

**JENNIFER DAVENPORT
ATTORNEY GENERAL OF NEW JERSEY**

Division of Law
124 Halsey Street
PO Box 45029
Newark, NJ 07101
Attorney for Plaintiffs

By: Eric Apar (Attorney ID Number 112692015)
Assistant Attorney General
Tel: 609-656-5366
Eric.Apar@law.njoag.gov

[Additional attorneys listed on signature page]

DR. RAYNARD E. WASHINGTON, in his
official capacity as Commissioner of the NEW
JERSEY DEPARTMENT OF HEALTH,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
ESSEX COUNTY

DOCKET NO.: _____

Civil Action

**BRIEF IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE WITH
TEMPORARY RESTRAINTS PURSUANT TO RULE 4:52-1**

JENNIFER DAVENPORT
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street – 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for Plaintiffs
(609) 696-5363
Eric.Apar@law.njoag.gov

TABLE OF CONTENTS

PRELIMINARY STATEMENT 1

STATEMENT OF FACTS AND PROCEDURAL HISTORY 3

ARGUMENT 10

 POINT ONE: PLAINTIFF IS LIKELY TO SUCCEED ON THE MERITS 11

 POINT TWO: DEFENDANT’S ACTIONS ARE CAUSING, AND WILL
CONTINUE TO CAUSE, IMMEDIATE AND IRREPARABLE HARM 13

 POINT THREE: THE REMAINING CROWE FACTORS SUPPORT GRANTING
PLAINTIFF RELIEF 16

CONCLUSION..... 17

TABLE OF AUTHORITIES

Cases

Brown v. City of Paterson, 424 N.J. Super. 176 (App. Div. 2012) 11

Crowe v. De Gioia, 90 N.J. 126 (1982) 14

Doe 1 v. Perkiomen Valley Sch. Dist., 585 F. Supp. 3d 668 (E.D. Pa. 2022)..... 15

Garden State Equal. v. Dow, 216 N.J. 314 (2013)..... 16

Gov’t of Virgin Islands by & through Encarnacion v. Health Quest, LLC, 2023 WL 7214673 (V.I. Super. Ct. Oct. 31, 2023) 14

Harris v. Bd. of Supervisors, 366 F.3d 754 (9th Cir. 2004)..... 14

Mayer v. Wing, 922 F. Supp. 902 (S.D.N.Y. 1996) 15

McNeil v. Legis. Apportionment Comm’n, 176 N.J. 484 (2003)..... 16

Parks v. Com. Bank, N.A., 377 N.J. Super. 378 (App. Div. 2005) 14

Subcarrier Comm’ns, Inc. v Day, 299 N.J. Super. 634 (App. Div. 1997) 14

U.S. v. NCR Corp., 688 F.3d 833 (7th Cir. 2012) 15

Waste Mgmt. v. Union Cnty. Utils. Auth., 399 N.J. Super. 508 (App. Div. 2008) 11

Statutes

N.J.A.C. 8:24-1.5 2, 4, 12, 13

N.J.A.C. 8:24-8.2 passim

N.J.S.A. 26:1A-1..... 12

N.J.S.A. 26:1A-15..... 1

N.J.S.A. 26:1A-16..... passim

N.J.S.A. 26:1A-18..... passim

N.J.S.A. 26:1A-37..... 12

Rules

Rule 4:52-1..... 1

PRELIMINARY STATEMENT

Defendant GEO Group, Inc. (“GEO” or “Defendant”), denied Plaintiff, the Commissioner of the New Jersey Department of Health (“the Commissioner” or “Plaintiff”), access to significant portions of Delaney Hall—an immigration detention center owned and operated by GEO—for the purposes of a health and safety inspection. On May 28, 2026, Department of Health inspectors arrived at Delaney Hall to conduct an inspection. At the time of the inspection, Defendant was well aware that Plaintiff sought to inspect the entire facility after widespread public reporting, as well as complaints sent directly to the Department, raised concerns of substandard sanitary and health conditions, including food that was rotten and spoiled; overcrowding and lack of ventilation; a lack of or inadequate medical care and unsafe hygiene practices; unsanitary bathroom conditions; and the unchecked spread of communicable diseases like COVID-19 or Influenza. According to public reporting, those significant concerns prompted detainees at the facility to engage in a hunger strike to protest ongoing conditions. Despite all of this, Defendant has obstructed Plaintiff’s access to the full facility and prevented Plaintiff from conducting a full inspection of the facility, instead limiting its access only to food service areas.

