



State of Delaware
Office of Auditor of Accounts
Kathleen K. McGuinness, RPh, CFE

Working Hard to Protect YOUR Tax Dollars

Inspection

Inequities in School District Overtime Calculations

March 11, 2019

This inspection analyzed overtime payments for school districts and charter schools. We focused on the top 50 overtime earners for Fiscal Years 2016 and 2017 in order to identify employees whose total hours appeared to be excessive. The majority of employees identified in this analysis were Christina School District paraprofessionals who provide respite care through the Delaware Autism Program. Employees who provide these services were paid a variety of rates.

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Abbreviations

DAP	Delaware Autism Program
FLSA	Fair Labor Standards Act
NCCVT	New Castle County Vocational Technical

The mission of the Delaware Office of Auditor of Accounts

The Delaware Auditor of Accounts (AOA) serves Delawareans by ensuring accountability in the use of taxpayer dollars through independent assessments of financial operations, performance management and statutory compliance of state government.

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Executive Summary

Background

Paraprofessionals, custodians, and cafeteria staff are eligible to earn overtime pay. Teachers and school district administrators do not earn overtime because they are considered exempt employees. Exempt employees are those who receive an annual salary rather than an hourly wage. During Fiscal Years 2016 and 2017 the school districts and charter schools paid approximately \$4.6 million and \$5.4 million in overtime pay, respectively. The top 50 overtime earners earned approximately \$800,000 and \$1.0 million in overtime for 2016 and 2017, respectively.

A significant amount of school district overtime payments tested were made to paraprofessionals who provide respite care services to families of autistic children. Respite care providers are trained employees who provide temporary care for autistic children, either in the child's home or their own residence.

Respite care services are provided by the Delaware Autism Program (DAP). The Christina School District administers the DAP program statewide. Services are offered to students who attend school in districts outside of the Christina School District, including Brandywine, Caesar Rodney, Indian River, and the Cape Henlopen School Districts.

What We Found

Our inspection focused on the top 50 earners of overtime for Fiscal Years 2016 and 2017. We applied a reasonableness test to identify those whose total hours appeared to be excessive. The testing criteria was developed according to recommendations from The Occupational Safety and Health Administration. The majority of employees identified in this analysis were Christina School District paraprofessionals who performed respite services through DAP.

Full-time paraprofessionals work up to 37.5 hours per week, per Title 14 of the Delaware Code. Paraprofessionals in the Christina School District receive overtime pay at the standard hourly rate for respite work until they reach 40 total hours. After the Christina School District paraprofessional has worked 40 hours, the additional hours are paid at a rate of time and one-half for these services. For this calculation, the standard respite rate is blended with the individual's hourly rate, which is based on his or her education and years of experience. Paraprofessionals outside the Christina School District receive pay at the standard hourly rate for the first 40 hours of respite work, because their school district and the Christina School District are considered to be two separate employers. For comparison purposes, the standard hourly rate for respite care is \$15.22 per hour, while the blended hourly rate of the top-earning paraprofessionals in our study is approximately \$35.00 per hour of overtime.

According to Christina School District officials, they have obtained a legal opinion from their outside counsel to support the position that each school district should be considered a separate employer. We consulted with an investigator from the United States Department of Labor who stated that the school districts would likely be considered a single employer under the state. As noted in the recommendations, the school districts should consider obtaining a formal opinion from the Department of Labor.

Recommendations

Single Employer or Joint Employment

We recommend that school districts and charter schools request a formal opinion from the United States Department of Labor to determine whether employees working across multiple school districts would be entitled to overtime in accordance with federal guidelines. As school districts utilize employees from other school districts for respite care services, or other assignments, a formal opinion from the United States Department of Labor would provide assurance that employees are paid properly.

Cost Management

Program management should take steps to address the shortage of respite care providers. We recommend the program officials consider staffing alternatives such as raising the base pay to attract more respite care providers, while reducing the overall cost of the program.

Overtime Management

Program management should develop a process to track hours by provider, or consider using reports available through the Christina School District's payroll office, which could prevent individual respite care providers from working an excessive amount of overtime.

Next Steps

Our inspection report was shared with the Christina, Brandywine, Caesar Rodney, Indian River, and Cape Henlopen School Districts. See Appendix C for the response from the Christina School District.

