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MAYOR



## Metropolitan Government of Nashville and Davidson County

Human Resources Department  
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Nashville, TN 37219

### Fact Finding Report

Department: Metro Public Health Department  
Fact Finders: Seth Waltenbaugh, Leigh Anne Lee  
Date: December 7, 2020

#### **Complaint Summary:**

The Human Resources Department received two complaints from Health Department employees. Leslie Waller, Epidemiologist 1, submitted a complaint dated September 24, 2020, alleging gender discrimination by the Director of Health, Michael Caldwell. The Metro Public Health Department forwarded the complaint to the Metro Human Resources Department on October 5, 2020, and asked that this complaint be investigated by the department.

Rachel Franklin, Bureau Director, submitted a complaint dated October 5, 2020, alleging discrimination based on gender, age, and pregnancy status by the Director of Health, Michael Caldwell.

In the two complaints, there was considerable overlap in both specific and general allegations, which will be outlined in this report. Many of the allegations concern the same incidents with multiple witnesses. When conducting interviews, Fact Finders included questions about each set of allegations.

#### **Desired Remedy:**

Both complainants assert that, based on the seriousness of their allegations, Dr. Caldwell should no longer be the Director of Health.

#### **Persons Interviewed:**

Rachel Franklin, Bureau Director  
Leslie Waller, Epidemiologist  
Les Bowron, Human Resources Manager  
Jim Diamond, Bureau Director  
Dr. Michelle Pardue, Bureau Director 2  
Hugh Atkins II, Bureau Director  
Laura Varnier, Public Health Nurse 4  
Brian Todd, Health Manager 3  
Dr. Gil Wright III, Medical Doctor  
Tina Lester, Bureau Director  
Dr. Michael Caldwell, Chief Medical Director

Note: Unless required for a direct quote, responses from interviews may be summarized.

### **Summary of Complaints**

1. Both complainants stated that they had been told by co-workers that the Director of Health, Dr. Caldwell, sought to terminate Rachel Franklin's employment. Both complainants felt that his perceived or stated justification for termination, a verbal confrontation, was insufficient and disproportionate to Ms. Franklin's actions. They noted that male employees of the same rank behaved arguably more offensively, without repercussions; therefore, they conclude that this disparate treatment is likely based on gender.
2. Both complainants stated that the proposed Health Department organizational chart presented by Dr. Caldwell negatively and disproportionately affects female employees, effectively demoting several women on the Executive Leadership Team (ELT) while leaving the status of men on the ELT relatively or explicitly unchanged.
3. Leslie Waller alleges that she and other Health Department employees have observed "frequent and clear disdain for women on weekly calls" and in meetings.
4. Rachel Franklin alleges that Dr. Caldwell has given her a directive that inhibits the performance of her duties, and that directive is unique to her as a woman. She also cites his lack of responsiveness to a request regarding her pregnancy.

### **Interview Responses to Complaint #1 (Rachel Franklin's Proposed Termination)**

Both complainants had been made aware through co-workers of allegations that Dr. Caldwell sought to terminate Rachel Franklin's employment in the spring of 2020. The event leading to the termination request occurred on Wednesday, May 6, 2020. Fact Finders conducted multiple interviews to reconstruct the series of events that occurred, including perspectives from those involved.

On Tuesday, May 5, 2020 Governor Bill Lee's Office announced that free face coverings would be available for distribution by Public Health Departments across Tennessee, including the Metro Public Health Department locations. This was announced on short notice in the afternoon with little time to develop a distribution plan. Some witnesses stated that they were unaware of the announcement until the morning of Wednesday, May 6, 2020, when a large crowd of dozens of people gathered at the Lentz Public Health building to request the free masks. The crowd was not socially distanced and was growing larger, creating a potentially dangerous situation due to the possibility of spreading the COVID-19 virus. The Health Department staff was not adequately prepared to distribute the masks, which required a rapid response. Sensing the urgency of the situation and the potential for escalation, which could result in negative media coverage, Rachel Franklin called Dr. Caldwell, who was at the Office of Emergency Management (OEM). According to multiple employees, Dr. Caldwell had been working primarily from OEM during the early days of the COVID-19 crisis.

Ms. Franklin said that she called Dr. Caldwell from a speaker phone in Laura Varnier's office, apprised him of the situation, and asked him where he was. When he said he was at OEM, she asked, "Are you coming here?" She said he responded, "No, I'm at OEM," and she replied, "We need you here. We have things that happen every day that you are not here for, and we need you here." She said Dr. Caldwell stated he would conference Dr. Gil Wright into the call, and once he had, Dr. Caldwell said, "You have offended me, you have offended me in what you're saying." Ms. Franklin said she apologized, saying, "I don't want to offend you, I just want you to know that we need you here. And right now is a perfect time: there might be media that show up because we have a big problem." At one point she said Dr. Caldwell stated something to the effect of, "I am here for you" and she responded, "You're here? You're outside?" He replied, "No, I'm at OEM," and she responded, "Well then you're not here." Ms. Franklin could not recall how the conversation ended, but afterward she and other Health employees set up a "drive through" mask distribution plan within approximately thirty minutes.

Witnesses to the phone call included Laura Varnier, Dr. Michelle Pardue, and Dr. Gil Wright. Dr. Pardue and Dr. Wright did not hear the entire call from the beginning, but witnesses Laura Varnier and Dr. Pardue stated that while Ms. Franklin may have been animated on the call, they did not feel she was rude or disrespectful. Laura

Varnier recalled Dr. Caldwell telling Ms. Franklin that she was being “too emotional.” Dr. Wright said Ms. Franklin may have been disrespectful or “out of line,” but it was a stressful and potentially dangerous situation because of the lack of social distancing by the crowd in the building. Each of the witnesses stated that Ms. Franklin was expressing a common sentiment amongst the Bureau Directors that Dr. Caldwell’s presence was needed at the Lentz Public Health Center, both generally and in this specific situation, for support. Dr. Wright sent an e-mail at 9:07 AM that morning to Dr. Caldwell, Board of Health Chair Dr. Alex Jahangir, Nashville Fire Department Chief William Swann, and the Health Department Executive Leadership Team stating:

“All

We have a limited number of masks that the State provided and the Governor announced yesterday were available to the public through their local Health Dept. We had a large number of people standing as a crowd (NO social distancing) this morning when we opened, waiting to get their masks. If we had had a little forewarning we could have been better prepared. We now have established a drive through at our Lentz facility to hand out masks. The East and Woodbine Clinics are handing them out near their front door. We ask the public to stay out side (sic) and respect social distancing when coming for their masks.

