



*Excerpt of speech to Idaho Ed. Assn.
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Michael D. Simpson
NEA Assistant General Counsel*

Does NEA have a pro-abortion policy?

The NEA does not have a pro-abortion policy. Let me read you the NEA policy: "The National Education Association supports family planning, including the right to reproductive freedom." That's it. That's the entire NEA policy on "abortion."

Let me explain why NEA's policy favoring reproductive freedom is not "pro-abortion." Although Roe v. Wade is known as the Supreme Court's "abortion" decision, the case stands for a much more important principle, what lawyers call the right to privacy. In Roe, the Supreme Court held that the U.S. Constitution protects the right to privacy and to reproductive freedom, and that encompasses both the right to choose abortion and the right to choose childbirth. To illustrate this point I want to tell you about four NEA-funded cases in which rights under Roe v. Wade were asserted.

Case Number 1

The first case involved NEA member Jeanne Eckmann. You may have heard about this case. In the early 1980's, she appeared on NBC's Today Show, did an interview with Family Circle magazine, and there may have even been a made for TV movie.

Ms. Eckmann had spent two years studying to be a nun in a St. Louis convent before leaving to become a school teacher. She then taught right-to-life doctrine in a St. Louis catholic school for six years before taking a job as a public school teacher in a small Illinois town, when she joined NEA. In November 1980, Ms. Eckmann was raped while returning from a religious retreat. Although she did not report the assault to the police, she did tell her roommate what happened. A month later she discovered that she was pregnant, and she promptly informed her superintendent. The superintendent told her that it would be in her best interest to keep quiet about her pregnancy. After all, people in a small town will talk.

To avoid any risk to her job, Ms. Eckmann could have exercised her right to choose an abortion. But, as she later explained, "I am a devout catholic and I would not even consider abortion." Instead, she exercised her right to choose childbirth.

Her baby was due in July so she took a leave of absence in April; in June, the board president and school superintendent paid her a visit. According to Ms. Eckmann, the president "said I should resign because I was immoral. He also said I would be too tired to teach because I would be up in the middle of the night taking care of the baby." When she told the president that she had been raped, he answered, "You may be asked to certify that."

On July 20, the board sent her a "Notice to Remedy," the first step in the dismissal process. The notice alleged that she was "guilty of immorality." It said "[y]our conduct in becoming pregnant outside the state of marriage has lessened your ability to teach and the ability of your students to learn their lessons from you." The day after she got that letter, she gave birth to a son.

Ms. Eckmann returned to teaching in the fall of 1981 but was fired four months later. With the help of NEA and the Illinois Education Association, she challenged her dismissal before a state hearing officer. Before it was over, NEA and IEA spent \$36,000 in legal fees contesting her termination. At the hearing, the school board claimed that, in addition to immorality, Ms. Eckmann was fired for negligence and insubordination. The hearing officer ruled that those charges were nothing more than "a smoke screen or camouflage maneuver to hide the true reason for the dismissal," namely her unwed pregnancy. The hearing officer went on to hold that it is "unconstitutional" to fire a teacher for having a child out of wedlock and ordered her reinstated with full back pay.

Ms. Eckmann then sued the school board in federal court for violating her constitutional rights: her rights under Roe v. Wade. The trial judge ruled that the right to choose childbirth over abortion is encompassed in the constitutional right to privacy established by Roe v. Wade. "If the right of privacy means anything," the court said, "it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into the decision whether to bear or beget a child."

After a three-week trial in July 1985, a jury returned a verdict in favor of Ms. Eckmann and awarded her \$3.3 million. When she heard the jury verdict, Ms. Eckmann hugged her son and said, "Greg, your mom is not immoral." Unfortunately, the trial judge found the jury award "excessive," and reduced the damages to \$750,000. But that's still a sweet victory.

Case Number 2

The facts in NEA member Jean Avery's case are a little different than Eckmann's, but the results were the same. Ms. Avery was an unmarried teacher in rural Alabama who got pregnant, not after a rape, but as the result of a consensual sexual relationship. She chose not to have an abortion because she wanted to have a baby, and not because of any deeply held religious or moral beliefs. Nevertheless, she was fired for immorality, and NEA again relied on Roe in arguing that the dismissal of a teacher because she exercised her right not to have an abortion violated her right to reproductive freedom. As in Eckmann, we won that case.

Case Number 3

Linda Littlejohn was an NEA member from Kentucky who was fired for getting a divorce. She sued in federal court and the trial court dismissed her case. On appeal NEA argued that, under Roe v. Wade, the right to divorce is constitutionally protected, just like the right to marry and to procreate. The Sixth Circuit Court of Appeals agreed and reversed. Citing Roe v. Wade, the court held that "matters relating to marriage and family relationships involve privacy rights that are constitutionally protected against unwarranted governmental interference.... Roe clearly established the existence of a constitutionally-protected right to privacy which includes matters relating to procreation and marriage."

Case Number 4

Janice Dike's case did not involve the right to reproductive freedom, but it was based on the fundamental right to privacy established by the Court in *Roe v. Wade*. In that case, NEA challenged a Florida school board decision to deny Janice Dike the opportunity to breastfeed her baby on school grounds during her duty-free lunch period. NEA argued that the right to nurture and rear children is one of those rights encompassed in the right to privacy under *Roe*.

The trial court dismissed the case, but the Fifth Circuit Court of Appeals reversed, relying on *Roe v. Wade*. The appeals court emphasized that breastfeeding is "the most elemental form of parental care," and held that breastfeeding -- like "individual decisions respecting marriage, procreation, contraception [and] abortion" -- is entitled to constitutional protection.

Those are the only 4 cases funded by NEA I know of in which plaintiff's asserted rights under *Roe v. Wade*.

Those who claim that NEA is "pro-abortion" because it supports the rights to privacy and to reproductive freedom as recognized in *Roe v. Wade* are giving the NEA a bum rap. If expenditures for legal services are any measure, then it is more accurate to describe NEA as "pro-child," "pro-life," and "pro-family" than "pro-abortion." While NEA has spent tens of thousands of dollars defending the rights of NEA members to choose childbirth over abortion and to exercise other family rights guaranteed by *Roe v. Wade*, it has not spent one penny under the legal services program to defend the right to abortion, at least not in the sixteen years I have worked at NEA.

Let me end where I began. Why does NEA have a policy in support of a woman's right to reproductive freedom? The reason is this: that policy protects the constitutional rights of all NEA members, both those who are pro-choice and those who are pro-life. So the next time you are out recruiting new members, and a teacher says, "I'm not going to join the NEA because it's pro-abortion," tell her the story about your colleague Jeanne Eckmann; tell her about Jean Avery and Linda Littlejohn. And then ask her this simple question, "Do you believe that a teacher who gets pregnant should be fired for refusing to have an abortion?" When she says "No," hand her a membership form and say, "Welcome aboard. You support NEA's policy on reproductive freedom."