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HARPER, J., concurring. A closely divided state board of education (state board) voted to reconstitute the board of education of the city of Bridgeport (Bridgeport board) without requiring that board to complete training that the legislature has mandated as a precondition to reconstitution.[1] See General Statutes § 10-223e (h). In determining implicitly that training need not be provided, the state board acted wholly in reliance on a resolution adopted by six of the nine members of the Bridgeport board purporting to waive the training requirement on the ground of futility. I agree with the conclusions reached by the majority in determining that the state board's decision to reconstitute was unlawful. In so concluding, I emphasize that the Bridgeport board's resolution, in which the board attempted to waive its right to training to induce the state board to reconstitute the Bridgeport board (reconstitution resolution), did not, and *could not* as a matter of law, negate the state board's mandatory statutory obligation to require completion of that training or serve as a basis to displace duly elected members of the Bridgeport board. I believe that the majority's resolution of the issue of whether the Bridgeport board could waive this right is consistent with the apparent legislative intent.

In writing separately, I wish to highlight my disagreement with the dissent's suggestion that permitting a local board of education to waive preconditions to state intervention necessarily honors the principle of local control and best advances the educational interests of schoolchildren in low performing schools. I also wish to bring to light certain concerns that the plaintiffs[2] have raised, in their complaints and in arguments to this court, regarding allegedly improper motives for the reconstitution resolution and the deprivation of the Bridgeport electorate's voice in their own children's education. These concerns give context to the plaintiffs' claims and explain the deep passions that motivated their opposition to reconstitution. In acknowledging these issues, however, I am mindful that the plaintiffs agreed not to litigate the merits of all of their allegations in favor of a more expeditious resolution of the case by reserving questions of law to this court and stipulating to the limited facts necessary to resolve those legal issues. It is on the basis of this stipulation and attached exhibits[3] that we ultimately must render our decision.

I first note that the resolution adopted by six members of the Bridgeport board to forgo training cannot logically be separated from the intended effect of that decision—to displace duly elected board members through a state created reconstituted board. Nothing in the record suggests that the state or the state board had considered reconstitution prior to the state board's

receipt of the Bridgeport board's resolution, despite serious deficits in the Bridgeport schools for *seven* years.[4] The record plainly manifests that, in acting favorably on the resolution, the state board relied on representations by certain Bridgeport board members and city officials that, due to fundamental disagreements between three board members and the majority of the board that resulted in "dysfunction," reconstitution was the *only* possible course of action and that such action must be taken *immediately*.[5] These claims were accepted by a bare majority of the state board, despite the fact that elections were imminent for three seats on the Bridgeport board and that the Bridgeport charter provides a mechanism to fill school board vacancies should others choose to step down. See Bridgeport Charter, c. 15, § 1 (d). The three members of the Bridgeport board who opposed the resolution made clear their interest in continuing to serve, their belief in their capacity to fulfill their obligations, and their view that those board members who felt otherwise should act consistently with the democratic process by either declining to seek reelection or relinquishing their seats. The only members of the community who spoke at the meeting opposed reconstitution generally or the lack of transparency in the process, a subject I later address. Therefore, although the Bridgeport board's reconstitution resolution legally could not, in and of itself, displace duly elected board members, it is appropriate to consider the resolution as the cause of that action.

In light of the actual effect of the Bridgeport board's purported waiver, I take issue with the dissent's assumption that the legislature intended to permit the Bridgeport board to waive statutorily mandated training and that such a result necessarily is consistent with the principle of local control and is in the best interests of the children of the Bridgeport public schools. There can be no doubt that "[d]irect control over decisions vitally affecting the education of one's children is a need that is strongly felt in our society . . . ." *Wright* v. *Council of Emporia*, 407 U.S. 451, 469, 92 S. Ct. 2196, 33 L. Ed. 2d 51 (1972); accord *San Antonio Independent School District* v. *Rodriguez*, 411 U.S. 1, 49, 93 S. Ct. 1278, 36 L. Ed. 2d 16 (1973) ("[t]he persistence of attachment to government at the lowest level where education is concerned reflects the depth of commitment of its supporters"); see also *Milliken* v. *Bradley*, 418 U.S. 717, 741–42, 94 S. Ct. 3112, 41 L. Ed. 2d 1069 (1974) ("local autonomy has long been thought essential both to the maintenance of community concern and support for public schools and to [the] quality of the educational process"). Undoubtedly, many citizens in this state cherish this exercise of direct control in their children's educational process, and they exercise this control when they have their say at the ballot box regarding who will make decisions involving that educational process. It is universally accepted that children perform

better in school when their parents are involved in their education. Significantly, this premise is reflected in the federal act that was the impetus for our legislature's enactment of § 10-223e.[6] The federal No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425, codified as amended at 20 U.S.C. § 6301 et seq. (2006 & Supp. III 2009), not only is replete with references to parents, it also contains an entire section devoted to parental involvement.[7] See 20 U.S.C. § 6318.

