

# The Battle of Spanish Fork

By Lisa Bennett

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*Federal law prohibits employment discrimination founded on race, religion, gender, national identity, disability and age. No such federal legal protection exists, however, on the basis of sexual orientation, and gay men and lesbians have been denied and fired from jobs because of this aspect of their identities. In recent decades, they have increasingly challenged discrimination and asserted their right to equal protection under the law. One teacher who decided to fight a local school district that threatened her job and freedom of expression because she was lesbian found herself in the middle of a controversy that would divide her*

On Saturday, May 31, 1997, Wendy Weaver, the most successful coach in the history of Spanish Fork High School, telephoned her volleyball team to remind them that summer training camp would begin the following Monday.

"Can I ask you a question?" one player said. "Sure," Weaver said.

"Are you gay?"

Weaver paused. In her 17 years as a teacher and coach at Spanish Fork, no one had ever asked that question and she was unsure of how to answer it. If she said it was none of the student's business, it would suggest there was something shameful about being gay. If she said, no, it would be a lie. So she told the truth. "Yes, I am."

"Then I can't play on your team," replied the student, who was about to be a senior. "Why not?" Weaver asked.

"I don't want to be around it," the student said.

"Around what?" asked Weaver. "Nothing will be different than it was before."

"I just can't do it," the student said definitively.

Disappointed, Weaver hung up the phone at her home in Salem, Utah, where a neighbor's horse grazed several yards away, and the towering white tips of the Rocky Mountains looked almost within reach. For most of her life, Weaver had behaved exactly the way "good people" were expected to. As the youngest of 10 children raised on a dairy farm in southern Idaho, she willingly helped with farm chores. As a high school student, she became a cheerleader, junior class president and president of the National Honor Society.

She attended a religious college, Brigham Young University, in Provo, Utah, and became a devout Mormon, or member of the Church of Jesus Christ of Latter Day Saints, where she both attended services and taught Sunday school.

She became a teacher at 21; she married at 23; and six weeks later, she and her husband took in the first of 30 foster children before bearing a son and adopting a daughter of their own. In 1995, a school administrator nominated the couple for a "Family of the Year" award. Meanwhile, Weaver led the Spanish Fork volleyball team to four state championships. For many of those years, however, Weaver also quietly struggled with the feeling that she was a lesbian. She tried to fight it, knowing that her religion and most people in the largely Mormon community of Spanish Fork condemned gay and lesbian relationships. But as time went on, it became more difficult. Finally, she and her husband divorced, and she moved in with a female partner, Rachel Smith.

In Weaver's mind, this decision did not stop making her a good person. In fact, she believed it made her a better person because she was living more honestly than she had before.

Still, she did anticipate some negative reactions to hers and Smith's relationship. Her player's decision to quit the team was the first obvious one and unbeknownst to her, a sign of more serious trouble ahead.

On July 21, 1997, the school principal, Robert Wadley, called Weaver into his office and announced that he would no longer permit Weaver to coach. His decision, he said, was in the best interest of the school, the students and the district that she not coach.

Recognizing that this made little sense based on her record, Weaver asked if he had received any complaints about her coaching.

"No," Wadley said.

"Then why?" she asked again.

"My perception of you has changed," said Wadley, refusing to discuss the matter further.

Weaver left his office saddened and stunned. The next day, she would face more bad news. In a meeting at the school district headquarters, Almon Mosher, the director of human resources, read her a letter that instructed her not to talk about her sexual orientation or "anything concerning that subject" with students, teachers or parents. If she did, he continued, she could be fired for it. He gave her a copy of the letter and said another copy would be placed in her file. Weaver left the meeting in disbelief that she could lose her coaching job and the right to talk about her personal life in the course of two days, simply because she chose to live her life with another woman.

As she talked the incident over at home, she also grew worried that she could easily violate the gag order. For example, she thought, if she went out with Smith to a ball game, the supermarket or a dinner party and another parent perceived them to be a couple, that could be construed as a public statement about her sexual orientation and put her job in jeopardy.

Although Weaver knew little about the experiences of other gay and lesbian teachers at the time, many of them, she would discover, faced largely the same predicament that she did. In short, they were forced to hide their sexual orientation or run the risk of being fired or forced out of their jobs because of it.

In some cases, such fierce opposition to gay and lesbian teachers stemmed from religious beliefs that homosexuality is immoral. In others, it stemmed from prejudice, or unsubstantiated generalizations, such as the idea that the presence of a gay or lesbian teacher could alter a student's sexual orientation. And in some, it was fueled by both religion and prejudice.