Gill P.S.

It is unlikely that we will have masks beyond tomorrow.”

Witnesses told Fact Finders that they estimate between 20,000 to 23,000 masks were distributed that day. After the phone exchange between Dr. Caldwell and Rachel Franklin, several witnesses stated that they heard from other employees that Dr. Caldwell “wanted Rachel fired.” According to their accounts, Dr. Caldwell approached HR Manager Les Bowron and said, “I want her gone by the end of the day.” Ms. Franklin is a Civil Service employee, so any disciplinary action would normally follow a progressive process and she would have rights to appeal any formal action taken. Instead of relying solely on secondhand accounts, Fact Finders interviewed Mr. Bowron directly.

Fact Finders spoke with Les Bowron, who said that Dr. Caldwell texted him at 7:00 AM on Thursday, May 7<sup>th</sup>. Mr. Bowron said that he texted the Director to confirm that he was available, and when he called Dr. Caldwell, “he told me he wanted me to terminate Rachel Franklin’s employment, that day.” Mr. Bowron said when he asked him to repeat that, Dr. Caldwell said, “I want her gone by the end of the day.” Mr. Bowron said he was stunned by the request. He asked why she should be terminated and advised Dr. Caldwell that he was not sure that could be done. He said Dr. Caldwell replied, “Well, then I want her reassigned.” Dr. Caldwell told Mr. Bowron that he had a very poor experience with Ms. Franklin, so Mr. Bowron made plans to meet with him in person later that day to discuss the situation. In the meantime, Mr. Bowron called his supervisor, Jim Diamond, for guidance and/or advice about what he had been asked to do. When Mr. Bowron met with Dr. Caldwell later that day, the Director said that Ms. Franklin had been insubordinate, unprofessional, and inappropriate, and he could not work with her. Mr. Bowron advised that the Civil Service Rules needed to be followed, so Dr. Caldwell instructed him, “Do what you need to do, even if you need to reassign her to another bureau.” Mr. Bowron felt uncomfortable with being asked to carry out this request and asked for more time to think through the potential courses of action. He said as they were discussing this, Dr. Caldwell said, “You know she is pregnant, and I wonder if that isn’t impacting her emotional stability.” Mr. Bowron replied, “Michael, I’m not your attorney, but if I were you, I would never utter those words again because that’s a violation of Title VII.” Mr. Bowron said that Jim Diamond and Dr. Stephanie Bailey were advised of the situation so that they could hopefully explain to Dr. Caldwell that the Civil Service guidelines needed to be followed in this situation. He said Dr. Bailey explained that a more suitable disciplinary action might be a verbal or written reprimand given the circumstances.

Ultimately, no action was taken against Rachel Franklin. She apologized to Dr. Caldwell directly at some point in the days after the phone call occurred. However, witnesses pointed out to Fact Finders that Dr. Caldwell had similar and arguably more intense verbal interactions with male staff members in two specific instances, but there was no indication that formal disciplinary action was taken or considered in either of these situations.

The first incident that witnesses described was between Dr. Caldwell and Environmental Services Bureau Director Hugh Atkins outside the Lentz Public Health Center. Fact Finders spoke to Mr. Atkins to get his account. He said

that the incident occurred near the end of March 2020, during the first month of Dr. Caldwell's appointment. Mr. Atkins said he had just watched one of the Mayor's regular COVID-related press conferences on television that included Dr. Caldwell and a spokesperson for the Ryman Auditorium, among others. Mr. Atkins said that the Ryman representative made a statement to the effect of, "We're about to enter Phase 1 and open back up some, and anybody who wants the Health Department to walk through their establishment and approve their plan to reopen, just contact the Health Department and set up an appointment." Mr. Atkins said he became very concerned because it would be a huge obligation for his bureau for which he had not planned, but he was also frustrated because he was learning about it by watching the press conference rather than being made aware of this proposed arrangement beforehand.

Mr. Atkins said he was walking to his car in front of the Lentz Public Health Building and Dr. Caldwell happened to be walking in at the same time. Dr. Caldwell greeted him, saying, "Hey, how's it going?" Mr. Atkins replied, "Well I'll tell you how it's going. I'm tired of you, every time you leave this building, obligating me and my group to things that we don't have the authority to do or the resources to do, without you talking to me about that first." He said he raised his voice a bit, and he continued to express his frustration for a couple of minutes. He said he effectively ended the conversation by saying, "Look, if you can't deal with that, I'm going to lunch...and I'll be glad to clean out my office when I get back if you can't handle that." Mr. Atkins said that some other Health Department employees, including one or two ELT members, witnessed his outburst. Mr. Atkins said that he apologized at the end of the day, and that it was very uncharacteristic of his normal behavior. He said in over 45 years working for various employers he had never had a heated conversation like that with a supervisor.

The second incident that witnesses referenced was between Public Information Officer Brian Todd and Dr. Caldwell in an Executive Leadership Team (ELT) meeting. Mr. Todd said that he had already had a couple of disagreements with Dr. Caldwell in the early weeks of the Director's tenure, but the ELT meeting was the most public confrontation. Mr. Todd was frustrated that Dr. Caldwell seemed interested in changing the name of the Metro Public Health Department to the "Nashville Department of Health." Mr. Todd had been involved in the process of developing the "branding" for the Metro Public Health Department many years ago, which included the decision to emphasize the words "Public Health." He said he stood up in the ELT meeting and proceeded to explain the rationale for the logo and naming decisions to Dr. Caldwell. At one point Mr. Todd said he asked the ELT group, "Our focus is what?" to which they responded, "Public Health." He noticed that Dr. Caldwell would not say the words "Public Health." Mr. Todd noticed his reluctance or refusal to answer as everyone else did, so he continued, directing his comments to Dr. Caldwell by saying, "No, you're the Director of the Public Health Department and you are not referring to us as that. I want you to say it." He explained that there was a conscious decision not to use certain words in the name of the organization that could cause confusion. The department does not want to confuse the public by implying that they are a healthcare provider rather than being in the public health field, or to be mistaken for the Tennessee Department of Health, which is also located in Nashville. Ultimately Dr. Caldwell told Mr. Todd, "Brian, I'm not going to say it" and everyone moved on with the meeting. Mr. Todd explained to Fact Finders, "There's been a lot of buy-in, there's a lot of pride in that. And for somebody to come in and not know any of that, or not care about any of that...is disrespectful to the people who have been working hard in public health and that brand means something to them."

