



Dave Yost • Auditor of State

NEW CITY COMMUNITY SCHOOL
MONTGOMERY COUNTY

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ACCOUNTANTS' REPORT

New City Community School
Montgomery County
1516 Salem Avenue
Dayton, Ohio 45406

To the Board of Directors:

We were engaged to audit the financial statements of the New City Community School, Montgomery County, (the School), as of and for the year ended June 30, 2010. The financial statements are the responsibility of the School's management.

The School failed to prepare financial statements for the period of time covered by this engagement. Government Accounting Standards Board (GASB) Statements provides the minimum requirements for external financial reporting, which include the Management Discussion and Analysis (MD&A), the financial statements including the Statement of Net Assets, the Statement of Revenues, Expenditures, and Changes in Net Assets, and if required the Statement of Cash Flows, and the Notes to the Financial Statements.

Management has not provided the Auditor of State certain written representations, including but not limited to, management's responsibility for preparing the financial statements in conformity with the School's accounting basis; the availability of original financial records and related data, the completeness and availability of all minutes of the legislative or other bodies and committee meetings; management's responsibility for the School's compliance with laws and regulations, the identification and disclosure to the Auditor of State of all laws, regulations, and provisions of contracts and grant agreements directly and materially affecting the determination of financial statement amounts and; the presence or absence of fraud involving management or employees with significant roles in internal control; compliance with laws, regulations, and provisions of contracts and grant agreements, including budget laws, compliance with any debt covenants; the identification of all federal assistance programs, and compliance with federal grant requirements.

The School did not maintain supporting documentation for bank reconciliations, receipts or deposits, debt service, payroll, or non-payroll transactions for the period July 1, 2009 through November 15, 2009, additionally no capital asset listing was received for the entire review period, to support the financial activity of the School's operations for the year ended June 30, 2010. Further, the School's records do not permit the application of other auditing procedures. In addition, we prepared the School's financial statement and notes to the financial statement. *Government Auditing Standards* considers this service to impair the independence of the Auditor of State to audit the School.

Due to our lack of independence and since the School did not provide the evidence described in paragraphs two through four above, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the financial activity of the School for the year ended June 30, 2010.

As described in Note 4, The Sponsor did not renew the contract for sponsorship and the New City Community School subsequently closed effective June 30, 2010.

In accordance with *Government Auditing Standards*, we have also issued our report dated April 9, 2012, on our consideration of the School's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. While we did not opine on the internal control over financial reporting or on compliance, that report describes the scope of our testing of internal control over financial reporting and compliance and the results of that testing. That report is an integral part of an engagement performed in accordance with *Government Auditing Standards*. You should read it in conjunction with this report in assessing the results of our engagement.

Accounting principles generally accepted in the United States of America require this presentation to include *Management's discussion and analysis*, to supplement the basic financial statements. The School has not presented Management Discussion and Analysis, which accounting principles generally accepted in the United States of America has determined is necessary to supplement, although not required to be part of the financial statements.

A handwritten signature in black ink that reads "Dave Yost". The signature is written in a cursive style with a large, looping "Y" and "O".

Dave Yost
Auditor of State

April 9, 2012

**NEW CITY COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**STATEMENT OF CASH BANK BALANCE
AS OF JUNE 30, 2010**

	<u>Amount</u>
Cash Bank Balance July 1, 2009	<u>\$7,805</u>
Cash Bank Balance June 30, 2010	<u><u>\$53,134</u></u>

See accompanying notes to the financial statements.

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**NEW CITY COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE FISCAL YEAR ENDED JUNE 30, 2010**

1. DESCRIPTION OF THE SCHOOL

The New City School (the "School") is a 501(c)(3) nonprofit corporation established pursuant to Ohio Revised Code Chapters 1702 and 3314 to serve as a Charter/Community School for children with learning disabilities. The School, which is part of the State's education program, is independent of any school district and is nonsectarian in its programs, admission policies, employment practices and all other operations. The School may sue and be sued, acquire facilities as needed, and contract for any services necessary for the operation of the School. Management is not aware of any course of action or series of events that have occurred that might adversely affect the School's tax-exempt status.

The School provides opportunities for children with learning disabilities, develops and implements a research based curriculum, provides intense remediation to students, provides an educational and social resource for families of children with learning disabilities and performs all other incidental acts permitted under Title 17 of the Ohio Revised Code.

