

BOARD OF TRUSTEES JEFFERSON COUNTY HEALTH CENTER
RESOLUTION NO. 23-04-27-01

At a meeting of the Board of Trustees of the Jefferson County Health Center (JCHC) held on the 27th day of April, 2023, at which a quorum was present, the following resolution was adopted, effective immediately, censuring the conduct of Trustee Susan “Suzy” Davis:

WHEREFORE, pursuant to the Bylaws adopted by the Board of Trustees, the purpose of the Board of Trustees is to govern and control the affairs of the Center as provided by law; to discover and interpret the needs, attitudes and interests throughout the County as a guide to developing and setting priorities for health programs for residents; to exercise judgment in reviewing, considering and voting on policies affecting the operation of the residents, businesses and facilities within the County; and to oversee the management and fiscal control of the Center as provided by law and to review, evaluate and judge the effectiveness of the Center’s programs; and

WHEREFORE, further, pursuant to the Bylaws adopted by the Board of Trustees, each individual Board member shall work through the Director and her staff to reinforce the efforts of the Director and the staff so that they may perform their assigned responsibilities in the most effective manner; to keep all citizens informed about the quality and condition of matters affecting public health in the County; and to assure that all transactions of the Center are ethical, open and above-board, shall work through the Director and her staff to discover and interpret the needs, attitudes and interests throughout Jefferson County as a guide to developing and setting priorities for health programs for residents, and shall initiate and implement all efforts to secure adequate financial support for the Center; and

WHEREFORE, further, pursuant to the Bylaws adopted by the Board of Trustees, Members of the Board shall attend all regularly scheduled Board of Trustees meetings insofar as possible. Members shall come to Board of Trustees meetings informed concerning the issues to be considered. Members shall review the issues under the Board's consideration and to take a respectful stand regarding those issues. Members must conform to tenets of knowledge, open discussion, respect, independent judgment, and independent and civility should be prepared to cast a vote on each of the issues before that member; and

WHEREAS, further, pursuant to the Bylaws adopted by the Board of Trustees, Members shall work with other Board members to establish effective Board policies and to delegate authority for the administration of the Center’s facilities to the Director. Members shall not attempt to by-pass, undermine, or usurp the Director’s authority and responsibility for the daily operation of the Center; and

WHEREAS, further, pursuant to the Bylaws adopted by the Board of Trustees, Members shall avoid being placed in a position of conflict of interest and shall not use the Board position for personal or partisan gain; and

WHEREAS, further, pursuant to the Bylaws adopted by the Board of Trustees, the action of a majority of the quorum shall be the action of the Board of Trustees; and

WHEREAS, further, pursuant to the Bylaws adopted by the Board of Trustees, Members shall not disclose confidential information. Information is confidential if it is (a) communicated

during executive session; or (b) concerning members of the personnel of the Center; or (c) exempt from disclosure under the Sunshine Law; or (d) otherwise communicated with a mutual understanding of confidentiality; and

WHEREAS, further, when attending functions outside of the JCHC but speaking on matters concerning to the Center, the Member shall indicate to those present that she is an individual Member of the Board, without the authority to act individually, and shall direct those present to the Chair and/or Director for any questions pertaining to execution and administration of policy and outreach; and

WHEREAS, further, pursuant to the Bylaws adopted by the Board of Trustees, all meetings of the Board are conducted pursuant to Robert's Rules of Order; and

WHEREAS, further, pursuant to the Bylaws adopted by the Board of Trustees, a Member may take her own notes during the meetings of the Board of Trustees; however, disclosure of notes outside of the JCHC which are taken during executive session is expressly prohibited; and

WHEREAS, the Board of Trustees acts as the Employer to all staff of the JCHC, and has adopted an Employee Manual which prohibits bullying of JCHC employees under any circumstances and provides that "all employees should be able to work in an environment free of bullying." The Manual defines "bullying" as any "behavior that harms, intimidates, unreasonably offends, degrades or humiliates an employee, including in the presence of others." The Board of Trustees prohibits bullying of its employees due to the potential loss of trained and talented employees, reduced productivity and morale and creation of legal risks; and

WHEREAS, Executive Director Kelley Vollmar filed a complaint against Susan "Suzy" Davis alleging multiple allegations of violations of the Board Bylaws and the Employee handbook, including those responsibilities as outlined herein; and

WHEREAS, the Board of Trustees retained an independent investigator to conduct an objective investigation of the complaint against Ms. Davis. The investigator prepared a written report, attached hereto as Exhibit A, which was reviewed by the Board of Trustees; and

WHEREAS, the ASPEN Coordinator for JCHC, Jaclyn Brown, filed a complaint against Susan "Suzy" Davis alleging multiple allegations of the Board Bylaws and the Employee Handbook, including those responsibilities outlined herein; and

WHEREAS, the Board of Trustees retained an independent investigator to conduct an objective investigation of the complaint against Ms. Davis. The investigator prepared a written report, attached hereto as Exhibit B, which was reviewed by the Board of Trustees; and

WHEREAS, on July 6, 2021, Trustee Susan "Suzy" Davis was issued a Censure by the majority of the Board of Trustees for multiple violations of the Board Bylaws, and was admonished to adhere to all Bylaws, Rules and Procedures of the Board of Trustees. Ms. Davis was further advised that a failure to perform her duties pursuant to the Bylaws may result in the Board of Trustees taking action to impeach and remove her from her position.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees of the JCHC as follows:

1. The Board of Trustees adopts the findings of fact and conclusions contained in the independent investigation report, attached hereto as Exhibit A.
2. The Board of Trustees adopts the findings of fact and conclusions contained in the independent investigation report, attached hereto as Exhibit B.
3. As a result of the findings associated with the complaints filed by Ms. Vollmar and Ms. Brown, effective immediately, Trustee Susan "Suzy" Davis shall be and is censured and admonished to adhere to all Bylaws, Rules and Procedures of this Board.
4. The Board of Trustees admonishes Susan "Suzy" Davis that failure to perform her duties pursuant to the Bylaws of the Board of Trustees and the Employee Manual will result in this Board taking action to impeach and remove her from her position.

Passed by the Board of Trustees of the JCHC at their meeting on the date above stated, by a vote of 3 to 2.

JEFFERSON COUNTY
HEALTH CENTERBOARD OF
TRUSTEES

By


Chair

ATTEST:


Secretary



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MEMORANDUM

To: Jefferson County Health Department
Attn: Tim Pigg, Board Chairman
Attn: Christi Coleman, Attorney for the Board

From: Brittany Newell
Missouri Education Solutions, LLC

Date: April 18, 2023

Re: March 2023 Complaint filed by
Kelley Vollmar Against Susan Davis

This investigation report sets forth the scope of the investigation, materials reviewed, the standards assessed, and this investigator's findings and conclusion.

I. SCOPE OF ENGAGEMENT

On March 29, 2023, the Jefferson County Health Department (JCHD) engaged this firm to serve as a third party, neutral investigator of a complaint filed by Kelley Vollmar, the Executive Director of the JCHD, against Susan (Suzy) Davis, a Board Trustee. Ms. Vollmar initially filed the complaint against Ms. Davis on March 6, 2023. Ms. Vollmar thereafter revised her complaint and submitted the revised complaint on March 27, 2023. Ms. Vollmar's revised complaint alleges Ms. Davis violated the anti-bullying policy in the Employee Manual.

I have been asked to investigate and provide findings on whether Ms. Davis' conduct as relates to Ms. Vollmar violated the anti-bullying policy in the JCHD Employee Policy and Procedure Manual approved June 2022 (Employee Manual) and/or the By-Laws of the Board of Trustees adopted January 2021 (By-Laws).