Background

School Districts

In Fiscal Years 2016 and 2017, the school districts and charter schools paid \$4.6 million and over \$5.4 million in overtime pay, respectively. The top 50 overtime earners earned approximately \$800,000 and \$1.0 million in overtime for 2016 and 2017, respectively.

School District and Charter School Overtime

Paraprofessionals, custodians, and cafeteria staff are eligible to earn overtime pay. Teachers and school district administrators do not earn overtime because they are considered exempt employees. Exempt employees are those who receive an annual salary rather than an hourly wage.

Respite Care

Our procedures identified employees who serve the districts as paraprofessionals. These paraprofessionals perform respite care services through DAP. DAP facilitates respite care for autistic children through the Christina School District. Respite care provides families relief from care by placing the child in the temporary care of a qualified provider. Services are provided to students with the educational classification of autism and each eligible student is offered 24 hours per month and 7 additional days (or 168 hours) per year. Providers may take students to their home, out in the community, and also keep them overnight. Christina School District serves as the administrator for DAP, and therefore, respite care providers are employed by the Christina School District.

Respite care services may be provided by either teachers or paraprofessionals. Teachers, as Fair Labor Standards Act (FLSA) exempt employees, are not eligible to receive overtime for respite care services. However, paraprofessionals, as FLSA covered employees, are eligible for overtime in accordance with FLSA guidelines.

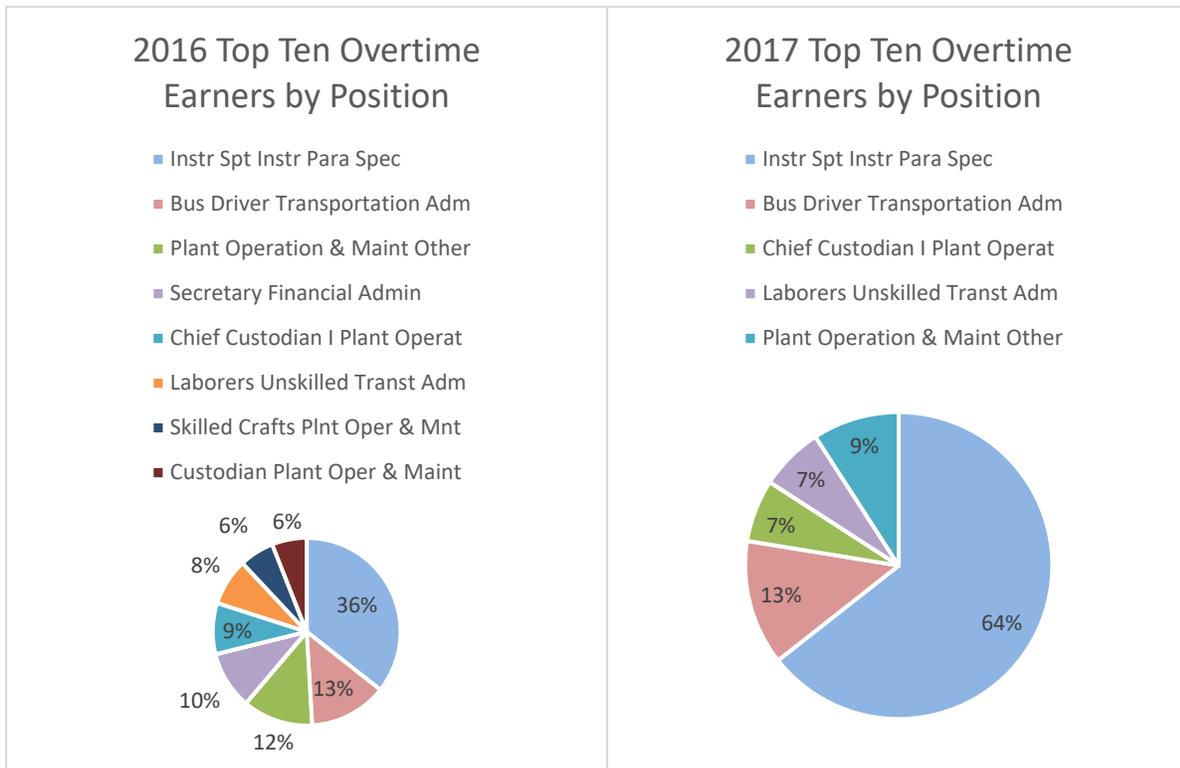
Report Details

This inspection on school district and charter school overtime is an installment of our overtime review for Fiscal Year 2016 and Fiscal year 2017. Our prior reports, Department of Corrections Overtime Analysis Inspection and Statewide Overtime Inspection, were issued on May 22, 2017 and October 31, 2018, respectively, and are available on our website.