The School was approved under contract with its Sponsor, the Lucas County Educational Service Center, for a period of one year thru June 30, 2010. The School began operations on December 1, 2004. The Sponsor is responsible for evaluating the performance of the School and has the authority to deny renewal of the contract at its expiration. The Governing Authority is responsible for the operations of the School.

The School operates under the direction of a Board of Directors, consisting of eight members. The Sponsor appoints one voting or one non-voting member of the Board at its sole discretion and also swears in all new or renewing Board members. The Directors serve for a period of three to five years on a staggered basis. Vacancies are filled by a majority vote of the remaining members. The Board of Directors is responsible for carrying out the provisions of the contract, which include but are not limited to, state-mandated provisions regarding student population, curriculum, academic goals, performance standards, admission standards and qualification of teachers.

The primary government of the School consists of eleven funds, several departments and the Board that is not legally separate from the School. This includes general operations and student related activities of the School.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

In prior years the financial statements of the School were prepared in conformity with generally accepted accounting principles (GAAP) as applied to governmental nonprofit organizations. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The School also previously applied Financial Accounting Standards Board (FASB) statements and interpretations issued on or before November 30, 1989, provided they do not conflict with or contradict GASB pronouncements.

However, the school did not prepare financial statements for the period July 1, 2009 through June 30, 2010. The more significant of the School's accounting policies are described below.

A. Basis of Presentation

Due to client not preparing a financial report for the period under audit, the basis of presentation is the cash bank balance only.

**NEW CITY COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE FISCAL YEAR ENDED JUNE 30, 2010
(Continued)**

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued):

B. Cash

All monies received by the School are maintained in demand deposit accounts. For internal accounting purposes, the School segregates its cash. Total cash in the bank for all funds is presented on the accompanying Statement of Cash Bank Balance.

C. Intergovernmental Revenues

The School participated in state and federal programs through the Ohio Department of Education. Amounts awarded for the 2010 school year are noted in the following table:

Program	Amount
State Foundation	\$ 750,991
Federal Nutrition Cluster	23,378
EMIS Subsidy Fund	5,000
Special Education Cluster	68,600
State Fiscal Stabilization Fund	51,967
Education Technology Grants	648
Title I Schoolwide	60,000
Title I Cluster	126,193
Drug Free Schools	1,062
Improving Teacher Quality	3,053
21st Century Grant	151,493
Total	\$1,242,385

D. Accrued Liabilities

Obligations incurred but unbilled prior to June 30, 2010 are not reported as accrued liabilities in the accompanying Statement of Cash Bank Balance.

E. Budgetary Process

Community Schools must adopt a spending plan as set forth in the Ohio Revised Code 5705.391, which requires annual appropriations and annual revenue estimates. The contract between the School and its Sponsor does prescribe an annual budget requirement in addition to preparing a five-year forecast, which is to be updated on an annual basis.

3. CONTINGENCIES

A. Grants

The School received financial assistance from federal and state agencies in the form of grants. The disbursement of funds received under these programs generally requires compliance with terms and conditions specified in the grant agreements and are subject to audit by the grantor agencies. Any disallowed claims resulting from such audits could become a liability of the School.

**NEW CITY COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE FISCAL YEAR ENDED JUNE 30, 2010
(Continued)**

3. CONTINGENCIES (Continued)

B. State Contract

The School received approximately 100% of its operating income from the State of Ohio. Accordingly, the risk exists that the ability to continue the contract with the State of Ohio could affect the financial status of the School.

The Ohio Department of Education conducts reviews of enrollment data and FTE calculations made by the schools. These reviews are conducted to ensure the schools are reporting accurate student enrollment data to the State, upon which state foundation funding is calculated. The results of this review could result in state funding being adjusted.

4. SCHOOL CLOSURE

Effective June 30, 2010, the Sponsor did not renew the contract with New City Community School and the School was subsequently closed due to the inability to obtain a Sponsor.

5. ACCOUNTABILITY

The School failed to comply with various requirements regarding availability of public records, filing of an annual report, and close-out procedures.