Witnesses varied in their description of this confrontation, with some describing Mr. Todd as "intense," "very upset," and that he "raised his voice," while others described him as "yelling" or "screaming" at Dr. Caldwell. Several witnesses noted that it was uncharacteristic of Mr. Todd's normal calm demeanor. Fact Finders asked Dr. Caldwell to describe the situation, and he said, "There was one time when Brian Todd stood up in an ELT meeting and got very emotional and wanted to verbalize wanting to teach me about what the mission of the department was. It wasn't so much an altercation as it was just me listening to Brian get upset. How would you describe that when one person is yelling at another person?" Fact Finders asked Dr. Caldwell if he took it personally, and he replied, "Oh no, I was actually very concerned about Brian...We were all very worried about each other, with the stress. I said over and over again, 'your safety is #1'... There were times in the weeks around that time when I told him that I thought he really needed to take some time off. I did know that he went to a medical provider, and just himself, he took a week off. He came back refreshed...I don't take anything personally."

Fact Finders asked Dr. Caldwell about his confrontation with Hugh Atkins. "I never yelled, that I can recall. If it was an altercation, it might have been Mr. Atkins, maybe more than once, I caught him at a time where he just unloaded his thoughts on me... for five minutes or so. I tried my best to just let the moment pass. Maybe this has happened three different times and every single time within 24 hours, he apologized. That's my recollection." When Fact Finders asked him if he considered disciplinary or corrective action toward Brian Todd or Hugh Atkins, he said, "Yes, yes I did. I spoke with them. I told them I was concerned about them and that this was not acceptable. (With) Mr. Todd, I said 'I think you need help.' I said Brian needs assistance, he is overwhelmed. I told him to take time off. I would view those as corrective actions. With Mr. Atkins the same thing, the corrective action was I brought someone in to help us with enforcement. I said what can I do to help relieve some of the stress to prevent some of these outbursts." Dr. Caldwell continued that when someone recognizes they have been reacting in a negative or possibly insubordinate way toward him and apologizes, he realizes that there may be other issues going on, saying, "I try to zoom out and see what it is that caused this."

When asked about the phone conversation with Rachel Franklin regarding the mask distribution on May 6, 2020 Dr. Caldwell said that part of his concern was that her role was Bureau Director of Emergency Preparedness, but that she was not reacting in the calm and methodical way that he would expect from someone in that position. He explained, "That was a day where everybody got caught off guard. Rachel oversees Communicable Disease and Emergency Preparedness, and when you have that particular position, it seems unfortunately in actually causing more people to be not grounded. Usually in emergency response, they're situationally aware, they calm everybody down, and they say 'Okay, something unexpected has happened. This is what we need to do.' But that particular day, she was not thinking well, not communicating well, and when I asked her for more information, I said 'What is it that you're doing at the Health Department?' She shouted back at me, 'I'm solving problems. What are you doing?' No one has ever spoken to me like that. This was something that at the time I was not able to immediately be there so I was trying my best to provide the leadership direction, as I do all the time. I think she was overwhelmed, she was emotional, and her thoughts were scattered and she was causing great... uh... in an emergency situation, she was causing more chaos." Fact Finders asked, "Amongst other people?" Dr. Caldwell responded, "With that leadership tone, yes. She was yelling, screaming, and also her thought processes were all compressed and scattered. She was overwhelmed in that moment. I think the one thing that was different than others was that she directed her anger or her concern at accusing me that I was not doing something. That I took to be not appropriate."

When asked about the conversation he had with Les Bowron after his phone call with Rachel Franklin, Dr. Caldwell said, "I was very concerned that someone who was in charge of our operations at such a high level would speak to me this way. I wanted to know more information about her past and the process where she was within the Civil Service, and then he provided that to me. I wanted to clarify what the options were. I felt that we were in an emergency situation and I, through that, had lost confidence with her being able to handle an emergency." Dr. Caldwell denied that he mentioned her pregnancy. After the incident he recalled meeting with Dr. Bailey and Jim Diamond to discuss the different options and review what happened. He also said that Rachel Franklin apologized to him in the days afterward and he ultimately decided to take no action.

Fact Finders described Les Bowron's account of the events to Dr. Caldwell, specifically that Dr. Caldwell said that he wanted Rachel Franklin "fired," and "gone by the end of the day." Fact Finders asked if Dr. Caldwell said "You know she's pregnant, I wonder if it's impacting her emotional stability" and if there was anything that he wanted to deny, or if Fact Finders had misstated anything in summarizing Mr. Bowron's account of the conversation. Dr. Caldwell replied, "I can't say specifically that I disagree with any of that. I can't say specifically that's what was said. I was quite concerned myself at the time, and yes, I felt I was in a situation where I had a patient dying, and I needed to remove that nurse from the room. So yeah, the first person I went to was Les, to say 'you're HR, I was really concerned, and what options do I have?' If I had verbalized it, in the way that you're saying, I can't say that I didn't verbalize it that way. I didn't make an order to him, that you must remove Rachel by the end of the day. If he took it that way, that's not how I meant it. I felt that there was, in the middle of a public health emergency, a real damage that there was to our department, and it needed to be addressed as soon as possible, and that's why, through that, when we went forward to go through those very deliberate options, we took our

time to explore.” Dr. Caldwell said he values Rachel and she has great experience, but her current role is not matched to the needs of the Health Department.

A few days after the phone call on May 6, 2020, Rachel Franklin was told by a co-worker that Dr. Caldwell had sought to terminate her employment. She told Fact Finders, “I was just sick over it. I was 3 months pregnant, my boss wanted me fired. I’ve done so much that I’m proud of in that department and he had only been on the job for two months, and I had had maybe three interactions with him during this time. It was a really tough time for sure, and I just chose to let it go, and honestly, I resolved myself to just smiling and nodding with whatever Dr. Caldwell said, and our relationship has been pleasant ever since. He is nice to my face now.”

### **Interview Responses to Complaint #2 (Alleged Demotion of Women in Reorganization)**

Both complainants referenced Dr. Caldwell’s proposed changes to the Health Department’s organizational chart, which was presented at the September 30, 2020 Executive Leadership Team meeting. Both Leslie Waller and Rachel Franklin noted that most of the major changes affected women in the current organizational structure. Dr. Caldwell provided a narrative to explain the proposed organizational realignment. Currently he has thirteen direct reports, which he proposed reducing to five employees in the “Director’s Cabinet” and one administrative support staff member.

Witnesses noted that Rachel Franklin’s bureau would be changing significantly. Currently she leads the Communicable Disease & Emergency Preparedness Bureau, which consists of five subgroups: Emergency Preparedness, Immunizations, Notifiable Disease, STD/HIV Outreach, and Tuberculosis Elimination. Under the proposed organizational chart, she would only retain STD/HIV Outreach and Tuberculosis Elimination. She would gain Clinical Research and Clinical Partnerships. Public Health Emergency Preparedness, which is her area of expertise according to the witnesses Fact Finders interviewed, would become its own separate bureau with a director to be identified later.