In Fiscal Year 2016¹, the school districts and charter schools paid employees over \$4.6 million in overtime with that total increasing by approximately \$1.0 million to approximately \$5.4 million during the Fiscal Year 2017.

We identified the top 50 earners of overtime from all school districts and charter schools for Fiscal Years 2016 and 2017. A complete list of the top 50 overtime earners in Fiscal Years 2016 and 2017 can be found in Appendices A and B.

The top ten earners were paid a total of \$306,000 and \$409,000 in overtime, for Fiscal Years 2016 and 2017, respectively. We analyzed the top ten overtime earners by position for both fiscal years and noted that overtime payments to paraprofessionals comprised the largest expense. The charts below illustrate the total overtime by position:



¹ Fiscal Year for the State runs July 1 through June 30.

We applied a reasonableness test to the top 50 earners to identify those whose hours appeared to be excessive. The testing criteria was developed according to recommendations from The Occupational Safety and Health Administration. The majority of employees identified were paraprofessionals who provide respite services through DAP. The employees identified whose hours appeared excessive according to our reasonableness test are listed below:

2016					
District	Position	Regular Pay	Other Compensation	Overtime	Total
Christina	Instr Spt Instr Para Spec	\$41,944	\$13,182	\$81,123	\$136,249
Christina	Bus Driver Transportation Adm	\$28,521	\$17,359	\$24,342	\$70,222

2017					
District	Position	Regular Pay	Other Compensation	Overtime	Total
Christina	Instr Spt Instr Para Spec	\$31,691	\$3,476	\$105,583	\$140,751
Christina	Instr Spt Instr Para Spec	\$40,235	\$4,732	\$61,877	\$106,844
Christina	Instr Spt Instr Para Spec	\$39,260	\$3,846	\$20,076	\$63,182

Full-time paraprofessionals work up to 37.5 hours per week, per Title 14 of the Delaware Code. Paraprofessionals in the Christina School District receive overtime pay at the standard hourly rate for respite work until they reach 40 total hours. After the Christina School District paraprofessional has worked 40 hours, the additional hours are paid at a rate of time and one-half for these services. For this calculation, the standard respite rate is blended with the individual’s hourly rate, which is based on his or her education and years of experience. Paraprofessionals outside the Christina School District receive pay at the standard hourly rate for the first 40 hours of respite work, because their school district and the Christina School District are considered to be two separate employers. For comparison purposes, the standard hourly rate for respite care is \$15.22 per hour, while the blended hourly rate of the top-earning paraprofessionals in our study is approximately \$35.00 per hour of overtime.

According to Christina School District officials, they have obtained an opinion from their outside counsel stating that each school district should be considered a separate employer. Therefore, employees from other school districts are not entitled to time and one-half overtime pay until he or she has worked an additional 40 hours for the Christina School District.

To analyze the overtime compensation rates for respite care we considered the following:

- All employees paid through the State’s payroll system;
- Employees received a single paycheck from the State;
- Christina School District’s Paraprofessional Collective Bargaining Agreement (CBA) overtime language;
- Employees received a single W-2 from the State; and
- 29 Del. C. §5804(11) and (12)(a) classifies all agencies and school districts employees as a State employees.

Additionally, the following is an excerpt from the 2018 Delaware Comprehensive Annual Financial Report, *Note 1 Summary of Significant Accounting Policies (a) Reporting Entity*:

The local school districts have separately elected boards, but they have not been specifically granted power by legislation to be legally separate. Based on the powers and authority granted in Title 14 of the State of Delaware Code, the primary government holds sufficient power and responsibility that the local school districts have been accounted for as not being legally separate and as a result have been reported in the primary government. The financial activity of the local school districts is reported in the General Fund, Local School District Fund (for real estate taxes levied by the schools), Federal Fund, and Capital Projects Fund.

We consulted with an investigator from the United States Department of Labor to obtain clarification. The investigator stated that school districts would likely be considered a single employer under the State, and therefore, school district employees who are FLSA covered should be entitled to overtime. Further, he advised us that the districts could also be considered a joint employer under the Federal Labor Law. If this does apply, school district employees working across multiple districts should receive overtime for all hours worked regardless of which district they worked for. As noted in our recommendations, school districts should consider obtaining a formal opinion from the United States Department of Labor.

