

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

AUDIT REPORT

OF

MUNCIE CITY COURT JUDGE

DELAWARE COUNTY, INDIANA

January 1, 2012 to December 31, 2012



FILED
09/26/2013

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CITY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
City Court Judge	Dianna Bennington	01-01-12 to 12-31-15
Mayor	Dennis Tyler	01-01-12 to 12-31-15
President of the Board of Public Works and Safety	John Quirk	01-01-12 to 12-31-13
President of the Board of Common Council	Jerry D. Dishman	01-01-12 to 12-31-13



STATE OF INDIANA

AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF CITY OF MUNCIE, DELAWARE COUNTY, INDIANA

We have audited the records of the Muncie City Court Judge for the period from January 1, 2012 to December 31, 2012, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Audit Results and Comments. The financial transactions of this office are reflected in the Annual Report of the City of Muncie for the year 2012.

STATE BOARD OF ACCOUNTS

August 6, 2013

MUNCIE CITY COURT JUDGE
AUDIT RESULTS AND COMMENTS

GHOST EMPLOYMENT

Former City Court employee, Leah Alexander, was paid \$1,006.72 for vacation and sick/personal time. Ms. Alexander had not been employed by the City long enough to be able to take any vacation or sick/personal time based upon the City's personnel policy.

The City Court Judge signed a blank time card for the former City Court employee for the payroll period March 18, 2012 to March 31, 2012. The former City Court employee used 6 vacation days during the payroll period. The City Court Judge also signed a blank time card for the employee and made the notation "80 hours" on the time card for the payroll period April 1, 2012 to April 14, 2012. The former City Court employee used 1 vacation day during the payroll period.

In addition, the City Court Judge signed the time card for the former City Court employee for the payroll period May 27, 2012 to June 9, 2012, and made the notation "12 hrs sick/personal." The sick/personal time was posted to the employee's leave balances and indicated a negative balance of 12 sick/personal hours. The Controller's Office did not research why the negative balance occurred.

The former City Court Employee and the City Court Judge both agree that the former City Court employee did not work those days.

The Exempt/Confidential Employees Handbook states 1 week vacation is earned after 180 days of employment and regular full-time employees are eligible to take sick leave after 180 days of employment. Leah Alexander worked less than 180 days.

A payment schedule has been agreed upon between the former City Court employee, Leah Alexander and the City Controller.

Indiana Code 35-44.1-1-3 states:

"(a) A public servant who knowingly or intentionally:

- (1) hires an employee for the governmental entity that the public servant serves; and
- (2) fails to assign to the employee any duties, or assigns to the employee any duties not related to the operation of the governmental entity; commits ghost employment, a Class D felony.

(b) A public servant who knowingly or intentionally assigns to an employee under the public servant's supervision any duties not related to the operation of the governmental entity that the public servant serves commits ghost employment, a Class D felony.

(c) A person employed by a governmental entity who, knowing that the person has not been assigned any duties to perform for the entity, accepts property from the entity commits ghost employment, a Class D felony.

(d) A person employed by a governmental entity who knowingly or intentionally accepts property from the entity for the performance of duties not related to the operation of the entity commits ghost employment, a Class D felony.

MUNCIE CITY COURT JUDGE
AUDIT RESULTS AND COMMENTS
(Continued)

(e) Any person who accepts property from a governmental entity in violation of this section and any public servant who permits the payment of property in violation of this section are jointly and severally liable to the governmental entity for that property. The attorney general may bring a civil action to recover that property in the county where the governmental entity is located or the person or public servant resides.

(f) For the purposes of this section, an employee of a governmental entity who voluntarily performs services:

(1) that do not:

(A) promote religion;

(B) attempt to influence legislation or governmental policy; or

(C) attempt to influence elections to public office;

(2) for the benefit of:

(A) another governmental entity; or

(B) an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(3) with the approval of the employee's supervisor; and

(4) in compliance with a policy or regulation that:

(A) is in writing;

(B) is issued by the executive officer of the governmental entity; and

(C) contains a limitation on the total time during any calendar year that the employee may spend performing the services during normal hours of employment; is considered to be performing duties related to the operation of the governmental entity."

RECORD OF HOURS WORKED

A review of time cards was made for City Court employees for the payroll period September 30, 2012 to October 13, 2012. Inquiry with employees indicated a time card for one employee did not support the actual time worked. One employee stated he had worked until noon on October 8, 2012, and had used compensatory time earned for the remainder of the day. The time card, which was signed by the City Court Judge, indicated the employee had worked the entire day of October 8, 2012.

The City Court Judge did not maintain service records nor did she verify the accuracy of the time card. No other individual was involved in the process to ensure that the time card was correct. She did not track compensatory time accrued, used or the balance of days for this employee. The Controller's Office had no record of compensatory time activity for this employee because it was not recorded on the time cards. Extended sick, personal, and vacation time were recorded by the Controller's Office.

MUNCIE CITY COURT JUDGE
AUDIT RESULTS AND COMMENTS
(Continued)

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns)

CITY COURT JUDGE
EXIT CONFERENCE

The contents of this report were discussed on August 7, 2013, with Leah Alexander, former City Court employee. The Official Response from Leah Alexander has been made a part of this report and may be found on page 8. We attempted to meet with Dianna Bennington, City Court Judge, but we received no replies to our requests to meet.

Report comment:

Judge Bennington approved vacation time as a condition of my employment at the Muncie City Court. I never expected to be compensated for the time off, however Judge Bennington stated that she would pay me for that time off. Judge Bennington stated that since she is the Judge that she is permitted to grant time off and compensate as she sees fit. Regarding personal/sick time, Judge Bennington approved and compensated me for that time as well. I was under the assumption that the Court's personnel policies were separate from the City's policies. I have made payment arrangements with the City Controller's office.

Leah Alexander