



Mary Taylor, CPA
Auditor of State

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

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Mary Taylor, CPA

Auditor of State

INDEPENDENT ACCOUNTANTS' REPORT

New Choices Community School
Montgomery County
601 South Keowee Street
Dayton, Ohio 45410

To the Board of Directors:

We have audited the accompanying basic financial statements of the New Choices Community School, Montgomery County (the School), as of and for the year ended June 30, 2006, which collectively comprise the School's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the School's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Comptroller General of the United States' *Government Auditing Standards*. Those standards require that we plan and perform the audit to reasonably assure whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the School as of June 30, 2006, and the changes in its financial position and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

The accompanying financial statements have been prepared assuming that the School will continue as a going concern. As shown in the accompanying financial statements, the School has incurred a working capital deficiency of \$273,494, an operating loss of \$730,632, and an accumulated deficit of \$251,558, that raise substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 15. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

As discussed in Note 3 of the financial statements, the beginning balance was restated due to the School not presenting the full amount of an outstanding loan and for assets being presented in the beginning balance that should not have been capitalized.

In accordance with *Government Auditing Standards*, we have also issued our report dated September 1, 2009 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 audit performed in accordance with *Government Auditing Standards*. You should read it in conjunction with this report in assessing the results of our audit.

Management's Discussion and Analysis is not a required part of the basic financial statements but is supplementary information accounting principles generally accepted in the United States of America requires. We have applied certain limited procedures, consisting principally of inquiries of management regarding the methods of measuring and presenting the required supplementary information. However, we did not audit the information and express no opinion on it.

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

Mary Taylor, CPA
Auditor of State

September 1, 2009

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**MANAGEMENT'S DISCUSSION AND ANALYSIS
FOR YEAR ENDED JUNE 30, 2006
(UNAUDITED)**

The discussion and analysis New Choices Community School (the School) financial performance provides an overall review of the financial activities for the fiscal year ended June 30, 2006. The intent of this discussion and analysis is to look at the School's financial performance as a whole; readers should also review the basic financial statements and the notes to the basic financial statements to enhance their understanding of the School's financial performance.

The Management's Discussion and Analysis (MD&A) is an element of the reporting model adopted by the Governmental Accounting Standards Board (GASB) in their Statement No. 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments*, issued in June 1999. Certain comparative information between the current year and the prior year is required to be presented, and is presented in the MD&A.

Financial Highlights

Key financial highlights for fiscal year 2006 are as follows:

- Total net assets of the School decreased \$244,188 in fiscal year 2006. The ending net deficit was \$251,558 at June 30, 2006 compared with restated ending net deficit of \$7,370 at June 30, 2005.
- Total assets decreased \$164,368 which represents a 44.5 percent decrease from the prior year. Cash disbursements exceeding cash receipts during the year reduced the cash balance by \$159,542 from the June 30, 2005 cash balance.
- The School's operating loss for fiscal year 2006 was \$730,632 compared with an operating loss of \$390,529 reported for the prior year. Higher operating expenses, specifically wages and fringe benefits for employees and purchased services, contributed to the increased operating deficit for the year.

Using this Financial Report

This financial report contains the basic financial statements of the School, as well as the Management's Discussion and Analysis and notes to the basic financial statements. The basic financial statements include a statement of net assets, statement of revenues, expenses and change in accumulated deficit, and a statement of cash flows. As the School reports its operations using enterprise fund accounting, all financial transactions and accounts are reported as one activity, therefore the entity wide and the fund presentations information is the same.

Statement of Net Assets

The statement of net assets answers the question, "How did we do financially during the fiscal year?" This statement includes all assets and liabilities, both financial and capital, and short-term and long-term, using the accrual basis of accounting and the economic resources focus, which is similar to the accounting used by most private-sector companies. This basis of accounting takes into account all revenues and expenses during the year, regardless of when the cash is received or paid.

This statement reports the School's net assets, however, in evaluating the overall position and financial viability of the School, non-financial information such as the condition of the School building and potential changes in the laws governing charter schools in the State of Ohio will also need to be evaluated.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**MANAGEMENT'S DISCUSSION AND ANALYSIS
FOR YEAR ENDED JUNE 30, 2006
(UNAUDITED)
(Continued)**

Table 1 provides a summary of the School's net assets for fiscal year 2006 compared with fiscal year 2005.

**Table 1
Net Assets**

	<u>2006</u>	<u>2005 - Restated</u>
Assets:		
Current and other Assets	\$182,871	\$327,323
Capital Assets, net	21,936	41,852
Total Assets	<u>204,807</u>	<u>369,175</u>
Liabilities:		
Current Liabilities	456,365	376,545
Total Liabilities	<u>456,365</u>	<u>376,545</u>
Net Assets:		
Invested in Capital Assets	21,936	41,852
Unrestricted	<u>(273,494)</u>	<u>(49,222)</u>
Total Net Assets	<u>(\$251,558)</u>	<u>(\$ 7,370)</u>

The total net assets of the School decreased by \$244,188 during fiscal year 2006. An increase in the number of employees needed to provide educational services to the increasing student population added to the inflationary increase in employee salaries, benefits (health benefits, retirement benefits, payroll taxes), and purchased services contributed to the decrease in net assets for the year.

As noted in Table 1 above, total current and other assets of the School decreased by \$144,452 from those reported at June 30, 2005. The decrease is primarily due to the ending cash balance at June 30, 2006 being \$159,542 less than that reported at the end of the last fiscal year. The decrease in the cash balance represents the difference between the cash expenditures paid during the year versus cash receipts, including the repayment of nearly \$167,000 in loans due to the Eastway Corporation. The carrying value of the School's capital assets decreased by \$19,916 as the amount reported for current year depreciation expense exceeded the amount capitalized as capital assets for the year.

Total liabilities of the School increased \$79,820 or 21.2 percent, compared with the liabilities reported for fiscal year 2005. The School was not able to pay-off the loan payable to Eastway noted above. It was also determined after the end of the fiscal year, that the amounts withheld from employee's wages for federal, state and local income and other taxes were not remitted as required. Therefore, a liability of \$162,866, including \$64,751 in penalties and interest due, was recorded on the statement of net assets to represent the amount owed related to unpaid payroll withholdings.

Overall, the School reported an ending net deficit of \$251,558 at June 30, 2006. Net assets invested in capital assets totaled \$21,936 leaving a \$273,494 unrestricted deficit. Management is committed to reducing the liabilities of the School and closely monitor expenses in subsequent fiscal years to address the negative unrestricted net asset situation.

Table 2 shows the changes in net assets for the fiscal year ended June 30, 2006, as well as revenue and expense comparisons to fiscal year 2005.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**MANAGEMENT'S DISCUSSION AND ANALYSIS
FOR YEAR ENDED JUNE 30, 2006
(UNAUDITED)
(Continued)**

**Table 2
Changes in Net Assets**

	2006	2005 - Restated
Operating Revenues:		
Foundation payments	\$1,323,222	\$907,193
Disadvantage pupil		28,293
Special education weighted funding		48,735
Non Operating Revenues:		
Federal Grants	239,584	184,511
State Grants	20,162	26,408
Sinclair revenue	249,947	297,205
Other revenue	41,502	27,874
Total Revenues	1,874,417	1,520,219
Operating Expenses:		
Salaries	986,908	600,126
Fringe Benefits	247,974	142,803
Purchased services	773,604	581,664
Materials and supplies	23,092	33,540
Depreciation	22,276	21,862
Other expenses		4,518
Non Operating Expenses:		
Interest and fiscal charges	64,751	
Total Expenses	2,118,605	1,384,513
Change in Net Assets	(244,188)	135,706
Net Assets(Deficit), beginning of year	(7,370)	(143,076)
Net Assets(Deficit), end of year	(\$ 251,558)	(\$ 7,370)

As shown in Table 2 above, total revenue received by the School for fiscal year 2006 was \$354,198 more than the revenue received in the prior year, a 23.3 percent increase. The increase in funding received through the State Foundation funding program increased \$339,001 from the levels received in fiscal year 2005 due to a significant increase in the number of students attending the School as well as an increase in the per pupil funding amount used in the funding calculation. Higher student enrollment also resulted in the School receiving a higher allocation of federal educational grants during the year. These increases helped offset the decrease in funding realized in the state educational grants and Sinclair revenue.

Total expenses of the School reported for the fiscal year were \$734,092 more than those reported for the fiscal year 2005, a 53.0 percent increase. Of this amount, \$491,953 was related to increases in the costs of payroll and related benefits for School's employees. Additional staffing requirements needed to meet the 43.0 percent increase in the number of students attending the School during fiscal year 2006, as well as inflationary factors for salaries of existing staff members and employee benefits are the significant reasons for the increased personnel costs. Purchased services expenses also increased by \$191,940 for the year compared with fiscal year 2005. The 33.0 percent increase is due primarily to additional professional and technical contractual services needed to manage the operation of the School. In prior years these functions were handled under one contract at a fixed rate. In addition, escalating utility, communication and property maintenance costs added significant expense to the School for fiscal year 2006. Interest and fiscal charges represent the penalties and interest owed on the withheld, but unpaid payroll taxes at year end.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**MANAGEMENT'S DISCUSSION AND ANALYSIS
FOR YEAR ENDED JUNE 30, 2006
(UNAUDITED)
(Continued)**

Capital Assets

At June 30, 2006, the capital assets of the School consisted of \$111,669 of furniture and equipment offset by \$89,733 in accumulated depreciation resulting in net capital assets of \$21,936. During the year, the School purchased \$2,360 of items which met the School's capitalization threshold and where therefore capitalized. Depreciation expense for the year ended June 30, 2006 was \$22,276.

