

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NEW JERSEY and THE
NEW JERSEY DEPARTMENT OF
CORRECTIONS,

Defendants.

Civil No.: 3:21-cv-15031-ZNQ-TJB

**MEMORANDUM OF LAW IN SUPPORT OF JOINT MOTION TO
TERMINATE CERTAIN SECTIONS OF THE CONSENT DECREE**

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TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES.....	ii
PRELIMINARY STATEMENT.....	1
BACKGROUND	2
I. RELEVANT FACTUAL BACKGROUND.....	2
II. THE CONSENT DECREE’S TERMINATION PROVISIONS.	3
III. SECTIONS OF THE CONSENT DECREE SUITABLE FOR TERMINATION.....	4
A. SECTION III.B – PRISONER SUPERVISION.....	5
B. SECTION III.F – PRISONER EDUCATION.....	6
C. SECTION III.H – REPORTING ALLEGATIONS OF SEXUAL ASSAULT AND SEXUAL HARASSMENT.....	7
D. SECTION III.J – RESPONSE TO ALLEGATIONS OF SEXUAL ASSAULT AND SEXUAL HARASSMENT.	8
E. SECTION III.L – PHYSICAL PLANT.	10
F. SECTION V – IMPLEMENTATION.....	11
IV. SECTIONS OF THE CONSENT DECREE WITH WHICH DEFENDANTS ARE IN DURABLE COMPLIANCE BUT DO NOT SEEK TO TERMINATE AT THIS TIME.....	12
A. SECTION III.D – STAFFING.....	12
B. SECTION III.K – REFERRALS AND INVESTIGATIONS.....	13
C. SECTION VI – REPORTING REQUIREMENTS.	14

D. SECTION VII – DOJ’S RIGHT OF ACCESS.....14

E. SECTION VIII – PUBLIC TRANSPARENCY.....15

ARGUMENT16

I. LEGAL STANDARD.....16

II. DEFENDANTS SATISFIED THE REQUISITE CONDITIONS TO
TERMINATE CERTAIN SECTIONS OF THE CONSENT DECREE.
.....17

CONCLUSION20

TABLE OF AUTHORITIES

Page(s)

CASES

Holland v. N.J. Dep’t of Corr.,
246 F.3d 267, 277 (3d Cir. 2001)16, 17

Miles v. Aramark Corr. Serv., Inc.,
321 F. App’x 188 (3d Cir. 2009)16

United States v. New Jersey,
194 F.3d 426 (3d Cir. 1999)16, 17

Defendants, the State of New Jersey and the New Jersey Department of Corrections (“NJDOC”) along with Plaintiff, the United States of America (together, the “Parties”), respectfully submit this memorandum of law in support of their joint motion (“Motion”) to terminate certain sections of the consent decree entered into by the United States and Defendants and so ordered by the Court on August 24, 2021 (Dkt. No. 12) (the “Consent Decree”). In support of this Motion, the Parties state as follows:

PRELIMINARY STATEMENT

On August 24, 2021, the Court so-ordered the Consent Decree between the Department of Justice (“DOJ”) and Defendants. Consent Decree Section XI governs the Consent Decree’s termination in whole or in part: to terminate any given section, Defendants must “demonstrate that Edna Mahan has attained and maintained its substantial compliance as to that section for at least one year.” (*See* Consent Decree ¶ 138.) Defendants now seek to terminate six sections of the Consent Decree with which they have attained and maintained substantial compliance for at least one year: (1) Section III.B – Prisoner Supervision; (2) Section III.F – Prisoner Education; (3) Section III.H – Reporting Allegations of Sexual Assault and Sexual Harassment; (4) Section III.J – Response to Allegations of Sexual Assault and Sexual Harassment; (5) Section III.L – Physical Plant; and (6) Section V – Implementation.

