

# Muskogee's Kate Frank started the Association's long legal history

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In recognizing the 125th Anniversary of the OEA, this article focuses on the history of the OEA Legal Services Program and the legal battles that have been instrumental to the OEA and her members. The OEA provides legal services for employment-related matters to members through the NEA Kate Frank/DuShane Legal Services Program (ULSP) – a cooperative NEA-state association program designed to ensure members receive appropriate legal assistance in matters pertaining to their educational employment. That program was started by an Oklahoma teacher.

## Kate Frank's landmark case creates national fund

Kate Frank was fired from Muskogee Public Schools in 1943 after teaching for 23 years. Frank was one of the founding members of the OEA Department of Classroom Teachers in 1934 and later became the first classroom teacher president of the OEA in 1937-38. She was not provided any official reason for her termination, nor was she offered any hearing before the local board of education or any other tribunal. Two other teachers in the school district were also fired and they became known as the "Muskogee 3." Frank was fired because she advocated for the professional rights of teachers through her association with the OEA and because of conflict with the local board of education, including organizing an effort to unseat several board members in a 1942 board election.

Frank was reinstated to her position in 1945 and continued teaching in Muskogee until her retirement in 1954. While she was fighting to get her job back, teachers across the nation "passed the hat" and Frank was given the money collected by the NEA to help with her expenses during this period. She was given the equivalent of two years of her salary at the time and when she was reinstated to her position, she returned the unused portion of the assistance and the Kate Frank/DuShane Fund was created. Today, the NEA ULSP reimburses state affiliates literally millions of dollars each year for legal fees incurred on eligible cases handled by state affiliate associations.

## All the way to the U.S. Supreme Court

While continuing the tradition created by Kate Frank in 1945, OEA has litigated literally thousands of cases dealing with member rights and education issues in state and federal trial and appellate courts, as well as several cases in the United States Supreme Court. In the 1970s and 80s, OEA litigated a number of member rights cases that established the definitions for many of the statutory causes used today for the termination of a career teacher.

The procedures for recognizing local bargaining agents were clarified by the Oklahoma Supreme Court in several cases brought by the OEA on behalf of local associations. During the 1980s and 90s, due process rights for support employees were established by a precedent in the 10th Circuit Court of Appeals, as were restrictions on the right of school districts to waive those same rights in employment contracts of teachers and coaches.

The pre-termination due process rights of certified teachers were also established by the Oklahoma Supreme Court. During the 1990s and in the early 2000s, member rights issues were litigated throughout the state of Oklahoma and many of those cases resulted in published appellate decisions that helped shape the legal landscape affecting teachers and education employees today.

## **School Land decision increases revenue**

OEA also has a long history of litigating matters of statewide concern. In 1985, the Oklahoma Supreme Court ruled that the existing practice of preferential leasing of school lands was unconstitutional, resulting in school lands being leased at market value and increasing the revenues generated by the school lands trust. OEA also participated in litigation that established the precedent that funds in the teacher retirement system are to be used solely for retirement benefits and maintenance of the system, not for some other purpose decided by the legislature.

OEA has participated as an amici (commented on cases without being directly involved) in several state court matters supporting various funding mechanisms for public education, as well as support for the right of a local municipality to earmark sales tax revenue for the support of local school districts. OEA's participation as an amici in a student privacy case provided the educator perspective on how FERPA applies in the classroom and its impact on teachers, and the United States Supreme Court ruled in favor of those interests in a unanimous decision.

## **Win a lot, but lose some, too**

Not every case has been successful; there have been losses, however, there are certain cases that have to be litigated because the issues are too important, no matter how unfavorable the odds of success may be. For example, OEA and three Oklahoma school districts litigated the underfunding of Oklahoma schools and the Oklahoma Supreme Court adopted the minority view of state courts that have considered those issues and ruled that the funding of schools in Oklahoma is the exclusive province of the legislature, not the courts. While disappointing, one of the specific objectives set forth in the OEA bylaws is "seeking increased revenue to place Oklahoma at the national average in revenue per pupil." So, while there was an unsuccessful outcome to this litigation, the OEA's pursuit of this, and other similar issues, is governed by the values of the association, not some other self-serving interest.

Today, OEA continues to litigate member rights issues and continues to be involved in other legal issues of statewide concern to OEA and her members. Thanks to the efforts of an Oklahoma teacher several decades ago, OEA hopes to continue its legal advocacy for its members for decades to come.