



MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) is between the Oregon Employment Department (OED), the Oregon Department of Human Services (DHS), and the American Federation of State, County and Municipal Employees (AFSCME) Child Care Providers Together. This MOA is a result of the Governor's Executive Order No. 05-10 titled Representation of Certified and Registered Family Child Care Providers.

As directed by the executive order, Agencies have met and conferred with the members of AFSCME Council 75 on behalf of certified and registered family child care providers regarding issues of mutual concern.

Provisions of this agreement requiring legislative funding or statutory changes will take effect only after legislative funding is secured and statutory changes are in effect.

PREAMBLE

As signatories to this document, AFSCME Child Care Providers Together (known hereafter as "Union") and the Oregon Employment Department and Oregon Department of Human Services (known hereafter as "Agencies") agree to work in partnership to build a child care system that respects providers, empowers working families, and promotes safe, healthy development of children.

Agencies understand that child care providers are professionals who are essential to the development, education, and well-being of children. In all dealings with Union and providers, Agencies will:

- Treat everyone with respect and dignity.
- Start from an assumption that providers are well intentioned and doing the best they can with the information they have.
- Maintain a positive attitude in dealing with providers.
- Take time to listen to and understand providers' needs.
- Offer support, assistance, and encouragement.
- Use authority within legal parameters, carefully and with thought.
- Promote statewide consistency that is flexible enough to meet individual situations without compromising the rules.

Union understands that the key to a successful system of childhood care and education is a strong, balanced infrastructure that addresses safety, quality, accessibility, and affordability. Union agrees to support and participate in developing a statewide system that includes the following elements:

- Programs that promote safety and quality, including:
 - Provider training and professional development
 - Resource and referral
 - School age care
 - Regulation and enforcement
 - Infant and toddler programs

- Community planning and supply building
- Health Consultant

- Programs that support family self sufficiency, including:
 - Low income working families
 - Migrant and seasonal farm worker families
 - Parents in substance abuse treatment programs
 - Teen parents
 - Children with special needs or disabilities
 - Jobs program
 - Student child care program

Each of these elements has a significant role in ensuring the best outcomes for children and each interacts with others to build a system of child care and education in Oregon. Union and Agencies agree to work to strengthen the infrastructure and will encourage policy makers to consider the role of each element as a necessary support in a holistic system of services as funding decisions are made.

TERMS OF MUTUAL AGREEMENT

SECTION I: RECOGNITION

- A. Agencies recognize Union as the sole and exclusive agent representing all registered and certified family child care providers for purposes of this “meet and confer” process as set forth in Executive Order No. 05-10.
- B. There is intended to be no overlap among this population of child care providers and the population of child care providers covered in Executive Order No. 06-04 that refers only to subsidized, license-exempt family care providers. Should any license-exempt family child care provider become certified or registered, AFSCME will be recognized as the sole and exclusive agent for that provider for purposes of this agreement.

SECTION II: DUES

- A. DHS will deduct union dues from subsidy payments as soon as modifications can be made to the payment system. DHS will attempt to complete necessary system modifications within six to eight months of the signing of this agreement.
- B. DHS agrees to deduct the monthly membership dues plus any additional voluntary union deductions from the subsidy payment(s) of those providers who individually request such deductions in writing. The amount to be deducted shall be certified to DHS by the Treasurer of the Union, and the aggregate deductions shall be remitted no less frequently than monthly. DHS will provide an itemized statement, which will be sent to the Council 75 office.

Union shall indemnify and hold the Agency harmless against any and all claims, damages, suits or other forms of liability which may arise out of any action taken or not taken by the Agency for the purpose of complying with the provisions of this section.

SECTION III: DIRECT DEPOSIT

- A. DHS will implement direct deposit for subsidy payments effective upon completion of necessary modifications to the payment system. DHS will attempt to complete necessary system modifications within six to eight months of the signing of this agreement.

SECTION IV: HEALTH INSURANCE

- A. Union and Agencies will work together to explore systems for Child Care Providers Together members to access affordable, comprehensive health insurance coverage.