Laura Varnier’s role would also change considerably if Dr. Caldwell’s organizational chart is approved. She is currently responsible for Clinic Operations, which include the East, Woodbine, and Lentz Clinic Services (including the Sexual Health Clinic), as well as Clinical Competency and Quality Improvement. Under the new structure she retains clinic operations but loses the Sexual Health initiative, which she states that she has given considerable effort over the last year to “build up.” She would gain the Immunizations and Pharmacy divisions. She expressed concern over assuming these divisions because of their significance and the unexpected way in which the changes were communicated. She explained, “When I got a copy of the new org chart, not only do I have Pharmacy and Immunizations, neither one was discussed with me at any time at any length prior to the distribution of the org chart. The Sexual Health Center was taken from my overview and put in another place in the org chart. There were three really big changes that were never discussed, I was always told that I would just be reporting to someone different. Dr. Caldwell continued to say that I would report to him as well. He kept saying for himself he needed a new organizational structure, it would allow him to not have as many direct reports, however to me it didn’t seem like we were taking in the needs of the organization, it was his concerns only. Not a lot of participation at all in the development of the organizational chart. Pharmacy change is huge. I took over the Sexual Health Center in April, built it up. It’s a big blow to have worked so hard on that program, finally getting to know the status, it’s been about a year and a half, we’re on the same page, and to have that program go to another branch of the organizational chart without any explanation. Was I not meeting grant objectives? What was the rationale? No description as to why the decision was made, it was just made.”

Jim Diamond is over Finance & Administration currently, and many of his current duties would be reassigned to Katie Stone, an employee currently classified as Administrative Counsel who is “on loan” from the Davidson County Sheriff’s Office. Mr. Diamond currently leads Finance, Facilities Management, Human Resources, Information Technology, and Vital & Medical Records. As proposed, Human Resources and Information Technology would be separated. Mr. Diamond would report directly to Ms. Stone. Brian Todd, Les Bowron, and Tom Sharp would also report directly to Ms. Stone rather than Dr. Caldwell, although their roles appear to be unchanged otherwise. Hugh Atkins’s Bureau does not appear to be affected in any way.

Fact Finders asked witnesses if any of the changes seemed punitive when the organizational chart was proposed. Most said that some changes seemed punitive, noting that female employees who had questioned Dr. Caldwell or who had expressed resistance to him seemed to be most affected. They observed that Dr. Bailey and Katie Stone rarely disagree with Dr. Caldwell and seem more allied with his decisions. Witnesses stated that Dr. Bailey had initially been hired on a 6-month contract, but it has been extended an additional 18 months. Witnesses also expressed concern about Katie Stone's proposed role in the organization since she does not appear to have a Public Health background or expertise in the areas of Finance, Information Technology, or Human Resources (which she would oversee, among other areas) at a level commensurate with current ELT members. Some witnesses questioned why they were not given an opportunity to apply through the Open Competitive Civil Service process for the Assistant Director position proposed for her in the organizational chart.

Regarding Rachel Franklin and the reassignment of Emergency Preparedness, witnesses gave consistent statements that they interpreted the change as punitive. Hugh Atkins said, "Did it seem punitive? Yeah. Her background- she came up through Emergency Preparedness, she has built a strong program over there." Dr. Wright's comments were consistent, saying, "It appears that they're (the org chart changes) punitive. Probably the person who has suffered the most is Rachel Franklin... He took away FEP from Rachel, and Emergency Preparedness, where she is very competent and very connected with the community."

Brian Todd, Laura Varnier, Tina Lester, and Leslie Waller agreed that the changes seemed punitive. Tina Lester pointed out, "If you look at the org chart, the four women were moved under a provider, we were buffered from the director (plus Jim Diamond). Over the course of time, we all have at one time or another expressed some concerns about issues." The women she was referring to were Rachel Franklin, Laura Varnier, and Michelle Pardue (who report to Dr. Joanna Shaw-KaiKai in the new org chart) and herself (who will report to Dr. Gil Wright). Laura Varnier added: "My opinion is that these changes were punitive. I can't see it any other way. I think one ELT member made a very clear comment that really speaks to this entire organizational structure that- five cabinet members- he feels more comfortable managing the doctors- he made it so that he didn't have to deal with the more outspoken members of the ELT." Leslie Waller summarized what many saw as a determining factor in how roles were assigned in the organizational chart. She explained that those most affected negatively were "all people who have had differing opinions. The only two people in the department who have told Dr. Caldwell 'yes' at every turn have been Katie Stone and Stephanie Bailey, neither of whom are real full-time employees (they are currently in temporary roles). I don't even understand their stake in the department. The only response that we get from Dr. Bailey is 'I'm here to support Dr. Caldwell.' She's not doing anything fundamental for the department, she's simply a 'yes' person. Katie Stone is by and large a 'yes' person. So, everything's fine with women until you start expressing a difference of opinion."

Ms. Franklin expressed reservations about the new programs of Clinical Research and Clinical Partnerships being assigned to her, which are not current Health Department programs. She notes, "They don't have employees. I don't even know what the objective of those items are, so I certainly wouldn't want to be held accountable for not doing anything with those." She has concerns that she is "being set up to fail." She also commented on how the change could be seen as punitive, saying, "Obviously, the new org chart puts me and Laura (Varnier) and Dr. Pardue down in a little box together, and that's just kind of how he sees us. He wants to put us at the bottom, I think. I think that he doesn't like it when we speak up."

When Fact Finders brought up Dr. Caldwell's idea of reassigning Rachel Franklin, he explained, "I value Rachel very much. I think she's got great experience and potential. I think that the role she's in is not matched very well for what her... for what our needs are. I had a conversation with her for about an hour where I had a deep discussion about the realignment and she was very positive about it, and I talked about all the other opportunities that I thought that she could really contribute to, and she left that meeting reassuring me that everything was great, she was really looking forward to the new challenges. I remember leaving that meeting and going to Dr. Bailey and I was thinking that Rachel, the conversation I was going to have, and the talk about the realignment, was going to go not go well, but it went so well that between a scale of 1 to 10, I told Dr. Bailey that that meeting was an 11. She was so positive and welcoming, and we went through all the specific details of it." Ms. Franklin had a

different account of their discussions regarding the organizational changes: “A lot of it is being taken from the bureau, and a director has every reason to reorganize, but I was never even given the opportunity to talk about the bureau, talk about why the bureau exists and why the different programs are within that bureau and how they’re linked. I was never told that 3 of the 5 programs that had been in the bureau for years were going to be removed from the bureau until I saw an email that he sent last Tuesday night.” Ms. Franklin went on to say: “When he met with me, there was no hard copy (of the org chart) yet, so we just talked. He never once mentioned that these three programs were going to be removed, and that I was going to get these two other random things, and then for me to be assigned the STD clinic- it was never discussed. He discussed the actual changes that affected people in their meetings but didn’t with me. He didn’t tell me any of it.” When Dr. Caldwell e-mailed the proposed chart to the ELT members, Ms. Franklin replied on September 29, 2020, expressing her surprise and dismay at the changes, which she provided to Fact Finders. Her e-mail reads:

“Thank you for sharing.

