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JUDGE TOSSES OUT MAYOR'S TAKEOVER OF L.A. SCHOOLS

A law giving him control over some campuses violates state Constitution, jurist says.

VILLARAIGOSA VOWS FIGHT

BY HOWARD BLUME AND JOEL RUBIN
TIMES STAFF WRITERS

A Superior Court judge Thursday struck down legislation that gave Mayor Antonio Villaraigosa substantial authority over the Los Angeles Unified School District, a stunning setback to his plans for assuming direct control of dozens of Los Angeles schools.

Judge Dzintra Janavs said the law, which would have taken effect Jan. 1, violated multiple provisions of the state Constitution and the Los Angeles City Charter. She ordered public officials "to refrain from enforcing or implementing" any part of Assembly Bill 1381, which codified Villaraigosa's powers.

In a late afternoon news conference, the mayor vowed to seek an expedited appeal.

"I believe we have the law on our side. I believe we have the Constitution on our side," Villaraigosa said. "More than that, I believe we have the people on our side."

The mayor said he might ask the California Supreme Court to take the case immediately. In an appeal, the mayor's lawyers can make their case anew; the higher courts are not bound by the ruling.

School Board President Marlene Canter was elated at the ruling, but remained measured in her reaction, pledging to work with the mayor.

"I am gratified that the court struck down AB 1381 in its entirety," Canter said. "It confirms my long-standing belief that this legislation was unconstitutional and not in the best interest of our students."

After a private conversation in the wake of the ruling that included Villaraigosa and schools Supt. David L. Brewer, Canter said "we all agreed to work together on behalf of our students." But when pressed for details, she spoke not of including the mayor in education-related decisions, but about cooperation in keeping schools and neighborhoods safe.

The ruling was a sweeping preliminary victory for L.A. Unified, and puts in question Villaraigosa's education agenda, which was embodied in the legislation before the court. It was a rare setback for a mayor who had enjoyed a series of political triumphs.

It also underlines the importance of the March school board elections, in which four of seven board seats are on the ballot. The current school board majority vigorously opposed the law and sued to overturn it.

Under the law, Villaraigosa would have ratified the hiring and firing of future superintendents through a "Council of Mayors" that he would have dominated. And he also would have had direct authority over three low-performing high schools and the elementary and middle schools that feed into them.

Janavs found the entire law defective.

"The statute makes drastic changes in the local governance of the LAUSD, giving the Mayor a role that is unprecedented in Califor-

nia," she said in her 20-page ruling, adding that the law "completely deprives the LAUSD governing board of any ability to control or influence the actions or decisions" in schools under the mayor's control.

This transfer of power was a primary goal of the legislation, but Janavs rejected that transfer as contrary to the California Constitution on numerous grounds. Fundamentally, she said, the Constitution forbids transferring authority over schools to entities outside the public school system.

She cited a 1946 constitutional amendment that "specifically removed municipal authority over school districts and appears to reflect the people's determination to separate municipal functions from school functions due to the variety of conflicts that arise between their respective interests."

The mayor's side argued that the Legislature had broad authority to designate the mayor, or any entity, as a valid education agency to oversee schools.

But the judge sided with district lawyers who argued that such reasoning would allow the Legislature to hand over schools to Jiffy Lube.

"The Mayor of Los Angeles [and] the members of the Council of Mayors ... are not 'authorities' within the Public School System or 'officers of the public schools,'" Janavs wrote.

She also concluded that the law violated the Los Angeles City Charter and the state Constitution by weakening the school board's authority and by putting Villaraigosa in conflicting management roles.

She explicitly invalidated the entire law. "There is substantial evidence that [the law's] passage," she wrote, "was the result of political

compromise and that its provisions are so interconnected ... that no single provision would have been enacted or should be given effect without the whole."

The district's legal allies included individual parents, long-established parent groups, the League of Women Voters, the school administrators' union and the California School Boards Assn., which hailed the decision.