A growing number of teachers had begun to challenge this opposition by coming out, or openly identifying themselves as gay or lesbian, at the time that Weaver responded to her student's question honestly. But the risks of doing so were, and still are, extremely high because there is no federal law that prohibits employment discrimination against gay and lesbian people. Although some states do have such laws, Utah is not one of them so Weaver had no simple legal recourse. She was, by and large, in the same position as the majority of gay and lesbian teachers, with one significant exception: Unlike most who were forced out or pressured into silence by word of mouth, she had a letter that documented the school's position against her.

When Doug Worthham, director of Utah's Gay, Lesbian, Straight Education Network (GLSEN), heard about Weaver's situation, he tracked her down and introduced her to Carol Gnade, the executive director of Utah's American Civil Liberties Union (ACLU). Weaver and her partner met with Gnade in Salt Lake City. Gnade told them that she thought that the letter gave Weaver the evidence she needed to win a lawsuit against the school for violation of her constitutional right of freedom of expression.

Moreover, she said, the ACLU would be willing to fight Weaver's case on behalf of gay and lesbian teachers nationwide. However, Gnade warned, Weaver had best think hard about whether she was prepared for a legal battle that was bound to set off a storm of controversy especially in the conservative community of Spanish Fork.

With that question in mind, Weaver and Smith returned to their Salem home, where a four-foot-high frame displaying photos of their children greets everyone who walks in the front door. Between them, Weaver and Smith have six boys and one girl. The couple worried what would happen to their children if Weaver filed a suit against the school. Would they be harassed or embarrassed by the media attention and community gossip?

On the contrary, what would happen if she did not file suit and sought, instead, to protect her job by keeping her private life hidden? By accepting the gag order, Weaver felt that she would have to act as if she were ashamed of herself, which she was not. Moreover, she would teach her children that they, too, should be ashamed of their family, which was an idea she could not bear. So the answer was clear: She had to fight.

About six weeks later, the ACLU filed a lawsuit on Weaver's behalf against the Nebo School District, charging administrators with violation of her constitutional rights to freedom of expression, by asserting that she could not discuss her sexual orientation even off school grounds; to privacy, by interfering with her personal life; and to equal protection under the law, by imposing a condition on her employment that was not also imposed on other teachers.

It is always news when a teacher files a lawsuit against a school; it is very big news when a lesbian teacher files a lawsuit against a school in a state popularly known as "Mormon country." Indeed, Mormonism seems to impact all walks of life in Utah, including the schools, where many school administrators play active roles as bishops in their local churches, and many students receive religious instruction on or near school grounds. And on the question of sexuality, Mormon teaching is very clear: Same-gender relations are against God's law.

In late October, the ACLU organized a news conference in Salt Lake City, the state capital, and invited Weaver to appear. At the press conference, she faced a row of television cameras and newspaper reporters who would broadcast news of the lawsuit nationwide. When asked what had prompted her to file the suit, Weaver said simply: "All I want is to have the freedom to live my private life as I choose."

When it was time to return to the classroom a few days later, Weaver was nervous but also had a sense of conviction that she had done the right thing. She took a walk through the building to try to defuse the tension and face any awkward moments that were bound to arise as she encountered faculty and students for the first time after the news broadcast.

A few teachers gave her silent hugs of support as she walked through the hallways. The principal suggested that they try not to have any hard feelings while they waited for the courts to settle the conflict. And one student, whom she knew well, asked as he passed Weaver outside the lunchroom:

"Do you have a girlfriend, Ms. Weaver?"

"Yes," she said.

"Me, too," he replied.

At home that day, Weaver was pleased to find a few letters had arrived in the mail, praising her courage to do what she believed was right. But these early gestures of support were soon followed by some crushing news: a group of about 100 parents and grandparents had started a petition protesting the school's employment of Weaver, any openly gay or lesbian

teacher, or any other individual whose perceived morality they deemed to be objectionable. The group had even hired a lawyer to represent them.

"We have a say in what our kids are taught, in class or by example," said Roxanne Barney, a parent who withdrew her child from Weaver's psychology class as soon as the word of her sexual orientation spread. Barney was now urging others to do the same.

In the weeks to follow, the group's petition circulated throughout the school and community; dozens of editorials and letters to the editor were published in the local newspapers; and, at homes and work, residents discussed the controversy.