Plaintiff now brings this suit in Superior Court, Chancery Division under N.J.S.A. 26:1A-15(h) and Rule 4:52-1 seeking an Order from this Court directing GEO to grant the Department immediate access to the entire facility for purposes of completing a full inspection. All of the factors this Court considers in evaluating a request for temporary and preliminary relief strongly favor Plaintiff. First, Plaintiff unquestionably has shown a likelihood of success on the merits. As Commissioner of the Department of Health, Plaintiff is empowered to “exercise general supervision over all matters relating to sanitation and hygiene throughout the State.” N.J.S.A. 26:1A-18. Consistent with this broad authority, Plaintiff is empowered to enter and inspect private

and public detention facilities, N.J.S.A. 26:1A-18; access “all parts” of retail food establishments pursuant to N.J.A.C. 8:24-8.2(b); and obtain “full access to any premises . . . if he has reason to believe . . . there exists a violation of any health law of the State or any provision of the State Sanitary Code,” N.J.S.A. 26:1A-16.

Here, ample undisputed facts support Plaintiff’s authority to access all areas of Delaney Hall. Delaney Hall is a private detention center subject to inspection under N.J.S.A. 26:1A-18, and it is also a retail food establishment within the meaning of N.J.A.C. 8:24-1.5. Moreover, there is also ample “reason to believe” that GEO may be violating state or local laws such that “full access” is required under N.J.S.A. 26:1A-16. From the time Delaney Hall began operating as an immigration detention center on or around May 1, 2025, public reporting has continued to reflect widespread concerns about the conditions inside the facility, including that detainees are being provided with spoiled food (when they are fed at all) and that they are being denied access to basic hygiene products such as toilet paper or toothpaste. As recently as May 2026, detainees were reportedly engaged in a hunger strike to protest these ongoing conditions. These reports, combined with complaints received by the Department in February and May 2026 alleging that the bathrooms in the facility are unsanitary and that there is at least one case of active Tuberculosis, establish ample reason for the Commissioner to believe that Defendant is violating the State’s health and sanitation laws and that a full inspection of the facility is warranted. N.J.S.A. 26:1A-18 and -16. Yet Defendant has prevented him from doing exactly that.

Second, allowing Defendant to continue barring the Commissioner and the Department from accessing the entire facility for purposes of an inspection has caused and will cause irreparable harm. The Department’s inspections are designed to identify unsafe, unsanitary, or unhygienic practices or conditions that could lead to the unchecked spread of communicable

diseases. These diseases, if left unabated, threaten harm not just to detainees inside Delaney Hall, but also to any visitors or employees who could transmit these conditions to the public outside of the facility.

Finally, the relative hardships and equities—including the public interest—favor relief. GEO Group will suffer no hardship at all from granting Plaintiff access to inspect the facility. In denying Plaintiff full access to the facility, Defendant never explained how Plaintiff’s request was at all burdensome, nor why Plaintiff would need to route its request through ICE when GEO Group owns and operates Delaney Hall. That makes sense because Defendant already consented to Plaintiff’s entry for purposes of a food safety inspection. Defendant’s actions are particularly confusing since Defendant was well aware of the scope of Plaintiff’s request prior to the Department entering the facility and raised no objection to the scope of the inspection until Plaintiff was already inside. Worse still, Defendant has now refused to confirm a time and date for the Department to complete its request. On the other side of the ledger, continued deprivation of Plaintiff’s authority to fully inspect the facility is contrary to the public’s interest in remaining safe and free from disease.

Accordingly, this Court should grant Plaintiff’s request for temporary relief, and direct Defendant to immediately permit Plaintiff access to inspect the entire facility.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

On Wednesday, May 27, 2026, public health inspectors from the Department requested access to Delaney Hall for the purpose of inspecting the entire facility to identify whether it is engaging in policies and practices that pose serious harm to the health and safety of detainees inside the facility and to the public at large. See Certification of Eric Apar dated May 27, 2026 (“Apar Cert.”), Exhibit A (Certification of Dr. Novneet Sahu, Deputy Commissioner at the New Jersey Department of Health dated June 2, 2026) (“Sahu Cert.”).

