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# Audit Report

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New York City Montessori Charter School

For the Period

July 1, 2014 through June 30, 2015

CH-0116-01

December 16, 2016

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**The University of the State of New York**  
**THE STATE EDUCATION DEPARTMENT**  
**Office of Audit Services**  
**Albany, New York 12234**



December 16, 2016

Mr. Rory Cohen  
Chair, Board of Trustees  
New York City Montessori Charter School  
423 East 138<sup>th</sup> Street  
Bronx, NY 10454

Dear Mr. Cohen:

The following is our final audit report (CH-0116-01) on New York City Montessori Charter School for the period July 1, 2014 through June 30, 2015. The audit was conducted pursuant to Section 215 of the Education Law.

Ninety days from the issuance of this report, School officials will be asked to submit a report on actions taken as a result of this audit. This required report will be in the format of a recommendation-implementation plan and it must specifically address what action has been taken on each audit recommendation.

I appreciate the cooperation and courtesies extended to the staff during the audit.

Sincerely,

Thalia J. Melendez

Attachments

c: M. Elia, E. Berlin, S. Cates-Williams, B. Cechnicki, D. Frank, I. Schwartz, B. Johnson, C. Coughlin, J. Conroy (DOB), J. Dougherty (OSC), R. Dunn (NYCDOE), A. Hayes (Principal)

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# Executive Summary

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## Background and Scope of the Audit

The New York City Montessori Charter School (Montessori) is located in Bronx, New York. Montessori's Charter was approved on December 14, 2010 and the school began operating in September 2011. Montessori is responsible for providing educational services to students in kindergarten through fourth grade. Its mission is that the school "will empower children to be critical thinkers and creative problem solvers with strong social skills so that they can succeed in their world and continue to learn in their pursuit of higher education as they prepare for careers needed in the 21st Century."

During the 2014-15 school year, Montessori had a total enrollment of 266 students, of which 62 received special education services. Total revenue and support for this period totaled \$5,238,776 and revenue directly related to special education was \$709,492. The Office of Audit Services audited select management practices, records, and documentation for the period July 1, 2014 through June 30, 2015 related to the special education program. The objectives of this audit were to ensure that special education students received the services as defined by their Individual Education Plans (IEP) and Montessori had properly billed for those services.

## Audit Results

The audit found that Montessori has many of the necessary controls in place to administer its special education program adequately, but identified improvement opportunities in several areas. Some key improvement opportunities are noted below.

- Montessori did not ensure that all special education students with an IEP received an annual review.
- Montessori placed 11 special education students in classroom settings that were not part of their IEP. Furthermore, these IEPs were not appropriately amended to reflect the change in classroom settings.
- Montessori overbilled the New York City Department of Education for \$87,134 during the audit period.
- Nine students received special education instruction from teachers who were not certified in special education by New York State.
- Montessori has not made its Annual Report publically available on its website.
- Montessori does not have policies and procedures that are readily available to staff for guidance.

## Comments of School Officials

Montessori officials' comments about the findings and conclusions were considered in preparing this report. Their response is included as Appendix B.

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# Introduction

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## Background

The New York City Montessori Charter School (Montessori) is located in Bronx, New York. Montessori's Charter was approved on December 14, 2010 and the school began operating in September 2011. Montessori is responsible for providing educational services to students in kindergarten through fourth grade. Its mission is that the school "will empower children to be critical thinkers and creative problem solvers with strong social skills so that they can succeed in their world and continue to learn in their pursuit of higher education as they prepare for careers needed in the 21st Century."

During the 2014-15 school year, Montessori had a total enrollment of 266 students, of which 62 received special education services. Total revenue and support for this period totaled \$5,238,776 and revenue directly related to special education was \$709,492.

## Objectives, Scope, and Methodology

The Office of Audit Services audited select management practices, records, and documentation for the period July 1, 2014 through June 30, 2015 related to the special education program. The objectives of this audit were to ensure that special education students received the services as defined by their Individual Education Plans (IEP) and Montessori had properly billed for those services.

To accomplish our objectives, we reviewed applicable laws, regulations, policies and procedures, and Montessori's Charter; interviewed State Education Department (Department) and Montessori management and staff; examined records and supporting documentation; and reviewed its audited financial statements.