According to DAP officials, there is no fatigue management policy and no cap for overtime. In addition, DAP tracks student respite care hours but does not have a process for tracking provider hours, which allows respite care providers to work excessive amounts. We discussed the large amounts of overtime earned by certain paraprofessionals in the Christina School District with district officials. They highlighted the following challenges:

- It is difficult to recruit respite care providers due to the mental and physical demands of the job.
- There is increased absenteeism for the paraprofessionals providing respite care.
- It is a challenge to recruit teachers due to the low hourly rate provided for respite care.

DAP officials offered the following as possible solutions to recruit more respite care providers and reduce overtime costs:

- Increasing wages for respite care workers;
- Developing a new bargaining unit that includes a hybrid group of employees with paraprofessionals and teachers;
- Reclassifying paraprofessionals as FLSA-exempt employees; and
- Implementing a special education salary table specific to respite care

Recommendations

Single Employer or Joint Employment

We recommend that school districts and charter schools request a formal opinion from the United States Department of Labor (US DOL) to determine whether employees working across multiple school districts would be entitled to overtime in accordance with federal guidelines. As school districts utilize employees from other school districts for respite care services, or other assignments, a formal opinion from the US DOL would provide assurance that employees are paid properly.

Cost Management

Program management should take steps to address the shortage of respite care providers. We recommend the program officials consider staffing alternatives such as raising the base pay to attract more respite care providers, while reducing the overall cost of the program.

Overtime Management

Program management should develop a process to track hours by provider, or consider using reports available through the Christina School District's payroll office, which could prevent individual respite care providers from working an excessive amount of overtime.

Objective, Scope, and Methodology

Objective

To provide factual and analytical information surrounding school district and charter school overtime in the State of Delaware and determine whether overtime for top earners appeared to be excessive, and was for a legitimate purpose.

This inspection was performed in accordance with the Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Inspection and Evaluation*.

Scope

The scope of the inspection encompassed overtime payments made to State of Delaware school district and charter school employees from July 1, 2015 through June 30, 2017.

Methodology

Our procedures consisted of the following:

- Obtained payroll data for the period July 1, 2015 through June 30, 2017.
- Identified the individuals with highest overtime earnings.
- Compared hours worked to a reasonableness threshold using the following criteria:
 - A normal pay period is 10 working days;
 - The recommended hours of rest (eight hours per day) for a normal shift according to The Occupational Safety and Health Administration's Extended/Unusual Work Shifts Guide;² and
 - The average American commute (26 minutes one way) as found in USA Today's *Americans' Commutes Aren't Getting Longer* article.³
 - The OSHA guidelines refers to extended or unusual shifts, which does not specifically apply to the work tested. However, we used these general guidelines to establish 150 hours per pay period as a benchmark for our initial analysis.

² <https://www.osha.gov/SLTC/emergencypreparedness/guides/extended.html>

³ <https://www.usatoday.com/story/news/nation/2013/03/05/americans-commutes-not-getting-longer/1963409/>