6. SUBSEQUENT EVENT

The School's general bank account was closed on March 31, 2011 with a \$10 overdraft charge on the statement. The School's payroll bank account was closed on February 28, 2011 with a \$10 overdraft charge on the statement. The School's food service bank account was closed on January 5, 2011.

On April 5, 2012, the Treasurer opened a 5/3 bank account in the name of New City Community School with a deposit of \$700 for the repayment of findings for recovery.

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Dave Yost • Auditor of State

ACCOUNTANTS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS REQUIRED BY *GOVERNMENT AUDITING STANDARDS*

New City Community School
Montgomery County
1516 Salem Avenue
Dayton, Ohio 45406

To the Board of Directors:

We were engaged to audit the financial statements of the New City Community School, Montgomery County, (the School), as of and for the year ended June 30, 2010, and have issued our report thereon dated April 9, 2012, wherein we did not express an opinion because the School did not prepare financial statements including the required Statement of Net Assets, Statement of Revenues, Expenditures and Changes in Net Assets, and Statement of Cash Flows and note disclosures required by Generally Accepted Accounting Principles, nor did it provide complete supporting documentation for bank reconciliations, receipts or deposits, capital asset listing, debt service, payroll, or non-payroll transactions to support the financial activity of the School's operations for the year ended June 30, 2010. We also noted management failed to provide the Auditor of State certain representations as required by auditing standards generally accepted in the United States of America. Additionally, on June 30, 2010, the School was closed due to the cancellation of the sponsorship agreement.

Internal Control Over Financial Reporting

In planning and performing our engagement, we considered the School's internal control over financial reporting as a basis for designing our audit procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of opining on the effectiveness of the School's internal control over financial reporting. Accordingly, we have not opined on the effectiveness of the School's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. Therefore, we cannot assure that we have identified all deficiencies, significant deficiencies or material weaknesses. However, as described in the accompanying schedule of findings we identified certain deficiencies in internal control over financial reporting, that we consider material weaknesses.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, when performing their assigned functions, to prevent, or detect and timely correct misstatements. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and timely corrected. We consider findings 2010-001, 2010-002, 2010-010 and 2010-012 described in the accompanying schedule of findings to be material weaknesses.

Compliance and Other Matters

As part of reasonably assuring whether the School's financial statements are free of material misstatement, we tested its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could directly and materially affect the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement and accordingly, we do not express an opinion. The results of our tests disclosed instances of noncompliance or other matters we must report under *Government Auditing Standards* which are described in the accompanying schedule of findings as items 2010-001 through 2010-012.

The School's responses to the findings identified in our engagement are described in the accompanying schedule of findings. We did not audit the School's responses and, accordingly, we express no opinion on them.

We intend this report solely for the information and use of the management, Board of Directors, The Lucas County Educational Service Center (The Sponsor). We intend it for no one other than these specified parties.

A handwritten signature in black ink that reads "Dave Yost". The signature is written in a cursive, flowing style.

Dave Yost
Auditor of State

April 9, 2012

**NEW CITY COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**SCHEDULE OF FINDINGS
JUNE 30, 2010**

**FINDINGS RELATED TO THE FINANCIAL STATEMENTS
REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS**

FINDING NUMBER 2010-001

NONCOMPLIANCE AND MATERIAL WEAKNESS

Ohio Rev. Code Section 117.38, states, in part, that each public office shall file a financial report for each fiscal year. The Auditor of State may prescribe forms by rule or may issue guidelines, or both, for such reports. If the auditor of state has not described a rule regarding the form for the report, the public office shall submit its report on the form utilized by the public office. Ohio Administrative Code Section 117-2-03 further clarifies the requirements of Ohio Rev. Code Section 117.38.

Ohio Admin. Code Section 117-2-03(B) states, in part, that all counties, cities, and school districts, including educational service centers and community schools, shall file annual financial report which are prepared using generally accepted accounting principles (GAAP).

The School failed to prepare financial statements for fiscal year 2010. Pursuant to Ohio Rev. Code Section 117.38 the School may be fined and subject to various other administrative remedies for its failure to file the required financial report.

The School should have implemented procedures to verify that all required financial reports are properly prepared and filed in accordance with the Ohio Revised Code and Administrative Code.

Official's Response:

The School closed on June 30, 2010 with no assets to pay all salaries. So, according to close-out rules there was not funding to pay to have this expenditure completed. The 4502 was completed in SWOCA, but the GAAP report was not done.