We conducted our compliance audit in accordance with modified Generally Accepted Government Auditing Standards (GAGAS). GAGAS standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. In addition, GAGAS requires a review performed by a team of external peers, independent of the audit organization, at least every three years. Because of recent changes in administrative personnel, however, an external peer review was inadvertently not conducted. An internal “Red Book” review pursuant to the International Standards for the Professional Practice of Internal Auditing Standards was conducted. It is contemplated that both an updated internal review and external peer review will be performed within the next year. We feel that not having an external audit peer review has had no material effect on the assurances provided.

## Comments of School Officials

Montessori officials' comments about the findings were considered in preparing this report. Their response is included as Appendix B to this report.

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# Individualized Education Programs

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Special education programs and services are to be provided to students with a disability attending a charter school in accordance with an Individualized Education Program (IEP). An IEP is a recommendation of special education programs and related services that meet the unique educational needs of a student with a disability. The individual needs of a student are determined by a committee on special education (CSE) with consideration of the present levels of performance and expected learning outcomes of the student. The needs of the student determine the basis for the IEP.

The audit found that Montessori has many of the necessary controls in place to administer its special education program adequately, but identified improvement opportunities in several areas. We found that not every student had an annual review of their IEPs during the audit period and that students were placed in classrooms settings that were not part of their IEPs.

## Annual Reviews

The Commissioner's Regulations states that the IEP of each student with a disability be reviewed and, if appropriate, revised periodically, but not less than annually. The purpose of the review is to determine whether the student's needs are being met and if the student is on track to meet their annual goals. The review process allows for services to be added to or removed from the IEP; changes to the student's classroom environment, if needed; and revisions to the IEP to include all services deemed necessary for the student.

During the 2014-15 school year, Montessori billed the New York City Department of Education (NYCDOE) for 62 special education students. We determined that each of the 62 students had an IEP and received services at Montessori. However, upon examination of the students' IEPs, we found that ten students did not have an annual review during the audit year. Montessori officials said that they did not follow up with CSEs ensuring that all 62 special education students had current IEPs because they believed that IEPs remained in effect until the CSE issues a new one. When IEPs are not

reviewed annually, special education services may not be in line with the current goals for the student.

## Student Placement

Education Law states that special education programs and services are provided to students with a disability attending a charter school in accordance with the IEP recommended by the CSE of the student's school district of residence.

In addition, Commissioner's Regulations state that students with disabilities are to be provided special education in the least restrictive environment to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate.

We found that 11 students were placed in classrooms that were not recommended on their IEPs. Five students' IEPs recommended an Integrated Co-Teaching (ICT) special education setting and one student's IEP recommended Special Education Teacher Support Services (SETSS), but all six students were placed in a 12:1:1 special education classroom. A 12:1:1 special education classroom is one with 12 special education students, one teacher, and one teacher assistant. We also found five additional students who had IEPs that recommended SETSS, but they were placed in an ICT class. Montessori placed these students in classroom settings that were not recommended on their IEPs and without their IEPs being appropriately amended. Based on our observations, these students may not have received special education services in a least restrictive environment. As a result, these special education students are not receiving special education services as recommended on their IEPs in violation of Education Law.

## *Recommendations*

1. Follow up with CSEs to ensure that all special education students with an IEP have a review annually.
2. Ensure that all special education students are placed in classroom settings as noted on their IEPs.
3. If it is determined that a special education student requires services other than those stated on their IEP, Montessori should ensure that the IEP is revised.



4. Ensure that students receive their special education services in the least restrictive environment.

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# Special Education Billing

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Montessori provides special education services to some students and bills NYCDOE, the home district, based on the amount of time the services make up for each week of school. For example, for a student who receives less than 300 minutes per week of special education services, nothing is billed. For a student who receives between 300 and 899 minutes of special education services per week, NYCDOE is billed \$10,390 annually for 1.0 Full-Time-Equivalents (FTE) and for a student who receives greater than or equal to 900 minutes per week, NYCDOE is billed \$19,049 annually for 1.0 FTE.

We found that Montessori inappropriately overbilled NYCDOE for special education services provided by consultants or for students without an IEP.

## Overbilling

Education Law states that special education programs and services are to be provided to students with a disability attending a charter school in accordance with the IEP recommended by the CSE. The charter school may arrange to have these services provided by the home school district, the charter school directly, or contract with another provider.