In support of this request,¹ the Department relied on the Commissioner's broad authority under N.J.S.A. 26:1A-18 to "exercise general supervision over all matters relating to sanitation and hygiene throughout the State," including public and private detention centers, and under N.J.S.A. 26:1A-16, which grants him the right of "full access to any premises for the purpose of examination if he has reason to believe that on the premises there exists a violation of any health law of the State or any provision of the State Sanitary Code." Similarly, N.J.A.C. 8:24-1.5 and 8.2 permit the Department to access to "all parts" of "every retail food establishment as often as it deems necessary."²

The Department regularly exercises these authorities to inspect both public and private institutions. Sahu Cert. at ¶¶ 5, 13. These inspections address a broad array of issues that fall within the Department's authority. *Id.* at ¶¶ 10-11. For example, when assessing correctional facilities, the Department assesses, among other things, the existence of environmental health hazards, including whether there is adequate ventilation and odor control; as well as whether hygiene or housekeeping hazards are present, including whether the bathing and toilet facilities are maintained and free from mold or mildew and whether the bedding materials are properly maintained, cleaned, and disinfected. *Id.* at ¶ 10.

The Department also assesses whether the food service units in facilities comply with the requirements of N.J.A.C. 8:24; the adequacy of the facility's solid and regulated medical waste processes, including whether the facility has adequate storage facilities; and whether the facility

¹ The Department requested access directly from GEO, which is both the owner and operator of the property, as well as the owner of the land on which Delaney Hall is situated. Apar Cert., Exhibit B.

² N.J.A.C. 8:24-1.5 defines a "retail food establishment" as an "operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption to a consumer" including "an institution." (emphasis added).

has established an acceptable and appropriate infection control program that includes oversight by an appropriately qualified individual as well as appropriate barrier and sterilization protections for contact between patients and medical staff. Id. at ¶ 11.

These inspections are designed to allow the Department to assess whether current practices or conditions in a particular facility or premises could facilitate the unchecked transmission of foodborne or airborne and other communicable diseases. Id. at ¶ 12. If left unabated, an outbreak of communicable disease presents serious risks not only to the facility's residents, but also to the public at large if employees or other visitors to the facility contract and transmit these diseases after they have departed the facility. Ibid.

In the case of Delaney Hall, the Department's request to inspect the full facility is animated by both public reporting, complaints received directly by the Department, and complaints the Department became aware of through contact with the Newark Local Board of Health. Id. at ¶¶ 14-17, 52. First, public reporting since Delaney Hall first reopened as an immigration detention facility in May 2025 has raised widespread concerns about conditions at the facility. In June 2025, only one month after Delaney Hall's reopening, media outlets began reporting that detainees at Delaney Hall were suffering from a lack of access to medical care and poor sanitary conditions, and that they had been denied food for over 20 hours.³ In December 2025, media reports again surfaced concerns about the health and safety of detainees at Delaney Hall, including that detainees were being denied food or were being fed at inconsistent times; that the water tasted metallic and

³ Eric Kiefer, 'Chaos' Breaks Out At ICE Prison In NJ, Officials Demand Answers, Newark Patch (June 13, 2025, at 16:36 ET), <https://tinyurl.com/3yahhef9>.

undrinkable; and that detainees were being denied basic hygiene necessities including toothpaste, shampoo, or toilet paper.⁴ Sahu Cert. at ¶¶ 14-15.

In addition to those public reports, the Department also received notice from the Newark Local Board of Public Health that it had received multiple complaints about conditions at Delaney Hall, including inadequate access to menstrual hygiene products for menstruating females, deficiencies or concerns related to the administration of medications, and barriers affecting detainees' adherence to prescribed medication treatment regimens. Id. at ¶ 16.

