as his testimony at an investigative inquiry held on September 15, 2008 which he attended with his attorney, Rubin M. Sinins, Esquire and the additional correspondence and submissions, it appears to the Board that based on the extensive experience that respondent has in clinical and school psychology he should have been familiar with the Department of Education's regulations concerning parental consent. The Board found that

that respondent's conduct went beyond observation as he included diagnostic speculations and recommendations which required the securing of parental consent.

These facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(e) in that Dr. Dank as a licensed psychologist is responsible for insuring that parental consent is obtained prior to conducting observations of a child which is to be relied upon by the school in evaluating the child's progress and fit in the established program.

It appearing that respondent desires to resolve this matter without admissions and without recourse to formal proceedings and for good cause shown:

IT IS ON THIS 24th DAY OF November, 2008

HEREBY ORDERED AND AGREED THAT:

1. Respondent is admonished for not ensuring that parental consents were obtained before engaging in the observation of a special needs child, which constitutes a violation of N.J.S.A. 45:1-21(e).

2. Respondent shall pay a civil penalty in the amount of \$250.00 for violation of N.J.S.A. 45:1-21(e) which shall be due upon the signing of this order by certified and check or money order made payable to the Board of Psychological Examiners and sent to the attention of J. Michael Walker, Executive Director at P.O. Box 45017, 124 Halsey Street, Newark, New Jersey 07101.

NEW JERSEY STATE BOARD OF
PSYCHOLOGICAL EXAMINERS

By: Nancy E. Friedman Ph.D.
Nancy E. Friedman, Ph.D.
Board Chairperson

I have read and understand the
within Consent Order and agree
to be bound by its terms. Consent
is hereby given to the Board to
enter this Order.

Martin I. Dank, Ph.D.
Martin I. Dank, Ph.D.

DATED: 10/23/08

This Order is agreed to
as to form and entry.

Rubin M. Sinins 10/29/08
Rubin M. Sinins, Esquire