Appendix A

Top 50 Overtime Earners in Fiscal Year 2016					
Rank	Position	District	Total Compensation (excluding overtime)	Overtime	Total Compensation
1	Instr Spt Instr Para Spec	Christina	\$ 55,126	\$ 81,123	\$ 136,249
2	Plant Operation & Maint Other	Christina	59,681	37,014	96,695
3	Secretary Financial Admin	NCCVT	62,922	30,370	93,292
4	Instr Spt Instr Para Spec	Christina	47,990	27,752	75,742
5	Chief Custodian I Plant Operat	Red Clay	46,104	26,939	73,043
6	Laborers Unskilled Transt Adm	Christina	53,948	24,658	78,606
7	Bus Driver Transportation Adm	Christina	45,880	24,342	70,222
8	Skilled Crafts Plnt Oper & Mnt	Christina	55,991	18,382	74,373
9	Custodian Plant Oper & Maint	Christina	44,406	18,245	62,651
10	Bus Driver Transportation Adm	Christina	46,244	16,776	63,020
11	Instr Spt Instr Para Spec	Christina	45,436	16,675	62,111
12	Instr Spt Instr Para I Spec	Christina	37,071	15,744	52,815
13	Bus Driver Transportation Adm	Colonial	23,460	15,741	39,201
14	Chief Custodian I Plant Operat	NCCVT	63,764	15,615	79,379
15	Gen Spt Data Proc Skill Crft	Cape Henlopen	50,183	15,578	65,761
16	Instr Spt Instr Para Reg	Christina	41,125	15,554	56,679
17	Skilled Crafts Plnt Oper & Mnt	Capital	49,166	15,026	64,192
18	Bus Driver Transportation Adm	Christina	39,424	14,712	54,136
19	Secretary Financial Admin	NCCVT	58,422	14,296	72,718
20	Chief Custodian I Plant Operat	Cape Henlopen	43,415	14,102	57,517
21	Chief Custodian I Plant Operat	Red Clay	48,212	13,921	62,133
22	Bus Driver Transportation Adm	Red Clay	41,379	13,779	55,158
23	Bus Driver Transportation Adm	Colonial	17,706	13,746	31,452
24	Chief Custodian I Plant Operat	NCCVT	63,764	13,641	77,405
25	Custodian Plant Oper & Maint	NCCVT	58,915	13,519	72,434
26	Bus Driver Transportation Adm	Christina	38,607	13,433	52,040
27	Secretary Financial Finance	Lake Forest	49,999	13,305	63,304
28	Custodian Plant Oper & Maint	Cape Henlopen	41,651	13,056	54,707
29	Chief Custodian I Plant Operat	Appoquinimink	44,775	13,031	57,806
30	Chief Custodian II Plant Opera	Smyrna	36,955	12,680	49,635
31	Instr Spt Instr Para I Spec	Christina	44,436	12,649	57,085
32	Bus Driver Transportation Adm	Christina	35,863	12,441	48,304
33	Chief Custodian II Plant Opera	Red Clay	45,195	12,212	57,407
34	Instr Spt Instr Para Spec	Christina	44,081	12,195	56,276
35	Chief Custodian I Plant Operat	Appoquinimink	47,384	12,086	59,470
36	Bus Driver Transportation Adm	Christina	41,363	12,048	53,411
37	Skilled Crafts Plnt Oper & Mnt	Red Clay	56,952	11,957	68,909
38	Custodian Plant Oper & Maint	NCCVT	58,539	11,584	70,123
39	Bus Driver Transportation Adm	Colonial	20,211	11,580	31,791
40	Instr Spt Instr Para I Spec	Christina	30,515	11,567	42,082

41	Instr Spt Instr Para Spec	Christina	37,728	11,556	49,284
42	Bus Driver Transportation Adm	Christina	33,387	11,306	44,693
43	Instr Spt Instr Para Spec	Christina	37,647	11,278	48,925
44	Bus Driver Transportation Adm	Red Clay	42,448	10,876	53,324
45	Chief Custodian I Plant Operat	NCCVT	62,495	10,811	73,306
46	Bus Driver Transportation Adm	Capital	18,143	10,767	28,910
47	Manager School Lunch Food Ser	Red Clay	57,718	10,729	68,447
48	Skilled Crafts Plnt Oper & Mnt	Red Clay	42,230	10,720	52,950
49	Chief Custodian I Plant Operat	Red Clay	48,186	10,649	58,835
50	Skilled Crafts Plnt Oper & Mnt	Red Clay	56,901	10,542	67,443
Total:			\$ 2,273,143	\$ 822,308	\$ 3,095,451