II. MATERIALS REVIEWED

Ms. Vollmar provided documentation along with her complaint, which I reviewed. Those documents included a number of emails, text messages, social media posts, 2022 investigation report, Employee Manual, By-Laws, and memorandum. Those documents are retained in my investigation file under the following titles:

- Email 1 – KV Initial C/O and Emails from SD
- Email 1 – Pic Attached in SD Emails That Were Forwarded w/ KV Initial C/O
- Email 2 – Emails from SD
- Email 2 – Pic Attached to SD Email

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- Email 3 – KV Email to Bd Re SD Visit and Emails From SD
- Email 4 – 2022 Investigation Email
- Email 4 – Investigation Report Summary 06-23-2022
- Email 5 – KV Revised C/O Against SD
- Email 6 – Emails from SD
- Email 7 – Email w/ JCHD Handbook
- Email 7 – JCHD 2022 EE Handbook
- Email 8 – Link to JCHC Bylaws
- Email 9 – Attachment 1 – Memo Re C/O
- Email 9 – Attachment 2 – Email From KV to GC
- Email 9 – Attachment 3 – Email From KV to GC
- Email 9 – Attachment 4 – Misc. Emails
- Email 9 – Attachment 5 – Emails with Media
- Email 9 – Attachment 6-1- JeffCo Patriots Post
- Email 9 – Attachment 6-2 – JeffCo Patriots Post
- Email 9 – Attachment 6-3 – Msg from SD
- Email 9 – Attachment 6-4 – JeffCo Patriots Page
- Email 9 – Attachment 6-5 – SD FB Post
- Email 9 – Attachment 6-6 – SD FB Post
- Email 9 – Attachment 6-7 – SD FB Post
- Email 9 – Attachment 6-8 – JeffCo Patriots Post
- Email 9 – Attachment 6-9 – SD FB Post
- Email 9 – Attachment 6-10 – FB Comments
- Email 9 – Attachment 6-11- FB Comments
- Email 9 – Attachment 6-12 – SD Text
- Email 9 – Attachment 6-13 – Texts Re SD
- Email 9 – Attachment 6-14 – JeffCo Patriots Post
- Email 9 – Attachment 7 – KV Email to DD
- Email 9 – Attachment 8 – KV Email w/ GC and DD
- Email 9 – Memo Re C/O and Addt'l Docs from KV

I also reviewed the board meeting minutes available on the JCHD website for the following dates:

- 2022 – January 20 and 27; February 24; March 3 and 9; April 28; May 26; June 23; August 4 and 25; September 22; November 30; and December 20.
- 2023 – January 9 and 26; and February 23.

I viewed the following YouTube videos of JCHD board meetings as well:

- February 23, 2023 from 1:10:00 to the end available at https://www.youtube.com/watch?v=St_ZwqlVa8g
- March 2023 Part 2 from 55:00 to end available at <https://www.youtube.com/watch?v=1iMI3z5EQdA>

I also requested, received, and reviewed additional documentation from the JCHD which are retained in my investigation file under the following titles:

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- Addt'l Doc 1 – COR Email to SD 9/6/22
- Addt'l Doc 2 – DD Email to SD Re Communication 4/22
- Addt'l Doc 3 – 12/01/21 AG Letter
- Addt'l Doc 4 – DD Email to SD 3/2/23
- Addt'l Doc 5 – DD Email to SD 3/4/23
- Addt'l Doc 6 – JP Email to SD 3/2/23
- Addt'l Doc 7 – JP Email to SD 3/6/23
- Addt'l Doc 8 – KV 2023 Eval
- Addt'l Doc. 9 – KV 2022 Eval

Given that the conduct at issue was in recorded form (*i.e.* emails, social media posts, YouTube videos), it was not necessary to interview any individuals.

III. STANDARDS ASSESSED

The By-Laws reflect that the Board of Trustees of the Jefferson County Health Center (“the Board”) is the employer of the JCHD staff. Namely the By-Laws state the Board exercises management authority over JCHD by adopting policies and directing procedures and the Board hires/discharges staff of JCHD, including but not limited to the Director of JCHD. The By-Laws further state that the By-Laws, Rules and Regulations adopted by the Board are for the Board’s own guidance. Given the foregoing and the same that is true of any employer, the employer Board (through its Trustees) is to comply with the JCHD’s Employee Manual.

The Employee Manual contains an “Anti-Bullying Policy” which reads in relevant part as follows:

JCHC believes all employees should be able to work in an environment free of bullying. Managers and supervisors must ensure employees are not bullied. Workplace bullying is defined as behavior that harms, intimidates, unreasonably offends, degrades or humiliates an employee, including in the presence of others.

...

Examples of bullying include but are not limited to repeated and aggressive:

- Teasing, name-calling, slandering, ridiculing, maligning, a person or his/her family
- Persistent phone calls, voicemails, emails, or postings to or about another person
- Unreasonable public criticism, reprimands, or trivializing of another’s work
- Blame without factual justification
- ...
- Being shouted at or being humiliated in private or public
- ...

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- Intentional interference with another’s work, for example, through impossible deadlines, supplying insufficient or incorrect resources or information¹

This investigation assesses whether Ms. Davis, as a Trustees and employer of Ms. Vollmar, bullied Ms. Vollmar in violation of the Anti-Bullying Policy.

The By-Laws also set forth provisions that govern Board Trustees. Those provisions, in relevant part, are as follows:

- Section I (Organization), Article 1 – In reaching decisions the Board will attempt in every case to act in the best interests of the residents of Jefferson County.
- Section I (Organization), Article 2 – Duties of the Board and Members –
 - In addition, members of the Board of Trustees will:
 - 2. To discover and interpret the needs, attitudes and interests throughout the County as a guide to developing and setting priorities for health programs for residents.
 - 3. Reinforce the efforts of the Director and the staff so that they may perform their assigned responsibilities in the most effective manner.
 - 4. Provide the Director counsel as requested or required.
 - 6. Initiate and implement all efforts to secure adequate financial support for the Center.
- Section I (Organization), Article 2 – Conflict of Interest and Authority – ... Members shall avoid being placed in a conflict of interest and shall not use the Board position for personal or partisan gain.
- Section II (Meetings of the Board of Trustees), Article 2 – Three (3) Trustees shall constitute a quorum and except as otherwise specifically provided, the action of a majority of the quorum shall be the action of the Board of Trustees.

This investigation assesses whether Ms. Davis, as a Board Trustee, violated these provisions of the By-Laws.

IV. FINDINGS

The findings relevant to this investigation fall into four categories: a) legal bills; b) site visits; c) ASPEN; and d) miscellaneous criticisms. Each is discussed in turn below.

LEGAL BILLS

At Board meetings, Ms. Davis repeatedly questioned and commented about the legal bills and requested a number of times that detailed versions of the bills be provided. Several individuals at the Board meetings (including Ms. Vollmar, the Board Chair Dennis Diehl, Board Trustee Tim Pigg, and the Board’s attorney Christi Coleman) repeatedly explained to Ms. Davis that the legal bills cannot be provided in open session/open documents (*i.e.* the board packets) because they contain privileged information that is closed to the public under the Sunshine Law, that Ms. Davis

¹ These are the provisions of the Anti-Bullying Policy that Ms. Vollmar alleges in her complaint that Ms. Davis violated. I agree these are the relevant provisions of the Anti-Bullying Policy that are at issues as relates to Ms. Davis’ conduct towards/about Ms. Vollmar.

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could see a copy of the detailed legal bills in closed session or at the finance office but could not make a copy of them, and that if Ms. Davis had questions about bills that were on the agenda for approval she could come in and get her questions answered in advance of the Board meetings. Despite being given this information, education, and opportunities, the meeting minutes reflect Ms. Davis did not go in to see the detailed legal bills in private as was offered. Rather, she continued to request in open session that she would like to see the detailed legal bills, giving the impression the legal bills were being withheld from her. The open session of Board meetings is available to the public on YouTube.

Ms. Davis then began submitting written requests to JCHD personnel for copies of the detailed legal bills. Ms. Davis stated she wanted the copies of the bills for her as a board member. Ms. Vollmar advised Ms. Davis in writing that, as a board member, she had two options available to her to obtain copies of documents. One, she could submit her request as a board member to the Board Chair and the Board would then decide if they felt it appropriate for Ms. Davis to be provided the copies she sought. Or, two, as a private citizen she could submit her request as a Sunshine Law request to the Custodian of Records. Ms. Vollmar reminded Ms. Davis that the detailed legal bills were not open under the Sunshine Law and that she could come into the office to view the bills or could see them during closed session, she just could not have copies.

Despite being told the detailed legal bills were not open documents under the Sunshine Law, Ms. Davis thereafter submitted a written request to the Custodian of Records asking for copies of detailed legal bills at no charge and stated she wanted copies of the detailed bills placed in the board packets (an open document) going forward. The Custodian of Records, Jennifer Pinkley, responded to Ms. Davis in writing. Ms. Pinkley explained that Ms. Davis did not have authority as an individual Board Trustee to direct that she be provided copies of documents; such a request would have to be handled at a board meeting. Per the By-Laws, action can only be approved by a majority of a quorum of the Board; an individual Board member does not have authority. Ms. Pinkley further explained that Ms. Davis' request was, therefore, being construed as a Sunshine Law request. Ms. Pinkley advised that as a Sunshine Law request, the privileged information would have to be redacted from the legal bills and Ms. Davis would have to pay for processing of the Sunshine Law request, just as any other citizen making a Sunshine Law request was required to do.

Ms. Vollmar forwarded Ms. Davis' written request to the JCHD Board and included Ms. Davis in the email. Ms. Vollmar explained that Ms. Davis was asking for personal copies of closed records, wanted closed records included in open record board packets, and wanted Sunshine Law fees charged to all residents to be waived for her. Since Ms. Davis did not have the authority as an individual board member to make any of those requests, Ms. Vollmar explained that none of Ms. Davis' requests would be fulfilled unless the Board approved same.