The situation has only worsened with time. On May 13, 2026, the Department became aware of an open letter from 300 detainees at Delaney Hall reporting that there is a "high spread" of COVID-19 and constant flu outbreaks within the 1,000-bed facility, and that detainees suffer from multiple diseases without receiving adequate medical care.⁵ On May 22, 2026, public reporting indicated that hundreds of detainees at Delaney Hall had launched a hunger and labor strike in protest of their dire conditions, and that detainees are forced to live in squalid conditions, including being fed rotten and spoiled food (when served food at all), and that they lack air conditioning going into the hot summer months.⁶ Moreover, according to reports from United States Senator Andy Kim and Representative Rob Menendez, who toured the facility on Saturday, May 23, 2026, detainees reported being served rotten food and denied essential medical care.⁷ Senator Kim recounted meetings with detainees, including one with a pregnant woman who said

⁴ Steve Janoski, Newark detention center under fire again for abuse and neglect claims, The Jersey Vindicator (Oct. 29, 2025), <https://tinyurl.com/3evyju7d>.

⁵ Steve Janoski, Nearly 300 detainees sign new SOS letter from inside Newark ICE facility, The Jersey Vindicator (May 14, 2026), <https://tinyurl.com/46wn4sz2>. See also Apar Cert. Exhibit C.

⁶ Lucas Frau & Nicholas Katzban, Hunger strike begins at Newark's Delaney Hall over detention conditions, USA Today (May 28, 2026, at 17:39 ET), <https://tinyurl.com/yvxxjxf>.

⁷ A.J. McDougall, Gov. Sherill demands access to Delaney Hall as hunger strike roils N.J. immigration Jail, NJ.com (May 26, 2026, at 14:05 ET), <https://tinyurl.com/536t97yd>.

she is not receiving full obstetrics and gynecological care, and another with a woman who had a miscarriage but received no care and was left to manage the miscarriage on her own.⁸

The Department itself also received complaints about Delaney Hall. For example, the Department received a complaint in February 2026 alleging that the bathroom conditions were “extremely unhealthy” and required further investigation. Sahu Cert. at ¶ 17; see also Apar Cert., Exhibit D. The Department received another complaint on May 28, 2026, the very same day the Department was denied access to the medical unit, from a physician alleging that a detainee from Delaney Hall was brought to University Hospital with an active case of Tuberculosis. Id. at ¶ 52. The complainant asked the Department to assess Delaney Hall’s infection control practices. Ibid.

Based on these escalating reports and concerns, beginning at approximately 8:00 a.m. on May 27, 2026, representatives from the Department attempted to contact GEO to advise that it would be exercising the Commissioner’s authority pursuant to N.J.S.A. 26:1A-16 and -18 and N.J.A.C. 8:24-8.2 to inspect the facility the same day.⁹ Sahu Cert. at ¶¶ 28-29. Eventually, after making contact with Shaniquah Williams, who identified herself initially as the Executive Secretary to the Facility Manager, the Department arrived at Delaney Hall at 11:15 am, spoke with the guard at the entrance gate, and was told to stand by and wait for Immigration and Customs Enforcement (“ICE”). Sahu Cert. at ¶ 31.

⁸ Lauren Glassberg, Protesters clash with ICE agents outside Delaney Hall amid hunger strike, abc7 Eyewitness News (May 25, 2026, at 12:13 ET), <https://tinyurl.com/3xdvz4xt>.

⁹ Plaintiff has not been able to locate the full contract between GEO and ICE, but heavily-redacted portions available on the Department of Homeland Security’s website confirm that GEO, as the contractor, is responsible for compliance with “all applicable Federal, State, and local laws, executive orders, rules and regulations applicable to its performance.” See https://www.ice.gov/doclib/foia/detFacContracts/70CDCR25D00000007_P00002_Delaney_Hall_CDF_Newark_NJ.pdf (last accessed May 27, 2026) (emphasis added).

Approximately fifteen minutes later, the Department's inspectors were met by an individual who identified himself as Daniel Bible from GEO. Id. at ¶ 32. The Department advised that it was there to gain access to the facility to investigate public health complaints. Ibid. After briefly re-entering the facility, Bible emerged and advised the Department that the request was denied because GEO already had too many visits scheduled with congressional delegations for the day, and that the Department would have to call to make an appointment to visit at a later date. Id. at ¶¶ 33-34.

