

**PREPARED BY THE COURT**

**H.G., a minor, through her guardian  
TANISHA GARNER, et al.,**

**Plaintiffs,**

**v.**

**KIMBERLY HARRINGTON, in her  
official capacity as Acting Commissioner  
of the New Jersey Department of  
Education, NEW JERSEY STATE  
BOARD OF EDUCATION, nominal  
defendant NEWARK PUBLIC SCHOOL  
DISTRICT; and nominal defendant  
CHRISTOPHER CERF, in his capacity  
as Superintendent of the Newark School  
District,**

**Defendants,**

**and**

**NEW JERSEY EDUCATION  
ASSOCIATION, a New Jersey nonprofit  
corporation, on behalf of itself and its  
members,**

**Defendant-Intervenor,**

**and**

**AMERICAN FEDERATION OF  
TEACHERS, AFL-CIO, et al.,**

**Defendant-Intervenor.**

**SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION –  
MERCER COUNTY**

**DOCKET NO. L-2170-16**

**CIVIL ACTION**

**ORDER GRANTING MOTIONS TO  
DISMISS THE COMPLAINT AND  
DISMISSING THE COMPLAINT  
WITHOUT PREJUDICE**

**FILED**

**MAY 04 2017**

**SUPRE. COURT OF NJ  
MERCER VICINAGE  
CIVIL DIVISION**

**FILED**

**MAY 04 2017**

**SUPERIOR COURT OF NJ  
MERCER VICINAGE  
CIVIL DIVISION**

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**THIS MATTER** having been opened to the court by way of Defendant-Intervenors New Jersey Education Association (“NJEA”) and American Federation of Teachers (“AFT”) motions

to dismiss Plaintiffs' complaint for failure to state a claim upon which relief can be granted, pursuant to R. 4:6-2(e); and the court having reviewed the materials submitted by the parties and having also heard oral argument on May 3, 2017; and the court finding that Plaintiffs lack standing to pursue their claims in the absence of a particularized harm to Plaintiffs caused by the N.J.S.A. 18A:28-10 and N.J.S.A. 18A:28-12 ("LIFO statutes"); and the court also finding Plaintiffs' claims lack ripeness in the absence of an actual, or immediate threat of harm to Plaintiffs caused the LIFO statutes; and the court not needing to reach Plaintiffs' other claims; and for the reasons set forth on the record on May 3, 2017; and for good cause shown:

**IT IS** on this 4<sup>th</sup> day of May, 2017, **HEREBY ORDERED** that:

1. Defendant-Intervenors' motions to dismiss are GRANTED.
2. Plaintiffs' complaint is DISMISSED, without prejudice.

  
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Mary C. Jacobson, A.J.S.C.