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### **State Auditor Kathy McGuinness releases inspection identifying inequities in school district overtime**

**DOVER (March 8, 2019)** – Delaware State Auditor Kathy McGuinness has released the findings of an overtime inspection that found paraprofessionals in the Christina School District were by far the top overtime earners for Fiscal Years 2016 and 2017, and were paid at a higher rate than paraprofessionals who provide the same services in other school districts.

The study focused on school district overtime for Fiscal Years 2016 and 2017, one of several mandated investigations that State Auditor McGuinness discovered has long went unfinished.

A significant amount of the school district overtime payments tested were made to Christina School District paraprofessionals who provide respite care services through the Delaware Autism Program (DAP). Respite care providers are trained employees who provide temporary care for autistic children, either in the child's home or their own residence.

Paraprofessionals in the Christina School District receive overtime pay at the standard hourly rate for respite care work until they reach 40 total hours, at which point additional hours are paid at a higher rate, while paraprofessionals outside the Christina School District are paid the standard hourly rate for the first 40 hours while providing the same services.

The top earning paraprofessionals identified in the inspection earned approximately \$35 per hour for respite care services, while paraprofessionals outside the Christina School District were paid roughly \$15 to provide the same services.

An opinion was obtained by outside counsel stating that each school district should be considered a separate employer, according to officials with the Christina School District, and therefore, employees in other districts are not entitled to the overtime pay until they've worked an additional 40 hours for the Christina School District.

The Auditors Office consulted with the United States Department of Labor who stated that school districts would likely be considered a single employer under the State, and therefore, school district employees who are FLSA (Fair Labor Standards Act) covered should be entitled to overtime. Furthermore, it was advised that 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 the hours they worked regardless of the district in which they worked.

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.

McGuinness Stated, "The Auditors Office recommends school districts consider requesting a formal opinion from the United States Department of Labor. In addition, program management should consider taking steps to address the shortage of respite care providers and consider tracking hours by provider."

For additional information on this inspection in greater detail, read the full report: <https://auditor.delaware.gov/wp-content/uploads/sites/40/2019/03/Inequities-in-School-District-Overtime-Inspection.pdf>