AOS Conclusion:

The Ohio Department of Education Closing Assurances and Procedures states in part to the extent that the school fiscal officer is unable or unwilling to perform his/her responsibilities in effecting an orderly closure of the school, the sponsor shall assume part or all of such tasks as are hereinafter described, including preparing the year-end financial statements and notes to the financial statements.

FINDING NUMBER 2010-002

NONCOMPLIANCE AND MATERIAL WEAKNESS

Ohio Admin. Code Section 117-2-02(D)(1) states all local public offices may maintain accounting records in a manual or computerized format. The records used should be based on the nature of operations and services the public office provides, and should consider the degree of automation and other factors. Such records should include the cash journal, which typically contains the following information: The amount, date, receipt number, check number, account code, purchase order number, and any other information necessary to properly classify the transaction.

The School had a food service operation that was maintained separately from the School's accounting records. The School had a separate checking account established for food service activity, but no underlying accounting records that substantiated school lunch and breakfast receipts, food and other operating expenditures, or student lunch counts were made available. As a result, testing procedures could not be performed over fiscal year 2010 food service activity.

**FINDING NUMBER 2010-002
(Continued)**

The School should have implemented procedures to verify that all bank accounts and related activity was recorded on the School's accounting system.

Official's Response:

During my tenure February 16, 2010 through June 30, 2010, all food service was handled through petty cash out of the operating account. Therefore, these items were accounted for during my tenure and no issues were found.

AOS Conclusion:

No testing could be performed over the food service operations since the school did not keep detailed records of receipt or expenditure transactions. This resulted in our opinion including a disclaimer over this activity.

FINDING NUMBER 2010-003

NONCOMPLIANCE

Ohio Rev. Code Section 4123.38 requires that every employer mentioned in R.C. 4123.01(B)(1) shall contribute to the public insurance fund the amount of money determined by the administrator of workers' compensation, and the manner of determining contributions and the classifications of employers is as provided in R.C. Sections 4123.39 to 4123.41 and 4123.48.

For the period July 1, 2009 through November 15, 2009, the School paid a total of \$8,645 to substitute teachers and other school employees as vendors rather than employees. As a result, the School did not include these individuals in its calculation for premiums to be paid to the Ohio Bureau of Workers' Compensation for these individuals when they should have been withheld.

The School should have documented all substitute teachers as employees so that the proper withholdings can be made. To reduce the possibility of additional expenditures to the School for fines imposed for late premium filings, the School should remit premiums to the Ohio Bureau of Workers' Compensation.

This matter will be referred to Ohio BWC for further investigation.

Official's Response:

During the tenure of Richard Cox and Tracy Jarvis constituting the period November 30, 2009 through June 30, 2010 all substitute teachers were paid from payroll. Therefore, all withholdings were made.

AOS Conclusion:

No testing could be performed over the required withholdings for periods July 1, 2009 through November 15, 2009.

FINDING NUMBER 2010-004

NONCOMPLIANCE

Ohio Rev. Code Section 3307.26 states, in part, that each teacher shall contribute ten percent of the teacher's earned compensation, except that the state teachers' retirement board may raise the contribution rate to a rate not greater than ten percent of the teacher's earned compensation. The contribution for all teachers shall be deducted by the employer on each payroll in an amount equal to the applicable percent of the teachers' paid compensation for such payroll period or other period as the Governing Authority may approve.

For the period July 1, 2009 through November 15, 2009, the School paid a total of \$8,645 to substitute teachers and other school employees as vendors rather than employees. As a result, pension contributions were not withheld for these individuals when they should have been withheld.

Additionally, the School still owes STRS and SERS for outstanding balances related to the employer share of pension contribution. Outstanding balances of \$3,453 and \$3,623 are owed to STRS and SERS, respectively.

The School should have withheld and remitted all STRS pension amounts withheld in a timely manner to the STRS. Additionally, all employer contributions should have been remitted to STRS and SERS with the last payroll issued.

This matter will be referred to STRS and SERS for further investigation

Official's Response:

During the tenure of Richard Cox and Tracy Jarvis constituting the period November 30, 2009 through June 30, 2010 all substitute teachers were paid from payroll. Therefore, all withholdings were made.