As shown by the federal monitor’s (the “Monitor”) reports, which constitute presumptive proof of compliance under the Consent Decree, Defendants achieved and maintained substantial compliance in each of the above sections for well over the one-year period required for termination. In fact, both the Department of Justice and the Monitor have indicated their support for the filing of this motion. For the below reasons, the Parties respectfully ask the Court to grant this joint Motion and terminate Consent Decree Sections III.B, III.F, III.H, III.J, III.L, and V pursuant to Consent Decree Section XI.

BACKGROUND

I. RELEVANT FACTUAL BACKGROUND.

In 2018, the DOJ’s Civil Rights Division launched an investigation into allegations it received regarding sexual abuse of incarcerated persons at the Edna Mahan Correctional Facility for Women (“Edna Mahan”). (Consent Decree ¶ 2.) With Defendants’ cooperation and demonstration of “a commitment to improv[e] conditions at Edna Mahan,” the Parties drafted an agreement which “resolved the issues pending between the Parties.” (*Id.* ¶¶ 4, 6.)

Defendants and the United States entered into that Consent Decree with the goal of ensuring that those incarcerated at Edna Mahan “are provided with constitutional conditions that protect them from sexual abuse by staff.” (*See id.* ¶ 1.) On August 10, 2021, the Parties filed a joint motion seeking this Court’s approval

of the Consent Decree as an Order of the Court. (*See* Dkt. No. 4.) The Court granted the Parties’ joint motion on August 24, 2021. (*See* Dkt Nos. 11–12.) The Court’s order set the Consent Decree’s effective date as August 24, 2021. (*See id.*; *see also* Consent Decree § II.K (“‘Effective Date’ shall mean the date the Agreement is entered on the docket of the Court.”).)

Under the Consent Decree, the Parties appointed Jane Parnell as the federal monitor to “assess implementation of the Agreement.” (Consent Decree §§ II.R, IX.) Since that appointment, and in accordance with the Consent Decree, (*see id.* ¶ 125), the Monitor has filed five reports that assessed Defendants’ implementation and compliance with the Consent Decree. (*See* Dkt. Nos. 17, 26, 33, 37, 40.)

II. THE CONSENT DECREE’S TERMINATION PROVISIONS.

Section XI of the Consent Decree contains certain provisions (“Termination Provisions”) under which the Parties agreed that the Consent Decree may terminate “within three years of the Effective Date . . . or at any time thereafter, if Edna Mahan has attained substantial compliance with all provisions of this Agreement and maintained that compliance for a period of one year, or as outlined in Paragraph 139, by order of the Court.” (Consent Decree ¶¶ 136–37.)

The Termination Provisions state that Defendants “may seek termination of any full substantive section . . . by filing with the Court a motion to terminate that section.” (*Id.* ¶ 138.) These provisions place the burden on Defendants “to

demonstrate that Edna Mahan has attained and maintained its substantial compliance as to that section for at least one year.” (*Id.*) In addition, “[b]eginning 24 months after the Effective Date, regardless of [the Consent Decree’s] specific requirements, [the Consent Decree] will terminate, or substantive sections as described in Paragraph 138 may terminate, upon a showing by NJDOC that Edna Mahan has come into durable compliance with the requirements of the Constitution that gave rise to this [Consent Decree].” (*Id.* ¶ 139.) To make this showing of durable compliance, “NJDOC must establish with the Court that Edna Mahan is operating in accordance with constitutional conditions of confinement and adequate protection from harm from sexual abuse for Edna Mahan prisoners and has been doing so continuously for one year.” (*Id.*)

The Consent Decree specifies that the Monitor’s reports “confirming compliance shall be considered presumptive proof of compliance” and that “[n]on-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, will not constitute failure by Edna Mahan to maintain substantial compliance.” (*Id.* ¶ 140.)

III. SECTIONS OF THE CONSENT DECREE SUITABLE FOR TERMINATION.

Pursuant to the Termination Provisions, the Parties jointly move to terminate six sections of the Consent Decree.