Local control over education fosters and affirms parental involvement, thus comporting not only with deep civic values, but also in important respects with the interests of children as well. In this context, reconstituting a local board of education is an extraordinary act that necessarily diminishes local control into the future and, if imposed against the will of a majority of parents, threatens to undermine sustained parental involvement in the education system.[8] The dissent, in considering a local board of education's act of waiver only as an isolated political act by a duly elected representative body, wrongly concludes that "we honor the principle of local control by permitting a local board [of education] to waive the training afforded by § 10-223e (h) in order to discharge as expeditiously as possible the local board's duty to promote the interests of the schoolchildren." Local control, however, is not merely a matter of exercising political power or of expeditiously discharging legal duties; rather, it is a matter of *enduring* civic investment and responsibility that is formed from the dense fabric of the families and neighborhoods in which our public schools operate. The reconstitution of a local board of education, even if done with the best of intentions, risks tearing at that civic fabric, and it is not clear that a reconstituted "local" board of education will necessarily make up for the damage done.

It bears emphasizing that the children of this state have a constitutional right to an adequate and equal education. I seriously doubt, however, whether anyone on either the Bridgeport board or the state board considering reconstitution, with or without state mandated training, operated under the illusion that such a measure would be a panacea for the serious and long-standing deficits in the Bridgeport public school system. In mandating training prior to reconstitution, however, § 10-223e (h) reflects a legislative determination that such a precondition ultimately *is* in the best interests of our schoolchildren. In other words, the legislature has determined that the *potential* benefits that might be gained by providing training to local or regional boards of education in long-term, low achieving school districts outweighs the benefits of a more expedited procedure that would displace locally elected or appointed boards in favor of a new board that has no particular attachment, or political accountability, to the community it serves.

I also take note of the fact that, in their complaints and in arguments to this court, the plaintiffs have leveled accusations that certain members of the Bridgeport board colluded with the mayor, superintendent, private parties and certain members of the state board to engineer a takeover of the Bridgeport board for purely political purposes. They suggest that these actions were undertaken for the purpose of ousting a vocal minority who had opposed the mayor's policies. I underscore that these allegations are unproven; they are not part of the stipulated facts. As a general matter, this court assumes that public officials are acting in good faith. *Kinsella* v. *Jaekle*, 192 Conn. 704, 729, 475 A.2d 243 (1984). Accordingly, in the absence of clear evidence to the contrary, I operate under the assumption that Bridgeport board members have exercised their authority in good faith, solely for the purpose of advancing the educational interests of the children. Indeed, the fact that no member of the Bridgeport board was appointed to the reconstituted board and that the superintendent's ability to retain his position was placed in jeopardy by supporting reconstitution undermines these accusations.[9] If true, however, such allegations might raise a fundamental question as to the fitness of certain board members to serve. The Bridgeport board has a broad grant of authority under the Bridgeport charter, but only insofar as its actions relate to educational considerations. See Bridgeport Charter, c. 15, § 2 ("[t]he board of education shall have all the powers vested in, and shall perform all the duties imposed [upon], boards of education under the laws of this state and the United States").

I observe, however, one adverse inference in support of the plaintiffs' allegations that readily can be drawn from the stipulated facts and exhibits submitted as part of that stipulation, namely, that the reconstitution process was undertaken in a manner that not only limited transparency, but intentionally limited opportunity for community involvement and for board members to marshal opposition. Only certain Bridgeport board members were privy to private discussions about reconstitution that took place many months before the resolution was adopted requesting that action. Thereafter, at 4:55 p.m. on Friday, July 1, 2011, just before a three day holiday weekend was to commence, notice was issued for a special meeting of the Bridgeport board to be held at 6 p.m. on Tuesday, July 5, to consider the reconstitution resolution. At its regularly scheduled meeting on the morning of July 6, the state board voted in favor of adding the reconstitution resolution to its agenda and acted on that issue later that same day. Thus, essentially two business days lapsed between the initiation and the resolution of the reconstitution issue. Although a handful of Bridgeport citizens spoke at the board meeting in opposition to reconstitution, it seems likely that the speed at which this action was finalized

deprived members of the community who hold passionate views for or against the wisdom or propriety of reconstituting their duly elected board the opportunity to participate in this process. Although one member of the state board strongly advocated for a delay in voting on reconstitution in order to give the citizens of Bridgeport sufficient opportunity to voice their views on the matter, that suggestion did not garner support.