Notwithstanding all explanations and options Ms. Davis had been provided, and despite there having been no Board approval, Ms. Davis responded by submitting a second written request to Ms. Vollmar and the Custodian of Records for copies of detailed legal bills, stating she should not have to pay for copies, and asking that copies be included in their board packets.

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Ms. Vollmar forwarded Ms. Davis' second request to the Board. Ms. Vollmar explained that Ms. Davis was making requests that required Board involvement/approval but failed to include the Board in her request. Ms. Davis responded saying "See all the time Kelley Vollmar is wasting?...Just provide what I want. The board does not have to approve my requests for records I am doing my duty in overseeing." As detailed below, Ms. Davis' requests for legal bills then converted to requests for a variety of other types of documents.

Ms. Davis continued to question the legal bills at the board meetings. Amidst her requests for copies of documents (which were treated as Sunshine Law requests), Ms. Davis began making statements at open board meetings that the legal bills were too high, that Sunshine requests did not need to be going to the Board's attorney, and that she did not want the attorney to review Sunshine requests or responses.

SITE VISITS

Per the By-Laws and Missouri statute, one trustee shall "visit and examine" JCHD twice a month. JCHD By-Laws indicate the Board Chair will visit JCHD once a month and will delegate which Board member will conduct the second visit. Rather than scheduling an agreeable date and time when it was her turn for a site visit, Ms. Davis had shown up at an unapproved time, refused to leave, attempted to get a judge to order Ms. Vollmar to allow her in, and emailed the Custodian of Records, Ms. Vollmar, and Mr. Diehl and told them when she would be coming for her visit. Ms. Davis then began requesting a variety of documents be made available to her at her visit (some of which were closed under the Sunshine Law) stating she was granted permission by the board to see anything she wanted. Ms. Davis stated she wanted to make copies of some of the requested documents and she wanted to be provided the documents free of charge. She further stated there should not be a reason to engage JCHD's attorney. These requests came after all the foregoing explanations Ms. Davis had been given regarding needing board approval in order to obtain copies of documents closed under the Sunshine Law or having her Sunshine Law fees waived. The minutes do not reflect Board approval had been given for Ms. Davis to be given copies of closed records or for her Sunshine Law fees to be waived.

A few days later, Ms. Davis again sent multiple emails to Ms. Vollmar (and others) saying their reputation is looking bad by trying to keep people from what they want. She then stated if they would not allow her to see what she wanted to see she could easily copy her request to the Leader, State Reps, Prosecutor and AG. She also said it is the right of tax payers to see JCHD's documents and that she can/would allow the public to view the documents she received copies of.

Several days later, Ms. Davis again sent multiple emails to Ms. Vollmar (and others) saying that as an elected board member she has even more rights to records than other citizens. Her email further stated "Stop playing back and forth games. Obey the law." Ms. Vollmar responded to Ms. Davis and told Ms. Davis that she had already been advised by several individuals what the proper procedures were for setting up her trustee visit and seeing requested records. Ms. Vollmar reiterated that they need to know specifically what program and topics Ms. Davis wanted to review at her visit. Ms. Vollmar reminded Ms. Davis that the purpose of a trustee visit is to assess the facilities and status of staff wellbeing or to learn about a program, not audit personnel and financial records which JCHD had done annually by an impartial third party. Ms. Vollmar told Ms. Davis once again that the open records she wants copies of can be provided through a Sunshine Law

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request but that Ms. Davis would have to pay the Sunshine fee the same as any other citizen would otherwise Ms. Davis would need Board approval. Later that day, Ms. Davis sent yet another records request asking that JCHD locate and provide her copies of many documents free of charge.

The next day Ms. Davis sent another email to Ms. Vollmar saying Ms. Vollmar must provide the records Ms. Davis has asked to see. Ms. Davis said she will ask to see certain documents “plus what else I want to see as a trustee.” She further stated “Yes I can do what I want there. I don’t need anyone to define what is trustee duty.” Ms. Davis concluded by saying Ms. Vollmar wastes too much time with the back and forth. Later that same day, Ms. Davis sent another email to the Custodian of Records and Mr. Diehl, including Ms. Vollmar in the email. Ms. Davis stated that Ms. Vollmar was keeping her from what she wanted to see at JCHD, that she (Ms. Davis) is being blocked from doing what she needs to do for those who elected her, and that she expects to have this unacceptable behavior end. Ms. Davis stated “I can not (sic) benefit from my elected position if I am not allowed open access to our records without expensive strings attached.”

Despite Ms. Vollmar having explained to Ms. Davis the purpose and process for trustee site visits and document reviews, Ms. Davis sent yet another email the following day reiterating her request that she be provided all documents she has requested for her review at the visit. Ms. Davis stated if she did not get through everything, she would do another visit. The Board meeting minutes do not reflect Board approval for this.

ASPEN

JCHD initiated a program called ASPEN. Several presentations regarding the ASPEN program were given to the Board during open sessions of board meetings when Ms. Davis was present (September 22, 2022 and February 23, 2023). The presentation included information on why ASPEN was developed, what the program consisted of, and how the program was being paid for through a variety of grants. In particular, the presentations explained the program consisted of mental health screenings students could self-administer, screening tools counselors could use, resource information for those in need, and student referrals where students could refer a friend they are concerned about. The presentations also explained that HIPAA and student confidentiality law (FERPA) would be followed and only the school assigned counselors or assigned staff would have access to student responses. It was further explained that students could not access the ASPEN screening tools unless their parent signed up for the ASPEN program and at any time thereafter the parent could opt out of the program. The ASPEN coordinator also explained the ASPEN program was being expanded to cover other demographics identified as being at high risk such as first responders, health care workers, and foster children. The PowerPoint presentation explaining the foregoing was available on JCHD’s website.

The Board had approved the ASPEN program. The Board had also approved, as part of ASPEN, a contract with Architect Now, the IT company who was developing the electronic platform for the ASPEN program.

Ms. Davis made false statements about ASPEN on social media:

- “ASPEN in Schools. Glorified data collecting at JCHD from your youth about their emotional state with references to get help. Linked to EMT, Mercy, Counselors, principals...”

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- “Kelly (sic) Vollmar’s pet project cost our department \$704k to hire Architect Now. It’s OK, she’s got grants to cover it. Really? Or I have a hunch the grants were written for JCHD in General without Aspen even mentioned.”
- “This is the presentation jchd is using to lure each system into the sis. What do you think about a system collecting information about your children and you? Do you want your school automatically putting your child’s grades, emotional information, and your personal information into an (sic) sis then forget about hipaa (sic) because, counselors, Mercy health, 1st responders, the principals, police, fire and such will all have access to your data. Right now Vollmar is working hard on each school, and fire department, emt district to get them to hop aboard the bus. Will there be strings? \$500k has been invested by jcHealth dept since June of 2021. Is this the beginning of the end of privacy???? Could this kind of money have been used to help our Community in other ways?”

Per open board meeting discussions, Ms. Davis had done Google searches for “Aspen.” She found other programs that had “Aspen” in the name (ex: Follett Aspen, a company that provides Student Information Systems called “SIS”). Ms. Davis then falsely represented to the public that information pertaining to the other “Aspen” programs she located online were traits of the ASPEN program JCHD was implementing. Ms. Davis did this despite what had been presented to her directly by JCHD’s ASPEN leader and despite her having access to the ASPEN presentation with the accurate information on JCHD’s website.

Ms. Davis also repeatedly questioned bills for Architect Now and ASPEN at board meetings. She was reminded (as had already been told to her in presentations) that ASPEN was grant funded (no taxpayer dollars were being used to pay for it), that Architect Now’s fees were part of the ASPEN project, and that the Architect Now contract had already been approved by the Board.

At the 2022 Board presentation on ASPEN, the presenter was beginning to talk about the grants that had paid for the ASPEN program. Ms. Davis was distracted looking at other documents. Ms. Vollmar asked Ms. Davis to please put the other documentation to the side and pay attention to that portion of the presentation as the grants were a topic Ms. Davis had asked a lot about. Ms. Davis was dismissive and responded unprofessionally to Ms. Vollmar’s request.

At a recent Board meeting another presentation was being given on ASPEN. Ms. Davis was raising criticism about ASPEN in that it did not provide the care but rather merely directed those in need to resources where they could get care. Ms. Vollmar was attempting to explain to Ms. Davis the purpose of public health and how it is different than health care. Namely that public health tries to identify problems upstream and prevent the health concern from occurring rather than treating the health concern like healthcare is intended to do. Ms. Davis repeatedly interrupted and spoke over the top of Ms. Vollmar and began clapping her hands saying “great grandstanding Kelley Vollmar!”

MISCELLANEOUS CRITICISMS

The documentation reflects a variety of criticisms Ms. Davis made about Ms. Vollmar. Ms. Davis posted on social media that the Board gave \$180,000 budget for legal fees to defend the actions of the Director, Ms. Vollmar. In another post Ms. Davis said Ms. Vollmar was running up attorney bills on frivolous lawsuits.