See Note 5 of the notes to the basic financial statements for additional information on the School's capital assets.

Debt

During fiscal year 2006, the School repaid the Eastway Corporation \$166,929 of the \$256,243 remaining loan amount that was owed for management services provided in prior fiscal years. The remaining loan amount of \$89,314 is now past due as the entire loan amount was to be repaid by June 30, 2006.

To provide operating funds, the School borrowed \$20,000 against a \$35,000 line of credit established at a local bank. As of June 30, 2006 the entire \$20,000 remained outstanding.

See Note 6 of the notes to the basic financial statements for additional information related to this issue.

Contacting the School

This financial report is designed to provide a general overview of the finances of the New Choices Community School, Inc., Inc. and to show the School's accountability for the monies it receives to all vested and interested parties, as well as meeting the annual reporting requirements of the State of Ohio. Any questions about the information contained within this report or requests for additional financial information should be directed to:

New Choices Community School, Inc.
Attn: Treasurer
601 South Keowee Street
Dayton, Ohio 45401
(937) 224-8201

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**STATEMENT OF NET ASSETS
AS OF JUNE 30, 2006**

Assets:

Current Assets:

Cash and Cash Equivalents \$111,494

Receivables:

Intergovernmental Grants 71,377

Total Current Assets 182,871

Noncurrent Assets:

Capital Assets (net of accumulated depreciation) 21,936

Total Assets 204,807

Liabilities:

Current Liabilities:

Accounts Payable 77,830

Accrued Wages Payable 86,412

Intergovernmental Payable 176,892

Compensated Absences Payable 5,917

Line of Credit Payable 20,000

Notes Payable 89,314

Total Liabilities 456,365

Net Assets

Invested in Capital Assets, Net of Related Debt 21,936

Accumulated Deficit (273,494)

Total Accumulated Deficit (\$251,558)

See accompanying notes to the financial statements.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**STATEMENT OF REVENUES, EXPENSES, AND CHANGE
IN ACCUMULATED DEFICIT
FOR THE FISCAL YEAR ENDED JUNE 30, 2006**

Operating Revenues:	
Foundation Revenue	\$1,323,222
Total Operating Revenues	<u>1,323,222</u>
Operating Expenses:	
Salaries	986,908
Fringe Benefits	247,974
Purchased Services	773,604
Materials and Supplies	23,092
Depreciation	<u>22,276</u>
Total Operating Expenses	<u>2,053,854</u>
Operating loss	<u>(730,632)</u>
Non-Operating Revenues (Expenses):	
Federal Grants	239,584
State Grants	20,162
Sinclair Revenue	249,947
Other Revenue	41,502
Interest and Fiscal Charges	<u>(64,751)</u>
Total Non-Operating Revenues (Expenses)	<u>486,444</u>
Change in Net Assets	(244,188)
Net Assets Beginning of Year, restated	<u>(7,370)</u>
Accumulated Deficit End of Year	<u><u>(\$251,558)</u></u>

See accompanying notes to the financial statements.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**STATEMENT OF CASH FLOWS
FOR THE FISCAL YEAR ENDED JUNE 30, 2006**

Increase (Decrease) in Cash and Cash Equivalents

Cash Flows from Operating Activities:

Cash Received from State of Ohio	\$1,295,697
Cash Payments to Suppliers for Goods and Services	(742,049)
Cash Payments to Employees for Services and Benefits	(1,108,921)
Net Cash Used for Operating Activities	(555,273)

Cash Flows from Noncapital Financing Activities:

Federal and State Grants	272,181
Local Grants	249,947
Proceeds from Line of Credit	20,000
Contributions	41,502
Net Cash Provided by Noncapital Financing Activities	583,630

Cash Flows from Capital and Related Financing Activities:

Cash Payment for Capital Acquisitions	(20,970)
Payment on Eastway Loan	(166,929)
Net Cash Used for Capital and Related Financing Activities	(187,899)

Net Decrease in Cash and Cash Equivalents (159,542)

Cash and Cash Equivalents, Beginning of Year 271,036

Cash and Cash Equivalents, End of Year \$111,494

Reconciliation of Operating Loss to Net Cash Used for Operating Activities:

Operating Loss (\$730,632)

Adjustments to Reconcile Operating Loss to Net Cash Used by Operating Activities:

Depreciation 22,276

Changes in Assets and Liabilities:

Increase in Intergovernmental Receivable Related to State Foundation Program	(27,525)
Increase in Accounts Payable	72,552
Increase in Accrued Wages Payable	61,711
Increase in Intergovernmental Payable	43,880
Increase in Compensated Absences Payable	2,465
Total Adjustments	175,359

Net Cash Provided for Operating Activities (\$555,273)

See accompanying notes to the financial statements.

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**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE BASIC FINANCIAL STATEMENTS
FOR YEAR ENDED JUNE 30, 2006**

1. DESCRIPTION OF THE SCHOOL AND REPORTING ENTITY

New Choices Community School (the School) is a nonprofit corporation established pursuant to Ohio Rev. Code Chapters 3314 and 1702 to maintain and provide a school that promotes excellence in education, character development and mental health wellness for at-risk youth in Montgomery County, Ohio. 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 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. The School qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

The School was initially approved for operation under contract with the Ohio State Board of Education (Sponsor) for a period of five years commencing with fiscal year July 1, 2001. On June 10, 2005 the Sponsor contract was assigned to St. Aloysius Orphanage (SAO). A new Sponsor contract was entered into between the School and SAO on June 30, 2005 which covered the year ended June 30, 2006 and is thereafter extended for additional one year terms from July 1 to June 30 unless either party notifies the other in writing at least ninety days prior to June 30 that it does not wish to renew the contract.

The School operates under the direction of a seven-member Board of Directors. The Board is responsible for carrying out the provisions of the contract that include, but are not limited to, state-mandated provisions regarding student population, curriculum, academic goals, performance standards, admissions standards, and qualifications of teachers. The Board of Directors controls the School's one instructional/support facility staffed by three non-certified and 15 certificated teaching personnel who provide services to approximately 222 students.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the School have been 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 applies 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 has elected not to follow any FASB statements or interpretations after November 30, 1989. The more significant of the School's accounting policies are described below.

A. Basis of Presentation

Enterprise accounting is used to account for operations that are financed and operated in manner similar to private business enterprises where the intent is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges or where it has been decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability or other purposes.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE BASIC FINANCIAL STATEMENTS
FOR YEAR ENDED JUNE 30, 2006
(Continued)**

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

B Measurement Focus and Basis of Accounting

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. Enterprise accounting uses a flow of economic resources measurement focus. With this measurement focus, all assets and all liabilities are included on the statement of net assets. The difference between total assets and liabilities are defined as net assets. The statement of revenues, expenses and changes in net assets present increases (i.e., revenues) and decreases (i.e., expenses) in net total assets.

Basis of accounting refers to when revenues and expenses are recognized in the accounts and reported in the financial statements. Basis of accounting relates to the timing of the measurements made. The accrual basis of accounting is utilized for reporting purposes. Revenues are recognized when they are earned, and expenses are recognized when they are incurred.

C. Budgetary Process

The School must adopt a spending plan as set forth in the Ohio Revised Code 5705.391, which requires annual appropriations and annual revenue estimates.

D. Cash and Cash Equivalents

All monies received by the School are maintained in demand deposit accounts.

E. Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results may differ from these estimates.

F. Capital Assets and Depreciation

Capital assets are capitalized at cost (or estimated historical cost) and updated for additions and retirements during the year. The School maintains a capitalization threshold of five hundred dollars. The School does not possess any infrastructure. Improvements are capitalized. The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend an asset's life are not capitalized.

Depreciation of furniture and equipment is computed using the straight-line method over an estimated useful life of five years.

G. Intergovernmental Revenues

The School currently participates in the State Foundation Program. The foundation funding is recognized as operating revenues in the accounting period in which they are earned, essentially the same as the fiscal year.

Grants and entitlements are recognized as non-operating revenues in the accounting period in which all eligibility requirements of the grants have been met.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE BASIC FINANCIAL STATEMENTS
FOR YEAR ENDED JUNE 30, 2006
(Continued)**

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

H. Operating and Non-Operating Revenues and Expenses

Operating revenues are those revenues that are generated directly by the primary mission of the School. For the School, operating revenues includes State Foundation payments received from the State of Ohio. Operating expenses are necessary costs incurred to support the School's primary mission, including depreciation.

Non-operating revenues and expenses are those that are not generated directly by the School's primary mission. Various federal, state and private grants, as well as miscellaneous revenues, comprise the non-operating revenues and expenses of the School.