A. Section III.B – Prisoner Supervision.

Section III.B Prisoner Supervision includes paragraphs 18 through 25 of the Consent Decree. Those paragraphs require Edna Mahan to provide “written guidance outlining the job responsibilities of those staff members responsible for direct management of corrections staff assigned to all housing areas and dormitory settings in accordance with the policies and procedures developed pursuant to” the Consent Decree, (Consent Decree ¶ 18), ensure the adequate supervision of housing areas, (*id.* ¶¶ 19–21), and ensure that staff are conducting and documenting the required unannounced rounds, (*id.* ¶¶ 22–25).

In the First Monitor’s Report and Monitoring Tool, filed April 29, 2022, (Dkt. No. 17-2 (“First Monitoring Tool”)), the Monitor found Defendants to have substantially complied with all the requirements of Section III.B that were due at the time of the First Monitor’s Report, (*id.* ¶¶ 18–20, 22–24).¹ The requirements for paragraph 21 were not due until August 24, 2023, so the Monitor did not rate Defendants’ compliance with that paragraph in the First Monitoring Tool. (*Id.* ¶ 21.)

Defendants maintained their substantial compliance with paragraphs 18–20 and 22–24 in every subsequent report, (*see* Second Monitoring Tool, filed November

¹ The Consent Decree does not require paragraph 25 to receive a ranking of compliance in the Monitoring Tools.

21, 2022, Dkt. No. 26-2 (“Second Monitoring Tool”); Third Monitoring Tool, filed May 3, 2023, Dkt. No. 33-2 (“Third Monitoring Tool”)), and achieved substantial compliance with paragraph 21, in addition to the other paragraphs in Section III.B, as of the Fourth Monitoring Tool, filed November 17, 2023, (*see* Dkt. No. 37-2 (“Fourth Monitoring Tool”)). While paragraph 21 was not formally assessed until November 2023, the Parties agreed to include it in the scope of this Motion because Edna Mahan demonstrated compliance with its terms long before it was due to be assessed, as reflected in the First through Third Monitoring Tools. Defendants maintained substantial compliance with all paragraphs under Section III.B in the Fifth Monitoring Tool, filed May 16, 2024, (Dkt. No. 40-2 (“Fifth Monitoring Tool”)) ¶¶ 18–24).

Together, the Monitoring Tools establish Defendants’ substantial compliance with Section III.B – Prisoner Supervision since April 29, 2022.

B. Section III.F – Prisoner Education.

Section III.F – Prisoner Education includes paragraphs 47 through 53 of the Consent Decree. Those paragraphs require Edna Mahan to “effectively communicate to all prisoners their right to be free from sexual abuse and sexual harassment and the protections in place at Edna Mahan to ensure that such abuse and harassment does not occur” or if abuse does occur, ensure it “is reported so it can be responded to promptly, appropriately, and without retaliation.” (Consent Decree §

III.F.) This section set forth various requirements for the orientation and continued education of incarcerated persons at Edna Mahan, along with documentation of those activities. (*Id.*)

In the First Monitoring Tool, the Monitor found Defendants to have substantially complied with paragraphs 47–51 and 53. (First Monitoring Tool ¶¶ 47–51, 53.) Defendants received a partial compliance rating on paragraph 52 in the First Monitoring Tool. (*Id.* ¶ 52.) Defendants received a substantial compliance rating on paragraph 52 in the Second Monitoring Tool, (Second Monitoring Tool ¶ 52), however, and maintained substantial compliance with the rest of Section III.F throughout the Monitor’s other four reports, (*see, e.g., id.* ¶¶ 47–53; Third Monitoring Tool ¶¶ 47–53; Fourth Monitoring Tool ¶¶ 47–53; Fifth Monitoring Tool ¶¶ 47–53).

The Monitoring Tools establish Defendants’ substantial compliance with Section III.F – Prisoner Education since November 21, 2022.

C. Section III.H – Reporting Allegations of Sexual Assault and Sexual Harassment.

Section III.H – Reporting Allegations of Sexual Assault and Sexual Harassment includes paragraphs 56 through 63 of the Consent Decree. Those paragraphs require Edna Mahan to “ensure that Edna Mahan [incarcerated persons], staff, and third-parties have multiple unimpeded methods to report incidents of alleged or suspected sexual abuse and sexual harassment free from retaliation.”