AOS Conclusion:

No testing could be performed over the required withholdings for periods July 1, 2009 through November 15, 2009.

FINDING NUMBER 2010-005

NONCOMPLIANCE

Ohio Rev. Code Section 3314.03(A)(1)(a)-(b) states, in part, that each contract entered into between a sponsor and the governing authority of a community school shall specify that the school shall be established as a nonprofit corporation established under Chapter 1702 of the Revised Code, if established prior to April 8, 2003; or a public benefit corporation established under Chapter 1702 of the Revised Code, if established prior to April 8, 2003. As a result, all community schools are organized for a public and charitable purpose. Also, pursuant to Ohio Rev. Code Section 3314.074 their assets inure to the State of Ohio by statute. Therefore, community schools are automatically exempt from Federal and State income taxes and do not require 501(c)(3) filing status. Under the Internal Revenue Service Code, community schools must annually file a Form 990 with the IRS.

There was no indication that the School filed a Form 990 with the IRS during fiscal year 2010. The School should have implemented procedures to verify that Form 990 was completed and filed with the IRS for 2010.

This matter will be referred to the Internal Revenue Service for further investigation.

**FINDING NUMBER 2010-005
(Continued)**

Official's Response:

The School closed on June 30, 2010 with no assets to pay all salaries. So, according to close-out rules there was not funding to pay to have this expenditure completed. The 4502 was completed in SWOCA, but the GAAP report was not done.

AOS CONCLUSION:

The School Treasurer and Sponsor are responsible for any required federal reporting submissions regardless of the financial state of the School.

FINDING NUMBER 2010-006

NONCOMPLIANCE

26 Code of Federal Regulations (CFR) Section 1.6041-1 provides, in part, that every person engaged in a trade or business shall make an information return for each year with respect to payments it makes during the calendar year for the purpose of salaries, wages, commissions, fees and other forms of compensation for services rendered aggregating \$600 or more.

The School did not complete IRS Form 1099 for all independent contractors in fiscal year 2010.

The School should have reported all payments made to those individuals engaged in a trade or business, on IRS Form 1099, for the applicable calendar year. This would help to provide compliance with applicable federal laws and help reduce the possibility of additional expenditures to the School for fines imposed.

This matter will be referred to the Internal Revenue Service for further investigation.

Official's Response:

The School closed on June 30, 2010 and lost access to the budgetary and payroll software due to not having funds to pay them. Without access, the School had no information on who should receive 1099s and no ability to complete them.

AOS Conclusion:

The School Treasurer and Sponsor are responsible for any required federal reporting submissions regardless of the financial state of the School.

FINDING NUMBER 2010-007

NONCOMPLIANCE

26 U.S.C. Section 3402(a) requires that, in general, except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary of Treasury.

Additionally **26 U.S.C. Section 3102(a)** requires that the tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. **26 U.S.C. Section 3111 (a)** states that in addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the percentages of the wages (as defined in section 3121(a)) paid by him with respect to employment.

**FINDING NUMBER 2010-007
(Continued)**

For the period July 1, 2009 through November 15, 2009, the School paid a total of \$8,645 to substitute teachers and other school employees as vendors rather than employees. As a result, federal income and Medicare taxes were not withheld for these people when they should have been withheld.

The School should have documented all substitute teachers as employees so that the proper withholdings could have been made. By doing so, the School would have reduced the possibility of a misstatement and additional expenditures to the School for fines imposed for late tax filings.

This matter will be referred to the Internal Revenue Service for further investigation.

Official's Response:

During the tenure of Richard Cox and Tracy Jarvis constituting the period November 30, 2009 through June 30, 2010 all substitute teachers were paid from payroll. Therefore, all withholdings were made.

AOS Conclusion:

No testing could be performed over the required withholdings for periods July 1, 2009 through November 15, 2009.

FINDING NUMBER 2010-008

NONCOMPLIANCE

Ohio Rev. Code Section 5747.06 requires that except as provided in division (E)(3) of the same statute, every employer, including the state and its political subdivisions, maintaining an office or transacting business within this state and making payment of any compensation to an employee who is a taxpayer, shall deduct and withhold from such compensation for each payroll period a tax computed in such manner as to result, as far as practicable, in withholding from the employee's compensation during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee under this chapter and Chapter 5748 of the Revised Code with respect to the amount of such compensation included in his adjusted gross income during the calendar year. The employer shall deduct and withhold the tax on the date that the employer directly, indirectly, or constructively pays the compensation to, or credits the compensation to the benefit of, the employee. The method of determining the amount to be withheld shall be prescribed by rule of the tax commissioner.