I. Accrued Liabilities Payable

Accounts Payable - payments due to various vendors for goods received or services provided during fiscal year 2006 which were not paid until after the close of the fiscal year.

Accrued Wages Payable – salary payments made after year-end that were for services rendered in rendered in fiscal year 2006. Teaching personnel are paid in 26 equal installments, ending with the last pay period in August, for services rendered during the previous school year. Therefore, a liability has been recognized at June 30, 2006 for all salary payments made to teaching personnel during the months of July and August 2006.

Intergovernmental payable – payment for the employer's share of the retirement contribution, workers' compensation and Medicare associated with services rendered during fiscal year 2006 totaling \$14,026 were paid in the subsequent fiscal year.

In addition, subsequent to year end it was determined by the School that federal, state and local payroll taxes withheld from employee's wages were not remitted to the appropriate agency as required. The total amount owed by the School for these unpaid payroll withholding taxes at June 30, 2006 was \$162,866, including \$64,751 in penalties and interest. The School has worked with the various agencies at eliminating this liability and as of December 31, 2008, the School had satisfied, in full, the amount owed.

J. Federal Tax Exemption Status

The School is a non-profit organization that has been determined by the Internal Revenue Service to be exempt from federal income taxes a tax-exempt organization under Section 501 (c)(3) of the Internal Revenue Code. 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.

K. Exchange and Non-Exchange Transactions

Revenue resulting from exchange transactions, in which each party gives and receives essentially equal value, is recorded on the accrual basis when the exchange takes place.

Non-exchange transactions, in which the School receives value without directly giving equal value in return, include grants and entitlements. Revenue from grants and entitlements is recognized in the fiscal year in which all eligibility requirements have been satisfied. Eligibility requirements include timing requirements, which specify the year when the resources are required to be used or the fiscal year when use is first permitted, matching requirements, in which the School must provide local resources to be used for a specific purpose, and expenditure requirements, in which the resources are provided to the School on a reimbursement basis.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE BASIC FINANCIAL STATEMENTS
FOR YEAR ENDED JUNE 30, 2006
(Continued)**

3. RESTATEMENT

Capital assets were adjusted (decreased by \$8,318) and loans payable were adjusted (increased by \$89,314) during fiscal year 2006 due to various errors noted in prior years. As a result, loans payable, reported at June 30, 2005 were adjusted from the \$166,929 previously reported, to \$256,243, capital assets, net of accumulated depreciation, reported at June 30, 2005 at \$50,170 were adjusted to \$41,852, and net assets were restated from \$90,262 to an accumulated deficit of \$7,370.

4. CASH AND DEPOSITS

The School does not have a policy addressing custodial credit risk for its deposits. At June 30, 2006, the carrying amount of the School's deposits was \$111,494 and the bank balance was \$251,132. \$106,532 of the bank deposits was uninsured and uncollateralized. Although all statutory requirements for the deposit of money had been followed, non-compliance with federal requirements could potentially subject the School to a successful claim by the FDIC.

5. CAPITAL ASSETS

A summary of the School's capital assets at June 30, 2006, follows:

	Restated Balance July 1, 2005	Additions	Deletions	Balance June 30, 2006
Furniture and Equipment	\$109,309	\$ 2,360		\$111,669
Less: Accumulated Depreciation	(67,457)	(22,276)		(89,733)
Net Capital Assets	<u>\$ 41,852</u>	<u>(\$19,916)</u>	<u>\$0</u>	<u>\$ 21,936</u>

6. SHORT-TERM OBLIGATIONS PAYABLE

The activity of the School's short-term obligation activity for the year is as follows:

	Restated Balance July 1, 2005	Additions	Deletions	Balance June 30, 2006
Loan Payable (Eastway Corporation)	\$256,243		(\$166,929)	\$89,314
Line of Credit - Fifth Third Bank		\$20,000		20,000
Total Short-Term Obligations	<u>\$256,243</u>	<u>\$20,000</u>	<u>(\$166,929)</u>	<u>\$109,314</u>

A. Loan Payable

The School entered into a contract on July 1, 2002 with Eastway Corporation for management services. Under this contract, Eastway was required to provide core management services to include accounting and reporting, financial, payroll, budgeting, quality assurance, program evaluation, information systems management, clinical information system management, recruitment and hiring, personnel management, employee relations and employee benefits management. Terms of this contract provided for the receipt of a management fee equal to 10% of the School's total expenses.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE BASIC FINANCIAL STATEMENTS
FOR YEAR ENDED JUNE 30, 2006
(Continued)**

6. SHORT-TERM OBLIGATIONS PAYABLE (Continued)

In December 2004, the School terminated the contract with Eastway and reverted to the management of its own operation. By agreement dated January 12, 2005, between Eastway Corporation and New Choices Community School (School) a settlement was reached for the liquidation of amounts still payable to Eastway by the School through a down payment and a promissory note. Terms of the agreement provided for a down payment of \$50,000 and a promissory note of \$384,365 repaid through eighteen monthly installments of \$21,353.61, commencing on January 31, 2005 and continuing until June 30, 2006 when the last monthly installment payment shall be due and payable, for a total payment of \$434,365. This note is unsecured and interest-free.

The delivery by the School to Eastway Corporation of the \$50,000 down payment along with the execution of the promissory note for \$384,365 shall constitute full and complete settlement of all claims which have been asserted or may be asserted by Eastway against the School.

During fiscal year 2006, the School paid Eastway Corporation \$166,929 on the loans payable recorded in the previous year. The remaining loan amount of \$89,314 is now past due as the entire loan amount was to be repaid by June 30, 2006.

B. Line of Credit

During fiscal year 2006, the School borrowed \$20,000 against a \$35,000 line of credit it established in February 2006 with Fifth Third Bank to provide financing for operating activities. The interest rate provision of the line of credit is a floating rate per annum equal to two percent in excess of the rate of interest established from time to time by Fifth Third Bank at its principal office as its "Prime Rate", whether or not Fifth Third Bank shall at times lend to borrowers at lower rates of interest or, if there is no such prime rate, then such other rate may be substituted by Fifth Third Bank for the prime rate. In the event of a change in said prime rate, the interest rate on the line of credit shall be changed immediately to the new prime rate plus two percent. There were no principal payments made by the School during fiscal year 2006 on the line of credit.

7. RISK MANAGEMENT

A. Property and Liability

The School is exposed to various risks of loss related to torts; theft or damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. Professional liability and vehicle coverage is provided by Philadelphia Insurance Company. Professional liability has a \$1 million single occurrence limit and \$3 million aggregate limit. Automobile liability has a \$1 million combined single limit of liability and no deductible.

There has been no reduction in coverage from the prior year and settled claims have not exceeded the School's coverage in any of the past three years.

B. Workers' Compensation

The School pays the State Workers' Compensation System a premium for employee injury coverage. The premium is calculated by multiplying the monthly total gross payroll by a factor that is calculated by the State.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE BASIC FINANCIAL STATEMENTS
FOR YEAR ENDED JUNE 30, 2006
(Continued)**

8. DEFINED BENEFIT PENSION PLANS

A. School Employees Retirement System

The School contributes to the School Employees Retirement System (SERS), a cost-sharing multiple-employer defined benefit pension plan. SERS provides retirement and disability benefits, annual cost-of-living adjustments, and death benefits to plan members and beneficiaries. Authority to establish and amend benefits is provided by Chapter 3309 of the Ohio Revised Code. SERS issues a publicly available, stand-alone financial report that includes financial statements and required supplementary information. That report may be obtained by writing to the School Employees Retirement System, 300 East Broad Street, Suite 100, Columbus, Ohio 43215-3746, by calling (800) 878-5853 or by visiting the SERS website at ohsers.org.

Plan members are required to contribute 10 percent of their annual covered salary and the School is required to contribute at an actuarially determined rate. The current School rate is 14 percent of annual covered payroll. A portion of the School's contribution is used to fund pension obligations with the remainder being used to fund health care benefits; for fiscal year 2006, 10.58 percent of annual covered salary was the portion used to fund pension obligations. The contribution requirements of plan members and employers are established and may be amended, up to a statutory maximum amount, by the SERS' Retirement Board. The School's required contributions for pension obligations to SERS for the fiscal years ended June 30, 2006, 2005, and 2004 were \$29,885, \$11,243, and \$9,263, respectively. 58.0 percent has been contributed for fiscal year 2006 and 100 percent for fiscal years 2005 and 2004.

B. State Teachers Retirement System

The School participates in the State Teachers Retirement System of Ohio (STRS Ohio), a cost-sharing, multiple-employer public employee retirement system. STRS Ohio provides retirement and disability benefits to members and death and survivor benefits to beneficiaries. STRS Ohio issues a stand-alone financial report that may be obtained by writing to STRS Ohio, 275 E. Broad St., Columbus, OH 43215-3371, by calling (614) 227-4090, or by visiting the STRS Ohio web site at www.strsoh.org.