(Consent Decree § III.H.) The paragraphs set forth various requirements for internal and external methods of reporting abuse or harassment, including timelines for reporting allegations Defendants receive. (*Id.*)

The Monitor found Defendants to be in substantial compliance with paragraphs 56–60 and 62–63 in each of the five Monitoring Tools. (*See, e.g.*, First Monitoring Tool ¶¶ 56–60, 62–63; Fifth Monitoring Tool ¶¶ 56–60, 62–63.)

Defendants received a partial compliance rating on paragraph 61 in the First and Second Monitoring Tools. (First Monitoring Tool ¶ 61; Second Monitoring Tool ¶ 61.) Defendants attained substantial compliance with paragraph 61 in the Third Monitoring Tool, (Third Monitoring Tool ¶ 61), and maintained substantial compliance in every subsequent Monitoring Tool. (*See* Fourth Monitoring Tool ¶¶ 56–63; Fifth Monitoring Tool ¶¶ 56–63).

The Monitoring Tools establish Defendants’ substantial compliance with Section III.H – Reporting Allegations of Sexual Assault and Sexual Harassment as of May 4, 2023.

D. Section III.J – Response to Allegations of Sexual Assault and Sexual Harassment.

Section III.J – Response to Allegations of Sexual Assault and Sexual Harassment includes paragraphs 69 through 74 of the Consent Decree. Those paragraphs require Edna Mahan to ensure that all incarcerated persons “who are alleged victims of sexual abuse and sexual harassment are offered timely, unimpeded

access to crisis intervention services as appropriate and that staff appropriately respond to and counsel the alleged victim while taking steps to preserve evidence and protect the victim, consistent with 28 C.F.R. § 115.64.” (*See* Consent Decree § III.J.) The paragraphs set forth various requirements for taking action to protect incarcerated persons, prevent an incarcerated person’s placement in restrictive housing solely for the purpose of investigating potential abuse, and ensure victims’ continued access to privileges and internal and external support services. (*Id.*)

In the First Monitoring Tool, the Monitor found Defendants to have substantially complied with paragraphs 70–73.² (First Monitoring Tool ¶¶ 70–73.) Defendants received a partial compliance rating on paragraph 74 in the First Monitoring Tool. (*Id.* ¶ 74.)

Defendants received a substantial compliance rating on paragraph 74 in the Second Monitoring Tool and maintained substantial compliance with this paragraph and paragraphs 70–73 throughout the Monitor’s other reports. (*See* Second Monitoring Tool ¶¶ 70–74; Third Monitoring Tool ¶¶ 70–74; Fourth Monitoring Tool ¶¶ 70–74; Fifth Monitoring Tool ¶¶ 70–74.)

² The Consent Decree does not require paragraph 69 to receive a ranking of compliance in the Monitoring Tools.

The Monitoring Tools establish Defendants' substantial compliance with Section III.J – Response to Allegations of Sexual Assault and Sexual Harassment since November 21, 2022.

E. Section III.L – Physical Plant.

Section III.L – Physical Plant includes paragraphs 86 through 89 of the Consent Decree. Those paragraphs set forth various requirements related to Edna Mahan's grounds, including that Edna Mahan ensure that access to the property is through secured checkpoints, conduct regular monitoring of Edna Mahan's grounds, ensure that Edna Mahan staff screen every individual for contraband, and conduct an inventory of unused buildings. (*See* Consent Decree § III.L.)

In the First Monitoring Tool, the Monitor found Defendants to have substantially complied with paragraph 86. (First Monitoring Tool ¶ 86.) Defendants received a partial compliance rating on paragraphs 87–89 in the First Monitoring Tool. (*Id.* ¶¶ 87–89.)

Defendants received a substantial compliance rating on paragraphs 87–89 in the Second Monitoring Tool and maintained substantial compliance with these paragraphs and paragraph 86 throughout the Monitor's other reports. (*See* Second Monitoring Tool ¶¶ 86–89; Third Monitoring Tool ¶¶ 86–89; Fourth Monitoring Tool ¶¶ 86–89; Fifth Monitoring Tool ¶¶ 86–89.)

