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Opinion

Opinion: We've won a key battle on school boards; let's not let up

Our legal victory on Bill 40 is gratifying, and Quebec has relented on some amendments. Still, its court appeal is going ahead.

Joe Ortona • Special to Montreal Gazette

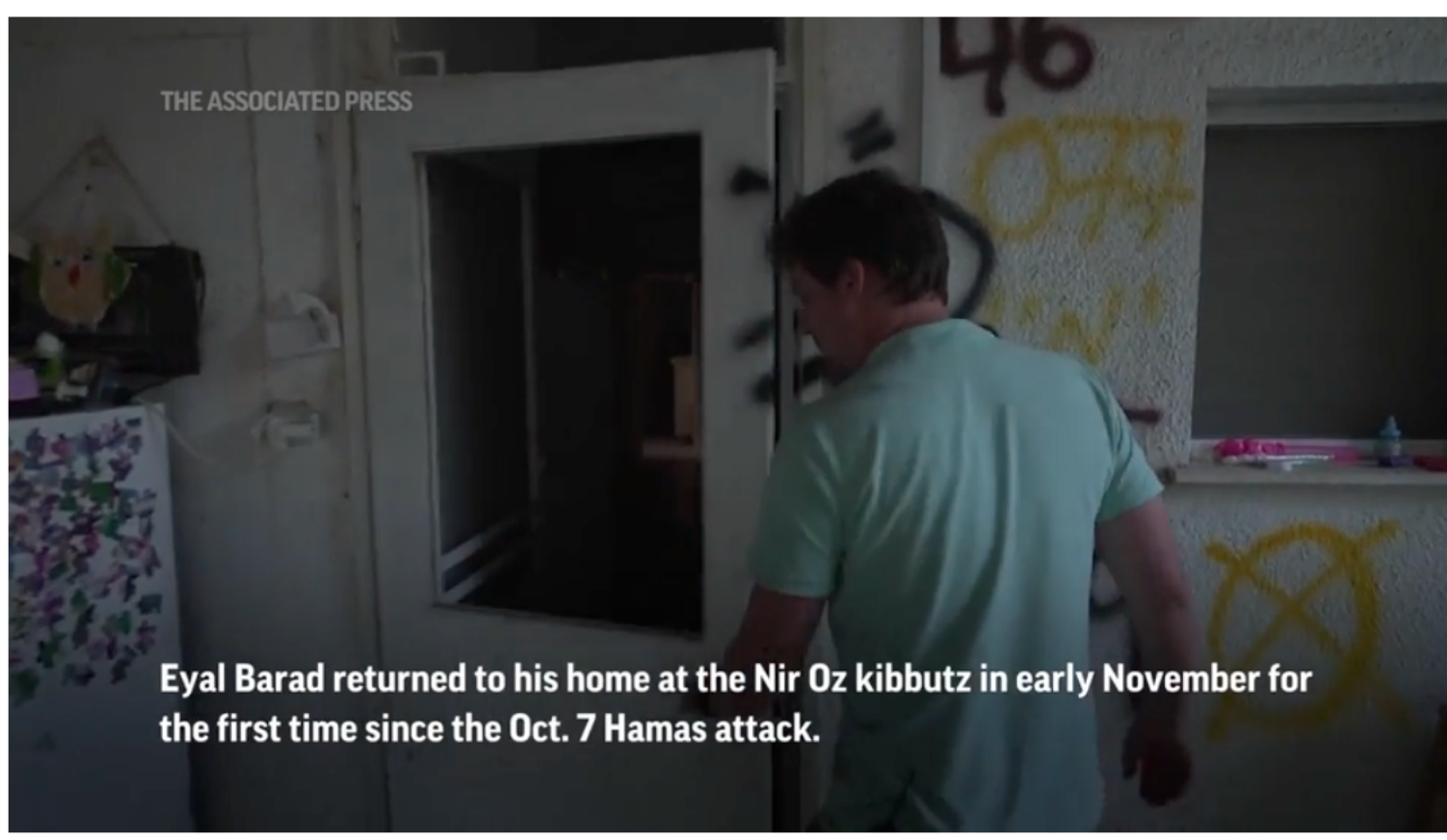
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Competition in school board elections is "key to a healthy democracy," writes Joe Ortona, president of the Quebec English School Boards Association. "I encourage community members to step up and become candidates." PHOTO BY ALLEN MCINNIS /Montreal Gazette

The decision to challenge Bill 40, the legislation that would abolish our democratically elected school boards, is paying off.



