

Harley, private schools win injunction against state oversight rules

Justin Murphy

Rochester Democrat and Chronicle USA TODAY NETWORK

A state Supreme Court justice ruled this week in favor of private schools in New York, including the Harley School in Brighton, striking down new state regulations the schools said infringed on their independence.

The state Education Department late last year issued new rules regarding how public schools are supposed to supervise non-public schools in their geographical area to ensure all students are receiving a “substantially equivalent” education. What previously had been a strictly passive role was transformed into an active oversight requirement.

Three groups representing non-public schools sued to block the new rules, saying it gave school districts an inappropriately prominent role in their affairs. On



A state Supreme Court justice ruled in favor of private schools in New York, including the Harley School in Brighton, striking down new state rules the schools said infringed on their independence.
PROVIDED PHOTO

Wednesday, Justice Christina Ryba agreed, ruling the state had overstepped its rule-making authority.

In particular, Ryba disagreed with the state’s contention that the new guidance “merely interprets the ... existing statutory regulatory requirements.”

Rather, she agreed with the nonpublic schools that new rules had been created, and as such should have gone through the official state rules promulgation process.

“The Court finds that the mandatory language dictating when reviews will begin, coupled, with the language that insists that ‘all’ schools will be visited as part of the process, constitute clear rules and are not merely ‘interpretative statements which in themselves have no legal effect but are merely explanatory,’” Ryba wrote.

The Harley School in Brighton was one of the plaintiff schools suing the state. Its head of school, Larry Frye, said in a statement: “The autonomy of independent schools is the legal and philosophical core of

who we are, and the basis for why we are able to make a contribution to educational innovation in New York and beyond.”

A state Education Department spokeswoman wrote in an email: “We are reviewing the court’s decision and will determine the appropriate next steps.”

The rules were initially issued out of a concern with downstate ultra-Orthodox yeshivas, where critics have long alleged students graduate without even a basic secular education. The New York State Association of Independent Schools and other advocacy organizations objected to being subjected to the same scrutiny and said they are capable of carrying out their own oversight.

Public school superintendents, too, feared the imposition of additional oversight work, particularly in districts with many non-public schools.

JMURPHY7@Gannett.com