Later the same day, the Department made telephone contact with Facility Manager Helen Grimes and Williams. Id. at ¶ 37. During that telephone call, the Department detailed the full scope of its planned inspection, explaining that it would need access to several areas in the facility, including but not limited to ventilation systems, HVAC areas, the medical unit, laundry facilities, shower and bathing facilities, and waste disposal facilities. Ibid. GEO raised no objection to the Department's scope of access, and an appointment was scheduled for May 28, 2026, at 11:00 a.m. Id. at ¶ 38.

On May 28, 2026, at the agreed-upon time, the Department arrived at Delaney Hall for its scheduled inspection and was permitted to enter the facility. Id. at ¶ 40. The Department offered to have a pre-meeting to discuss the inspection process, but GEO representatives declined, instead advising they preferred to begin the food service inspection right away. Id. at ¶ 41. The Department offered several times to split its team in two to conduct the food safety and general sanitation inspections simultaneously, which would expedite the process. Id. at ¶¶ 41-42. GEO declined this offer each time, including when the parties walked past the medical facilities on the way to the food services area. Id. at ¶ 43.

During the food safety inspection, GEO for the first time advised that the Department would not be permitted to inspect any other areas of the facility without ICE's permission. Id. at ¶ 45. When asked what the process was to contact ICE, and whether the Department could contact ICE in real-time while already present in Delaney Hall, GEO initially refused to provide information. Id. at ¶ 46. Eventually, GEO produced a form for the Department to fill out, which included the date, time, and identity of the individual requesting access, along with the statutory basis for access. Ibid. The Department filled out the form and, after being escorted to the waiting area, asked for a photocopy, which GEO refused to provide. Id. at ¶¶ 47-49.

The same day, the Department emailed GEO to advise that it intended to complete its inspection on Monday, June 1, 2026 at 11:00 a.m. Id. at ¶ 55. The Department requested confirmation of the appointment no later than 9:00 a.m. on June 1, and also sought an appropriate contact for ICE. Id. at ¶¶ 55-57. On May 29, 2026, the Department again emailed GEO, seeking a response as soon as possible. Id. at ¶ 58; see also Apar Cert., Exhibit E.

On May 29, 2026, New Jersey Senators Kim and Cory Booker, along with eight of New Jersey congressional delegates, authored a letter to Secretary of Homeland Security Markwayne Mullin of the Department of Homeland Security and Acting Attorney General Todd Blanche.¹⁰ The letter reiterated concerns about conditions at Delaney Hall, including “security breaches, limited access to medical care, overcrowding, impediments to detainee access to legal counsel, the slow pace of adjudication in immigration courts, unsanitary conditions, the poor quality of food provided to detainees, treatment of, and medical care provided to, pregnant women, and minimal space and opportunity for familial visits.” Ibid. The letter also asserted that “multiple inquiries to

¹⁰ Letter from New Jersey Congressional Delegates dated May 29, 2026, <https://tinyurl.com/42umd8ns> (last accessed May 31, 2026).

both ICE and GEO Group, publicly and privately” about these conditions by the elected officials had gone unanswered, and that “the current administration has worked tirelessly to impede Congress’ oversight responsibilities at ICE Detention Facilities, including Delaney Hall.” Ibid.

On May 31, 2026, at the request of senior federal officials, the Department contacted a senior federal official, reiterating the Department’s intention to conduct a full inspection of Delaney Hall on Monday, June 1, 2026 at 11:00 a.m. and, while not conceding that the Federal Government’s permission is required, seeking assurances that ICE would not obstruct the Department from exercising the Commissioner’s statutory authority. See Apar Cert., Exhibit F; Sahu Cert. at ¶ 59. The federal official replied the same day, indicating that she would be happy to help facilitate a response. Sahu Cert. at ¶ 59

On June 1, 2026, at 8:25 a.m., the federal official verbally advised the Department that it would not be able to inspect any areas of the facility other than the food service areas it had already visited. Sahu Cert. at ¶ 60. The Department asked for the response in writing. Ibid. Two telephone calls to GEO the same day, at 8:58 a.m. and 9:25 a.m., were never returned. Sahu Cert. at ¶ 61.