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The Board evaluates the Director (Ms. Vollmar) and has control over the Director's employment. Ms. Davis made a number of comments regarding these matters as they relate to Ms. Vollmar. During an open session of a Board meeting and in Ms. Vollmar's presence. Ms. Davis stated that Ms. Vollmar made enough money and didn't need a raise. When the Board Trustees were instructed to have Ms. Vollmar's evaluation completed for the April 2023 Board meeting, Ms. Davis commented that Ms. Vollmar's evaluation results could be different after the April election.

In an email to several individuals, Ms. Davis accused Ms. Vollmar of having stopped all comments on the JCHD Facebook page and YouTube meetings. She also accused Ms. Vollmar of having withheld emails from members of the public from the Board. Similarly, during an open session of a Board meeting, Ms. Davis accused Ms. Vollmar of having kept mail from Board members. Ms. Davis' assertions against Ms. Vollmar were false and/or unsubstantiated. The communications director, Brianne Zwiener, disabled the comments, not Ms. Vollmar. Further the comments were disabled at the direction of counsel, not Ms. Vollmar. Ms. Zwiener is also the employee who monitored the communications emails from the public, not Ms. Vollmar. If Ms. Zwiener received an email that is addressed to the Board, she forwarded to them.

Ms. Davis also sent an email to several individuals, including Ms. Vollmar, titled "Another Lie from Vollmar Debunked." Ms. Davis' email is difficult to understand leaving it unclear what she contends Ms. Vollmar lied about. Nonetheless it is clear Ms. Davis' intent was to paint Ms. Vollmar as a liar.

FACTUAL DEDUCITONS

Several summative deductions are made from the preceding information.

Ms. Davis defies the scope of her authority as an individual board member. She fails to accept and operate within the limited authority of an individual Board member. Individual Board members do not have independent authority to demand action; action can only be demanded if it is the will and request of a majority of the board. While Ms. Davis' defiance could have initially been the result of simple misunderstanding, ultimately it cannot be attributed to a lack of understanding. Ms. Davis' conduct continued even after she was educated by various individuals.

In similar fashion, Ms. Davis disregards the information she is provided by JCHD. Instead of sharing the information provided by JCHD with the public, she either carelessly or intentionally shares misconstructions and misinformation. It is certainly within the scope of Ms. Davis' role and duty as a Board Trustee to keep the public informed, but she must take care to accurately inform them. Ms. Davis' conduct, again, cannot be attributed to a lack of knowledge or misunderstanding. Ms. Davis was informed of and had the accurate information available to her.

Ms. Davis has a dislike of Ms. Vollmar. The reason for the aversion is unknown, but Ms. Davis' actions towards and regarding Ms. Vollmar are reflective.

Ms. Davis acts distrusting of JCHD. Ms. Davis joined the JCHD amidst the COVID pandemic. Ms. Davis' personal beliefs regarding mitigation tactics, effectiveness of same, and vaccinations were not aligned with the CDC guidance that JCHD was following. As happened across the county,

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this divergence of beliefs was a moving force in furthering a deep divide that was happening in our country. This resulted in many individuals associating themselves and others in particular camps, not only as relates to COVID but also politically, and having a distrust and/or dislike for those not similarly situated to oneself. Ms. Davis' actions of distrust toward JCHD appear to stem from the above-described divergence rather than factual proof that JCHD/the Board was or had acted unlawful.

Ms. Davis does not operate within an accurate application of Missouri's Sunshine Law. She does not understand closed records versus open records and the accessibility limitations each has. She conflates her role as a Board member with her role as a citizen and her ability to obtain records under the Sunshine Law with her ability to obtain records as a Board Member.

Ms. Davis fails to accept the decisions of the Board and speaks out against decisions of the Board. Individual Board Members are free to express their views and reasons for same when decisions are being made by the Board. Once a decision is rendered by a majority of the Board, the individual Board Members must accept that is the decision of the Board. It is within a Board Members' role and duty to keep the public informed about Board decisions (within the confines of confidentiality and Sunshine Law), but sabotaging a Board decision is not. Ms. Davis' actions go beyond informing the public and are sabotaging in nature.

Ms. Davis' actions are for personal or partisan gain. Her conduct suggests this and Ms. Davis expressly so states in her written communication.

Many of Ms. Davis' communications towards or about Ms. Vollmar were of an aggressive, threatening nature. For example: Ms. Davis' threat to go to the newspaper, state representatives, prosecuting attorney, or the Attorney General if Ms. Vollmar did not give her what she wanted; statements that accompanied her demands of "stop playing back and forth games," and "I can do what I want there"; Ms. Davis' email headline of "another lie from Vollmar Debunked"; and talking over the top of Ms. Vollmar trying to speak at a recent public Board meeting and clapping her hands saying "great grandstanding Kelley Vollmar!"

V. CONCLUSION

ANTI-BULLYING POLICY

As an employer of the JCHD staff, Ms. Davis is to comply with the Employee Manual. Based on the above factual findings, I conclude that Ms. Davis has violated the Anti-Bullying Policy as relates to Ms. Vollmar as follows.

Ms. Davis has repeatedly and with aggressive intent ridiculed and maligned Ms. Vollmar. Examples include Ms. Davis accusing Ms. Vollmar of "wasting time" when Ms. Vollmar was trying to lawfully, accurately, and in accordance with the Board's will process Ms. Davis' record requests. Ms. Davis having falsely accused Ms. Vollmar in emails and in an open session board meeting viewed by the public of having stopped Facebook and YouTube comments and kept mail from Board Members, neither of which were done or directed to be done by Ms. Vollmar. Social media posts by Ms. Davis insinuating that Ms. Vollmar lied about the grants for ASPEN

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and that Ms. Vollmar is working hard to get schools to join a program (ASPEN) that will collect and distribute student and parent information in violation of HIPAA.²

Based on the same examples above, Ms. Davis has repeatedly and with aggressive intent engaged in emails or postings to or about Ms. Vollmar, unreasonable public criticism about Ms. Vollmar, and blame without factual justification.³

Ms. Vollmar stated she felt humiliated having questions constantly raised about her activities as a director; questions that were intended to discredit her and have a negative employment impact. This feeling aligns with how a reasonable person would feel. Accordingly, based on the same examples above, Ms. Davis has repeatedly and with aggressive intent humiliated Ms. Vollmar in private or public.⁴

Ms. Davis' conduct also intentionally interfered with Ms. Vollmar's work. Ms. Vollmar indicated the number of Sunshine Law requests coming in interfered with her work. I do not agree with Ms. Vollmar's conclusion. The public has a right to submit Sunshine Law requests, and as many as they would like. While this can be burdensome to the public entity, the requests are legally permissible and the law allows for the public entity to have additional time to process the requests so as not to significantly interfere with other daily duties. However, I do find that Ms. Davis' persistent, argumentative, document request emails were intended to interfere with Ms. Vollmar's work. Ms. Davis was repeatedly advised of the procedures she needed to follow to see the documents or obtain copies of them. Despite being informed and advise of the options available to her, Ms. Davis did not pursue the available options, but instead persisted with unauthorized requests and demand, which Ms. Vollmar had to continue to address. Similarly, despite being educated on same Ms. Davis refused to accept and follow the process and procedure for Trustee visits. She showed up at unauthorized times, she dictated when she would visit, and she demanded that her visit go beyond the intended scope of Trustee visits (*i.e.* time, topic, and document access limitations). Again, Ms. Vollmar had to address this conduct and Ms. Davis' unauthorized demands. Ms. Davis further interfered with Ms. Vollmar's job as the Director over the health department that was establishing ASPEN but putting false information out to the public regarding ASPEN. As a Board Trustee, it is certainly acceptable for Ms. Davis to inform the public (within the confines of confidentiality and Sunshine Law). But the careless or intentional spreading of false information becomes sabotage and interference.

Ms. Vollmar's description indicates that she found Ms. Davis' conduct harmful, intimidating, unreasonably offensive, degrading, and humiliating. Ms. Vollmar is seeking counseling and medical assistance as a result of Ms. Davis' conduct. In addition, because of Ms. Vollmar's involvement with Ms. Davis' unauthorized demands Ms. Davis gave Ms. Vollmar low scores on her evaluation. Ms. Davis' low scores on Ms. Vollmar's evaluation directly impacted the raise Ms. Vollmar was given.

² I am not representing that the noted examples are an exhaustive list all conduct by Ms. Davis that violated the noted provision of the Anti-Bullying Policy. Compilation of an exhaustive list was not necessary as the examples noted were sufficient to satisfy the definition of bullying in the Policy.

³ See footnote 2.

⁴ See footnote 2.