In making these observations, I am mindful that the plaintiffs have not advanced a claim that these procedures violated the public hearing requirements of the Freedom of Information Act, General Statutes § 1-200 et seq., or their constitutional right to procedural due process. Indeed, the legislature has not mandated *any* procedural requirements in connection with reconstitution generally or the training precondition specifically.[10] To the extent, however, that the legislature has imposed the training precondition as a protection against the arbitrary and capricious ousting of elected or appointed representatives and the advancement of educational interests, it may want to consider whether those interests might better be served by enacting some procedural guidelines. It would seem evident that parents will be more likely to remain invested in their children's education when they are given a voice in as essential a matter as who governs that educational process.

Undoubtedly, it is for the legislature, not this court, to determine whether it is good policy for the state to reconstitute a duly elected or appointed local school board. Nonetheless, we need not be blind to the implications of the lawful exercise of authority. Poor urban districts like Bridgeport are among the state's longest, low achieving school districts. I cannot help but note that parents in such districts often are cited as being less involved in their children's education than their more affluent suburban counterparts. One reason posited for this difference is that "low-income families often perceive themselves as outside the school system . . . ." P. McDermott & J. Rothenberg, "Why Urban Parents Resist Involvement in their Children's Elementary Education," 5 The Qualitative Report (October, 2000) p. 1, available at http://www.nova.edu/ssss/QR/QR5-3/mcdermott.html (last visited February 28, 2012) (copy contained in the file of this case with the Supreme Court clerk's office). Thus, it has been recommended that "[s]chools serving low income, ethnically diverse neighborhoods . . . must make greater efforts to welcome families, because those are the parents who often feel excluded because of differences in their ethnicity, income, and culture." Id., p. 2. Failure to provide procedures that allow for optimum community involvement in a decision of the magnitude of reconstituting a locally elected board of education would seem to reinforce the perception of parents in such districts that they are outsiders. I feel confident that the legislature would not intend such an effect.

In sum, I conclude that the state board violated § 10-223e (h) by authorizing the commissioner of education to reconstitute the Bridgeport board in disregard of its independent obligation to ensure that the Bridgeport board completed training to improve its operational efficiency and effectiveness as leaders of its districts' improvement plans.

I respectfully concur.

[1] This case involves three separate complaints in which the state board, various city and school officials of the city of Bridgeport, members of the reconstituted Bridgeport board and the state board of education are named as defendants. See the text of the majority opinion for a more detailed identification of the various defendants.

[2] The plaintiffs in these three cases were comprised of various former Bridgeport board members, electors of the city of Bridgeport, and residents of the city. We, like the majority, refer to these individuals collectively as the plaintiffs.

[3] The record includes the transcript of the Bridgeport board's special meeting at which it voted on the resolution and the DVD of the state board meeting in which it addressed the issue of reconstitution.

[4] The procedures by which the General Assembly may reconstitute a local board of education are set forth in § 10-223e (d). Well before the legislature enacted this provision in 2007; see Public Acts, Spec. Sess., June, 2007, No. 07-3, § 32; it had employed this procedure when the state took over the Hartford school system in 1997.

[5] The Bridgeport board members supporting reconstitution acknowledged that there consistently was a six person majority that permitted the board to act on matters before it, but asserted that the three member minority had made that process more protracted through the use of various procedural mechanisms. Democracy assumes, however, the utility of dissent, and procedural mechanisms adopted by a collective body necessarily are tools deemed legitimate by that body.

[6] See General Statutes § 10-223e (a) ("[i]n conformance with the No Child Left Behind Act . . . the Commissioner of Education shall prepare a statewide education accountability plan, consistent with federal law and regulation").

[7] "[P]arents are mentioned over 300 times in various part[s] of the No Child Left Behind [A]ct [of 2001] . . . ." NCLB Action Briefs, "Parental Involvement," (April 23, 2004), p. 1, available at http://www.ncpie.org/nclbaction/parent_involvement.html (last visited February 28, 2012) (copy contained in the file of this case with the Supreme Court clerk's office). Numerous studies document the relationship between parental involvement and student performance. See, e.g., Michigan Department of Education, "What Research Says About Parent Involvement In Children's Education In Relation to Academic Achievement," (March 2002), available at http://www.michigan.gov/documents/Final_Parent_Involvement_fact_sheet_14732_7.pdf (last visited February 28, 2012) (copy contained in the file of this case with the Supreme Court clerk's office).

[8] The dissent dismisses this concern by pointing to the lack of evidence that reconstitution was imposed against the will of a majority of parents and by deeming any such evidence to be irrelevant if it existed. As I explain later in this concurring opinion, lack of information bearing on this question is directly attributable to the haste with which reconstitution was raised and decided, and I disagree that such evidence necessarily would have been irrelevant to the state board in deciding whether reconstitution was the best course of action.

[9] The reconstituted Bridgeport board appointed by the state has in fact replaced the Bridgeport superintendent.

[10] The state board also has not enacted regulations specifying procedures to be followed for reconstitution or for the provision of training.