As the result of GEO’s refusal to permit the Department meaningful access to Delaney Hall, Plaintiff remains unable to fulfill his obligation to protect public health, and is unable to ascertain whether Delaney Hall is currently placing residents—or the public at large—at risk through unsanitary or unsafe health practices.

ARGUMENT

This Court should grant Plaintiff’s application and enter an Order compelling GEO to permit Plaintiff and the Department immediate access to all areas of Delaney Hall for the purpose of conducting an inspection pursuant to N.J.S.A. 26:1A-16 and -18 and N.J.A.C. 8:24-1.5(a).

Preliminary relief with temporary restraints is warranted where the moving party establishes by clear and convincing evidence “a reasonable probability of success on the merits;

that the balancing of the equities and hardships favors injunctive relief; that the movant has no adequate remedy at law and that the irreparable injury to be suffered in the absence of the injunctive relief is substantial and imminent; and that the public interest will not be harmed.” Brown v. City of Paterson, 424 N.J. Super. 176, 183 (App. Div. 2012) (quoting Waste Mgmt. v. Union Cnty. Utils. Auth., 399 N.J. Super. 508, 519-520 (App. Div. 2008)). In exercising their equitable powers, courts “may, and frequently do, go much farther both to give and withhold relief in furtherance of the public interest than they are accustomed to go when only private interests are involved.” Brown 216 N.J. Super. at 183 (quoting Waste Mgmt., 399 N.J. Super. at 520-21).

Here, all factors favor relief. Because Plaintiff can establish a likelihood of success on the merits, that there will be irreparable harm absent temporary relief, and that the balance of equities and public interest favor relief, this Court should enter an Order requiring Defendants to immediately permit Plaintiff full access to Delaney Hall to conduct an appropriate inspection.

POINT ONE

PLAINTIFF IS LIKELY TO SUCCEED ON THE MERITS.

Plaintiff is likely to succeed on the merits of his claim because the undisputed facts establish that Defendant has unlawfully prevented Plaintiff from “exercise[ing] general supervision over all matters relating to sanitation and hygiene throughout the State” under N.J.S.A. 26:1A-18 by denying him full access to Delaney Hall as required by N.J.S.A. 26:1A-16 and N.J.A.C. 8:24-8.2(b).

The Legislature charged the Department with “formulating comprehensive policies for the promotion of public health and the prevention of disease within the State,” including by “[e]nforc[ing] the State food, drug, and cosmetic laws.” N.J.S.A. 26:1A-37. Plaintiff, as Commissioner, is empowered to “exercise general supervision over all matters relating to

sanitation and hygiene throughout the State.” N.J.S.A. 26:1A-18. To exercise this power, the State Department of Health Reorganization Act, N.J.S.A. 26:1A-1 et seq., provides Plaintiff with “full access to any premises for the purpose of examination if he has reason to believe that on the premises there exists a violation of any health law of the State or any provision of the State Sanitary Code” under N.J.S.A. 26:1A-16 (emphasis added). Similarly, under N.J.S.A. 26:1A-18, Plaintiff is provided with authority to “enter upon, examine and survey any . . . prison, public or private place of detention” and “any premises in which he has reason to believe there exists a violation of any health law of the State, any provision of the State Sanitary Code, or any law which he has the duty of administering.”

Plaintiff’s authority to enter and inspect all areas of Delaney Hall is further underscored by the State Sanitary Code, which defines a retail food establishment as “an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption to a consumer,” N.J.A.C. 8:24-1.5, and specifically provides that any “person operating a retail food establishment shall permit access by representatives of the Department or health authority to all parts of the establishment,” N.J.A.C. 8:24-8.2(b) (emphases added).

Here, there cannot be genuine dispute regarding Plaintiff’s authority to seek full entry to Delaney Hall for purposes of conducting an inspection, both because it is a private place of detention and a “retail food establishment” and because there is ample “reason to believe” there may be violations of state laws on the premises. First, it is beyond dispute that Delaney Hall—which is privately owned and operated by GEO—is a “private place of detention” within the meaning of N.J.S.A. 26:1A-18 as well as a “retail food establishment” that “stores, prepares, packages, serves, vends or otherwise provides food for human consumption to a consumer” within the meaning of N.J.A.C. 8:24-1.5. Indeed, even Defendant seems to concede as much by

permitting the Commissioner access to a limited part of the facility to conduct a partial inspection. See *infra* at 8-9. Thus, Plaintiff has unquestioned authority to inspect “all parts” of Delaney Hall under N.J.A.C. 8:24-8.2.