We examined the bills Montessori submitted to NYCDOE for payment and found that Montessori overbilled \$87,134 for the audit period for nine students. We were told that the previous Special Education Coordinator did not reconcile student IEPs and service records when preparing the bills submitted to NYCDOE for payment. In addition, there was no independent verification that the bills for special education services were accurate before they were submitted to NYCDOE for payment. This resulted in Montessori billing for six students who received services from external consultants and three students who did not have an IEP in place. The details are listed below.

- NYCDOE was billed \$19,049 for one student and \$10,390 each for five additional students. However, all of these students received these services from a consultant.

Therefore, Montessori should not have billed \$70,999 to NYCDOE for these services.

- NYCDOE was billed \$19,049 for another student at 1.0 FTE. However, the IEP for this student was not in place until 2/11/15. The FTE for the period 2/11/15 to 6/26/15 is .487 FTEs. Based on this, Montessori overbilled \$9,772 for this student.
- NYCDOE was billed \$15,144 for a student at .795 FTEs. However, a parent revoked consent on 4/13/15 for this student to receive special education services. The FTE for when services commenced on 11/07/14 until 4/13/15 when consent was revoked is .538 FTEs. Based on this, Montessori overbilled \$4,896 for this student.
- NYCDOE was billed \$19,049 for a student at 1.0 FTE. However, the IEP for this student was not in place until 10/08/14. The FTE for the period 10/08/14 to 06/26/15 is .923 FTEs. Based on this, Montessori overbilled \$1,467 for this student.

### *Recommendations*

5. Ensure that an IEP is in place for each student whose special education services are billed to the NYCDOE.
6. Reconcile student IEPs, service records, and billings submitted to NYCDOE to verify accuracy.
7. Provide an independent verification process of all bills submitted to verify accuracy and completeness.
8. Provide a reconciliation to NYCDOE and repay \$87,134 that was overbilled.

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# Compliance Issues

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A charter school's Charter is its approval to provide services as a school, and also provides guidance to the board in the operation of the school. Education Law and Commissioner's Regulations provide much of the guidance needed to successfully administer a special education program at a charter school. However, it is critical for charter schools to follow the requirements defined in Education Law and the Commissioner's Regulations as well as those in its Charter.

We found Montessori officials can make improvements in the areas of teacher certifications, policies and procedures, and the publication of its Annual Report.

## Teacher's Certifications

Education Law states that the board of trustees of a charter school is to employ and contract with necessary teachers, administrators and other school personnel. These teachers are to be certified in accordance with the requirements applicable to other public schools.

The audit found that nine special education students received special education instruction from three teachers at Montessori who were not certified by New York State to teach special education. Montessori did not ensure that all special education students were instructed by New York State special education certified teachers. Special education students do not receive proper special education services when teachers are not appropriately certified.

## Annual Report

Education Law states that each charter school is to submit its annual report to the Board of Regents. These reports are to be issued no later than the first day of August of each year for the preceding school year, made publicly available, and posted on the charter school's web site.

We found that Montessori submitted its Annual Report to the Department but it has not been made publically available on its web site. Montessori said that they do not know how to post the Annual Report to the web site and indicated that they are determining how to accomplish this to include all

of the addendums. As a result, Montessori's web site is less transparent because its Annual Report is not readily available to the public.

## Policies and Procedures

Establishing policies and procedures is a responsibility of a board and school officials that serve as the principles, rules, and guidelines formulated and adopted by the organization to reach its goals.

The New York State Office of the State Comptroller has created its Local Government Management Guide (Guide) to provide boards assistance managing fiscal oversight responsibilities. The guide states that the governing board should, and in some cases must, develop and formally adopt policies that establish control procedures and other requirements for daily financial and other operations. Every policy adopted by the board should be understood by all board members and be customized to fit the unique needs of each entity. Adopted policies must be effectively communicated to those within the organization.

We found that Montessori had policies and procedures as part of its original Charter submission dated May 2011. However, the policies and procedures in the Charter do not provide specific guidance to staff in fulfilling their duties and are not readily available. Therefore, Montessori's staff does not have policies and procedures to effectively administer the special education program.