"The constitutional protection of the public schools and their separation from other municipal authorities is what was embedded in the Constitution and approved by the people decades ago, and it was worth fighting for," said Scott P. Slotkin, the California School Boards Assn.'s executive director. "We're deeply grateful for the judge's decision because there are a number of mayors who were looking at this very carefully and thinking, 'Wouldn't it be cool to take over the school district.'"

The matter, however, is hardly settled, especially given Villaraigosa's willingness to fight. On Thursday, he declined to talk compromise regarding the school board.

Several times, Villaraigosa returned to the sort of rhetoric that both highlighted the school system's failings and rankled the school board.

"We can't tolerate a 50% or more dropout rate or 80% of our kids failing school," Villaraigosa said. "We can do better, that's what this reform effort is all about." He also vowed to proceed with planning and fundraising for the schools that would be under his control.

In a sign that he may still be seeking leverage against the school board, the mayor said that he had spoken to state Assembly Speaker Fabian Nunez, a close ally, about asking the Legislature for a full audit of the district to identify wasted funds.

Nunez (D-Los Angeles) called the decision "legal hairsplitting" that "has prevailed over the interests of children."

Gov. Arnold Schwarzenegger, who signed the bill into law, signaled strong continued support.

"The status quo simply isn't working — the current system is failing too many of our students," Schwarzenegger said in a statement. "That's why I applaud the mayor for his desire to bring accountability to L.A. public schools, so we can move test scores up and dropout rates down. I join the mayor's appeal of this ruling."

The judge's ruling, in a small way, addressed whether the school district was, in fact, failing. She cited information from district court papers that stated that L.A. schools were improving faster than schools statewide.

The appeals court will reconsider the facts of the case, said Erwin Chemerinsky, a professor of law at Duke University, with long experience in California jurisprudence. "The questions pre-

sented here have never been dealt with in California courts before," he said. "This judge has come down on the side of the school district. That doesn't mean the higher courts will. There are strong arguments on each side here."

Another legal expert said he wasn't surprised that the entire law was nullified. To approve some portions of the law and not others — "the court realized that could cause a political nightmare," said Edward Steinman, a professor at Santa Clara University School of Law.

Pending an expedited appeal, the next battle between the mayor and the school board will be the March elections.

"We'll be supporting candidates in the March school board election who are committed to leading school reform," Villaraigosa said, and redirect resources to the classroom from what he called a bloated bureaucracy.

The reference to bloat was an echo of contentions by United Teachers Los Angeles, which is in an ongoing contract dispute with the school district.

UTLA leadership has been allied with Villaraigosa, but won't necessarily back the same candidates.

Union leader Joel Jordan said the decision undid "the most positive part of this law ... the possibility of [the mayor's schools] helping to bring about much-needed reform."

There were parents on both sides of the litigation and many thousands more who want better schools.

"I am very happy that the system has worked," said Rosa Mendoza, who has two children at Locke High School and joined the district's lawsuit.

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Voices

■ "The statute makes drastic changes in the local governance of the LAUSD, giving the mayor a role that is unprecedented in California."

■ "Neither the City Charter nor [the California Constitution] is satisfied by retaining an elected school board in name only, while transferring all of its authority over a substantial portion of the District to a different, appointed entity — the Mayor's partnership."

■ "It appears that the Mayor's role in governing the LAUSD will frequently be incompatible with his obligations to the citizens of the City of Los Angeles as its Chief Executive Officer."

JUDGE DZINTRA JANAVS
excerpts from ruling

"I am here and committed to working with all parties to educate the children of Greater Los Angeles — and in spite of whether [the law] was upheld or struck down, I am going to continue to do that."

— DAVID L. BREWER
L.A. Unified School District superintendent

"I've said since the day Antonio was elected that I'd have loved to get together ... and would have welcomed his suggestions and his help and his ingenuity. But he chose to take a different path and that's a shame."

— JULIE KORENSTEIN
School board member

"The ruling today of, 'We get to do our business the same way,' isn't a win for L.A. Better graduation, better allocation of resources, greater leadership ... is the win we are looking for."

— MONICA GARCIA
School board member