The Monitoring Tools establish Defendants' substantial compliance with Section III.L – Physical Plant since November 21, 2022.

F. Section V – Implementation.

Section V – Implementation includes paragraphs 99 through 103 of the Consent Decree. Those paragraphs set forth various requirements related to Defendants' designation of an Agreement Coordinator to coordinate compliance with the Consent Decree and the establishment of an Implementation Plan for the Consent Decree. (*See* Consent Decree § V.)

The Monitor found Defendants to have substantially complied with paragraphs 100–01 in every compliance report.³ (First Monitoring Tool ¶¶ 100–01; Second Monitoring Tool ¶¶ 100–01; Third Monitoring Tool ¶¶ 100–01; Fourth Monitoring Tool ¶¶ 100–01; Fifth Monitoring Tool ¶¶ 100–01.)

The Monitoring Tools establish Defendants' substantial compliance with Section V – Implementation since April 29, 2022.

³ The Consent Decree does not require paragraphs 99, 102–03 to receive a compliance rating in the Monitoring Tools.

IV. SECTIONS OF THE CONSENT DECREE WITH WHICH DEFENDANTS ARE IN DURABLE COMPLIANCE BUT DO NOT SEEK TO TERMINATE AT THIS TIME.

In addition to the six Consent Decree sections that the Parties seek to terminate through this Motion, there are five Consent Decree sections with which Defendants are in durable compliance, but that the Parties agreed should remain active at this time: Sections III.D, III.K, VI, VII, and VIII. Though the Parties do not yet seek to terminate Sections III.D, III.K, VI, VII, or VIII through this Motion, they wish to make the Court aware of Defendants' durable compliance with these sections of the Consent Decree.

A. Section III.D – Staffing.

Section III.D – Staffing consists of paragraphs 30 through 42 of the Consent Decree. Those paragraphs set forth various requirements related to the staffing of the Edna Mahan facility including developing a new staffing plan, designating gender-restricted posts, implementing recruiting and retention plans for women correctional officers, providing staffing updates, tracking staffing, and designating, hiring, and training certain employees to help implement the Consent Decree and oversight of Edna Mahan's compliance with the Prison Rape Elimination Act ("PREA"). (*See* Consent Decree § III.D.)

Defendants have been in substantial compliance with Section III.D since July 1, 2023. (Fourth Monitoring Tool ¶¶ 30, 32–42; Fifth Monitoring Tool ¶¶ 30, 32–

42.) Despite Defendants’ demonstrated durable compliance with Section III.D, the Parties have agreed that the Monitor’s continued oversight of staffing will remain beneficial for the immediate future.

B. Section III.K – Referrals and Investigations.

Section III.K – Referrals and Investigations includes paragraphs 75 through 85 of the Consent Decree. Those paragraphs require Edna Mahan to “ensure that all allegations of sexual abuse and sexual harassment at Edna Mahan are promptly, thoroughly, and objectively investigated and appropriately referred for prosecutorial review, and that alleged victims are advised of the outcome of their allegations.” (See Consent Decree § III.K.) The paragraphs set forth various requirements for investigations, investigative reports, disclosure of personal relationships, reviews of investigative reports, and timelines for the investigative process. (*Id.*)

Defendants have been in durable compliance with Section III.K since November 21, 2022. (See Second Monitoring Tool ¶¶ 75, 77–84; Third Monitoring Tool ¶¶ 75, 77–84; Fourth Monitoring Tool ¶¶ 75, 77–84; Fifth Monitoring Tool ¶¶ 75, 77–84.) The Parties have agreed, however, that the Monitor’s oversight of investigations related to sexual abuse and sexual assault is a key element of the Consent Decree and will remain beneficial for the immediate future.