Appendix B

Top 50 Overtime Earners in Fiscal Year 2017					
Rank	Position	District	Total Compensation (excluding overtime)	Overtime	Total Compensation
1	Instr Spt Instr Para Spec	Christina	\$ 35,167	\$ 105,583	\$ 140,750
2	Instr Spt Instr Para Spec	Christina	44,967	61,877	106,844
3	Instr Spt Instr Para Spec	Christina	47,870	39,705	87,575
4	Plant Operation & Maint Other	Christina	61,493	37,342	98,835
5	Instr Spt Instr Para Spec	Christina	38,738	32,083	70,821
6	Bus Driver Transportation Adm	Christina	43,236	30,989	74,225
7	Laborers Unskilled Transt Adm	Christina	53,514	27,556	81,070
8	Chief Custodian I Plant Operat	Red Clay	48,244	26,851	75,095
9	Instr Spt Instr Para Spec	Christina	35,296	24,261	59,557
10	Bus Driver Transportation Adm	Christina	34,265	22,952	57,217
11	Chief Custodian II Plant Opera	Smyrna	43,244	20,995	64,239
12	Instr Spt Instr Para Spec	Christina	47,214	20,974	68,188
13	Bus Driver Transportation Adm	Christina	37,815	20,414	58,229
14	Instr Spt Instr Para Reg	Christina	43,106	20,076	63,182
15	Chief Custodian I Plant Operat	Appoquinimink	48,398	19,769	68,167
16	Custodian Plant Oper & Maint	NCCVT	64,105	19,054	83,159
17	Chief Custodian I Plant Operat	Red Clay	49,162	18,969	68,131
18	Instr Spt Instr Para I Spec	Christina	45,104	18,793	63,897
19	Bus Driver Transportation Adm	Christina	37,537	18,140	55,677
20	Bus Driver Transportation Adm	Colonial	22,852	17,496	40,348
21	Chief Custodian I Plant Operat	Appoquinimink	45,787	16,653	62,440
22	Skilled Crafts Plnt Oper & Mnt	Christina	56,287	16,375	72,662
23	Bus Driver Transportation Adm	Capital	18,172	16,273	34,445
24	Skilled Crafts Plnt Oper & Mnt	Christina	60,148	16,129	76,277
25	Secretary Financial Admin	NCCVT	66,715	16,077	82,792
26	Bus Driver Transportation Adm	Christina	41,478	15,826	57,304
27	Chief Custodian II Plant Operat	Christina	48,624	15,485	64,109
28	Manager School Lunch Food Ser	Christina	47,302	15,100	62,402
29	Custodian Plant Oper & Maint	NCCVT	60,970	14,747	75,717
30	Custodian Plant Oper & Maint	Christina	45,004	14,696	59,700
31	Bus Driver Transportation Adm	Christina	41,958	14,247	56,205
32	Custodian Fireman Plnt Operat	Christina	44,490	14,243	58,733
33	Instr Spt Instr Para I Spec	Christina	48,615	14,205	62,820
34	Chief Custodian I Plant Operat	Cape Henlopen	46,274	13,864	60,138
35	Chief Custodian I Plant Operat	Red Clay	49,220	13,738	62,958
36	Chief Custodian I Plant Operat	Appoquinimink	45,787	13,569	59,356
37	Instr Spt Instr Para I Spec	Christina	41,260	13,534	54,794
38	Bus Driver Transportation Adm	Christina	41,478	13,433	54,911
39	Custodian Fireman Plnt Operat	Red Clay	44,479	13,371	57,850
40	Bus Driver Transportation Adm	Cape Henlopen	23,956	13,104	37,060
41	Chief Custodian I Plant Operat	Christina	52,700	13,017	65,717
42	Chief Custodian II Plant Operat	Red Clay	46,323	12,969	59,292

43	Bus Driver Transportation Adm	Christina	36,322	12,961	49,283
44	Skilled Crafts Plnt Oper & Mnt	Christina	58,436	12,887	71,323
45	Bus Driver Transportation Adm	Colonial	20,462	12,725	33,187
46	Custodian Plant Oper & Maint	Smyrna	37,230	12,686	49,916
47	Bus Driver Transportation Adm	Christina	39,389	12,671	52,060
48	Bus Driver Transportation Adm	Christina	38,283	12,435	50,718
49	Custodian Plant Oper & Maint	Appoquinimink	37,093	12,403	49,496
50	Instr Spt Instr Para Spec	Christina	35,629	12,391	48,020
Total:			\$ 2,201,198	\$ 1,025,693	\$ 3,226,891

Appendix C



Robert A. Silber
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March 6, 2019

SENT VIA EMAIL

Re: Overtime Inspection

Dear Mrs. McGuinness:

We are in receipt of the final version of the Overtime Inspection report. We thank you for the modifications made to the report subsequent to our conversation. The Overtime Inspection resulted from an audit process which began in August of 2017. The team of auditors involved in this inspection changed over the period of time, but consistently demonstrated professionalism and a desire to understand.

Please accept this letter as our response to the Inspection.