For the period July 1, 2009 through November 15, 2009, the School paid a total of \$8,645 to substitute teachers and other school employees as vendors rather than employees. As a result, State of Ohio income taxes were not withheld for these people when they should have been withheld.

The School should have documented all substitute teachers as employees so that the proper withholdings could have been made. By doing so, the School would have reduced the possibility of a misstatement and additional expenditures to the School for fines imposed for late tax filings. This matter will be referred to the Ohio Department of Taxation for further investigation.

Official's Response:

During the tenure of Richard Cox and Tracy Jarvis constituting the period November 30, 2009 through June 30, 2010 all substitute teachers were paid from payroll. Therefore, all withholdings were made.

AOS Conclusion:

No testing could be performed over the required withholdings for periods July 1, 2009 through November 15, 2009.

FINDING NUMBER 2010-009

NONCOMPLIANCE/FINDING FOR RECOVERY

Ohio Rev. Code Section 3314.03(A)(11)(d) requires that each contract entered into between a sponsor and the governing authority of a community school shall specify that the school will comply with Section 149.43 of the Ohio Rev. Code. Ohio Rev. Code Section 149.43(B) states, in part, that all public records shall be promptly prepared and made available for inspection to a person at all reasonable times during regular business hours. In order to facilitate broader access to public records, public offices shall maintain public records in a manner that they can be made available for inspection in accordance with division.

State ex rel. McClure v. Hagerman, 155 Ohio St. 320 (1951), provides that expenditures made by a governmental unit should serve a public purpose. Typically the determination of what constitutes a “proper public purpose” rests with the judgment of the governmental entity, unless such determination is arbitrary or unreasonable. Even if a purchase is reasonable, Ohio Attorney General Opinion 82-006 indicates that it must be memorialized by a duly enacted ordinance or resolution and may have a prospective effect only. **Auditor of State Bulletin 2003-005 Expenditure of Public Funds/Proper Public Purpose** states that the Auditor of State’s Office will only question expenditures where the legislative determination of a public purpose is manifestly arbitrary and incorrect.

The following list includes various expenditures the school made without proper supporting documentation:

<u>Check Date</u>	<u>Check Number</u>	<u>Check Amount</u>	<u>Payee</u>	<u>Signatory</u>	<u>Reason for Finding for Recovery</u>
9/15/2009	3044	\$ 2,000	Yolanda Knox	Carl Shye	Lack of Supporting Documentation
❖ Not Available	9999	\$ 200	Robert Burns	Tracy Jarvis	Lack of Supporting Documentation
❖ Not Available	9999	\$ 500	Robert Burns	Tracy Jarvis	Lack of Supporting Documentation
# 10/30/2008	2857	\$14,320	H. Marie Congo	Carl Shye	Lack of Supporting Documentation
# 2/26/2009	2919	\$12,000	George Washington Carver Prep Academy	Carl Shye	Lack of Supporting Documentation
# 2/19/2009	2915	\$ 3,750	Carl Shye	Carl Shye	Lack of Supporting Documentation
# 6/1/2009	2982	\$13,600	Carl Shye	Carl Shye	Lack of Supporting Documentation
7/22/2009	3011	\$ 2,500	Carl Shye	Carl Shye	Lack of Supporting Documentation
8/5/2009	3016	\$ 3,500	Carl Shye	Carl Shye	Lack of Supporting Documentation

❖ - These amounts were repaid into the New City Community School bank account on April 5, 2012

-These expenditures occurred in Fiscal Year 2009.

**FINDING NUMBER 2010-009
(Continued)**

There was no indication that the Board approved these expenditures. Additionally, there was no documentation to support that the payments were otherwise for a proper public purpose. Without proper supporting documentation, it is not possible to determine if the expenditures included items that would not be considered a proper public purpose. The failure to maintain adequate support for these expenditures could result in a loss of accountability over the School's finances, making it difficult to identify errors which could go undetected, and possibly result in expenditures that are not for a proper public purpose.