New members have a choice of three retirement plans, a Defined Benefit (DB) Plan, a Defined Contribution (DC) Plan and a Combined Plan. The DB plan offers an annual retirement allowance based on final average salary times a percentage that varies based on years of service, or an allowance based on member contributions and earned interest matched by STRS Ohio funds divided by an actuarially determined annuity factor. The DC Plan allows members to place all their member contributions and employer contributions equal to 10.5 percent of earned compensation into an investment account. Investment decisions are made by the member. A member is eligible to receive a retirement benefit at age 50 and termination of employment. The Combined Plan offers features of both the DC Plan and the DB Plan. In the Combined Plan, member contributions are invested by the member, and employer contributions are used to fund the defined benefit payment at a reduced level from the regular DB Plan. DC and Combined Plan members will transfer to the Defined Benefit Plan during their fifth year of membership unless they permanently select the DC or Combined Plan. Existing members with less than five years of service credit as of June 30, 2001, were given the option of making a one time irrevocable decision to transfer their account balances from the existing DB Plan into the DC Plan or the Combined Plan. This option expired on December 31, 2001. Benefits are established by Chapter 3307 of the Ohio Revised Code.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE BASIC FINANCIAL STATEMENTS
FOR YEAR ENDED JUNE 30, 2006
(Continued)**

8. DEFINED BENEFIT PENSION PLANS (Continued)

A DB or Combined Plan member with five or more years of credited service who becomes disabled may qualify for a disability benefit. Eligible spouses and dependents of these active members who die before retirement may qualify for survivor benefits. Members in the DC Plan who become disabled are entitled only to their account balance. If a member dies before retirement benefits begin, the member's designated beneficiary is entitled to receive the member's account balance.

For the fiscal year ended June 30, 2006, plan members were required to contribute 10 percent of their annual covered salaries. The School was required to contribute 14 percent; 13 percent was the portion used to fund pension obligations. For fiscal year 2005, the portion used to fund pension obligations was also 13 percent. Contribution rates are established by the State Teachers Retirement Board, upon recommendations of its consulting actuary, not to exceed statutory maximum rates of 10 percent for members and 14 percent for employers. Chapter 3307 of the Ohio Revised Code provides statutory authority for member and employer contributions.

The School's required contributions for pension obligations to STRS Ohio for the fiscal years ended June 30, 2006, 2005, and 2004, were \$83,850, \$46,997, and \$51,178, respectively; 75.6 percent has been contributed for fiscal year 2006, and 100 percent for fiscal years 2005 and 2004.

9. POST-EMPLOYMENT BENEFITS

The School provides comprehensive health care benefits to retired teachers and their dependents through the State Teachers Retirement System of Ohio (STRS Ohio), and to retired non-certified employees and their dependents through the School Employees Retirement System (SERS). Benefits include hospitalization, physicians' fees, prescription drugs and partial reimbursement of monthly Medicare Part B premiums. Benefit provisions and the obligations to contribute are established by the Systems based on authority granted by State statute. Both systems are on a pay-as-you-go basis.

All STRS Ohio retirees who participated in the DB or Combined Plans and their dependents are eligible for health care coverage. The STRS Ohio Board has statutory authority over how much, if any, of the health care costs will be absorbed by STRS Ohio. All benefit recipients pay a portion of the health care cost in the form of a monthly premium. By law, the cost of coverage paid from STRS Ohio funds is included in the employer contribution rate, currently 14 percent of covered payroll. For the fiscal year ended June 30, 2006, the STRS Ohio Board allocated employer contributions equal to one percent of covered payroll to the Health Care Stabilization Fund. For the School, this amount equaled \$6,450 for fiscal year 2006.

STRS Ohio pays health care benefits from the Health Care Stabilization Fund. At June 30, 2006 the balance in the Fund was \$3.5 billion. For the fiscal year ended June 30, 2006, net health care costs paid by STRS Ohio were \$282,743,000 and STRS Ohio had 119,184 eligible benefit recipients.

For SERS, coverage is made available to service retirees with ten or more years of qualifying service credit, and to disability and survivor benefit recipients. All retirees and beneficiaries are required to pay a portion of their health care premium. The portion is based on years of service, Medicare eligibility, and retirement status.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE BASIC FINANCIAL STATEMENTS
FOR YEAR ENDED JUNE 30, 2006
(Continued)**

9. POST-EMPLOYMENT BENEFITS (Continued)

After the allocation for basic benefits, the remainder of the employer's 14 percent contribution is allocated to providing health care benefits. For the fiscal year ended June 30, 2006, employer contributions to fund health care benefits were 3.42 percent of covered payroll, compared to 3.43 percent of covered payroll for fiscal year 2005. In addition, SERS levies a surcharge to fund health care benefits equal to 14 percent of the difference between a minimum pay and the member's pay, pro-rated for partial service credit. For fiscal year 2006, the minimum pay was established at \$35,800. However, the surcharge is capped at two percent of each employer's SERS salaries. For the School, the amount contributed to fund health care benefits, including the surcharge, during the 2006 fiscal year equaled \$13,900.

The surcharge, added to the unallocated portion of the 14 percent employer contribution rate, provides for maintenance of the asset target level for the health care fund. The target level for the health care reserve is 150 percent of the projected claims less premium contributions for the next fiscal year. Expenses for health care for the fiscal year ended June 30, 2006 were \$158,751,207 and the net assets available for payment of health care benefits of \$295.6 million, which is about 221 percent of next year's projected net health care costs. The number of participants eligible to receive benefits was 59,492.

10. 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 general fund or other applicable funds. Such disallowed claims would have a material adverse effect on the overall financial position of the School at June 30, 2006.

B. State Funding

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 conclusion of this review has resulted in state funding being adjusted for fiscal year 2006. The adjustment to state funding for the School is an increase of \$34,850 for fiscal year 2006. This amount is included in the financial statements as an intergovernmental receivable.

C. State Contract

The School receives 100 percent of its operating income from the State of Ohio under the State Foundation program. Accordingly, the risk exists that the ability to continue the contract with the State of Ohio could affect the financial status of the School.

11. OPERATING LEASE:

The School leases its facilities from the Dayton Boys and Girls Club under an initial lease agreement beginning September 23, 2002 and ending June 30, 2005. This agreement was extended on a year to year basis effective July 1, 2005. The monthly lease payments during fiscal year 2006 were \$5,000. Total rental payments for fiscal year 2006 were \$60,000.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE BASIC FINANCIAL STATEMENTS
FOR YEAR ENDED JUNE 30, 2006
(Continued)**

12. OTHER PURCHASED SERVICES

During the fiscal year ended June 30, 2006, other purchased service expenses for services rendered by various vendors were as follows:

Professional & Technical Services	\$290,186
Tuition & Fees	122,887
Utilities & Communications	82,438
Facility Rental Payments	60,000
Property Maintenance	61,785
Educational Supplies	30,911
Advertising	14,062
Sponsor Fees	25,643
Various Contractual Payments	85,692
	<u>\$773,604</u>

13. SUBSEQUENT EVENTS

On December 22, 2006 the School purchased the facility in which it operates from the Dayton Boys and Girls Club. The total purchase price of the facility was \$425,000. To finance the purchase of the facility, the School obtained a mortgage loan from Fifth Third Bank totaling \$343,000 which is due on December 22, 2013. The remainder of the purchase was financed by issuing an \$82,000 promissory note to the Dayton Boys and Girls Club which will accrue no interest if monthly payments are made on a timely basis. If payments are not made on a timely basis, the note will become interest bearing at a rate of ten percent per annum on any unpaid balance.

On September 12, 2007, the Ohio Attorney General filed a complaint in Montgomery County Ohio Court of Common Pleas against New Choices Community School, its sponsor St. Aloysius Orphanage, and individual members of the School's governing authority. The Attorney General claimed that Ohio's community schools are charitable/public trusts over which he has regulatory power. The claim contends the School's academic and financial records establish that it is a failing charitable/public trust. Originally the complaint sought to close the School and distribute its assets. Subsequently, the complaint was amended to seek the removal of the School's governing authority as alternative relief. On September 25, 2008 the trial court granted the defendants' motion for judgment on the pleadings, dismissing all claims against the School, concluding that community schools are not charitable/public trusts over which the Attorney General has regulatory power. On October 24, 2008, the Attorney General appealed the trial court's decision to the Ohio Second Court of Appeals, filing a brief of appellant on March 3, 2009. Briefing in the appeal finished in May 2009. Oral argument was held on July 28, 2009. A decision is expected by the end of 2009.

14. RELATED PARTY

Mr. John Cloud, a School Board member, is also a partner with the School's attorney, Rogers & Greenberg L.L.P. There were no payments made to Mr. Cloud or his practice during the audit period.

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**NOTES TO THE BASIC FINANCIAL STATEMENTS
FOR YEAR ENDED JUNE 30, 2006
(Continued)**

15. MANAGEMENT'S PLAN FOR CONTINUED EXISTENCE

As shown in the accompanying financial statements, the New Choices Community School had a total accumulated deficit of \$251,558 as of June 30, 2006 which is primarily due to payables including intergovernmental payables. The School's long range plans are to decrease expenditures. This will be accomplished by eliminating the junior high, discontinuing the lease for the high school building, and controlling staffing levels as appropriate.

16. NONCOMPLIANCE

The School did not comply with requirements regarding the implementation of internal controls, remitting employee federal, state, local and pension withholdings, maintaining capital asset records, spending public money for a proper public purpose, maintaining public records, and bonding of the fiscal officer.