SECTION V: EDUCATION AND TRAINING

Union and Agencies both recognize the importance of education and training in relation to the continuity and quality of child care. Research documents a relationship between a trained and stable child care workforce and positive child care outcomes. Providers who receive training are better equipped to provide long term quality child care. More individuals with experience of being a family child care provider should be given the opportunity to become trainers. Providers who have been trained to be trainers are able to provide trainings that allow for the information/curriculum to be delivered in a means that is better understood and implemented.

- A. Union will form a training committee to work on training issues. The committee will discuss such training issues as training topics, levels, evaluation, and training and using more providers as trainers. Meetings will be scheduled to be held at a time, which allows providers to participate without interfering with the providers' business. Recommendations approved by Union's Training Committee shall be presented to the Training Quality Committee for response and/or action. Agencies will pay for up to two (2) Union represented providers to attend the Training Quality Committee (substitute care and mileage).
- B. Upon request, Agencies will provide representatives when available to attend Union committee meetings to hear concerns and assist with recommendations for the Training Quality Committee or appropriate subcommittee.
- C. Copies of Union materials will be made available at statewide provider overview sessions and at DHS provider training sessions.
- D. Union will be provided with a schedule of DHS child care provider orientations. Union will be provided an opportunity to make a 20-minute presentation at provider orientation and to distribute and collect union membership applications.
- E. Agencies will obtain and disseminate current information about available training opportunities on a timely basis. To ensure that all providers are aware of the training programs including standardized trainings, community offerings, distance education, statewide offerings and scholarship opportunities, Agencies shall post or create a system for approved organizations and trainers to post information regarding the training program on the Internet, e-mail or by mail at the providers request at least quarterly. This information shall also be included in new provider packets and new provider overviews.

SECTION VI: SUBSIDY ISSUES

- A. DHS will propose for the 2007-09 Agency Request Budget that maximum subsidy rates paid to licensed providers be increased to the 75th percentile for the 2006 market rate study.
- B. DHS will propose for the 2007-09 Agency Request Budget that ERDC co-pays be reduced by 20 percent and the maximum ERDC income limit be increased to 185 percent of the Federal Poverty Level.
- C. DHS will implement a new procedure for handling billing forms. The goal is to reduce the processing time to three to four days.
- D. DHS will improve the JOBS Child Care payment process by:
 - a. Maximizing its ability to issue JOBS billing forms in advance of care being provided.
 - b. Ensuring that once a JOBS billing form is issued, the form will not be cancelled and reissued in a lesser amount without permission from the provider.
 - c. Sending advance notice if a billing form will not be issued to a provider who is linked to the client on the JOBS system.

SECTION VII: ALIGNMENT OF AGES AND POLICIES BETWEEN AGENCIES

- A. Agencies will work to align definitions of infant, preschool, school age and special needs children. DHS will adjust their infant age to align with Child Care Division's (CCD) infant age.

SECTION VIII: PROVIDER RECORDS AND COMPLAINTS

- A. Union will receive copies of the Agencies' manuals and annotated rules when they are completed. Agencies will provide updates to the manuals and updated rules as they occur. Union will receive notice of Agencies' proposed rulemaking.
- B. If five percent of the population in the county or five percent of the eligible population in the county are limited English Proficiency speakers, CCD will provide critical CCD documents in their language, and DHS will provide the Provider Guide, including a sample translated Billing form and Provider Listing form in their language. Currently, the languages meeting these criteria include Spanish, Russian, Vietnamese, and Chinese. The Language Line, a translation service of AT&T will be utilized for verbal communication needs.
- C. CCD will provide copies of public materials in providers' files to the provider and Union upon written request from the provider and Union within twenty-one (21) days of the receipt of the request. CCD records and retains in a provider's file information related to compliance with child car rules. The provider receives a copy of the compliance determination at the time of the determination or when the record is placed in the provider's file. Provider is given an opportunity to respond to the compliance determinations in writing to CCD.
- D. CCD will develop a practice under which an observed noncompliance that is immediately correctable and does not involve serious health and safety violations may not be recorded as valid.
- E. CCD will actively encourage callers making complaints to provide identifying information.