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Because Ms. Davis engaged in repeated and aggressive behavior, in the express forms of bullying behavior listed in the Policy, that was harmful, intimidating, offensive, degrading, and/or humiliating towards Ms. Vollmar, Ms. Davis violated the Anti-Bullying Policy as relates to Ms. Vollmar.

BY-LAWS

Ms. Davis' conduct towards and about Ms. Vollmar is also contrary to a number of provisions in the By-Laws.⁵ In reaching decisions, Ms. Davis has not always acted in the best interests of the residents of Jefferson County (Section I, Article 1). Her decisions to intentionally refuse to follow procedures and processes and to make continuous efforts to act outside her permitted scope of authority are not decisions that are in the best interest of the residents of Jefferson County. By doing so, Ms. Davis interfered with JCDH staff members' jobs and caused increased consultation with JCHD's attorney (*i.e.* increased attorney's fees). Ms. Davis' decisions to carelessly or intentionally share false or misleading information with the public is also not a decision that is in the public's best interest.

Ms. Davis' conduct also failed to comply with various Board Member duties listed in the By-Laws (Section I, Article 2). Board Members are to discover and interpret the needs throughout the County as a guide to developing and setting priorities for health programs for residents. Ms. Davis was advised several times of the county research efforts conducted to determine the need for the ASPEN program, yet Ms. Davis still did not support ASPEN. Board Members are to reinforce the efforts of the Director and staff so that they may perform their assigned responsibilities in the most effective manner. Ms. Davis' failure to follow procedures, continuous unauthorized demands, and criticisms of Ms. Vollmar and ASPEN did not reinforce Ms. Vollmar and her staff's effort nor allow them to perform their assigned duties in the most effective manners. Ms. Davis does not wish to provide Ms. Vollmar counsel as requested or required. Instead, she has stated a number of times she does not want Ms. Vollmar using counsel for assistance with Sunshine matters even though Ms. Vollmar expressed a need/desire to have counsel's assistance on Sunshine matters. Further, Ms. Davis' proactive efforts to raise doubt and critique the Board approved ASPEN program did not comply with her duty as a Board Member to initiate and implement all efforts to secure adequate financial support for the Center.

Per Section I, Article 2, Board Members shall not use their Board Position for personal or partisan gain. Ms. Davis posted information about Ms. Vollmar on social media and used that information as a basis to support her opinion that new board members were needed, particularly in support of three republican/JeffCo Patriot running candidates. This is Ms. Davis using her position for partisan gain. Further, Ms. Davis expressly stated in her written correspondence that her conduct was for personal gain (*i.e.* "I can not (sic) benefit from my elected position if I am not allowed open access to our records without expensive strings attached.").

Finally, Section II, Article 2 states the action of a majority of the quorum shall be the action of the Board of Trustees. Ms. Davis' conduct did not respect, support, or uphold the action of the

⁵ I am not representing that the noted By-Laws and conduct examples are an exhaustive list of all By-Laws Ms. Davis' conduct as relates to Ms. Vollmar violated, nor is it an exhaustive list of all conduct that violates each noted By-Law. It is a mere sampling which was all that was necessary to allow a conclusion to be drawn on whether Ms. Davis' conduct violated the By-Laws.

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Board. Rather, she spoke out against and proactively worked against Board decisions, ASPEN for example.

In sum, Ms. Davis' conduct towards or about Ms. Vollmar violated By-Laws in addition to the Anti-Bullying Policy.

Sincerely,

Brittany Newell

Brittany L. Newell



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MEMORANDUM

To: Jefferson County Health Department
Attn: Tim Pigg, Board Chairman
Attn: Christi Coleman, Attorney for the Board

From: Brittany Newell
Missouri Education Solutions, LLC

Date: April 26, 2023

Re: March 2023 Complaint filed by
Jaclyn Brown Against Susan Davis

This investigation report sets forth the scope of the investigation, materials reviewed, the standards assessed, and this investigator's findings and conclusions.

I. SCOPE OF ENGAGEMENT

On April 4, 2023, the Jefferson County Health Department (JCHD) engaged this firm to serve as a third party, neutral investigator of a complaint filed by Jaclyn Brown, JCHD ASPEN Coordinator, against Susan (Suzy) Davis, a Board Trustee. Ms. Brown filed her complaint against Ms. Davis on March 30, 2023. Ms. Brown's complaint alleges Ms. Davis violated the anti-bullying policy in the Employee Manual.

I have been asked to investigate and provide findings on whether Ms. Davis' conduct as relates to Ms. Brown violated the anti-bullying policy in the JCHD Employee Policy and Procedure Manual approved June 2022 ("Employee Manual") and/or the By-Laws of the Board of Trustees adopted January 2021 ("By-Laws").

II. MATERIALS REVIEWED

Ms. Brown provided documentation along with her complaint, which I reviewed. Those documents included a number of emails, social media posts, JCHD Board meeting minutes, ASPEN presentations and reports, videos of JCHD Board meetings, and memorandums. Those documents are retained in my investigation file under the following titles:

- Email 1 – Attachment – Memo of C/O
- Email 1 – JB C/O
- Email 2 – Attachment – Memo of Conf w/ Potential Funder
- Email 2 – Email w/ Memo Re Conf w/ Potential Funder
- Email 3 – Attachment – Memo & Supporting Documentation

- Email 4 – Email Re Conf w/ [REDACTED]
- Email 5 – Attachment 1 – ASPEN Report Feb. 2023
- Email 5 – Attachment 2 – ASPEN Presentation
- Email 5 – Attachment 3 – JCHN Presentation
- Email 5 – Attachment 4 and Duplicate 5 – ASPEN Report Jan. 2023
- Email 5 – Attachment 6 – ASPEN Report Dec. 2022
- Email 5 – Attachment 7 – ASPEN Report Nov. 2022
- Email 5 – Attachment 8 – ASPEN Report Oct. 2022
- Email 5 – Board Meeting Info
- September 23, 2021 Jeffco Health Matters: Behavioral Health Platform YouTube video by Ms. Brown available at https://www.youtube.com/watch?v=P0Yo_iPG5_k
- April 22, 2021 Board Meeting on YouTube from 42:30:00-1:01:11 available at <https://www.youtube.com/watch?v=bN9X-oPntG4>
- March 24, 2022 Board Meeting on YouTube from 6:00-18:00 available at <https://www.youtube.com/watch?v=kH04w8FGPOo>
- December 20, 2022 Board Meeting on YouTube from 26:30-32:00 available at <https://www.youtube.com/watch?v=ZfW06Z6GRJc>
- January 26, 2023 Board Meeting on YouTube from 5:50-14:30 available at <https://www.youtube.com/watch?v=hO5gNGss75U>
- February 23, 2023 Board Meeting on YouTube from 15:00-20:00 and 00:46:30-01:16:00 available at https://www.youtube.com/watch?v=St_ZwqIVa8g
- March 29, 2023 Board Meeting on YouTube from 22:00-end available at <https://www.youtube.com/watch?v=1iMI3z5EQdA>

I was also provided the following, which I reviewed:

- Email w/ JCHD Employee Manual
- JCHD 2022 Employee Manual
- Email w/ Link to JCHC By-Laws
- Link to JCHC By-Laws

I also reviewed the following, which I accessed online:

- September 22, 2022 Board Meeting on YouTube from 32:00-60:00
- Suzy Davis’s Facebook post from February 6, 2023
- McFarland, Stidem, Hassan for JCHD Board Facebook Page
- March 24, 2022 Board Meeting Minutes
- August 25, 2022 Board Meeting Minutes
- November 30, 2022 Board Meeting Minutes
- December 20, 2022 Board Meeting Minutes

I also reviewed the following, which I had as part of a simultaneous investigation of another bullying complaint against Ms. Davis:

- Ms. Davis’ March 30, 2023 email to K. Vollmar, J. Pinkley, and D. Diehl titled “Another Lie from Vollmar Debunked” (KV file, Email 9, attachment 4, pg. 1)

Given that the conduct at issue was in recorded form (*i.e.* emails, social media posts, YouTube videos), it was not necessary to interview any individuals.

III. STANDARDS ASSESSED

The By-Laws reflect that the Board of Trustees of the Jefferson County Health Center (“the Board”) is the employer of the JCHD staff. Namely the By-Laws state the Board exercises management authority over JCHD by adopting policies and directing procedures and the Board hires/discharges staff of JCHD, including but not limited to the Director of JCHD. The By-Laws further state that the By-Laws, Rules and Regulations adopted by the Board are for the Board’s own guidance. Given the foregoing and the same that is true of any employer, the employer Board (through its Trustees) is to comply with the JCHD’s Employee Manual.

The Employee Manual contains an “Anti-Bullying Policy” which reads in relevant part as follows:

JCHC believes all employees should be able to work in an environment free of bullying. Managers and supervisors must ensure employees are not bullied. Workplace bullying is defined as behavior that harms, intimidates, unreasonably offends, degrades or humiliates an employee, including in the presence of others.