C. Section VI – Reporting Requirements.

Section VI – Reporting Requirements consists of paragraphs 104 through 106 of the Consent Decree. Those paragraphs set forth various requirements related to Defendants’ drafting and disseminating of a semi-annual Status Report to the Monitor and DOJ and Defendants’ maintenance of sufficient records and documentation to ensure the proper implementation of the Consent Decree. (*See* Consent Decree § VI.)

Defendants have been in durable compliance with paragraph 104⁴ since April 29, 2022. (First Monitoring Tool ¶ 104; Second Monitoring Tool ¶ 104; Third Monitoring Tool ¶ 104; Fourth Monitoring Tool ¶ 104; Fifth Monitoring Tool ¶ 104.)

Nevertheless, the Parties have agreed not to seek termination of Section VI at this time because it contains procedural provisions that are necessary to the Consent Decree’s continued implementation.

D. Section VII – DOJ’s Right of Access.

Section VII – DOJ’s Right of Access includes paragraphs 107 through 110 of the Consent Decree. Those paragraphs require Edna Mahan to ensure that DOJ has access to Edna Mahan, its incarcerated persons, NJDOC, and Edna Mahan’s staff and documents as reasonably necessary to evaluate compliance with the Consent

⁴ The Consent Decree does not require paragraphs 105–06 to receive a compliance rating in the Monitoring Tools.

Decree, and also require Edna Mahan to notify DOJ within 72 hours of any incident or report of sexual abuse and provide the Monitor and DOJ copies of reports of such incidents. (*See* Consent Decree § VII.)

Defendants have been in durable compliance with Section VII since April 29, 2022. (*See* First Monitoring Tool ¶ 109; Second Monitoring Tool ¶ 109; Third Monitoring Tool ¶ 109; Fourth Monitoring Tool ¶ 109; Fifth Monitoring Tool ¶ 109.)⁵

The Parties have agreed not to seek termination of Section VII at this time, however, because it contains procedural provisions that are necessary to the Consent Decree's continued implementation.

E. Section VIII – Public Transparency.

Section VII – Public Transparency includes paragraph 111 of the Consent Decree.⁶ This paragraph requires Defendants to engage with the Edna Mahan Board

⁵ The Consent Decree does not require paragraphs 107–08 to receive a compliance rating in the Monitoring Tools.

As indicated in the First Monitoring Tool, paragraph 110 will not be assessed unless NJDOC receives a formal report or recommendation from the Office of the Corrections Ombudsperson; since this has not occurred, paragraph 110 has not been rated. (*See* First Monitoring Tool ¶ 110; Second Monitoring Tool ¶ 110; Third Monitoring Tool ¶ 110; Fourth Monitoring Tool ¶ 110; Fifth Monitoring Tool ¶ 110.)

⁶ The Monitoring Tools include paragraph 111 as part of Section VII – DOJ's Right of Access.

of Trustees “to identify goals, concerns, and recommendations regarding implementation of” the Consent Decree, conduct semi-annual public meetings with stakeholders to provide updates on Edna Mahan’s “events, accomplishments, and setbacks during the previous period” and to respond to public questions, and to meet with Edna Mahan staff to discuss the prior reporting period. (See Consent Decree § VII.)

Defendants have been in durable compliance with Paragraph 111 since November 21, 2022. (See Second Monitoring Tool ¶ 111; Third Monitoring Tool ¶ 111; Fourth Monitoring Tool ¶ 111; Fifth Monitoring Tool ¶ 111.) The Parties have agreed not to seek termination of this section at this time because it is procedurally necessary to the Consent Decree’s continued implementation.

ARGUMENT

I. LEGAL STANDARD.

“A consent decree is a hybrid of a contract and a court order.” *Holland v. N.J. Dep’t of Corr.*, 246 F.3d 267, 277 (3d Cir. 2001). As “[c]onsent decrees are analogous to contracts,” courts “interpret them with reference to traditional principles of contract interpretation.” *Miles v. Aramark Corr. Serv., Inc.*, 321 F. App’x 188, 191 (3d Cir. 2009) (quoting *United States v. New Jersey*, 194 F.3d 426, 430 (3d Cir. 1999)). Courts “interpret a consent decree as written” and do “not impose terms when the parties did not agree to those terms.” *Holland*, 246 F.3d at

281. Courts “discern the scope of a consent decree by examining the language within its four corners” and will not resort to extrinsic evidence unless the “decree itself is ambiguous.” *New Jersey*, 194 F.3d at 430 (quoting *Harris v. City of Philadelphia*, 137 F.3d 209, 212 (3d Cir. 1998)).

