

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 4th day of May, 2017, **HEREBY ORDERED** that:

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



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