Mary Taylor, CPA

Auditor of State

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

New Choices Community School
Montgomery County
601 South Keowee Street
Dayton, Ohio 45410

To the Board of Directors:

We have audited the financial statements of the business-type activities of New Choices Community School, Montgomery County (the School) as of and for the year ended June 30, 2006, which collectively comprise the School's basic financial statements and have issued our report thereon dated September 1, 2009, wherein we noted that beginning balances were restated and that the School has incurred a working capital deficiency of \$273,494, an operating loss of \$730,632, and an accumulated deficit of \$251,558 for the year ended June 30, 2006, that raises substantial doubt about its ability to continue as a going concern. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Comptroller General of the United States' *Government Auditing Standards*.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the School's internal control over financial reporting as a basis for designing our audit procedures for expressing our opinion on the financial statements, but not to opine 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 would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider significant deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the School's ability to initiate, authorize, record, process, or report financial data reliably in accordance with its applicable accounting basis, such that there is more than a remote likelihood that the School's internal control will not prevent or detect a more-than-inconsequential financial statement misstatement.

We consider findings 2006-001 through 2006-008 and 2006-010 through 2006-013 described in the accompanying schedule of findings to be significant deficiencies in internal control over financial reporting.

A material weakness is a significant deficiency, or combination of significant deficiencies resulting in more than a remote likelihood that the School's internal control will not prevent or detect a material financial statement misstatement.

**Internal Control Over Financial Reporting
(Continued)**

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and accordingly, would not necessarily disclose all significant deficiencies that are also material weaknesses. We believe finding numbers 2006-001 through 2006-008 and 2006-010 through 2006-013, described above, are material weaknesses.

We also noted certain internal control matters that we reported to the School's management in a separate letter dated September 1, 2009.

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 audit and accordingly, we do not express an opinion. The results of our tests disclosed instances of noncompliance or other matters that we must report under *Government Auditing Standards* which are described in the accompanying schedule of findings as items 2006-001 through 2006-009, 2006-014 through 2006-017.

We also noted certain noncompliance or other matters that we reported to the School's management in a separate letter dated September 1, 2009.

The School's responses to the findings identified in our audit 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 management, the Board of Directors, and the Community School's sponsor. We intend it for no one other than these specified parties.



Mary Taylor, CPA
Auditor of State

September 1, 2009

**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**SCHEDULE OF FINDINGS
JUNE 30, 2006**

FINDINGS RELATED TO THE FINANCIAL STATEMENTS REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS
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FINDING NUMBER 2006-001

NONCOMPLIANCE FINDING AND MATERIAL WEAKNESS

Ohio Rev. Code Section 3314.03 (B)(5) and AOS Bulletin 2000-005 states that the management of each community school be responsible for the design and implementation of an internal control process that provides reasonable assurance of the integrity of its financial reporting, the safeguarding of assets, the efficiency and effectiveness of its operations, and its compliance with applicable laws, regulations and contracts. In designing its internal control process, management should consider policies and procedures that provide the following:

- Appropriate authorization and approval of transactions.
- Adequately design records to facilitate classification and summarization of transactions.
- Security of assets and records.
- Segregation of incompatible duties.
- Periodic reconciliations of account balances.
- Periodic verification of assets.

The School had weak controls over cash reconciliation, maintenance of records, posting to ledgers and support for cash revenues and disbursements. The School's Financial Report for 2006 contained errors which resulted in numerous reclassifications and adjustments to correctly report the financial activity during and at the end of the period as follows:

Statement of Net Assets/Accumulated Deficit:

- Cash and Cash Equivalents were overstated \$93,907;
- Intergovernmental Receivable was understated \$20,744;
- Capital Assets were overstated \$5,435;
- Accounts Payable was understated \$72,075;
- Accrued Wages were understated \$18,406;
- Intergovernmental Payable was overstated \$16,685;
- Line of Credit payable was understated \$20,000;
- Notes Payable was understated \$89,314;
- Invested In Capital Assets, Net of Related Debt was overstated \$5,435;
- Accumulated Deficit was understated \$261,708.

Statement of Revenues, Expenses and Changes in Accumulated Deficit:

- Salaries were understated \$13,960;
- Fringe Benefits were understated \$48,171;
- Purchased Services were understated \$68,651;
- Depreciation was overstated \$1,968;
- Federal Grants were understated \$20,744;
- State Grants were understated \$1,215;
- Other Revenue was understated by \$8,975;
- Interest and Fiscal Charges was understated \$64,751;
- Net Assets Beginning of Year was overstated \$99,077.

**FINDING NUMBER 2006-001
(Continued)**

Statement of Cash Flows

- Cash Payments for Goods and Services were understated by \$14,481;
- Cash Payments for Employees and Fringe Benefits was understated by \$107,256;
- Variances in the amount of \$1,215 and \$8,975 were noted for state grants and other non-operating revenues, respectively;
- Payments for Capital Acquisitions was overstated by \$2,360;
- Proceeds from Line of Credit for \$20,000 was added to Noncapital Financing Activities.

The School capitalized assets in fiscal year 2005 which were for carpet and floor cleaning expenses and for items that did not meet the capitalization threshold of \$500. These items should not have been capitalized. Beginning capital assets for fiscal year 2006 were restated by \$9,763 to remove these additions. In addition, the School adjusted a loan agreement between Eastway Corporation from \$434,365 to \$345,051, an \$89,314 decrease, without approval from Eastway Corporation thereby understating the beginning amount of notes payable for FY 2006. Beginning notes payable for fiscal year 2006 were restated by \$89,314 to correctly report the outstanding loan balance to Eastway Corporation. Both of these beginning balance adjustments had a negative effect on beginning net assets reducing it by \$99,077. The effect of these adjustments have been included in the amounts listed above.

In addition, several errors were noted in the Management Discussion and Analysis (MD&A) and the Notes to the Financial Statements. Adjustments to correct the significant errors above are reflected in the financial statements, MD&A and notes.

The School should design and implement the required control procedures including detailed timely reviews of these cycles. These reviews should be documented and reported to the Board as part of its regular meetings. This will allow management to provide accurate and timely financial information to the Board for decision making purposes. Procedures should be developed and implemented to provide for the integrity of the financial records. Additionally, the amounts in the financial statements, notes to the financial statements, and MD&A should be supported by the appropriate documentation.

Officials' Response:

All the transactions are recorded on the state software and a review of these are done monthly with the board utilizing the above reports.

All notes to the financial statements and MD&A are supported by documentation.

FINDING NUMBER 2006-002

NONCOMPLIANCE FINDING AND MATERIAL WEAKNESS

26 USC 3402 (a) states, in part 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.

The School withheld from employees, but did not remit to the United States Treasury, \$42,281 of federal income taxes. An adjustment was made to record this amount as an intergovernmental payable since it was not recorded by the School.

**FINDING NUMBER 2006-002
(Continued)**

The School should report all unpaid Federal tax remittances as intergovernmental payables, and additionally remit all federal income taxes withheld in a timely manner to the Internal Revenue Service. This would help reduce the possibility of a misstatement and additional expenditures to the School for fines imposed for late tax filings. This matter has been referred to the Internal Revenue Service for further investigation.

Officials' Response:

The School has remitted all unpaid 2006 federal payroll taxes to the IRS. The School has implemented a procedure for timely payments of all federal taxes.

FINDING NUMBER 2006-003

NONCOMPLIANCE FINDING AND MATERIAL WEAKNESS

26 USC 3102 (a) states 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 USC 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.

The School failed to remit the employee and employer portions of Medicare taxes to the United States Treasury totaling \$20,454. An adjustment was made to report this amount as an intergovernmental payable since it was not recorded by the School on the financial statements.

The School should book all unpaid Medicare remittances as intergovernmental payables, and additionally remit all Medicare taxes withheld in a timely manner to the Internal Revenue Service. This would help reduce the possibility of a misstatement and additional expenditures to the School for fines imposed for late tax filings. This matter has been referred to the Internal Revenue Service for further investigation.

Officials' Response:

The School has remitted all unpaid 2006 Medicare taxes to the IRS. The School has implemented a procedure for timely payments of all Medicare taxes.

FINDING NUMBER 2006-004

NONCOMPLIANCE FINDING AND MATERIAL WEAKNESS

Ohio Rev. Code Section 5747.06(A) states, in part, that except as provided in division (E)(3) of this section, 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.

The School withheld Ohio Income Tax from employees but did not remit it to the Ohio Department of Taxation in the amount of \$11,899. An adjustment was made to report this amount as an intergovernmental payable since it was not recorded as one by the School.

**FINDING NUMBER 2006-004
(Continued)**

The School should report all unpaid Ohio Department of Taxation remittances as intergovernmental payables, and additionally remit all state income taxes withheld in a timely manner to the Ohio Department of Taxation. This would help reduce the possibility of a misstatement and additional expenditures to the School for fines imposed for late tax filings. This matter has been referred to the Ohio Department of Taxation for further investigation.

Officials' Response:

The School has remitted all unpaid 2006 state income taxes to the Ohio Department of Taxation. The School has implemented a procedure for timely payments of all state income taxes.