## *Recommendations*

9. Ensure teachers who provide special education instruction are appropriately certified or licensed.
10. Ensure the Annual Report is made publicly available on the web site as required.
11. Establish policies and procedures that provide specific guidance and ensure that they are disseminated to staff to effectively guide them in their duties.

Contributors to the Report  
New York City Montessori Charter School

- T. Stewart Hubbard III, Audit Manager
- Patrick Orton, Auditor-in-Charge
- Daniel Flynn, Senior Auditor



## Appendix B

Response to Audit Results as published in "Draft Audit Report" by the State Education Department, Office of Audit Services, Albany, New York, dated November 3<sup>rd</sup>, 2016.

### **1) Montessori did not ensure that all special education student with an IEP received and Annual review.**

At NYCMCS, we are concerned that students with high needs have not had their IEPs reviewed every year; as such, the programs have not been evaluated, we have not been able to assess if changes are required in their programs, etc. This is detrimental for our Special Education students, and as such it is not a situation of our choosing.

About 1/3 of the students with an IEP did not have an Annual Review in 2015-16 academic year. The final arbiter of whether to hold the Annual Review is the Committee on Special Education (1 Fordham Plaza, Bronx), not NYCMCS. Charter Schools are given limited control; the CSE schedules the meetings and chairs them, and has final decision on whether to hold the meetings and what the outcome.

For this academic year (2016-17), we have communicated with the CSE team assigned to NYCMCS from August 9<sup>th</sup> onwards, since when the team came on board. A spreadsheet of all the of all the students whose IEP Meetings did not take place has been sent regularly to the CSE urging them to treat these cases with urgency.

On October 6<sup>th</sup>, I met with the Chairperson, Steven Birkeland and the NYCMCS CSE team (Kathy Sauls, Social Worker; Golderina Venson, Special Education Teacher; Jonathan Rosen, Psychologist), to urge that:

- we should be 100% compliant
- all Annual Reviews should take place
- the reviews that had not occurred in the last one to three years, should be scheduled first
- and Initial Referrals, some waiting for over a year and many over the procedural days allowed as laid down by the Department.

Please see my email of November 14<sup>th</sup>, (attached) to S. Birkeland, raising the concern about Annual and Triennials. Similar emails are sent regularly, asking for the CSE to expedite their processes. A meeting has been set up on our premises on December 2<sup>nd</sup>, 2016, to discuss these issues. My emails are sent to Steven Birkeland, Chairperson, Committee on Special Education One, and copied to the CSE team, as well to Mariama Sandi, Chairperson, Charter Schools, Eleni Chronas, Supervisor of Psychologist.



## Appendix B

We are following up aggressively and hope that all Annual Reviews will be held in the 2016-17 academic year.

- 2) Montessori placed 11 Special Education students in classroom settings that were not part of their IEP. Furthermore, these IEPs were not appropriately amended to reflect the classroom changes.**

NYCMCS is a small Charter school and is not able to offer a full continuum of services for Student with Disabilities. The goal is to maintain a 12+1+1 model and an ICT class in every grade (due to the Montessori model, our classes are mixed grades: Kindegraten-1, 2n-3<sup>rd</sup>, 4<sup>th</sup>-5<sup>th</sup>). Due to budgetary reasons, this is not always possible.

The following are our efforts to address these concerns:

- A. We try to place every student according to their IEP placement, and most of our Special Education students are in the class model consistent with their IEP.
- B. Some parents have requested placements that are not that of their IEP; in their judgment, the classes that they are in are serving the students' needs better. We have their consent as a record.
- C. We are not billing for any placements that are not per the IEP placements.
- D. During Annual Reviews, we have made every effort to amend the IEP to make it consistent with the placement that the parent and the school deem the most appropriate.

- 3) Montessori overbilled the New York City Department of Education for \$87,134 during the audit period.**

We have made every effort to bill correctly and be in compliance.

- 4) Nine students received Special Education instruction from teachers who were not certified in Special Education by the New York State.**

All Special Education teachers have New York State certification.

- 5) Montessori has not made its Annual Report publically available on its website.**

This has been addressed.





## **Appendix B**

- 6) **Montessori does not have policies and procedures that are easily available to staff for guidance.**

This has been addressed. At this time NYCMCS has a current manual available to all its employees and professional development sessions address each section before the academic years begins.