But even if that were not the case, the escalating reporting about conditions inside Delaney Hall, coupled with the March 2026 complaint that the bathrooms are “extremely unhealthy” and the May 2026 complaint that there is a case of Tuberculosis inside Delaney Hall—provide ample “reason to believe” that Defendant may be violating state laws under N.J.S.A. 26:1A-16 and -18. As such, Plaintiff’s demand for “full access” to the facility for the purpose of conducting a full inspection is squarely supported by statute. N.J.S.A. 26:1A-16.

There is also no dispute that Defendant’s actions have stymied Plaintiff’s ability to exercise his statutory authority. Despite being provided with notice of a full inspection—and despite the Department offering a list of which areas of Delaney Hall to which it would require access—Defendant initially delayed and then later denied Plaintiff full access. *Sahu Cert.* at ¶¶ 33, 37, 38, 55. These actions are squarely at odds with New Jersey law and represent an effort to obstruct Plaintiff’s statutory right to access and inspect the entire premises more broadly for the purpose of keeping the public safe from communicable diseases and other public health hazards potentially present at the facility. As such, Plaintiff is likely to succeed on the merits of his claim.

POINT TWO

DEFENDANT’S ACTIONS ARE CAUSING, AND WILL CONTINUE TO CAUSE, IMMEDIATE AND IRREPARABLE HARM.

Temporary restraints are necessary to avert the irreparable harm that will continue to occur if Defendant is permitted to deny Plaintiff access to all areas of Delaney Hall in violation of N.J.S.A. 26:1A-16 and -18 and N.J.A.C. 8:24-8.2(b).

Given the nature of the harm at stake—including ongoing reports of detainees experiencing inadequate access to basic hygiene supplies and equipment, bathroom facilities that are “extremely unsafe,” and the unchecked spread of communicable diseases in a closed facility with reportedly inadequate ventilation—Plaintiff can establish that continued denial of his right to meaningfully inspect the entire facility will cause “substantial, immediate, and irreparable harm.” Subcarrier Comm’ns, Inc. v Day, 299 N.J. Super. 634, 683 (App. Div. 1997). “Harm is generally considered irreparable in equity if it cannot be redressed adequately by monetary damages.” Crowe v. De Gioia, 90 N.J. 126, 132-33 (1982). When “assessing irreparable harm, [courts] must also consider how defendants’ actions affect the public interest.” Parks v. Com. Bank, N.A., 377 N.J. Super. 378, 387 (App. Div. 2005).

Here, public reporting and direct complaints to the Department underscore the risk faced by both detainees and the public at large if Plaintiff remains barred from meaningful access to the full facility. Every day, additional reporting on the conditions at Delaney Hall continues to emerge, including allegations that COVID-19 and Influenza are spreading through the facility.¹¹ Most recently, as public reports indicate, detainees engaged in a hunger strike to call attention to the condition inside the facility. Actions that place individuals at risk of serious injury, illness, or death unquestionably amount to irreparable harm. Cf. Harris v. Bd. of Supervisors, 366 F.3d 754, 766 (9th Cir. 2004) (County Board of Supervisors’ decision to eliminate hospital beds would lead to irreparable harm including “pain, infection, amputation, medical complications, and death”); Gov’t of Virgin Islands by & through Encarnacion v. Health Quest, LLC, 2023 WL 7214673, ¶ 38 (V.I. Super. Ct. Oct. 31, 2023)¹² (irreparable harm existed where decision to discontinue dialysis

¹¹ Janoski, supra note 5.

¹² Pursuant to Rule 1:36-3, Plaintiff has provided a copy of this unpublished decision. See Apar Cert., Exhibit G.

care without “adequate time to prepare to accommodate the influx of patients needing dialysis care on an outpatient basis” would cause patients to “suffer in the short term an unacceptable fate: death or serious bodily injury as the toxicity in their blood increases to dangerous levels”); Doe 1 v. Perkiomen Valley Sch. Dist., 585 F. Supp. 3d 668, 702 (E.D. Pa. 2022) (“An increased risk of contracting a life-threatening disease like COVID-19 easily constitutes an irreparable injury”); Mayer v. Wing, 922 F. Supp. 902, 909 (S.D.N.Y. 1996) (concluding that termination or reduction of Medicaid benefits would lead to “the deprivation of life-sustaining medical services [which] certainly constitutes irreparable harm”).