FINDING NUMBER 2006-005

NONCOMPLIANCE FINDING AND MATERIAL WEAKNESS

Section 36.105(A) of the City of Dayton Income Tax Ordinance No. 30519-06 states that each employer within, or doing business within, the city who employs one or more persons shall deduct city income tax from qualifying wages paid to a taxpayer for work done or services performed or rendered in the city by the taxpayer... The employer shall deduct city income tax at the time such qualifying wages are paid, allocated, apportioned or set aside, and the employer shall deduct city income tax on such qualifying wages at the rate provided in Section 36.103. Except as provided in Section 36.105(D), on or before the fifteenth (15th) day of the month following such withholding, the employer shall make a return and pay to the Tax Administrator the amount of city income taxes so deducted from such qualifying wages.

The School withheld city income taxes from employees but did not remit it to the City of Dayton in the amount of \$10,329. An adjustment was made to report this amount as an intergovernmental payable since it was not recorded as one by the School.

The School should book all unpaid City of Dayton income tax remittances as intergovernmental payables, and additionally remit all city income taxes withheld in a timely manner to the City of Dayton. This would help reduce the possibility of a misstatement and additional expenditures to the School for fines imposed for late tax filings. This matter has been referred to the City of Dayton for further investigation.

Officials' Response:

The School has remitted all unpaid 2006 City of Dayton income taxes to the City of Dayton Department of Taxation. The School has implemented a procedure for timely payments of all City of Dayton income taxes.

FINDING NUMBER 2006-006

NONCOMPLIANCE FINDING AND MATERIAL WEAKNESS

Ohio Rev. Code Section 3307.26 states, in part, that each teacher shall contribute eight 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.

The School withheld State Teachers Retirement System (STRS) pension withholdings from employees but did not remit them to STRS. As of June 30, 2006, the School owed STRS employee withholdings in the amount of \$6,496. An adjustment was made to book this amount as an intergovernmental payable since it was not recorded by the School on the financial statements.

**FINDING NUMBER 2006-006
(Continued)**

The School should book all unpaid STRS remittances as intergovernmental payables, and additionally remit all STRS pension amounts withheld in a timely manner to the STRS. This would help reduce the possibility of a misstatement and additional expenditures to the School for fines imposed for late pension filings. This matter has been referred to STRS for further investigation.

Officials' Response:

The School has remitted all unpaid 2006 STRS pension amounts to STRS. The School has implemented a procedure for timely payments of all STRS pension amounts.

FINDING NUMBER 2006-007

NONCOMPLIANCE FINDING AND MATERIAL WEAKNESS

Ohio Rev. Code Section 3309.47 states, in part, that each school employee's retirement contributor shall contribute eight percent of the contributor's compensation to the employees' savings fund, except that the school employees retirement board may raise the contribution rate to a rate not greater than ten percent of compensation. The contributions by the director of the school employees' retirement board shall be deducted by the employer from the compensation of each contributor on each payroll of such contributor for each payroll period and shall be an amount equal to the required percent of such contributor's compensation.

Ohio Rev. Code Section 3309.49 states that each employer shall pay to the School Employees' Retirement System (SERS) an amount certified by the secretary that shall be a certain percent of the earnable compensation of all employees, and shall be known as the "employer contribution."

The School withheld SERS pension withholdings from employees but did not remit them to SERS. As of June 30, 2006, the School owed SERS employee withholdings in the amount of \$6,381. An adjustment was made to book this amount as an intergovernmental payable since it was not recorded by the School on the financial statements. SERS records indicated that the School owed \$1,186. This is a variance of \$5,195.

The School should book all unpaid SERS remittances as intergovernmental payables, and additionally remit all SERS pension amounts withheld in a timely manner to SERS. This would help reduce the possibility of a misstatement and additional expenditures to the School for fines imposed for late pension filings. This matter has been referred to SERS for further investigation.

Officials' Response:

The School has remitted all unpaid 2006 SERS pension amounts to SERS. The School has implemented a procedure for timely payments of all SERS pension amounts.

FINDING NUMBER 2006-008

NONCOMPLIANCE FINDING AND MATERIAL WEAKNESS

Ohio Admin. Code Section 117-2-02(D)(4)(c) states, in part, that 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 following:

FINDING NUMBER 2006-008
(Continued)

- Capital asset records including such information as the original cost, acquisition date, voucher number, the asset type (land, building, vehicle, etc.), asset description, location, and tag number. Local governments preparing financial statements using generally accepted accounting principles will want to maintain additional data. Capital assets are tangible assets that normally do not change form with use and should be distinguished from repair parts and supply items.

The School had not developed and implemented a Board approved capital asset policy to address asset capitalization issues, and procedures to account for additions and deletions of capital assets throughout the year. In addition, the School did not have a capital asset accounting system which maintained a total capital asset listing and other supplemental information for the School's asset inventory, nor did the School perform periodic physical inventories of the capital assets. The School's capital asset listing was prepared by the GAAP conversion team. This listing was updated during the GAAP conversion. Failure to obtain timely records or employ adequate controls over the acquisition and disposal of capital assets could result in misappropriation of assets and misstatements of recorded assets.

Additionally, a review of the School's capitalized assets revealed that four items capitalized in fiscal year 2005 were for carpet and floor cleaning services which are not assets and some furniture purchases that did not exceed \$500. These expenditures should not have been capitalized. Also there were three items that were not recorded by the School as capital assets. These included a color LaserJet printer, a projector and a laptop. An adjustment in the amount of \$9,763 was made to restate the beginning balance for capital assets to remove assets previously recorded that should not have been capitalized. In addition, an adjustment in the amount of \$2,360 was made to record three assets that were not capitalized by the School.

To assist the School in maintaining adequate controls over its capital assets, and reduce the risk that the School's capital assets will be materially misstated, the Governing Board should develop and implement appropriate capital asset policies and procedures to be performed throughout the year for the timely maintenance of capital asset records. At a minimum, these policies and procedures should address capitalization issues and establishing a capitalization threshold; tagging and recording of purchased assets meeting the School's established capitalization threshold; accounting for asset additions and deletions; performance of an annual physical inventory of capital assets and reconciliation to asset records; computing of periodic depreciation; and asset disposal procedures. Capital asset records should include such information as a description of the item, the cost, the acquisition date, location, tag number, and any other supporting information. Reasonable estimated lives for assets should also be developed and used in the periodic depreciation of assets.

The School should also develop and maintain a capital asset accounting system which accurately represents all capital assets owned by the School. The system should be capable of maintaining a complete asset inventory indicating asset tag number; location; date acquired, cost, manufacturer, model and serial number, and the estimated useful life.

Implementation of a comprehensive capital asset accounting system will allow the Board to use accurate information in decision making procedures, including replacement of items, and give an accurate accounting for annual depreciation and maintenance expenses. Further, accurate records will increase the School's ability to secure recovery in the event of the loss of assets.

**FINDING NUMBER 2006-008
(Continued)**

Officials' Response:

The School has adopted a capital asset accounting system which will accurately represent all capital assets owned by the School. The system will be capable of maintaining a complete asset inventory indicating asset tag number; location; date acquired, cost, manufacturer, model and serial number, and useful life.

The Board has developed and implemented appropriate capital asset policies and procedures to be performed throughout the year for the timely maintenance of capital asset records.

FINDING NUMBER 2006-009

NONCOMPLIANCE FINDING

Ohio Attorney General Opinion 82-006, addresses the expenditure of funds for proper public purposes. This opinion, citing Ohio Supreme Court case of State ex rel. McClure v. Hagerman, 155 Ohio St. 320 (1951), provides guidance as to what may be construed as a public purpose. First, the expenditure is required for the general good of all inhabitants. As stated in McClure, "generally, a public purpose has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants..." Id. At 324. Second, the primary objective of the expenditure is to further a public purpose, even if an incidental private end is advanced.

Penalties, late fees and sales taxes do not further a public purpose and related expenditures are not considered as proper public purpose.

- The School paid \$802 in late fees for not paying 13 invoices in a timely manner.
- The School owed \$64,751 in penalties and late fees to the IRS for not reporting quarterly payroll amounts in a timely manner and not remitting all employee federal tax and Medicare withholdings.

Policies should be developed and procedures implemented to verify the School's compliance with various reporting requirements and steps should be implemented to verify that all payments are made on time. This will also reduce the penalties, fines and fees assessed against the School and will limit the expenditure of tax dollars for furtherance of a public purpose.

Several employees were reimbursed for expenses on handwritten expense receipts for pool supplies, beverages for students, school tools, office supplies, student work, and student bus money.

The School's failure to require and maintain adequate support for expenditures could result in a loss of accountability over the School's finances and possibly result in expenditures that are not for a proper public purpose.

Policies and procedures should be developed and implemented to require employees submit original sales receipts for store purchases, and payment to students should have prior board approval and be properly documented.

Officials' Response:

Policies and procedures have been implemented to verify the School's compliance with various reporting requirements and steps have been implemented to verify that all payments are made on time. All reimbursement payments are reviewed for such expenses as alcohol and sales taxes to make certain these will not be reimbursed.

