

■ Top U.S. justices' ruling could impact school districts across nation, including Berkeley's

By Kristin Bender
and Katy Murphy

STAFF WRITERS

WASHINGTON — The Supreme Court on Thursday rejected racial integration plans in two major public school districts, but it left the door open for the limited use of race to achieve diversity in schools.

The decision on how students are assigned to schools in Louisville, Ky., and Seattle could imperil similar plans in hundreds of districts nationwide. Berkeley, for example, uses race as one of many factors to determine school placements.

The Supreme Court split, 5-4, with Chief Justice John Roberts announcing the court's judgment. The four liberal justices dissented.

It was not clear Thursday how the ruling will affect the Berkeley Unified School District because the district still is involved with a local lawsuit that claimed it was violating a 1996 California law prohibiting racial preferences in public education.

But Maya Harris, executive director of the ACLU of Northern California, said she believed Berkeley's policies — which have been challenged in court at least twice — would stand up to legal scrutiny, even under a more restrictive framework. The Berkeley district aims to ensure its schools reflect the city's population as a whole, rather than its segregated neighborhoods.

"That may very well be a model for other schools that are seeking to provide equal educational opportunities and create a diverse school environment," Harris said.

Berkeley uses race, parent preference, family income, a student's address and other criteria when making campus assignments.

"Based on the early reading of the Supreme Court decision, it appears K-12 education has a strong interest in creating diversity balancing," Superintendent Michele Lawrence said. "Perhaps Berkeley's model will stand the test."

In April, Alameda County Superior Court Judge Winifred Y. Smith ruled the school district does not violate state law when it considers race as one of many factors in assigning students to

schools. The Sacramento-based Pacific Legal Foundation had sued the district, alleging its school assignment policy violates Proposition 209, a 1996 California law prohibiting racial preferences in public education.

Lawrence said because part of the suit has not been decided in the courts, it's still too early to determine how the Supreme Court ruling Thursday might affect Berkeley.

"We do believe we'll be OK because (the district) is involved with diversity balancing and doesn't use one specific race to get the balance," Lawrence said.

In its ruling in April, the Alameda County Superior Court judge decided the court needs further evidence before determining the legality of a district program called the Academic Pathways Program, a Berkeley High School college preparatory and tutoring program geared toward low-income African American and Latino students, but welcomes students of all races. That part of the suit is still tied up in the courts.

Under Berkeley's diversity balancing plan, each city block in Berkeley is assigned a diversity category based on a formula that considers with equal weight the overall racial composition of the city block, the parent's average education level of the city block, and the average household income.

Berkeley allows students to pick their desired schools, but if a school is over-subscribed students are then assigned schools using a computerized lottery weighted by each student's diversity score.

The diversity score is designed to help make sure the diversity of each school within the district is proportionate to the diversity of the overall district. At no point is the race of the individual child used as a criterion for school assignment, district officials said.

The two school systems in the Thursday decisions employ slightly different methods of taking students' race into account when determining which schools they will attend.

Federal appeals courts had upheld both plans after some parents sued. The Bush administration took the parents' side, arguing racial diversity is a noble goal but can be sought only through race-neutral means.

The Associated Press contributed to this report.