

Why we do what we do

*By Heath Merchen
Associate General Counsel*

Joann Harding is a 22-year veteran teacher, a multiple sclerosis survivor, sole custodian of two grandchildren, and care provider for her mother. She loves teaching and doesn't mind living meagerly on a teacher's salary because she provides her grandchildren a home, her mother medical care, and herself a fulfilling career.

However, the trials she faced over the last three years almost cost her everything.

It began with a complaint that she improperly administered the state test from parents whose child had been recently disciplined. Before she knew what was happening, the State Department of Education sought to revoke her teaching certificate with a number of specious allegations. Joann contacted OEA and our Legal Department intervened. We represented Joann during a nine-hour hearing, after which the Hearing Officer ruled in Joann's favor, holding she did not intentionally violate regulations. Joann was relieved and hoped her ordeal was over. Unfortunately, it was far from finished.

The State Board overturned the Hearing Officer's ruling, without explanation, and suspended her certificate into the school year, ensuring termination. Our office sued the Board and obtained an injunction so Joann could continue working until trial. The matter was ultimately tried in July 2002, and the court ruled for Joann, ordering the Board to provide her with a new hearing.

After the Board held the "new" hearing, however, they took the exact same action again, suspending her certificate into the school year. At this point, the anxiety of the roller coaster case would have overcome even the most resilient, but Joann simply stated that "Jesus will take care of me," keeping her faith that all would be well.

An added challenge

Our Legal Department also resolved to fight on, and again filed suit, obtaining yet another injunction. The second case was set to be tried in September 2004, over three years since the allegations originated. Shortly before the trial, however, Joann was to face yet another, more threatening test.

Joann was injured while working and needed surgery. The injury coupled with the stress of litigation resulted in pulmonary problems and potentially fatal blood clots, which delayed the surgery. Joann's life and career were literally hanging in the balance.

While Joann was hospitalized, our office asked the court to declare the Board's action invalid as a matter of law. After extensive argument, the court ruled in our favor, nullifying the suspension and holding that the Board acted unlawfully and unconstitutionally. The victory was complete and the Board did not appeal.

Lessons learned

Joann has recovered from surgery and is starting back to work. Her life is back on track and she no longer has to worry about losing her ability to provide for her family. That is not to say that the experience hasn't taken its toll. Joann will not soon forget the stress and worry which haunted her over the past three years.

The first moral to this story is teachers must be extremely careful to comply with every testing rule and regulation. The State Department will not hesitate to seek certificate revocation even for technical violations of the obscure regulations; being innocent won't help avoid a revocation hearing. While we are thrilled with Joann's victory, we don't want anyone to have to go through the misery of the hearing process if it can be avoided.

The second moral is that OEA membership matters. Joann's victory took the combined efforts of OEA's attorneys and advocates. If Joann had not been an OEA member, her legal fees over the course of the past three years would have topped \$100,000 – far beyond her means. As it stands, Joann paid only her OEA dues.

Many who don't join OEA cite disagreement with our political stances or candidate choices. However, they overlook an incredibly important aspect of membership – ensuring individuals who otherwise would not be able to afford quality legal services have effective attorneys experienced in education law fighting to ensure justice is done.

Joann's case is a victory we wear with pride, as should every OEA member; it is your dues dollars which help ensure protection for school employees across the state. And just as importantly, those dues dollars may one day help protect you.