Parents who knew Weaver well came to her defense. "Those of us parents who had children in the volleyball program almost unanimously said, 'What's sexual orientation got to do with her ability to coach volleyball?'" recalls Brent Kidman, who had two daughters on Weaver's team. "I can't say that we all agreed with her lifestyle, or understood it, but we certainly weren't afraid of her because of the good experiences our kids had with her in the past."

The majority of parents in Spanish Fork, however, did not have children in the volleyball program, and many of them signed the petition against her.

Meanwhile Laurie Wood, an English professor at Utah Valley State College started a counter-petition in support of Weaver, which stated, in part:

"We believe that diversity and individuality are the qualities that enrich our lives and enable us to realize our full humanity. We also believe that a community that alienates and ostracizes individuals does not reflect charitable and ethical values as we understand them."

Both sides also promised to turn out for a public debate at the next school board meeting.

A few hours before the meeting, several television vans with five-story-high antennas pulled up outside the district offices, preparing to broadcast the news of the meeting statewide. An estimated 200 parents and other residents filed into the district offices. Weaver stayed home on the advice of her lawyers, who were concerned about her safety.

Mathew Hilton, the lawyer representing the parents' group opposed to Weaver, delivered the petition against her to the board, reporting that it had been signed by 2,678 residents.

"It makes no sense to us to spend years creating one type of moral climate in our home [only] to have it directly or indirectly destroyed in our schools," he argued, and applause broke out.

Then Lorraine Sands, another parent, stood up and countered Hilton's argument by saying: "The moral issue I'm concerned about here is the example we're setting for our own children regarding respect and tolerance for those whose beliefs are different from ours."

Again, applause broke out, revealing a community divided between those who believed that being gay or lesbian was wrong, and those who believed that being intolerant of gay and lesbian people was wrong. The school board, obliged to wait for the outcome of the lawsuit, listened without comment.

After the meeting, the controversy intensified again as rumors and allegations spread that Weaver had done numerous improper things with her players, such as discouraging them from dating boys and encouraging them to have lesbian relationships.

These accusations angered many of the young women on Weaver's team, who knew the rumors to be false. They organized a press conference to denounce the allegations and praise their coach as a positive role model.

Weaver was buoyed by the support from her players. Yet she was also saddened by the public attacks that focused on such a narrow part of her identity.

"What bothers me," she said, "is I'm not Wendy Weaver anymore. I'm the lesbian teacher. It's not who I am. I'm a teacher, a mother, and I was a coach. The gay issue has become a focal point, but it shouldn't be. I wish I would be judged on being a teacher, by my performance on the job like anyone else would be."

One consolation during this stressful period was that Weaver and Smith's children seemed to be weathering the controversy extremely well. While the parents of a couple of their children's friends forbade them to step foot in the Weaver-Smith house, the majority of their neighbors and church community were very supportive.

Weaver and Smith did their best to be open with their children about everything that was happening. However, at the time, their children were still quite young and didn't understand the full implications of the lawsuit.

"They mostly thought it was pretty cool that their moms were on TV and getting all this attention," Smith later recalled. But otherwise, they were absorbed in pursuing their own interests — riding their bikes and having water fights. Smith herself, however, was not unscathed by the controversy.

A highly rated collegiate sports official, Smith suddenly found herself dropped from several basketball conferences, without explanation. She felt that her removal from the officiating schedules was a direct result of the suit. Smith was also dealing with other personal difficulties as her parents adjusted to her announcement that she was lesbian and the very public spotlight that had now been shone on the whole family.

As the public opinion debate raged on, it finally came time for a ruling in her case. On November 5, 1998, U.S. District Senior Judge Bruce S. Jenkins handed down his verdict, saying: "The negative reaction some members of the community may have to homosexuals is not a proper basis for discriminating against them. Although the Constitution cannot control prejudices, neither this court nor any other court should directly or indirectly legitimize them." Furthermore, Jenkins said, the district had violated Weaver's right to free expression and equal protection under the law. He then ordered the school to withdraw the gag order and offer Weaver her coaching position again.

When Weaver's lawyer called with the news, she was elated — above all, to have the court's vindication that it was unjust for Spanish Fork administrators to threaten her job because of her personal life. She was also pleased to recognize that the ruling could help other gay and lesbian teachers like her, by establishing a significant precedent against a school's efforts to restrain a teacher's private life.

Then she and her partner broke out a bag of Oreo cookies and made root bear floats for their seven children to celebrate their family's victorious fight to live free of discrimination.

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*This article is reprinted by from the Teaching Tolerance curriculum kit  
A Place at the Table.*