I must say, there are so many changes that were never discussed during our meeting last week. It was never mentioned that Notifiable Disease or Immunizations would be removed from the CDEP Bureau (or that the CDEP Bureau would be renamed). You briefly mentioned relocating PHEP “somewhere” but certainly didn’t make anything definite. To say that I am concerned with these changes is an understatement. We have worked tirelessly for five years to build the CDEP Bureau to what it is now. Not to mention the other changes throughout the Dept that were never discussed last week. I do not think this is the time or the environment for this type of radical organizational change. I will lose sleep over this tonight, I fear. To see the Dept completely unrecognizable in this proposed org chart is heartbreaking. “

When asked about the proposed changes to the organization, Dr. Caldwell referred Fact Finders to his narrative explanation dated September 29, 2020 (See Appendix 1). In it, he describes his first days with the department in the aftermath of a tornado that struck Nashville on March 3, 2020. He arrived at the Lentz Public Health Center to find the building closed for the day with the explanation that only “essential” employees would be working that day. He felt that the Public Health Department should be considered an essential part of disaster recovery, which led him to look at Public Health Emergency Preparedness specifically, including expanding its capabilities and converting it to a 24/7 operation. He also sees an expanded role for Emergency Preparedness due to the COVID-19 pandemic.

Dr. Caldwell asked what Fact Finders thought about his narrative describing the organizational changes. Fact Finders mentioned that based on feedback in interviews, witnesses said that Rachel’s area of expertise is Emergency Preparedness and he was taking that away from her. No one seems to understand what Clinical Research and Clinical Partnerships are, and there seem to be some changes with Laura Varnier where she’s losing the Sexual Health clinic. He explained, “If you refer to the narrative, you see that I tried to create a clinical cluster, because right now, Michelle and Laura and Rachel, they all report to me in addition to ten other people. It’s just unsustainable, so having Dr. Shaw-Kaikai be the one to oversee the clinical cluster, all those programs kind of can be put in one box and best managed. This initial org chart was to provide my thoughts about how to cluster them in ways that they could be more efficient.”

Dr. Caldwell told Fact Finders that he sought input on the organizational chart from all levels of employees throughout the Health Department. He said he had one-on-one conversations with ELT members. However, multiple witnesses said that, although he discussed the upcoming proposal with them, it was only in terms of reporting relationships and did not delve into specifics. Several employees did not realize they would be “losing” divisions or programs and were surprised when the new org chart was presented. Laura Varnier explained that Dr. Caldwell told her, “Really nothing’s going to change, you’re just going to report to another person.” Several witnesses stated they had no problem with new reporting relationships, as all the ELT members seem to have good working relationships with each other.



### **Interview Responses to Complaint #3 (Different Treatment of Women in Meetings and On Calls):**

Both complainants, as well as every other ELT member who was interviewed (excluding Dr. Caldwell), admitted to observing some degree of unequal treatment of male and female employees by Dr. Caldwell during meetings and calls. According to Ms. Waller's complaint and interview, Dr. Caldwell expresses "frequent and clear disdain for women" while on weekly calls with her team. Ms. Franklin and other members of the ELT, including Jim Diamond, Hugh Atkins, Laura Varnier and Brian Todd spoke to the same type of concerns in their interviews.

Complainant Leslie Waller had this to say about the weekly COVID team meetings that she attends: "We have weekly calls for our COVID team every week. For several weeks in a row, probably three months, Laura Varnier would give her updates. It seemed like, without fail, he would just cut her off and contradict everything that she would say, and the tone really changed, the tone was very hostile. It got to the point where we would get off the call and discuss how he clearly didn't want to hear from any of the women who were talking. It's like a joke now, about how sexist he is. We have two male staff who work closely with our team, and they notice it too and have made comments about it."

Many members of the Executive Leadership Team (ELT) have noticed that the female team members are typically the last ones to be called upon during their ELT meetings. They are often called upon to discuss their current issues with very little time remaining in the meeting; therefore, they often do not have sufficient time to address any questions, issues or concerns that they have. Ms. Franklin mentioned that she sometimes asks male colleagues to bring up important issues to which she needs answers or discussion, because she fears that she will not have enough time allotted to do so herself. Laura Varnier mentioned that she has a weekly meeting, of which Dr. Caldwell is aware, immediately following the ELT meetings. Ms. Varnier stated that she often has to rush through what she has to say, or has to leave before speaking, as she is frequently called upon at the end of the meeting. Jim Diamond stated, "He usually calls on the male members of the group first, in the round table sharing portion of the meeting. I'm usually first, then Dr. Wright, or Brian (Todd), or Tom (Sharp). Women are definitely further down in the batting order in those meetings for sure."

Ms. Waller stated the following regarding his style of communication with women: "With women, he would have a slightly hostile or choppy communication style, he would cut them off, not really hear them out, would kind of contradict things that they said, and just belittling, in a way." Ms. Waller added, "I believe it would be mostly women who have voiced differing opinions than him. We all have had conversations about how, if you are a woman and you do not simply go along with what he says, that's when he gets really contentious. He is clearly bothered by it. It's essentially 'sit down, shut up and follow my lead'. Hugh, for example, and even Dr. Wright, they tell him no all the time, and yet they are somehow still in his good graces."

Dr. Wright told Fact Finders, "Two of the most competent people in their area, Laura Varnier and Rachel Franklin, he seems to have an underlying different opinion or grudge against them. That's a concern." Dr. Wright did not necessarily attribute that women were able to participate less in meetings because of gender, allowing that other factors could be involved. He does note, "(Dr. Caldwell) does at times get short with people, and it's generally the women, and generally when they push back on him. I haven't noticed it with any of the men." Hugh Atkins made similar observations when interviewed, saying, "I have witnessed times when male employees seemed to push back on him, and he didn't seem to hold it against them, in ELT meetings or wherever. But then we've had one female employee, well a couple, that have said they felt like he talks down to them when they bring up stuff." Regarding Dr. Caldwell's interactions with women, he later continued, "I kind of got the feeling that he was talking to them almost like they were kids, saying 'Don't get too emotional about it.' He doesn't do me that way. It is my opinion, it seems pretty obvious that he talks to the men a little differently than he talks to the women. I'm sure the women being on the receiving end of it are more conscious than I am."