Education Minister Bernard Drainville recently reached an understanding with the Quebec English School Boards Association (QESBA) to his proposed amendments to the Education Act (Bill 23) that we maintain are unconstitutional. The sections in question relate to governance and the minister's desire to unilaterally appoint the directors general of our school boards and to have the right to revoke school board decisions.

The minister's willingness to compromise is no doubt linked to Superior Court Judge Sylvain Lussier's 125-page ruling in August that a number of Bill 40 provisions are in violation of constitutional protections for minority language communities based on Section 23 of the Canadian Charter of Rights and Freedoms. The court ruling recognizes Quebec's English-speaking community's right to "manage and control" our education system.

Despite the mantra of our current government, the court specifically stated that Bill 40 has nothing to do with the protection of the French language. Lussier writes: "The debate thus concerns the power of management and control of educational institutions. It should be noted that there is no issue here regarding the protection of the French language."

At the same time, it is important to look beyond the headline to get a better understanding of the scope of our Superior Court victory. We won on every count that mattered.

The government has an obligation to consult and consider the needs and concerns of the English-speaking community when preparing legislation affecting our community.

Various provisions that would reduce powers of English school boards — such as the removal of the elected chairperson's role as board spokesperson and the removal of commissioners' role in development of commitment-to-success plans — were declared unconstitutional. In addition, the government cannot bypass school boards and transfer funds directly to schools.

All the new Bill 40 requirements that would have reduced the number of candidates eligible and willing to run in school elections are unconstitutional, including: the presence of non-elected staff members on the board; the requirement that "parent representatives" be limited only to those already on a school governing board; that "community representatives" must meet certain profile requirements and run in the entire territory of the board; and that only parent representatives can become chair or vice-chair.

The court rejected the government's argument that only parents with children currently in school are "rights holders" under Section 23 and have the right to vote in school board elections. To the contrary, many others share this right, including: grandparents; adults who do not have, or do not yet have, children; and parents whose children are no longer in school.

While Drainville's outreach and compromise on Bill 23 were appreciated, and our legal victory on Bill 40 is gratifying, the government has decided to appeal Lussier's ruling, which means our legal battle continues.

So, we must stand up for and promote our vision for our school system.

We need funds to pay for our ongoing Bill 40 court challenge. Tax deductible donations can be made online at: <https://qesba.qc.ca/en/home/> .

The other key to a healthy democracy is to have competitive races for the seats on our school boards. Elections are slated for next November. I encourage community members to step up and become candidates.

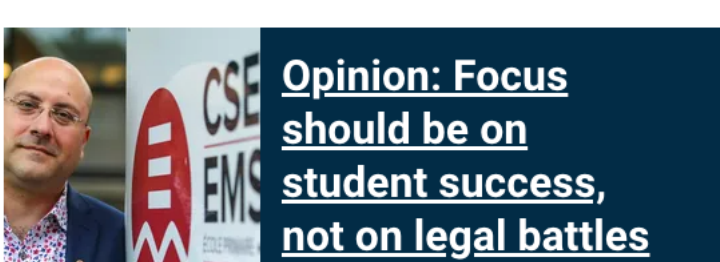
And all of us need to ensure we are on the voters list, and then of course we need to get out and vote.

The African proverb popularized by Hillary Clinton — "It takes a whole village to raise a child" — is true. The advantage of elected school boards is that we bring the stakeholders — parents, faculty and staff, students and even the government — around the same table with one common focus.

We are the connection to the community and are here to ensure our programs and services reflect the needs of our students. This is a key to student success.

Joe Ortona is president of the Quebec English School Boards Association.

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