II. DEFENDANTS SATISFIED THE REQUISITE CONDITIONS TO TERMINATE CERTAIN SECTIONS OF THE CONSENT DECREE.

The Termination Provisions of the Consent Decree explicitly grant Defendants the right to “seek termination of any full substantive section . . . by filing with the Court a motion to terminate that section.” (Consent Decree ¶ 138.) The Consent Decree places the burden on Defendants “to demonstrate that Edna Mahan has attained and maintained its substantial compliance as to that section for at least one year.” (*Id.*) The Monitor’s “assessments confirming compliance shall be considered presumptive proof of compliance.” (*Id.* ¶ 140.)

Here, Defendants provided proof of their substantial and continued compliance with Sections III.B, III.F, III.H, III.J, III.L, and V for at least one year, as detailed below. Moreover, the DOJ and the Monitor support termination of these Sections. DOJ has joined in this Motion.

Section III.B: The Monitor found Defendants substantially compliant with Section III.B in every Monitoring Tool.⁷ Given the Monitor’s continued findings of

⁷ See *supra* Background Section III.A.

substantial compliance for Section III.B since April 29, 2022, Defendants have met their burden of proving that Edna Mahan “attained and maintained its substantial compliance as to that section for at least one year.” (*See id.* ¶ 138.)

Section III.F: The Monitor found Defendants substantially compliant with all portions of Section III.F in her Second Monitoring Tool and all subsequent Monitoring Tools.⁸ Given the Monitor’s continued findings of substantial compliance for Section III.F since November 21, 2022, Defendants have met their burden of proving that Edna Mahan “attained and maintained its substantial compliance as to that section for at least one year.” (*See id.*)

Section III.H: The Monitor found Defendants substantially compliant with all portions of Section III.H in her Third Monitoring Tool and every subsequent Monitoring Tool.⁹ Given the Monitor’s continued findings of substantial compliance for Section III.H since May 4, 2023, Defendants have met their burden of proving that Edna Mahan “attained and maintained its substantial compliance as to that section for at least one year.” (*See id.*)

Section III.J: The Monitor found Defendants substantially compliant with all portions of Section III.J in her Second Monitoring Tool and all subsequent

⁸ *See supra* Background Section III.B.

⁹ *See supra* Background Section III.C.

Monitoring Tools.¹⁰ Given the Monitor’s continued findings of substantial compliance for Section III.J since November 21, 2022, Defendants have met their burden of proving that Edna Mahan “attained and maintained its substantial compliance as to that section for at least one year.” (*See id.*)

Section III.L: The Monitor found Defendants substantially compliant with all portions of Section III.L in her Second Monitoring Tool and every subsequent Monitoring Tool.¹¹ Given the Monitor’s continued findings of substantial compliance for Section III.L since November 21, 2022, Defendants have met their burden of proving that Edna Mahan “attained and maintained its substantial compliance as to that section for at least one year.” (*See id.*)

Section V: The Monitor found Defendants substantially compliant with all portions of Section V in every Monitoring Tool.¹² Given the Monitor’s continued finding of substantial compliance for Section V since April 29, 2022, Defendants have met their burden of proving that Edna Mahan “attained and maintained its substantial compliance as to that section for at least one year.” (*See id.*)

¹⁰ *See supra* Background Section III.D.

¹¹ *See supra* Background Section III.E.

¹² *See supra* Background Section III.F.

Pursuant to the Court's authority over this Consent Decree and in view of DOJ's consent and joinder to this Motion, the Parties respectfully request that the Court grant the Motion and terminate these sections.