...

Examples of bullying include but are not limited to repeated and aggressive:

- Unreasonable public criticism, reprimands, or trivializing of another’s work
- ...
- Intentional interference with another’s work, for example, through impossible deadlines, supplying insufficient or incorrect resources or information

This investigation assesses whether Ms. Davis, as a Trustee and employer of Ms. Brown, bullied Ms. Brown in violation of the Anti-Bullying Policy.

The By-Laws also set forth provisions that govern Board Trustees. Those provisions, in relevant part, are as follows:

- Section I (Organization), Article 1 – In reaching decisions the Board will attempt in every case to act in the best interest of the residents of Jefferson County.
- Section I (Organization), Article 2 – Duties of the Board and Members –
 - In addition, members of the Board of Trustees will:
 - 1. Work through the Director and his/her staff.
 - 2. To discover and interpret the needs, attitudes and interests throughout the County as a guide to developing and setting priorities for health programs for residents.
 - 3. Reinforce the efforts of the Director and the staff so that they may perform their assigned responsibilities in the most effective manner.
 - 6. Initiate and implement all efforts to secure adequate financial support for the Center.

- Section I (Organization), Article 2 – Conflict of Interest and Authority – ... Members shall avoid being placed in a conflict of interest and shall not use the Board position for personal or partisan gain.
- Section II (Meetings of the Board of Trustees), Article 2 – Three (3) Trustees shall constitute a quorum and except as otherwise specifically provided, the action of a majority of the quorum shall be the action of the Board of Trustees.

IV. FINDINGS

JCHD initiated a program called ASPEN. Ms. Brown is the ASPEN Coordinator. As the ASPEN Coordinator Mr. Brown is responsible for educating the Board, schools, public, etc. about the ASPEN program and seeks out funding for the program including working with potential funders and writing for grants.

Ms. Brown has given several presentations regarding the ASPEN program¹ to the Board during board meetings when Ms. Davis was present (April 22, 2021, September 22, 2022, February 23, 2023, and March 29, 2023). The presentations included information on why ASPEN was developed by JCHD, what the program consisted of, and how the program was being paid for through a variety of grants. In particular, the presentations explained the program consisted of mental health screenings students could self-administer, screening tools counselors could use, resource information for those in need, and student referrals where students could refer a friend they were concerned about. The presentations also explained that HIPAA and student confidentiality law (FERPA) would be followed and only the school assigned counselors or assigned staff would have access to student responses. It was further explained that students could not access the ASPEN screening tools unless their parent signed up for the ASPEN program and at any time thereafter the parent could opt out of the program. Ms. Brown also explained the ASPEN program was being expanded to cover other demographics identified as being at high risk such as first responders, health care workers, and foster children.

All presentations were given during the open session of the Board meetings. As such, the presentations were video recorded and available for review on YouTube at any time. Ms. Brown's April 22, 2021 and September 22, 2022 presentations were accompanied by a PowerPoint. The PowerPoints were visible in the recorded YouTube videos. Accordingly, the PowerPoints were also available for access and review at any time.

Mr. Davis was able, and invited, to ask the ASPEN Director questions about ASPEN at the presentations. Ms. Davis was also advised that if she had any further questions about the ASPEN program to reach out to the ASPEN team at JCHD and they would be more than happy to answer the questions.

Ms. Davis repeatedly questioned the bills related to the ASPEN program (including Architect Now) at various board meetings. She was reminded (as had already been told to her in presentations) that ASPEN was grant funded (no taxpayer dollars were being used to pay for it), that Architect Now's fees were part of the ASPEN project, and that the Architect Now contract

¹ Before the program was given the name ASPEN it was referred to as the Jefferson County Health Network Behavioral Health Assessment Tool.

had already been approved by the Board. At the January 26, 2023 board meeting, Ms. Davis asked about whether the grant money being used to pay the expenses could have been used for something else. The JCHD Director, Kelley Vollmar, and Board Chair, Dennis Diehl, explained to Ms. Davis that grant money has to be used on what the grant was written/received for. At the February 23, 2023 meeting, Ms. Davis stated the grant funds are going into the general revenue fund and then being used for ASPEN. Ms. Vollmar and Mr. Diehl advised Ms. Davis that was inaccurate.

Despite the foregoing education, information, and available resources, Ms. Davis took to social media and made false statement about ASPEN as follows:

- “ASPEN in Schools. Glorified data collecting at JCHD from your youth about their emotional state with references to get help. Linked to EMT, Mercy, Counselors, principals... So far since June 2021 JCHD Kelly Vollmar’s pet project cost to hire Architect Now \$704k. Get this it’s OK, she’s got grants to cover it. Really? Or I have a hunch the grants were written for JCHD in General without Aspen even mentioned.”
- “This is the presentation jchd is using to lure each system into the sis. What do you think about a system collecting information about your children and you? Do you want your school automatically putting your child’s grades, emotional information, and your personal information into an (sic) sis then forget about hipaa (sic) because, counselors, Mercy health, 1st responders, the principals, police, fire and such will all have access to your data. Right now Vollmar is working hard on each school, and fire department, emt district to get them to hop aboard the bus. Will there be strings? \$500k has been invested by jcHealth dept since June of 2021. Is this the beginning of the end of privacy???? Could this kind of money have been used to help our Community in other ways?”
- “ASPEN program to monitor students behaviors and link to emt, counselors, hospitals, etc.”

Occurrences at board meetings give insight into the background of Ms. Davis’ careless/intentional misleading and false posts and statements. During the ASPEN training at the February 23, 2023 board meeting, Ms. Davis said the documentation the trustees had been given stated ASPEN was a student information system (SIS), and if a school agreed to become part of the ASPEN program student information would automatically be “dumped into” the ASPEN program including students’ grades and behaviors at school. Ms. Brown told Ms. Davis she was not sure where Ms. Davis got that information but it was incorrect. Ms. Brown explained that the ASPEN program and platform JCHD had developed was not a SIS. Ms. Davis retorted “that’s what ASPEN is.” Ms. Brown then explained to Ms. Davis, once again, what the ASPEN program developed by JCHD is. Challenging Ms. Brown further Ms. Davis asked what the paper was that she was looking at then. Another Board Trustee chimed in and told Ms. Davis that what she was looking at was for the wrong company and wrong product; that someone had Googled to find what she had and it was wrong information. Another individual also advised Ms. Davis that what she was looking at was not JCHD’s product.

Continuing to challenge what a multitude of people were explaining to her, Ms. Davis said the documentation even referred to Architect Now (the IT company developing JCHD’s ASPEN program) and that the documentation was put out by Jefferson County Health Network (JCHN) (an entity that was involved in JCHD’s ASPEN Program). A JCHD staff member who worked on

and was familiar with JCHD's ASPEN program asked to see the documents Ms. Davis was referring to.

While the JCHD staff was reviewing Ms. Davis' documents, the Board Chair, Mr. Diehl, told Ms. Davis that her duty as a Board Trustee is to make sure she is providing accurate information to the public. He advised her that if she does not know the correct information, Ms. Davis can refer people to Ms. Brown or anyone else who would have the information, or Ms. Davis can ask those individuals herself and then pass that information on to the public. Mr. Diehl stated he does not understand how all these misunderstandings keep happening because the accurate information is there and accessible in numerous different ways; correct answers can be obtained. Ms. Davis retorted defensively "well this is information that is online and anyone who puts this information into their search engine are coming up with this. It's by a company that we hired."

The JCHD staff who reviewed the documents advised Ms. Davis that she had documents from two separate websites and was conflating the two.² She explained that one was a blog post Architect Now had put out about Architect Now working to develop the ASPEN program for JCHD. She further explained the second was from the website of a company called "Follett Aspen" and noted the document was printed from follettlearning.com.³ The staff member told Ms. Davis that Follett Aspen is a separate company that just happens to have a program that is also called "Aspen." The staff further explained that Ms. Davis was correct that the program Follett Aspen offers is a school information system, but reiterated once again to Ms. Davis that Architect Now did not develop the SIS for Follett Aspen and that JCHD's ASPEN program developed by Architect Now is not a SIS.⁴

Ms. Davis then began directing comments to Ms. Brown about how the ASPEN program was "so expensive to just provide information to people who might need it." Ms. Davis continued on saying JCHD had this before; if people needed help, they called somebody and that person gave them a printout that had all the resources on it and ASPEN is doing the same thing. Notably, the ASPEN program had already been Board approved. Ms. Brown explained, as had already been explained to Ms. Davis in former presentations, that over several years they had done research, surveys, focus groups, and gathered a lot of information. What they found was that handing people a big packet of paper of resources can be overwhelming, particularly if the individual is in mental health crisis. ASPEN helps people sort through available resources and provides resources that are regularly updated. Ms. Brown explained that through grant funding they now have an assistant who can go in on a weekly basis and update the resources. They can put waitlist times and other information on them that are helpful. Ms. Brown explained that what they did before ASPEN, handing someone a stack of papers with resources that may not have been updated for two years, has not been effective.