FINDING NUMBER 2006-010

MATERIAL WEAKNESS

School Accounting Records

The School utilized manual spreadsheets to record accounting transactions. The following errors were noted during testing of receipts and disbursements:

A. Posting Financial Activity

Fringe benefit expenditures were overstated on the School's financial statements by \$36,513, purchased service expenditures were understated \$16,452, and cash was understated \$20,061. These variances were due to posting expenditures to the incorrect line items, not posting bank fee and revolving loan interest transactions, and using manual records that did not total correctly. Adjustments were made to the financial statements to correct these variances.

State breakfast and lunch revenues of \$1,215 were not recorded by the School and \$336 of State lunch revenues were miss-posted as Federal Grant Revenue and \$391 of State breakfast revenues were miss-posted as State Foundation Revenue. An adjustment was made to the financial statements to book the unrecorded State Grant Revenue.

Gross payroll reported by the School was overstated \$2,221 due to manually voiding four system transactions without voiding the original transaction in the system, by issuing two manual payroll checks and not posting them to the system and by not paying the correct net pay for two employees as recorded in the system. The School also failed to post nine manual payroll withholding checks to the system totaling \$15,204. It was also determined that the School posted \$4,470 of employee health insurance premiums as both Salaries and Fringe Benefits. Adjustments were made to the financial statements to correct these variances.

B. Posting Errors

The School inaccurately posted 63 check numbers to the accounting system. Two checks were for non-payroll transactions and 61 checks were for payroll transactions. For example, check #6306 was posted as #9306 and check #5713 cleared the bank as check #6170.

C. Variances between invoice amounts and payment amounts

The School did not pay the amount reflected on the supporting invoice(s) nine times during the fiscal year. Two of these instances resulted in overpayments of \$14 and seven of these instances resulted in underpayments of \$288. There was no indication provided as to why the different amount was paid.

D. Duplicate Payments

The School paid \$16,848 on 29 invoices that had previously been paid for by the School on an earlier check. These duplicate payments were credited by the vendor on future invoices or were returned to the School by the vendor in the form of a check.

E. Detailed Receipts

The School reimbursed four employees \$416, on nine different occasions, for expenditures incurred on behalf of the School. However, detailed supporting documentation was not provided to the School. Five of these instances were supported by a credit card slip rather than the actual detailed receipt and four of these instances were supported only by a write up of the expense indicating who the money was paid to and what it was for.

**FINDING NUMBER 2006-010
(Continued)**

Inaccurate / untimely posting of financial activity and failure to use corresponding numbers, could result in errors and omissions not being detected in a timely manner and cause difficulties when completing monthly cash reconciliations. Detailed supporting records should be required by the School for all payments to document who was benefited, what was purchased and determine if the expense was for a proper public purchase. Making duplicate payments or paying invoices at the incorrect amount can cause cash flow problems and reduces the amount of funding available to earn interest or to pay off other expenses.

To improve internal controls over the accounting process, the School should develop and implement procedures (including oversight) to verify that all financial activity is paid and posted in an accurate and timely manner and that all checks, electronic transactions and memo expenditures are printed on the correct paper check or posted with the correct number. The School management should familiarize itself on the USAS coding system to help prevent/detect improper classification of receipts in posting. Also, the School received its funds from the State via EFT; the amount should be posted to the books after it has been noted as being received on the bank statements and confirmed to the Electronic Fund Transfer information through the Sate's OAKS system at <http://www.oaks.ohio.gov/remitlookup/>. Proper coding and timely/accurate posting of activity should provide improved information for financial decision making.

Officials' Response:

All posting of financial activity is monitored monthly with meetings that include the accounts payable person, the Treasurer and the CEO. All receipt postings are verified with the OAKS system payment detail. Payments of invoices are made as timely as cash will allow. Payroll processing is verified by the CEO and the Treasurer.

FINDING NUMBER 2006-011

MATERIAL WEAKNESS

Management Risk Assessment Process

Management should establish a risk assessment process to identify internal and external events and circumstances that may occur and adversely affect an entity's ability to record, process, summarize and report financial data consistent with management's financial statement assertions. Risk assessment differs from monitoring controls. Monitoring controls primarily address the continued effective operation of application controls. Risk assessment includes:

- Identifying unusual events or transactions, or changes in laws or accounting principles or other financial reporting requirements.
- Analyzing how these events or transactions affect financial reporting
- If the event or transaction will be recurring, determining modifications to the accounting systems or control activities to help assure properly including and reporting these matters in the financial statements.

The School did not maintain accurate financial records or prepare accurate monthly reconciliations during the audit period. In performing the year-end cash reconciliation, the Treasurer noted several differences between transactions posted to the books and actual transactions. To correct this issue, the Treasurer made two large cash adjustments, one in the amount of \$182,416 to revenue and another in the amount of \$88,455 to expenditures; however, no documentation was maintained to support these adjustments. Additionally, the School originally failed to prepare year-end financial statements for fiscal year 2006. The School did not have a risk assessment process working effectively that could have identified the problems in processing and reporting financial information.

**FINDING NUMBER 2006-011
(Continued)**

The School should establish an effective risk assessment process that is capable of identifying events or transactions that might adversely affect the School's ability to record, process, summarize and report financial data consistent with the management's financial statement assertions. Failure to do so could result in problems associated with management's financial statement assertions going unnoticed.

Officials' Response:

All cash reconciliation's are done by the accounts payable person and reviewed by the Treasurer and CEO. The management reports are part of the monthly board reports and reviewed by the Treasurer.

FINDING NUMBER 2006-012

MATERIAL WEAKNESS

Reporting Loan Payable on Financial Statements

The School entered into a line of credit agreement with Fifth Third Bank for an available credit of \$35,000. In February 2006, the School borrowed \$20,000; however, the School did not record the receipt of the loan and the outstanding loan balance at June 30, 2006 was not reported as a liability. This resulted in incorrect posting of loans. An adjustment was made to the financial statements to record the revenue and liability.

The School should develop and implement policies and procedures for timely posting of loan revenue to the accounting ledgers and financial statements. In addition, a GAAP policy and should be established and implemented for determining the loan payable amount to use in preparation of the financial statements to correctly report the financial activity of the School.

Officials' Response:

All loan revenues will be posted to the correct account. No loan revenue has been receipted in the past two years.

FINDING NUMBER 2006-013

MATERIAL WEAKNESS

Understatement of Eastway Corporation Loan Payable

The Board entered into a debt agreement on January 12, 2005, for \$434,365 with the Eastway Corporation (Eastway), the School's former management company, for the liquidation of amounts still payable to Eastway as of June 30, 2004. The Board approved a resolution on February 2, 2006, retroactive to the original debt agreement date to amend the amount to \$345,051, however, this amendment was not approved by Eastway. An adjustment was made to the financial statements to reflect the correct beginning balance of the loan payable.

The School should implement procedures so that Eastway Corporation Loan Payable is properly recorded and reflected on the financial statements. Additionally, the School should remit the remaining amount of the loan.

Officials' Response:

No response was received for this finding.

FINDING NUMBER 2006-014

NONCOMPLIANCE FINDING

Ohio Rev. Code Section 3314.011 states, in part, that every community school established under this chapter shall have a designated fiscal officer. The auditor of state may require by rule (see OAC 117-6-07 below) that the fiscal officer of any community school, before entering upon duties as the fiscal officer of the School, execute a bond in an amount and with surety to be approved by the governing authority of the School, payable to the state, conditioned for the faithful performance of all the official duties required of the fiscal officer. Any such bond shall be deposited with the governing authority of the School, and a copy thereof, certified by the governing authority, shall be filed with the county auditor.

Additionally, **Ohio Admin. Code Section § 117-6-07 (B)** requires a community school fiscal officer execute a bond prior to entering upon the duties of the fiscal officer. The governing authority prescribes the bond amount and surety by resolution.

The School did not execute a bond for the Treasurer. Additionally the bond amount was not approved by the Board. This could result in the School assuming unnecessary liability. The School should implement procedures to verify that the appointed fiscal officer is bonded, and the amount of the bond is adequate for the cash flows of the School. The policy should also include an annual renewal of the executed bond.

Officials' Response:

The bond for the Treasurer is executed and put in place by Charter School Specialists for the Treasurer that has served the School since September, 2007.

FINDING NUMBER 2006-015

FINDINGS FOR RECOVERY - PAYROLL OVERPAYMENTS

Kim Ballenger Russell's employment contract as a classroom aide was for the term July 1, 2005 thru June 30, 2006. Kim Ballenger Russell was paid \$2,719.20 for 3 pay periods after the end of the contract term however records document \$2,356.64 was approved resulting in an overpayment in the total amount of \$362.56.

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 Kim Ballenger Russell in the amount of \$362.56 in favor of the New Choices Community School.

Terrence Clay's employment contract as a classroom aide was for the term July 1, 2005 thru June 30, 2006. Terrence Clay was paid \$2,966.40 for 3 pay periods after the end of the contract term for which no documentation was provided resulting in an overpayment in the total amount of \$2,966.40.

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 Terrence Clay in the amount of \$2,966.40 in favor of the New Choices Community School.