In accordance with the foregoing facts and pursuant to **Ohio Rev. Code Section 117.28**, a Finding for Recovery for public monies illegally expended is hereby issued against Yolanda Knox, in the amount of \$2,000, H. Marie Congo in the amount of \$14,320, George Washington Carver Preparatory Academy in the amount of \$12,000, and Carl Shye in the amount of \$23,350 in favor of The New City Community School.

Under Ohio law, any public official who either authorizes an illegal expenditure of public funds or supervises the accounts of a public office from which such illegal expenditure is made is strictly liable for the amount of the expenditure. *Seward v. National Surety Corp.*, 120 Ohio St. 47 (1929); 1980 Op. Atty Gen. No. 80-074; Ohio Rev. Code 9.39: State ex. rel. Village of Linndale v. Masten, 18 OhioSt. 3d 228 (1985). Public officials controlling public funds or property are liable for the loss incurred should such funds or property be fraudulently obtained by another, converted, misappropriated, lost or stolen to the extent that recovery or restitution is not obtained from the persons who unlawfully obtained such funds or property, 1980 Op. Atty Gen. No. 80-074.

During fiscal year 2010, Carl Shye served as treasurer from July 1, 2009 to October 20, 2009. Accordingly, Findings for Recovery for public monies illegally expended are hereby issued against Carl Shye, Treasurer, jointly and severally, in the amount of \$28,320; to the extent that recovery or restitution is not obtained from Yolanda Knox, H. Marie Congo, and George Washington Carver Preparatory Academy.

Official's Response:

No substantial response has been provided for this finding.

FINDING NUMBER 2010-010

NONCOMPLIANCE AND MATERIAL WEAKNESS

Ohio Rev. Code Section 3314.08 provides the formula by which community schools are funded. Community Schools receive funding from the state through the per-pupil foundation allocation. Unlike city, local, exempted village and joint vocational school districts, community schools have no tax base from which to draw funds for buildings and investment in infrastructure.

Ohio Rev. Code Section 3313.64(J) states that the treasurer of each school district shall, by the fifteenth day of January and July, furnish the superintendent of public instruction a report listing the names of each child in the permanent or legal custody of a government agency or person other than the child's parent and each child who resides in a home, who attended the district's schools during the preceding six calendar months. For each child, the report shall state the duration of attendance of that child, the school district responsible for tuition on behalf of the child, and any other information that the superintendent requires. Upon receipt of this report, the superintendent shall deduct each district's tuition obligations and pay to the district of attendance that amount plus any amount required to be paid by the state.

**FINDING NUMBER 2010-010
(Continued)**

Ohio Rev. Code Section 3314.08(B)(1) requires the board of education of each school district to annually report the number of students entitled to attend school in the district that are actually enrolled in community schools. **Ohio Rev. Code Section 3314.08(B)(2)** also requires the governing authority of each community school to annually report the number of students enrolled in the community school. For each student, the governing board of the community school must report the city, exempted village, or local school district in which the student is entitled to attend.

Based on these reported numbers, pursuant to **Ohio Rev. Code Section 3314.08(C)**, the state Department of Education shall calculate and subtract the appropriate amount of state aid from each school district. The amount subtracted shall be paid to the corresponding community school or to the internet or computer-based community school entitled to receive those funds. When calculating and subtracting the appropriate amount of state aid, the department should take into consideration any enrollment of students in community schools for less than the equivalent of a full school year.

The School did not provide any of the above-mentioned reports for Fiscal Year 2010, and AOS was unable to perform any of the required testing procedures.

This matter will be referred to the Ohio Department of Education.

Official's Response:

No substantial response has been received for this finding.

FINDING NUMBER 2010-011

NONCOMPLIANCE

Ohio Rev. Code Section 3314.015(E) states that the department shall adopt procedures for use by a community school governing authority and sponsor when the school permanently closes and ceases operation, which shall include at least procedures for data reporting to the department, handling of student records, distribution of assets in accordance with section 3314.074 of the Revised Code, and other matters related to ceasing operation of the school.

The Ohio Department of Education has developed Community School Closing Procedures Assurances, the purpose of this document is to assure ODE that a sponsor has followed legally required community school closing procedures in a timely manner. Sponsors must provide and execute a plan for the closure of community schools they sponsor prior to the school closing its doors. Sponsors are required to complete and sign this assurance to ODE that proper notifications occur, records are properly distributed and assets are properly disposed with dates recorded in the cells including a final FTE review and scheduling of the final state audit within 30 days of closure of the school.