When Fact Finders asked Brian Todd, PIO, if male and female colleagues are treated differently by Dr. Caldwell, he answered, "I think he does. I have said it to Laura (Varnier) and to Dr. Pardue and Rachel (Franklin) that it just seems like he's responding differently than when Hugh (Atkins), or I, or Dr. Wright, or even Jim (Diamond), when we might question a decision, than when they do." He described a conversation in an ELT meeting in which Rachel

Franklin expressed concerns about Dr Caldwell's plan to move the epidemiology team. "That snap, really sharp, almost like 'I want to hear your feedback' but if you disagree, there's a clear feeling that he's aggravated, that Rachel questioned that." Mr. Todd also said, "There were three, maybe four times when Hugh or I would speak up and Dr. Caldwell would say okay, but there have been times when Laura Varnier, Dr. Michelle Pardue, have made comments, Rachel Franklin has made comments, and he will react completely different, much more aggressive." Mr. Todd added, "I feel like I have seen him 'bully,' I think is a good word, Rachel or Laura or Dr. Pardue, and sometimes I probably get to the point where I get upset. I feel like that's wrong."

When Fact Finders asked Dr. Caldwell about how he leads the ELT meetings, he explained, "I usually start with Jim, because of Finance, and then if there's any particular topics of the day. I kind of just bounce around. Now that you're bringing this up to me, Dr. Shaw-KaiKai brought it up to me that a couple people went to her and said they were concerned that I was not getting to them in time, and that I should just go around the room, so I more recently started to do that. I don't know. I don't have a particular system, but that was the first feedback I had recently from Dr. Shaw-KaiKai that people felt they weren't getting heard. And this is another problem with the ELT having 13 people, it's just so difficult. The meeting is trying to accomplish too much. We're trying to make decisions, share information, there's too many people to do that." He reiterated that this is the type of issue that contributed to his decision to reduce the number of direct reports he has. He cited research by the National Incident Management System (NIMS) stating that "the span of control of any individual with incident management supervisory responsibility should range from 3 to 7 subordinates, with 5 being optimal."

#### **Interview Responses to Complaint #4 (Restricting Communication and Unresponsiveness):**

On March 21<sup>st</sup>, Dr. Caldwell instructed Rachel Franklin not to speak directly with the Chief of Police (Steve Anderson), and the Fire Chief (William Swann). As the Bureau Director of Communicable Diseases and Emergency Preparedness, Ms. Franklin communicates regularly with the Chiefs of the Police and Fire Departments. Ms. Franklin was very upset to be given this directive because of the impact it could have on being able to perform her duties. Ms. Franklin requested via e-mail that Dr. Caldwell confirm, in writing, his directive that she was not to contact Chief Swann and Chief Anderson, but she did not receive a response.

Ms. Franklin stated: "There's no other females in our department who have the relationship that I have with those men (Chief Anderson and Chief Swann), but there are men that do, and he sure didn't tell them not to have direct contact, for no reason." The Fact Finders spoke with several members of the ELT, and none of them have been asked by Dr. Caldwell not to speak to anyone directly. The only exception referenced in our interviews was when Dr. Bailey recently instructed the ELT members not to contact the Board of Health members directly, without first getting approval from Dr. Caldwell. This directive was later rescinded. Fact Finders asked each interviewee if they had been given a similar directive limiting their communication with other departments, and each one of them said they had not.

When asked about this interaction with Rachel Franklin, Dr. Caldwell explained that this was an example of poor communication between himself and Ms. Franklin. There was an e-mail chain that day with questions from Chief Swann, and Rachel volunteered to respond. Dr. Caldwell immediately called Ms. Franklin and told her that he should communicate with Chief Swann, as it was his typical experience that a Director communicates directly with another Director. In Dr. Caldwell's words: "She (Rachel Franklin) kind of reflexively said she would do something, and I said 'No, don't do that,' and she reacted in a way that seemed to be not calm." He said that they talked through it and he explained to Ms. Franklin that he is fine with her communicating with Metro employees at that level if she discusses it with him first. Dr. Caldwell said that he later told Rachel, "of course you can talk with Chief Swann and Chief Anderson." Ms. Franklin said that because she never received a confirmation in writing that she was prohibited from speaking with them, she continued to communicate with both directors as she had before.

Dr. Caldwell went on to say that he is consistent with his interactions with his staff across the department. "I am the same across the whole organization, in how I observe, or have concerns, interact, intercede, or redirect or try to set some kind of consistency." He discussed his need to get to know the department and the employees.

“I need to understand the culture and the operations, obviously there’s a lot that’s similar to my background, but there are some differences, so sometimes I may think, ‘Yeah, this is the way things are,’ but they’re not, so I always have to keep that in the back of my mind.”

Rachel Franklin said that in June she asked to work from home, due to her pregnancy. She explained, “I have never worked from home before, but there’s CDC data for more risk for pregnant women to get COVID; hospitalizations and death are more increased. I knew I could do everything from home. I talked to the two Associate Medical Directors on staff, Dr. Wright and Dr. Shaw-KaiKai, who is our Infectious Disease doctor, and they said, ‘I agree with this, yes.’” Ms. Franklin still felt approval was needed by Dr. Caldwell, so she copied them on an e-mail request to him on June 29, 2020. She explained, “I included them in my email (to Dr Caldwell), asking when convenient, can I work from home, and I never heard back. After about two weeks, I started working from home a couple of days a week and now it’s up to three or four days a week. I honestly don’t know if he (Dr. Caldwell) knows that I am working from home. I certainly never lied about it, but when I come to the office, I do go to the certain meetings face to face, but I’m also called in to meetings, so he knows I’m off campus but there has never been a discussion about my working from home status. We have various positions, strictly for COVID, we’ve been able to assign a lot of full-time work from home. As far as ELT, I am the only member who works from home as much as I do. I think Katie Stone works from home all week long. As far as other ELT members, they’re in the office.” Ms. Franklin provided Fact Finders with her email request to Dr. Caldwell dated June 29, 2020.