² It is not clear how Ms. Davis conflated the two separate documents. As the staff clarified to Ms. Davis at the Board meeting, one set of printed documents were labeled pages 1 of 2 and the second set of printed documents were labeled pages 1 of 7.

³ Notably, the documentation Ms. Davis had in her possession had not been given to her by anyone from JCHD as Ms. Davis had indicated. The documentation had been pulled off the internet (presumably by Ms. Davis).

⁴ A student information system is an internal electronic recording keeping system school districts use to house student information (grades, discipline, parent information, immunizations, etc.). Different companies develop different electronic student record keeping systems schools can purchase.

Ms. Davis said “I know, I get it. But I can’t understand spending this kind of money for resources. These kids are better at Googling than I am. They know how to if they need to find something. They all have smartphones.” Ms. Brown stated that Google is not always vetted and explained once again, as had been explained to Ms. Davis many times prior, that ASPEN is not just a resource directory; that is just one component of ASPEN. It also has the screening tools which is an effort to try and prevent children from falling through the cracks. Ms. Brown explained that their data showed that some children who had been committing suicide were not children who had gone to the counselor’s office or who had been identified at home as at risk. So, the referral tool and self-screening tools of ASPEN are intended to now catch some of the students who previously were falling through the cracks. Ms. Brown went on to discuss statistics, particularly suicide rates of children in Jefferson County. She explained that the data they have is showing that they need ASPEN; the systems that they have are not broken, but they can be better.

At this juncture of the conversation, Ms. Brown’s demeanor changed. She seemed upset; not angry, but more woeful. She seemed to exude a bit of a sense of despair in having to defend against Ms. Davis’ continuous attacks of ASPEN largely predicated on inaccurate information. Ms. Davis began speaking over the top of Ms. Brown and cut Ms. Brown off saying “I get that, I get the good intention, but I’m practical.” Ms. Davis went on to question why JCHD could not instead buy a building and provide additional services to people in need and said “we are spending \$600,000 on a computer program.” This in essence concluded the interaction between Ms. Brown and Ms. Davis at the February 23, 2023, board meeting as Ms. Brown’s supervisor and JCHD Director, Ms. Vollmar, stepped in at this time. Ms. Vollmar tried explaining to Ms. Davis the difference between public health and healthcare. Namely that public health is intended to find the problems upstream and prevent them while health care provides the treatments.

Despite discussion at length at the February 23, 2023, board meeting about Follett Aspen and the SIS program it offers being entirely separate from the ASPEN program JCHD had Architect Now develop, and despite repeated reiterations that JCHD’s ASPEN program developed by Architect Now was not a SIS program, Ms. Davis proceeded to raise misperceptions on social media about Follett Aspen and JCHD’s ASPEN program. In or around March 2023, a question was raised on the McFarland, Stidem, Hassan for JCHD Board Facebook page⁵ about Follett Aspen. Ms. Brown responded to the Facebook post explaining Follett Aspen was not the same as JCHD’s ASPEN program; that Follett Aspen was a student information system and JCHD had no connection with Follett Aspen. On or about April 1, 2023, Ms. Davis responded directly to Ms. Brown’s comment asking Ms. Brown on social media “what would keep JCHD from doing what Follett Aspen does in the future?”. Ms. Davis well knew JCHD and its ASPEN program could not do what Follett Aspen does because Follett Aspen was a student information system and what Architect Now developed for JCHD’s ASPEN was not a student information system.

In addition, despite Ms. Davis being made distinctly aware at the February 23, 2023, board meeting that there were other companies/products called “Aspen” that were not associated with JCHD’s ASPEN program, and despite the Board Chair cautioning Ms. Davis at that same meeting about her duty to provide accurate information to the public and to ask if she was unsure of the accuracy of the information she shared, Ms. Davis continued to mislead the public by sharing information

⁵ This is a Facebook page supporting the three candidates who were running for open spots on the JCHD Board for the April 2023 election. Ms. Davis supported these three candidates and actively commented on this Facebook page.

on social media about other “Aspen” companies. On or about March 14, 2023, on the JEFFCO PATRIOTS Facebook page⁶ Ms. Davis shared the Wikipedia page for the “Aspen Institute.” It described Aspen as an institute that is headquartered in Washington D.C., an international nonprofit organization founded in 1949, and being largely funded by a variety of groups including the Carnegie Corporation and Bill Gates Foundation. None of this information aligned with what Ms. Davis had been educated on numerous times about JCHD’s ASPEN program. Namely that JCHD’s ASPEN program was a program JCHD developed, that was only being used in Jefferson County, Missouri, and that after years of data gathering began being developed in 2021.

On or about that same date, March 14, 2023, Ms. Davis made another post to the JEFFCO PATRIOTS page about ASPEN that contained inaccurate, misleading information. Namely, Ms. Davis stated:

Do you need 3 new board members?

...

Aspen is KV pet project. Since starting to develop it June of 2022, Vollmar and her yes board has spent \$705k. In my opinion, JCHD board, is allowing Aspen spending to continue at alarming rates. Right now the money is going into start ups/website/staff to try to convince schools to join, fire departments Etc. Sadly the kids don’t get all free counseling and programs. \$\$\$\$ being spent on administrative and program fees! I’m mad as heck that I voted to help teens and this is what we get 7 months later Vollmars pet program has already cost 705k. I keep asking Diehl/Pigg/Prater voting majority why they allow this?

...

Does your present 3 incumbents deserve another term?

Similarly, Ms. Davis posted to the JEFFCO PATRIOTS Facebook on or about March 29, 2023, before the board meeting that day, the following:

Another \$59k paid to Development of Aspen program this month...Bring us to \$765k since June! Share this and you can watch the meeting on utube later. See why we need 3 new board members!!!

Ms. Davis knew from the training on September 22, 2022, that Architect Now began developing ASPEN in 2021. Her knowledge of funds being paid towards ASPEN well before June 2022 is unequivocal; she raised complaints at board meetings about funds being paid towards the development of ASPEN well before June of 2022. Ms. Davis also knew that ASPEN was funded through grants; JCHD had not paid directly for ASPEN. Finally, Ms. Davis knew from the February 23, 2023, meeting that ASPEN funds were being spent on things other than what she noted in her social media posts, such as staff updating available resources weekly and adding information to the resources such as waitlists.

⁶ This is a republican based Facebook page that Ms. Davis seemingly was an administrator of. She would post on this page about JCHD and in conjunction therewith would try to convince the public new Board Members were needed (*i.e.* McFarland, Stidem, and Hassan whom she and the JEFFCO PATRIOTS supported).

Ms. Davis' efforts regarding ASPEN went beyond comments on social media and at public board meetings. Shortly before the March 29, 2023 board meeting, Ms. Brown received a phone call from [REDACTED], a long-time partner of JCHD. [REDACTED] told Ms. Brown that [REDACTED]. [REDACTED] had received a call from the Executive Director of the Jefferson County Community Mental Health Fund Board (JCCMHFB). [REDACTED] reported to [REDACTED] that he had received a call from Ms. Davis regarding ASPEN and funding. [REDACTED] was concerned that the intent of Ms. Davis was to impact the funding of ASPEN. JCCMHFB had announced that it had grant money available for mental health services which Ms. Brown was writing/applying for in order to obtain additional grant money to fund ASPEN (which Ms. Brown explained to the Board at the March 29, 2023 meeting).

Ms. Brown phoned [REDACTED] to inquire if he had received a call from Ms. Davis and to answer any questions he may have. [REDACTED] confirmed that Ms. Davis had called him asking questions about ASPEN. [REDACTED] told Ms. Brown he felt he was being "grilled" by Ms. Davis regarding ASPEN and he felt Ms. Davis had a vendetta against the ASPEN program. He stated the information Ms. Davis was sharing with him regarding ASPEN did not align with the information he had received at meetings.

Ms. Brown had been asked to present on ASPEN, yet again, at the March 29, 2023 board meeting to address misinformation that continued to be circulated about the program. At the conclusion of her presentation and discussion with the Board regarding ASPEN information, Ms. Brown stated the following:

I also need to let the Board know that I received a phone call today from one of our community partners that they had received a phone call from one of our potential funders. The potential funder reported to our partner that a Board member from JCHD called them regarding ASPEN and funding concerns. I confirmed with the potential funder that a Board member did contact them and it was clear to them that this Board member had a fundamental misunderstanding of the program and its funding. I respectfully request that the Board members please not actively attempt to spread misinformation about the program or sabotage the program. The majority of this Board has been supportive of the program, and contacting current funders or potential funders undermines the mission of this program and undermines the efforts of the agency, program, and this Board.