Worse still, unsafe conditions, especially those that contribute to transmission of communicable diseases, threaten to wreak havoc even beyond the four walls of Delaney Hall. Sahu Cert. at ¶ 12. The Department’s practice of assessing a wide variety of issues—including ventilation, adequate handling of solid and medical waste, and appropriate medical facilities, to name just a few—is designed to identify the existence of conditions that might lead to the unchecked spread of communicable illnesses, both inside and outside a facility. Id., at ¶¶ 10–14. These illnesses, if left to circulate, are likely to infect not only the detainees at Delaney Hall, but also any visitors or employees who may then exit the premises and spread the disease among the public writ large. Id., at ¶ 12; see also U.S. v. NCR Corp., 688 F.3d 833, 842 (7th Cir. 2012) (finding that delay in river cleanup “would inflict irreparable harm in the form of permitting pollution to continue unabated” because it further spread pollutants).

Defendant has already exacerbated the existing harms by denying Plaintiff full access to the facility once, as well as by putting unnecessary obstacles in place to prevent Plaintiff from obtaining that access. Public reporting, including eyewitness accounts, suggests that the conditions inside Delaney Hall are deplorable, with residents being denied access to basic hygiene supplies,

adequate food, and medical care, while simultaneously being exposed to substandard hygiene practices and physical conditions. On the other hand, and despite significant public pressure, Defendant maintains that the facilities are safe and sanitary.¹³ Both assertions cannot be true. Plaintiff must be allowed access to the entire facility to prevent the immediate and irreparable harm associated with the unchecked spread of highly contagious and communicable illnesses.

POINT THREE

THE REMAINING CROWE FACTORS SUPPORT GRANTING PLAINTIFF RELIEF.

Finally, the relative hardships to the parties and the public interest weigh strongly in favor of granting temporary relief, which would simply require Defendant to permit Plaintiff to access and inspect all areas of Delaney Hall.

“When a case presents an issue of ‘significant public importance,’ a court must consider the public interest in addition to the traditional Crowe factors.” Garden State Equal. v. Dow, 216 N.J. 314, 321 (2013) (emphasis added) (quoting McNeil v. Legis. Apportionment Comm’n, 176 N.J. 484, 484 (2003)). In exercising its equitable powers, this Court may and should give greater relief to further the public interest. Ibid. Here, that public interest strongly favors temporary restraints. Plaintiff has an extremely strong interest in protecting the public’s health and safety. By contrast, the burden on Defendant to give access to Plaintiff to inspect the facility—which it is already obligated by state law and regulation to do—is minimal at best. That is especially true here, where Defendant has already permitted Plaintiff access to some portions of the facility. This Court should grant Plaintiff’s request for temporary relief.

¹³ See U.S. Dep’t. of Homeland Sec., DHS Debunks New Jersey Sanctuary Politicians’ Smears Against ICE Facility (May 25, 2026), <https://www.dhs.gov/news/2026/05/25/dhs-debunks-new-jersey-sanctuary-politicians-smears-against-ice-facility> (last accessed May 31, 2026).

CONCLUSION

For these reasons, this Court should grant the State's motion for temporary restraints and direct Defendant to permit Plaintiff and his delegees, including the Department, access to the entire facility known as Delaney Hall for purposes of inspection consistent with N.J.S.A. 26:1A-16 and -18 and N.J.A.C. 8:24-8.2(a).

Respectfully Submitted,

JENNIFER DAVENPORT
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: /s/ Eric Apar
Eric Apar [112692015]
Assistant Attorney General
Deborah Shane-Held [021271990]
Maryanne Abdelmesih [333242021]
Jonathan Mangel [281382018]
Amanda McElfresh [476022024]
Elizabeth Tingley [346242021]
Deputy Attorneys General
New Jersey Office of the Attorney General
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

Dated: June 2, 2026