CONCLUSION

For all these reasons, the Court should grant the joint Motion and terminate the following sections of the Consent Decree:

- (1) Section III.B – Prisoner Supervision;
- (2) Section III.F – Prisoner Education;
- (3) Section III.H – Reporting Allegations of Sexual Assault and Sexual Harassment;
- (4) Section III.J – Response to Allegations of Sexual Assault and Sexual Harassment;
- (5) Section III.L – Physical Plant; and
- (6) Section V – Implementation.

Dated: August 26, 2024

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NEW JERSEY and
THE NEW JERSEY DEPARTMENT
OF CORRECTIONS,

Defendants.

Document Electronically Filed

Civil Action No. 3:21-cv-15031-ZNQ-TJB

Hon. Zahid N. Quraishi

**NOTICE OF JOINT MOTION TO
TERMINATE CERTAIN SECTIONS
OF THE CONSENT DECREE**

Return Date: November 19, 2024

PLEASE TAKE NOTICE that at 2:00 p.m. on November 19, 2024, or such other time and date set by the Court, the United States of America, the State of New Jersey, and the New Jersey Department of Corrections (together, the “Parties”), by and through their undersigned attorneys, will move before the Honorable Zahid N. Quraishi, U.S.D.J., United States District Court for the District of New Jersey, Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Trenton, New Jersey 08608, for entry of an Order granting the Parties’ Joint Motion to Terminate Certain Sections of the Consent Decree (“Joint Motion”).

PLEASE TAKE FURTHER NOTICE that the Parties will rely upon the Memorandum of Law filed herewith in support of the Joint Motion.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith.

Dated: August 26, 2024

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

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THE STATE OF NEW JERSEY and
THE NEW JERSEY DEPARTMENT
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Civil Action No. 3:21-cv-15031-ZNQ-
TJB

Hon. Zahid N. Quraishi

CERTIFICATION OF SERVICE

I, **RACHEL M. DIKOVICS**, of full age, do hereby certify as follows:

1. I am an associate with the law firm of Lowenstein Sandler LLP, counsel for Defendants the State of New Jersey and the New Jersey Department of Corrections.

2. On August 26, 2024, I caused a true and correct copy of the parties' (1) Notice of Joint Motion to Terminate Certain Sections of the Consent Decree; (2) Memorandum of Law; (3) [Proposed] form of Order; and (4) this Certification of Service to be electronically filed via the Court's CM/ECF system.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: August 26, 2024

By: s/ Rachel M. Dikovics

Rachel M. Dikovics

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Counsel for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NEW JERSEY and THE
NEW JERSEY DEPARTMENT OF
CORRECTIONS,

Defendants.

Document Electronically Filed

Civil Action No. 3:21-cv-15031-
ZNQ-TJB

Hon. Zahid N. Quraishi

**[PROPOSED] ORDER
GRANTING JOINT MOTION TO
TERMINATE CERTAIN
SECTIONS OF THE CONSENT
DECREE**

THIS MATTER having come before the Court on the joint motion of Plaintiff United States of America and Defendants the State of New Jersey and the New Jersey Department of Corrections (together, the “Parties”) for an Order granting the Parties’ Joint Motion to Terminate Certain Sections of the Consent Decree, and the Court having read and considered the submission of the Parties and the pleadings in this matter, and for good cause shown;

IT IS on this ____ day of _____, 2024

ORDERED that the Parties’ Joint Motion to Terminate Certain Sections of the Consent Decree is **GRANTED**; and it is further

ORDERED that the following sections of the Consent Decree are terminated as of the date of this order:

- (1) Section III.B – Prisoner Supervision;

- (2) Section III.F – Prisoner Education;
- (3) Section III.H – Reporting Allegations of Sexual Assault and Sexual Harassment;
- (4) Section III.J – Response to Allegations of Sexual Assault and Sexual Harassment;
- (5) Section III.L – Physical Plant; and
- (6) Section V – Implementation; and it is further

ORDERED that notice shall be provided to all parties via ECF.

Honorable Zahid N. Quraishi, U.S.D.J.