The Inspection raised concern regarding the amount of overtime earned by certain paraprofessionals providing respite care. The Office of the Statewide Director of Autism (OSD) has published respite guidelines. As you are aware, respite services are intended to provide families with a short- or medium term, planned break from the care of a child or adolescent with autism. OSD allocates 24 hours in any month, and an additional 7 days per year for each student with autism. Services are provided in the student's home or in the provider's home, at the discretion of the provider. The hours of respite care easily create overtime situations, since service can only be provided outside of working hours. Respite work is voluntary, and only available to qualified professional or paraprofessional staff members of a Delaware Autism Program affiliate. There is no obligation to provide respite service, if the provider is not available. The fiscal note for HB 292 indicated that in the 2016-2017 School Year, there were 1,899 students classified with autism spectrum disorders. Based on the OSD allocations, respite services for all identified students would equate to ~ 866,000 hours.

The inspection report applies a reasonableness test to identify hours which appear excessive. The report notes that the testing criteria was established according to recommendations from OSHA. We understand the criteria logic. We also recognize that the services provided are not aligned with work typically identified as shift work. Respite services are not educational services related to a student's IEP. Many providers choose to welcome students into their own home to provide respite care. Providers are more familiar with their home surroundings, do not have to arrange for their own family needs, do not have to travel, and with permission may have the student join the provider's family on community outings to stores, malls, restaurants, or other family activities.

The District method of calculating pay rates for respite providers has been reviewed with District counsel, is aligned with Federal law, and recognition that school districts are autonomous political subdivisions. The inspection raises the question regarding employment status of respite providers. It was stated that "an investigator from the United States Department of Labor indicated that districts would likely be considered a single employer under the state." The report also identifies an excerpt from the 2018 Delaware Comprehensive Annual Financial Report indicating "school districts have not been specially granted power by legislation to be legally

Richard L. Gregg, Superintendent

The Christina School District is an equal opportunity employer and does not discriminate on the basis of race, color, creed, religion, gender (including pregnancy, childbirth and related medical conditions), national origin, citizenship or ancestry, age, disability, marital status, veteran status, genetic information, sexual orientation, or gender identity, against victims of domestic violence, sexual offenses, or stalking, or upon any other categories protected by federal, state, or local law. Inquiries regarding compliance with the above may be directed to the Title IX/Section 504 Coordinator, Christina School District, 600 North Lombard Street, Wilmington, DE 19801; Telephone: (302) 552-2600.

separate". These two statements differ from guidance provided by District Counsel, specifically citing case law (Beck v. Claymont School District – Superior Court of Delaware August 1979).

In the report recommendations, it is suggested that School Districts and Charter Schools request a formal opinion from the United States Department of Labor to determine whether employees working across multiple school districts would be entitled to overtime in accordance with federal guidelines. We believe this request would best be pursued by a State Cabinet level organization. Absent a determination by the State to the contrary, the District will continue to recognize School Districts as discrete employers. Should the State obtain a formal opinion from the United States Department of Labor, which creates single employer status, the Christina School District will no longer be able to provide payroll services for the state-wide respite program, given the limitations of access to statewide payroll information.

We agree with the concerns expressed regarding a lack of adequate number of qualified providers. As noted, in school year 2016-2017 there were 1,899 students identified with autism. This figure continues to grow. The rate of compensation for respite services is established by OSD. While an increase in compensation may increase the number of providers, this is not guaranteed. There is a limited supply of qualified providers. These qualified providers typically work with this student population 5 days per week, and 11 months per year. (Students with autism typically have an IEP containing an extended school year.) These qualified providers also seek a break from providing services. We are not confident that increasing the rate to align with the overtime rate of paraprofessionals would yield anything except an increase in cost.

The report additionally includes "possible solutions" from DAP officials. Please be advised that the concepts offered were not reviewed by the District (Administering agency for the program), nor would some of the stated "possible solutions" likely be permitted under federal law.

Respectfully,



Robert A. Silber
Chief Financial Officer and Assistant Superintendent

cc. Richard Gregg, Superintendent

Richard L. Gregg, Superintendent

The Christina School District is an equal opportunity employer and does not discriminate on the basis of race, color, creed, religion, gender (including pregnancy, childbirth and related medical conditions), national origin, citizenship or ancestry, age, disability, marital status, veteran status, genetic information, sexual orientation, or gender identity, against victims of domestic violence, sexual offenses, or stalking, or upon any other categories protected by federal, state, or local law. Inquiries regarding compliance with the above may be directed to the Title IX/Section 504 Coordinator, Christina School District, 600 North Lombard Street, Wilmington, DE 19801; Telephone: (302) 552-2600.