

FILED

MAR 03 2017

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

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 JERSERY 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 STAYING DISCOVERY AND
DIRECTING NEGOTIATION OF A
PROTECTIVE ORDER**

Attorneys for Plaintiffs:

William H. Trousdale, Esq.
Wachenfeld & Barry LLP
3 Becker Farm Rd.
Suite 404
Roseland, NJ 0706

Kent A. Yalowitz, Esq. (admitted *pro hac vice*)
Kathleen A. Reily, Esq. (admitted *pro hac vice*)
Colleen S. Lima, Esq. (admitted *pro hac vice*)
Arnold & Porter LLP
399 Park Avenue
New York, NY 10022-4690

**Attorney for Defendants Harrington and
New Jersey State Board of Education:**

Christopher S. Porrino, Attorney General of
New Jersey
Daniel Dryzga, DAG
Hughes Justice Complex
P.O. Box 112
Trenton, N.J. 08625-0112

**Attorney for Defendants Cerf and Newark
Public Schools:**

Charlotte Hitchcock, Chief General Counsel
Newark Public Schools
2 Cedar St., Rm 1003
Newark, N.J. 07102

**Attorneys for Defendant-Intervenor New
Jersey Education Association:**

Flavio L. Komuves, Esq.
Zazzali, Fagella, Nowak, Kleinbaum & Friedman
One Riverfront Plaza, Suite 320
Newark, N.J. 07102

**Attorneys for Defendant-Intervenor American
Federation of Teachers, et al.:**

Weissman & Mintz LLC
Steven P. Weissman, Esq.
One executive Drive, Suite 200
Somerset, N.J. 08873

THIS MATTER having been opened to the court by way of a motion filed by Plaintiffs to compel discovery from Defendant Newark Public School District (“District”); and Defendant-Intervenor American Federation of Teachers (“AFT”) having filed in response a motion to stay discovery and, in the alternative, a motion for entry of a protective order to protect the privacy interests of teachers in the District; and Defendant-Intervenor New Jersey Education Association (“NJEA”) having opposed Plaintiffs’ motion and having endorsed the arguments of AFT; and Defendants having not opposed Plaintiffs’ motion, including Defendant School District, against which the motion was brought; and the court having reviewed the submissions of the parties and

having heard oral argument on March 3, 2017; and counsel for neither the School District nor State Defendants having attended oral argument on the motions returnable before the court on March 3, 2017; and the court having been notified previously that the Defendants-Intervenors AFT and NJEA will be moving to dismiss the complaint *in lieu* of filing an answer to Plaintiffs' complaint; and the motion to dismiss already having been scheduled to be heard on April 13, 2017; and for the reasons set forth on the record; and for good cause shown:

IT IS on this 3rd day of March, 2017, **HEREBY ORDERED** that:

1. Plaintiffs' motion to compel discovery from the Newark Public School District is denied without prejudice.
2. The motion of the Intervenor-Defendants to stay discovery is granted insofar as the court stays the District's compliance with the outstanding discovery requests, and prevents the serving of any further discovery requests until April 13, 2017, when the motion to dismiss is scheduled for argument.
3. Pending court review of the motion to dismiss, however, all parties through their counsel shall participate in negotiations concerning entry of a protective order to shield or otherwise protect the privacy/confidentiality interests of the students and teachers of the Newark Public School District.
4. By March 31, 2017, counsel for the parties shall either notify the court that an agreement has been reached as to the form of a protective order acceptable to all parties, or each party shall provide the court with their version of the protective order.
5. All protective order drafts shall be circulated among all parties.
6. Following argument of the motion to dismiss on April 13, 2017, if the complaint remains viable, the court will conduct a case management conference to discuss case

management issues, including the issue of a protective order if that matter has not been resolved.

7. Counsel for the School District and the State Defendants shall attend oral argument on April 13, 2017, at 10:00 a.m., whether or not they take a position on the motion to dismiss, to be available for the case management conference.
8. Plaintiffs shall provide copies of this order to all parties within seven (7) days of receipt.


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