Witnesses were asked about Dr. Caldwell’s responsiveness to their requests or e-mails, and their answers varied widely. Some estimated that he only answers 30% of their e-mails, while Hugh Atkins, for example, claimed that he always gets a response. In the case of Ms. Franklin, Dr. Caldwell did not prohibit her from taking leave. Based on his lack of confirmation to the two requests in the examples she provided, Ms. Franklin acted in the absence of a prohibition without negative consequences.

### **Summary of Findings**

At the conclusion of the interviewing process, Fact Finders determined the following:

#### **Regarding Complaint 1 (Rachel Franklin’s Proposed Termination):**

Fact Finders determined based on the preponderance of evidence that Dr. Caldwell asked Les Bowron to terminate Rachel Franklin’s employment. Mr. Bowron was very clear in his description of events, including contemporaneous actions that he took in contacting his supervisor, Jim Diamond, to express his concerns about Dr. Caldwell’s request. Mr. Diamond recalled the situation as Mr. Bowron described it, although he denied having knowledge of any pregnancy-related comments. As Director of Health, it is expected that Dr. Caldwell will draw upon different staff members for their expertise to aid his decision making. Candid conversations can occur in order to weigh different courses of action. However, Mr. Bowron was put in a very difficult position when he was asked to terminate Rachel Franklin’s employment, which he did not have the authority to do on his own, and being witness to inappropriate comments about her “emotional stability” related to her pregnancy.

Fact Finders do not conclude that the alleged reasoning for termination was due to Ms. Franklin’s pregnancy, but the comment and the potential rationale behind it are troubling. Several witnesses noted that Dr. Caldwell has described women as “emotional” on multiple occasions, in fact Dr. Caldwell also used the word to describe Ms. Franklin in his interview with Fact Finders. He also used “emotional” in describing an interaction with Brian Todd, so it is not exclusively reserved for women, but it appears to be used more frequently when describing women.

Fact Finders note that Dr. Caldwell’s reaction to criticism or “insubordination” from Ms. Franklin was very different than his reaction to Mr. Todd or Mr. Atkins. Though both men confronted him in public settings and, by witness accounts, in harsh tones that were out of character for these employees, Dr. Caldwell’s reaction was concern for their wellbeing. He encouraged Mr. Todd to take some time off and sought to get him some assistance in order to help alleviate his stress. Dr. Caldwell took a similar approach to Mr. Atkins, seeking to get assistance with enforcement. Although he said he took “corrective action,” what he described does not meet the Civil Service standard of corrective action, which is a formal process. Per Metro Public Health Department (MPHD) Civil Service

Rule 6.3, “Corrective Action can take one of two forms, either a Reprimand or a Performance Improvement Plan (PIP), and should clearly indicate that failure to correct the behavior may result in disciplinary action. Supervisors are to give corrective action on the Department’s standardized Reprimand and PIP forms.” Disciplinary action is usually reserved for more serious grounds and includes sanctions such as suspension, demotion, or dismissal. According to all accounts no corrective or disciplinary action was taken against Mr. Todd or Mr. Atkins.

With Ms. Franklin, Dr. Caldwell immediately sought termination or reassignment. There is no indication that he urged her to take leave time or attempted to get assistance for her. In fact, it appears that she has now been effectively reassigned from her primary area of expertise, which was one of the options he had asked Mr. Bowron to implement in May. Fact Finders have concerns about why he explored such drastic options rather than taking the time to better acquaint himself with Ms. Franklin. She was not a new employee at the time, being hired in 2008, so there is almost certainly ample documentation of her performance within the Health Department if he chose to seek it out. Witnesses explained to Fact Finders that she had “come up” through the Health Department in the Emergency Preparedness field and is well-respected for her expertise in that area. It should also be noted that, although Dr. Caldwell expressed concerns about Ms. Franklin’s demeanor on the phone call, the Health Department staff was able to act collaboratively to set up an effective mask distribution protocol quickly enough that Dr. Wright reported on it via his e-mail by 9:07 AM that morning. The response was rapid and effective enough to distribute over 20,000 masks that same day.

#### Regarding Complaint 2 (Alleged Demotion of Women in Reorganization)

Fact Finders cannot definitively conclude that women were demoted in the organizational chart solely due to gender. As the new Director of Public Health, it is expected that Dr. Caldwell would propose changes to the organizational structure. Typically, a Department Head is given broad discretion over the organizational structure and reporting relationships in order to align them with the goals and mission of the department he or she directs. Dr. Caldwell presented adequate justification for the changes he would like to take place. Three of the five members of his Cabinet are women. However, it is worth noting that most of the witnesses felt that his actions toward Rachel Franklin appeared to be punitive. Emergency Preparedness is a specialized field and has been her area of expertise for years. Dr. Caldwell explained that he wants to expand Emergency Preparedness beyond its current role to a 24/7 operation with increased responsiveness and closer relationships with the Office of Emergency Management and other Metro departments, but he also did not express an openness to the possibility of Ms. Franklin being a part of the expanded role.

Other witnesses expressed the perception that the structure seemed to elevate or preserve the roles of women who do not challenge Dr. Caldwell, while punishing, or at the least considerably changing, the roles of those who do. Witnesses did not observe the same correlation with men on the ELT. Dr. Wright and Hugh Atkins attested that they challenge Dr. Caldwell frequently but are members of the Director’s Cabinet in the proposed structure. Fact Finders have found that witness testimony provides that the preponderance of evidence appears to show that the combination of gender and a willingness to disagree or challenge Dr. Caldwell’s directives results in the negative impact in his proposed organizational changes. The perception of witnesses is that his organizational chart demonstrates that women who have challenged him are most negatively affected.

#### Regarding Complaint 3 (Different Treatment of Women in Meetings and On Calls):

Fact Finders have found that the presiding sentiment throughout the witness interviews is that women, specifically women who disagree with him or have differing opinions or ideas, are treated differently than men. Many employees have noticed that Dr. Caldwell has a different communication style with these women, including Rachel Franklin, Laura Varnier, Dr. Michelle Pardue and Leslie Waller.

#### Regarding Complaint 4 (Restricting Communication and Unresponsiveness):

Fact Finders cannot definitively say that Dr. Caldwell limited Rachel Franklin’s communication with Chief Swann and Chief Anderson due to her gender or age. Dr. Caldwell presented a valid reason for initially limiting Ms. Franklin’s direct communication with Chiefs Swann and Anderson. It is noted, however, that Dr. Caldwell has not given the same directive to other members of the ELT that were interviewed by Fact Finders, male or female.