The School and Sponsor began to perform the close-out procedures required upon closure of the school, however, the process was not completed. After inspection of the "Community School Closing Procedures Assurances" completed by the School, there was no evidence that following procedures were performed by the School or Sponsor:

Review and prepare the following itemized financials:

- a. Fiscal-year end financial statements;
- b. A list of all payroll reports including taxes, retirement, or adjustments on employee contract for the dates between July 1, 2009 through November 15, 2009.

**FINDING NUMBER 2010-011
(Continued)**

The School's management and/or Sponsor should contact the Ohio Department of Education to rectify any outstanding items associated with the closing of the school.

This matter will be referred to the Ohio Department of Education.

Official's Response:

No substantial response was provided for this finding.

FINDING NUMBER 2010-012

NONCOMPLIANCE AND MATERIAL WEAKNESS

Ohio Rev. Code Section 3314.03(A)(11)(d) requires that each contract entered into between a sponsor and the governing authority of a community school shall specify that the school will comply with Section 149.43 of the Ohio Rev. Code. Ohio Rev. Code 149.43(B) states, in part, that all public records shall be promptly prepared and made available for inspection to a person at all reasonable times during regular business hours. In order to facilitate broader access to public records, public offices shall maintain public records in a manner that they can be made available for inspection in accordance with this division

- The School did not have detailed payroll records for July 1, 2009 - November 15, 2009
- The School did not provide SOES reports for testing of student enrollments and withdrawals.

The School should have adopted procedures so that all forms of supporting records and documentation are maintained.

Official's Response:

No substantial response was provided for this finding.

General Official's Response:

The School had three Treasurer's that performed services during fiscal year 2010, Carl Shye Jr. during the period July 1, 2009 through October 20, 2009; Richard Cox during the period November 30, 2009 through February 14, 2010; and Tracy Jarvis during the period February 15, 2010 through June 30, 2010.

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**NEW CITY COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**SCHEDULE OF PRIOR AUDIT FINDINGS
JUNE 30, 2010**

Finding Number	Finding Summary	Fully Corrected?	Not Corrected, Partially Corrected; Significantly Different Corrective Action Taken; or Finding No Longer Valid; Explain
2009-001	Title 26: Internal Revenue Code; Subtitle C; Employment Taxes; Chapter 24; Collection of Income Tax at Source of Wages; Section 3403 and 3404 – Failing to remit employee withholdings	No	Repeated as 2010-007
2009-002	Ohio Rev. Code Section 117.38 – Failure to file GAAP basis financial statements	No	Repeated as 2010-001
2009-003	Ohio Rev. Code Section 121.22 – Failure to maintain Board Minutes	Yes	
2009-004	Failure to provide Student Listing	No	Repeated as 2010-010
2009-005	Ohio Rev. Code Sections 5747.06 and 5747.07 – Failure to remit employee withholdings.	No	Repeated as 2010-008
2009-006	Failure to maintain adequate supporting documentation of capital assets, intergovernmental payable, long-term debt, non-payroll expenses, payroll expenses, and federal grant receipts, and expenditures	Partially Corrected	Repeated as 2010-002
2009-007	Failure to obtain and maintain employee contracts	Yes	
2009-008	Excessive Overdraft Charges	Yes	
2009-009	Failure to reconcile between the School ledgers and Submitted Financial Statements.	No	Repeated as 2010-001
2009-010	Related Party Agreements without Board Approval	Yes	
2009-011	Segregation of Duties	Yes	
2009-012	Going Concern	No	Included in Accountants' Report
2009-013	Confirmable Revenue	Yes	
2009-014	Failure to maintain capital asset records	No	Included in Accountants' Report
2009-015	Failure to adequately document Federal Expenditures	Yes	
2009-016	Failure to properly administer Federal Funds.	Yes	
2009-017	Ohio Rev. Code Section 4123.25 – Failure to remit employee withholdings	No	Repeated as 2010-003



Dave Yost • Auditor of State

NEW CITY COMMUNITY SCHOOL

MONTGOMERY COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
MAY 31, 2012**