After the board meeting (and in Ms. Brown's presence) Mr. Diehl began discussing with Ms. Davis Ms. Brown's report about a Board member having called a potential funder. Ms. Davis told Mr. Diehl that Ms. Brown had provided misinformation and that she was going to call [REDACTED] (the potential funder). Despite Ms. Brown having expressly stated at the board meeting she was writing for a grant for ASPEN that [REDACTED]' Board was offering, and despite Ms. Brown cautioning at the board meeting that contacting potential funders undermines the Board, JCHD, and the ASPEN program, Ms. Davis nonetheless proceeded to call the potential funder, [REDACTED], after the board meeting. It was approximately 6:30 p.m. when Ms. Davis attempted to phone [REDACTED]. Ms. Davis placed the call on speaker phone while Ms. Brown was in the room. When [REDACTED] did not answer, Ms. Davis stated she would text [REDACTED] and then proceeded to use her phone texting.

The following morning, March 30, 2023, Ms. Davis emailed Ms. Vollmar, Ms. Diehl, and Jennifer Pinkley and referenced therein her texts with [REDACTED]. [REDACTED] first name is [REDACTED]

Ms. Davis' subsequent communication with [REDACTED] made Ms. Brown feel humiliated, uncomfortable, undermined, misrepresented, and professionally threatened. Ms. Brown feared Ms. Davis' conduct could jeopardize Ms. Brown's professional working relationship with the potential funder (JCCMHFB), its Executive Director [REDACTED], and its Board of Directors which is comprised of professionals throughout the community whom Ms. Brown professionally partners with on projects. Ms. Davis' repeated misrepresentations about ASPEN have left Ms. Brown feeling mentally exhausted, anxiety-filled, and humiliated. Ms. Brown feels Ms. Davis' conduct is damaging to the ASPEN program. Ms. Davis' conduct has resulted in additional stress for Ms. Brown and Ms. Brown having to increase her personal utilization of mental health resources, including discussions of these matters with a counselor.

V. CONCLUSION

ANTI-BULLYING POLICY

As an employer of the JCHD staff, Ms. Davis is to comply with the Employee Manual. Based on the above factual findings, I conclude that Ms. Davis has violated the Anti-Bullying Policy as relates to Ms. Brown as set forth below.

Ms. Davis has repeatedly and with aggressive intent unreasonably publicly criticized or trivialized Ms. Brown's work. As Ms. Brown is the ASPEN Coordinator, comments about ASPEN are comments about Ms. Brown's work. Despite being educated to the contrary, Ms. Davis posted on social media and made statements in publicly viewed board meetings that ASPEN was just a glorified data collector or resource directory. Similarly, contrary to the information Ms. Brown had provided Ms. Davis, Ms. Davis made statements on social media and in public board meetings that ASPEN was monitoring students' behaviors and that under ASPEN student/parent confidentiality and HIPAA would be nonexistent. Ms. Davis stated student information such as grades and discipline would be dumped into a system that would be shared with all sorts of people/entities. Ms. Davis also insinuated on social media that statements about grant money having been obtained for ASPEN were lies. Similarly, Ms. Davis made misrepresentations on social media about the timeframe for ASPEN spending to give the appearance of rapid spending (or "spending at alarming rates" as Ms. Davis noted).⁷ Ms. Davis knew the June 2022 timeframe she stated was inaccurate. Ms. Davis had raised complaints in Board meetings about ASPEN spending well before June 2022.

Ms. Davis' conduct and comments viewed in the collective sense reflect Ms. Davis' disapproval of and outward activism against the ASPEN program. Ms. Davis was not attempting to accurately inform, but rather was attempting to discourage support of the ASPEN program. It is certainly acceptable for Board Trustees to keep the public informed about JCHD programs or let the public know their position on a matter (within the confines of Sunshine and confidentiality). But when a Board Trustee knowingly shares adverse false and misleading information about a program with the public, the Board Trustee's intent is no longer keeping the public informed or sharing his/her

⁷ I am not representing that the noted examples are an exhaustive list of all conduct by Ms. Davis that violated the noted provision of the Anti-Bullying Policy. Compilation of an exhaustive list was not necessary as the examples noted were sufficient to satisfy the definition of bullying in the Policy.

personal position on a matter. Rather, such is reflective of aggressive conduct that is predicated on ill intent.

Ms. Davis has also repeatedly and aggressively intentionally interfered with Ms. Brown's work on ASPEN. This conclusion is predicated on the examples and information in the two preceding paragraphs. In addition, even after being educated about JCHD's ASPEN not being associated with other programs located online that happen to also be called Aspen, and even after being cautioned to ensure she was providing the public accurate information about ASPEN, Ms. Davis continued to post information on social media about the wrong Aspen programs. Given these orders of events, Ms. Davis' conduct reflects an intentional effort to share misinformation about ASPEN and to degrade the support others had for the program. These efforts by Ms. Davis are also reflected in her reaching out to a potential ASPEN funder, [REDACTED], not once but twice, once being immediately after Ms. Brown cautioned the Board that contacting potential funders can be problematic for and undermine the ASPEN program.⁸

Ms. Brown's description indicates that Ms. Davis' conduct made her feel humiliated, uncomfortable, undermined, misrepresented, and professionally threatened. Ms. Brown reported that she has experienced mental exhaustion and anxiety and is seeking counseling services all in relation to Ms. Davis' conduct. Given Ms. Davis' conduct, Ms. Brown's reported resulting feeling are reasonable. They also align with Ms. Brown's demeanor reflected in the board meeting videos.

Because Ms. Davis engaged in repeated and aggressive behavior, in the express forms of bullying behavior listed in the Policy, that was harmful, offensive, degrading, and/or humiliating towards Ms. Brown, Ms. Davis violated the Anti-Bullying Policy as relates to Ms. Brown.

BY-LAWS

Ms. Davis' conduct in relation to Ms. Brown and the ASPEN program Ms. Brown is the Coordinator of is also contrary to a number of provisions in the By-Laws.⁹ In reaching decisions, Ms. Davis has not always acted in the best interest of the residents of Jefferson County (Section I, Article 1). Ms. Davis' decisions to carelessly or intentionally share false or misleading information with the public about ASPEN is not a decision that is in the public's best interest.

As bulleted below, Ms. Davis' conduct also failed to comply with various Board Member duties listed in the By-Laws (Section I, Article 2).

- Board Members are to work through the Director and his/her staff. Ms. Davis did not work through the Director and staff (*i.e.* Ms. Brown) in relation to the ASPEN program. Ms. Davis acted on her own to share false and misleading information with the public about ASPEN without first vetting the accuracy of same with Ms. Brown. Ms. Davis also reached out personally to potential funder, [REDACTED], rather than working through Ms. Brown to obtain the information Ms. Davis sought from or wished to share with [REDACTED]

⁸ See Footnote 7 above.

⁹ I am not representing that the noted By-Laws and conduct examples are an exhaustive list of all By-Laws Ms. Davis' conduct as relates to Ms. Brown violated, nor is it an exhaustive list of all conduct that violates each noted By-Law. It is a mere sampling which was all that was necessary to allow a conclusion to be drawn on whether Ms. Davis' conduct violated the By-Laws.

- Board Members are to discover and interpret the needs throughout the County as a guide to developing and setting priorities for health programs for residents. Ms. Davis was advised several times of the county research efforts conducted to determine the need for the ASPEN program, yet Ms. Davis still did not support ASPEN. Instead, she actively sought to undermine support for the program, a program that data showed the community needed.
- Board Members are to reinforce the efforts of the Director and staff so that they may perform their assigned responsibilities in the most effective manner. Ms. Davis' proactive efforts to share false and misleading information about the Board approved ASPEN program did not comply with this duty.
- Board Members have a duty to initiate and implement all efforts to secure adequate financial support for the Center. Ms. Davis sharing false and misleading information about ASPEN and reaching out to potential funder, [REDACTED], directly after Ms. Davis was told contacting potential funders directly can undermine ASPEN, did not comport with this duty.

Per Section I, Article 2, Board Members shall not use their Board Position for personal or partisan gain. Ms. Davis posted false and misleading information on social media about the program Ms. Brown was the Coordinator of, ASPEN, and used that information as a basis to support her opinion that new board members were needed, particularly in support of three republican/JeffCo Patriot running candidates. This is Ms. Davis using her position for partisan gain.

Finally, Section II, Article 2 states the action of a majority of the quorum shall be the action of the Board of Trustees. Ms. Davis' conduct did not respect, support, or uphold the action of the Board. A majority of the Board approved the ASPEN program. Ms. Davis did not accept and support this decision of the Board. Rather, Ms. Davis spoke out against the program and actively tried to degrade funding and support of others for the program.

In sum, Ms. Davis' conduct regarding Ms. Brown's coordinated program, ASPEN, violated By-Laws in addition to the Anti-Bullying Policy.

Sincerely,

Brittany Newell

Brittany L. Newell