Based on his lack of confirmation to the two requests in the examples she provided, Ms. Franklin acted in the absence of an explicit prohibition by Dr. Caldwell. While this is not ideal, it appears to have been acceptable. She continued to communicate with department directors in her role as Bureau Director. She also began transitioning to working from home based on the consultation with Dr. Wright and Dr. Shaw-KaiKai. Although she sought to gain approval from Dr. Caldwell, it appears that she has been able to transition to working from home without negative consequences.

### **Conclusion/Recommendations**

Fact Finders note that all the witnesses were extremely cooperative and forthcoming in answering all questions. Participating in an investigation can be intimidating for employees who are being asked about the decisions and actions of a superior, in this case the Director of the department who has been in the role a relatively short time and under extraordinarily challenging circumstances in the public health field. While most quotations were attributed by name, we also used the term “witnesses” to indicate when a sentiment was expressed by multiple people, usually a majority of those interviewed.

The complaints of Rachel Franklin and Leslie Waller were mostly corroborated and substantiated.

Fact Finders advised the complainants that Human Resources did not have the authority to grant the remedy both were seeking, which is the removal of Dr. Caldwell as the Public Health Director. Any decision about his employment contract would be under the purview of the Board of Health. Also, Human Resources does not have the authority to challenge any proposed changes to the structure or organization of the department. It is Dr. Caldwell’s role as Director to propose changes and explain his rationale to the Board of Health, who must then approve any changes prior to implementation.

Dr. Caldwell told Fact Finders that he was considering options regarding any potential disciplinary or corrective action toward Ms. Franklin. After discussing various options, no action was taken. However, had Mr. Bowron or Dr. Caldwell acted according to his first inclination and directive, and Ms. Franklin had been terminated “by the end of the day” on May 7<sup>th</sup>, the Health Department would have been adversely affected. Not only would they have lost a valued employee and the expertise and experience she brings, but the termination action could have been subject to appeal or legal liability if it could be proven that it was done for discriminatory reasons.

Ms. Franklin alleges that her pregnancy was a consideration in these decisions. The Equal Employment Opportunity Commission (EEOC) advises, “The Pregnancy Discrimination Act (PDA) forbids discrimination based on pregnancy when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, such as leave and health insurance, and any other term or condition of employment.”

Furthermore, “It is unlawful to harass a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. Harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.”

Dr. Caldwell’s comments about Ms. Franklin’s pregnancy affecting her “emotional stability,” within the same conversation in which he weighed the options of termination or reassignment, opens his comments to reasonable concerns about his rationale for actions related to her employment. This includes the decision to reassign Emergency Preparedness, which she appears to be the most qualified in the department to lead according to the leadership and HR witnesses interviewed. When the proposed chart shows that the position overseeing Emergency Preparedness is unassigned to any individual, and the indication from Dr. Caldwell is that Ms. Franklin is not the “right person” for that position, it is concerning. It gives the strong impression that Ms. Franklin will not be given an opportunity to be considered for a position for which she may be well-qualified.

As part of the organizational structure changes proposed by Dr. Caldwell, HR strongly recommends and expects that MPHD Civil Service Recruitment processes should be followed. Positions can be posted as Open Competitive, meaning the general public and internal candidates can apply, or promotional, meaning only internal Metro candidates can be considered. Dr. Caldwell should consult closely with Jim Diamond, Les Bowron, and/or Metro Human Resources to make sure the appropriate processes are followed.

Fact Finders limited interviews to those who had directly observed incidents that were specifically referenced in the complainants' allegations. We did not speak with every member of the Executive Leadership Team. However, the large pool of witnesses agreed that they noticed Dr. Caldwell's demeanor was different toward men and women.

Per Metro Public Health Department Civil Service Rule 2.1,

"It is the policy of the Board that all persons shall have equal employment opportunities regardless of race, color, national origin, gender, gender identity, sexual orientation, age, religion, creed, marital status, or disability. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other employment practices because of any of these factors shall be prohibited. Harassment based on any of these factors is a form of discrimination and will not be tolerated."

Fact Finders could not definitively determine why Dr. Caldwell reacted more negatively to Rachel Franklin's insubordination than from Brian Todd or Hugh Atkins, but witness testimony creates a preponderance of evidence that he did. At minimum, this could be unconscious bias. Conscious or unconscious, his behavior creates the appearance of gender discrimination. While it may not be Dr. Caldwell's intent to treat men and women differently, the impact, as reflected in testimony of complainants and witnesses in this investigation, is a widespread perception that he treats employees differently based on gender.

It is Dr. Caldwell's responsibility to take the necessary steps right away to address this deficiency. We recommend Dr. Caldwell pursue professional resources, inside and/or outside of Metro, to properly identify, address and mitigate any ongoing real or perceived discrimination. It is imperative that Dr. Caldwell demonstrates consistent approaches to males and females within his department. We recommend that the Board of Health hold Dr. Caldwell accountable for addressing this behavior in a timely manner.

Because Fact Finders heard so many concerns about the proposed organizational chart, it is recommended that the Board of Health and Dr. Caldwell gain more input from those who are directly affected to address those concerns prior to implementing the changes. Dr. Caldwell has clearly given the changes a great deal of thought and he has the right to propose them, but because the changes would be significant, and employees gave very different accounts of how the changes were communicated and how much input was allowed, it appears the process would benefit from additional time and inclusive discussion. The Health Department's Finance Director makes a valid point in noting that Directors tend to see value in a direct line to Finance and Public Information Officer positions. Les Bowron with Human Resources expressed concern that he had not seen the proposed changes at the time of his interview, which will require major efforts from an HR and Payroll perspective in order to implement. Others note that the Emergency Preparedness envisioned by Dr. Caldwell will need to work closely with the State of Tennessee's Emergency Preparedness division, so it may need to be structured in a more similar fashion. These are just some of the concerns we heard, and there are likely more that should be addressed.

Fact Finders recognize that the challenges of the last year have tested the field of Public Health in ways that no current employee of that department has ever seen. To say that the stress, uncertainty, long hours, and other demands have been challenging is likely an understatement. Fact Finders were reassured in every interview that the Metro Public Health Department has expert leadership by individuals who are committed to their mission every day. Dr. Caldwell likely knows that he has a great team in place, but he should continue to acquaint himself with each member's respective skills and expertise while giving them equal opportunity to perform their roles and contribute to the success of the department.

*The purpose of this report is to gather all relevant facts, so the appointing authority can make an informed decision and take whatever action, if any, is necessary and appropriate. The report should not be interpreted as reaching legal conclusions on the issues involved. Per MPHD Civil Service Rule 2.1 B, "Reprisal or retaliation against the complainant or witnesses participating in the investigation is prohibited and could be grounds for disciplinary action."*