Micheline Drugmand-DeWitt's employment contract as a classroom aide was for the term July 1, 2005 thru June 30, 2006. Micheline Drugmand-DeWitt was paid \$3,909.60 for 3 pay periods after the end of the contract term for which no documentation was provided resulting in an overpayment in the total amount of \$3,909.60.

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 Micheline Drugmand-DeWitt in the amount of \$3,909.60 in favor of the New Choices Community School.

**FINDING NUMBER 2006-015
(Continued)**

Gertrude Edwards' employment contract as a teacher executed on January 23, 2006 stated that she was to be paid a daily rate of \$223.40 for 94 days which totaled \$20,999 to be paid in equal installments for the 2005/2006 school year. The Treasurer issued Ms. Edwards an unrecorded manual payroll check for the pay period ending February 10, 2006 but all subsequent payroll payments were issued as direct deposits. When inputting Ms. Edwards' contract information into the payroll system, the manual payment was not accounted for giving Ms. Edwards one extra pay resulting in an overpayment in the amount of \$2,333.

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 Gertrude Edwards in the amount of \$2,333 in favor of the New Choices Community School.

Cheryl Heflin's employment contract for educational and speech services states that she was to be paid \$100 per day based on two days per week for the 2005/2006 school year. Numerous pay periods were noted where Ms. Heflin's time card indicated that Ms. Heflin worked but she did not receive a paycheck or she received payment in excess of the days reflected on her time card. For the days worked that were not paid, the School paid out the wages on a subsequent payroll. Where she was overpaid, Ms. Heflin worked subsequent pay periods without pay. However, the total amount paid did not agree with the total days worked resulting in an overpayment in the total amount of \$550.

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 Cheryl Heflin in the amount of \$550 in favor of the New Choices 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. Vill. 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.

Accordingly, a Finding for Recovery for public monies illegally expended is hereby issued against the estate of former treasurer Donald Paolo, jointly and severally, in the amount of \$10,121.56. The estate of Donald Paolo shall be liable for such illegal expenditures to the extent that recovery or restitution is not obtained from, Kimberly Ballinger Russell, Terence Clay, Micheline Drugmand-Dewitt, Gertrude Edwards, and Cheryl Heflin.

Officials' Response:

No response was received for this finding.

FINDING NUMBER 2006-016

FINDINGS FOR RECOVERY – LACK OF SUPPORTING DOCUMENTATION

Ohio Revised 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 149.351 (A) states, in pertinent part, that all records are the property of the public office concerned and shall not be removed, destroyed, mutilated, transferred, or otherwise damaged or disposed of, in whole or in part, except as provided by law or under the rules adopted by the records commissions provided for under Sections 149.38 to 149.42 of the Revised Code.

Non-payroll expenditure testing resulted in numerous unexplained expenditures with lack of proper supporting documentation. As a result, our office could not determine if these expenditures were for a proper public purpose. It was also noted that an employee was reimbursed for expenditures not considered a proper public purpose.

Auditor of State Bulletin 2003-005 states that government entities may not make expenditures of public monies unless they are for a valid public purpose. The Bulletin addresses the requirements necessary to ensure that an entity's expenditure of public funds is for a proper public purpose.

Further, Ohio Attorney General Opinion 82-006 addressed the expenditure of funds for public purposes. This opinion, citing the Ohio Supreme Court case *State ex rel. McClure v. Hagerman, 155 Ohio St. 320 (1951)*, states that expenditures made by a governmental unit should serve a public purpose.

The School's failure to require and maintain adequate support for expenditures could result in a loss of accountability over the School's finances, make it difficult to identify errors which could go undetected and possibly result in expenditures that are not for a proper public purpose. The following unexplained payments were made:

Payment to Donald Paolo:

<u>Date</u>	<u>Check Number</u>	<u>Vendor</u>	<u>Amount on Check Not Supported</u>	<u>Reason for Finding</u>
8/4/2005	6182	Donald Paolo	\$583.33	Lack of supporting documentation

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 the estate of Donald Paolo in the amount of \$583.33 in favor of the New Choices Community School.

Payment to Gary Hardman:

<u>Date</u>	<u>Check Number</u>	<u>Vendor</u>	<u>Amount on Check Not Supported</u>	<u>Reason for Finding</u>
6/9/06	6789	Gary Hardman	\$89.05	Lack of supporting documentation

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 Gary Hardman in the amount of \$89.05 in favor of the New Choices Community School.

**FINDING NUMBER 2006-016
 (Continued)**

Payment to Eric Smith:

<u>Date</u>	<u>Check Number</u>	<u>Vendor</u>	<u>Amount</u>	<u>Reason for Finding</u>
6/21/06	6828	Eric Smith	\$ 600.00	Lack of supporting documentation
6/29/06	6842	Eric Smith	2,000.00	Lack of supporting documentation
		Total	\$2,600.00	

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 Eric Smith in the amount of \$2,600 in favor of the New Choices 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. Vill. 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.

Accordingly, a Finding for Recovery for public monies illegally expended is hereby issued against the estate of former treasurer Donald Paolo, jointly and severally, in the amount of \$2,689.05. The estate of Donald Paolo shall be liable for such illegal expenditures to the extent that recovery or restitution is not obtained from Gary Hardman and Eric Smith.

Officials' Response:

No response was received for this finding.

FINDING NUMBER 2006-017

FINDING FOR RECOVERY – REIMBURSEMENTS

Ohio Attorney General Opinion No. 82-006 addresses the expenditure of funds for public purposes. This opinion, citing the Ohio Supreme Court case of *State ex rel. McClure v. Hagerman (1951)*, 155 Ohio St. 320, provides that the primary objective of an expenditure of public funds 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 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 Bulletin further states that the Auditor of State’s Office does not view the expenditure of public funds for alcoholic beverages as a proper public purpose and will issue findings for recovery for such expenditure as manifestly arbitrary and incorrect.

On July 15, 2005 Mary Goodwin was reimbursed the amount of \$98.26 with check # 6137 - \$15.94 for alcohol expenses and \$82.32 for gasoline reimbursement when mileage allowance was also paid to Ms. Goodwin.

**FINDING NUMBER 2006-017
(Continued)**

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 Mary Goodwin in the amount of \$98.26 in favor of the New Choices 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 such expenditure. *Seward v. National Surety Co.* (1929), 120 Ohio St. 47; 1980 Op. Att'y Gen. No. 80-074; Ohio Rev. Code Section 9.39; *State, ex rel. Village of Linndale v. Masten* (1985), 18 Ohio St. 3d 228.

Accordingly, a Finding for Recovery for public monies illegally expended is hereby issued against the estate of former treasurer Donald Paolo, jointly and severally, in the amount of \$98.26. The estate of Donald Paolo shall be liable for such illegal expenditures to the extent that recovery or restitution is not obtained from Mary Goodwin.

Officials' Response:

No response was received for this finding.

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**NEW CHOICES COMMUNITY SCHOOL
MONTGOMERY COUNTY**

**SCHEDULE OF PRIOR AUDIT FINDINGS
JUNE 30, 2006**

Finding Number	Finding Summary	Fully Corrected?	Not Corrected, Partially Corrected; Significantly Different Corrective Action Taken; or Finding No Longer Valid; <i>Explain</i>
2005-001	26 U.S.C. 3401 – 3406, 26 C.F.R. 1.6041-2 & ORC Sec. 5747.06 - Failure to file employees wages of the school under the schools own Employer Identification Number.	Yes	Corrected.
2005-002	26 U.S.C. 3402 (a) - Failures to remit federal income taxes withheld from employee wages.	No	Not Corrected – Repeated as finding 2006-002.
2005-003	26 U.S.C. 3102 (a) - Failure to remit Medicare taxes withheld from employee wages.	No	Not Corrected - Repeated as finding 2006-003.
2005-004	ORC Sec. 5747.06 - Failure to remit State Taxes withheld from employee wages.	No	Not Corrected - Repeated as finding 2006-004.
2005-005	36.104 (A) of the City of Dayton Income Tax Ordinance - Failure to remit City taxes withheld from the employee wages.	No	Not Corrected – Repeated as finding 2006-005 citing 36.105(A) of the City of Dayton Income Tax Ordinance.
2005-006	Ohio Rev. Code 3314.10 and 3307.26 - Failure to remit STRS withholdings from the employees wages.	No	Not Corrected – Repeated as finding 2006-006.
2005-007	Ohio Rev. Code 3314.10 and 3309.47 - Failure to remit SERS withholdings from the employees' wages.	No	Not Corrected – Repeated as finding 2006-007.
2005-008	Ohio Rev. Code 149.351 - Failure to retain all supporting documentation for receivables and expenditures.	No	Not Corrected – Repeated as finding 2006-016.
2005-009	Failure to enter into agreement to expend monies for loan to Eastway.	No	Not Corrected – Repeated as finding 2006-013.
2005-010	Failure to adopt a Capital Assets Policy.	No	Not Corrected – Repeated as finding 2006-08.
2005-011	AoS Bulletin 2000-005 - Failure to prepare annual financial report in accordance with GAAP.	No	Not Corrected – Repeated as a management letter citation.



Mary Taylor, CPA
Auditor of State

**NEW CHOICES 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
DECEMBER 8, 2009**