SECTION IX: CRIMINAL HISTORY

- A. Agencies will work together toward the ability to accept background checks performed by either agency, and will explore with Oregon State Police the possibility of improved access to fingerprint services.

SECTION X: INFORMATION AND PROVIDER LISTS

- A. Agencies will provide updated provider lists to Union as requested but not more frequently than monthly. Union will request the information using standard agency forms. Agencies will provide the lists at no charge to Union unless the requests require additional staff time to prepare. The charge will reflect actual staff time required to prepare the list.

SECTION XI: GRIEVANCE PROCESS FOR MEMORANDUM OF AGREEMENT ISSUES

If Union or Agencies desire a formal resolution of a dispute that arises concerning the application, meaning or interpretation of the Agreement, such grievance will be resolved as provided in this section.

- A. A grievance process may be initiated by either party making a written request to the other party within thirty (30) calendar days of Agencies or Union having knowledge of the issue. The grievance will include:
 - a. A statement of the issue and relevant facts,
 - b. the specific provision or provisions of the Agreement at issue, and
 - c. the resolution sought.

- B. The grievance process will include the following steps:
- a. The Agency director or designee, or Union designee will review the grievance and within fifteen (15) calendar days of receipt, attempt to resolve it to the satisfaction of the parties.
 - b. If the grievance is not resolved at step one, the initiating party will request a grievance committee review within fifteen (15) calendar days. The Committee (comprised of one Union representative, one Agency representative, and one neutral third party agreed to by Agencies and Union) will convene within thirty (30) calendar days of the request and will make a recommendation to resolve the grievance to the parties within fifteen (15) calendar days.
 - c. The Agency director and Union designee will review the committee recommendation. The recommendation will be affirmed unless it is in conflict with statute or rule.
 - d. If a conflict with statute or rule exists, Agencies and Union will meet and confer within thirty (30) days to determine the feasibility of modifying the rule or statute as necessary to meet the intent of the committee's recommendations.
 - e. Any costs related to the neutral party shall be split on an equal basis between Union and the Agency.

SECTION XII: LEGISLATIVE ACTION

- A. Provisions of this agreement not requiring legislative funding, or statutory changes before such provisions can be put into effect, shall be implemented on the effective date of this agreement unless otherwise specified herein.
- B. Upon signing this agreement, Agencies will incorporate into the agency request budget process, any policy option packages necessary to implement this agreement.
- C. Should the Legislative Assembly or the Emergency Board fail to enact or adopt matters submitted to them under the preceding section, then Agencies shall immediately meet with Union and agree on modifications or substitutions for the affected portion or portions of this agreement.

SECTION XIII: REOPENING PROVISIONS DISCUSSION

- A. In the event any provision of this Agreement is declared invalid by any court of competent jurisdiction, then only such portion or portions shall become null and void and the balance of the Agreement remain in effect. Agencies and Union agree to immediately meet and agree upon a substitute for the portion or portions of the Agreement so affected and to bring it into conformance therewith not over sixty (60) days after notification unless extended by mutual agreement.

SECTION XIV: LAWS AND REGULATIONS

- A. This Agreement is subject to all applicable existing and future state and federal laws and regulations.

SECTION XV: CONTINUED MEETINGS

- A. Agencies and Union will continue to meet and confer as necessary; but not more frequently than on a quarterly basis.
- B. These meetings shall be held at a time that is convenient for providers to attend.

SECTION XVI: SUCCESSOR DISCUSSIONS

A. If one of the parties desires to modify the Agreement, they shall notify the other party in writing no less than one hundred and eighty (180) days prior to the termination of this Agreement.

SECTION XVII: COMPLETE AGREEMENT

A. This Agreement is the full and complete Agreement between Agencies and Union resulting from discussion held pursuant to the provisions of the Executive Order. It is acknowledged that, during discussions which resulted in this Agreement, each and all had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter appropriate for this meet and confer process, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this agreement.

B. This Agreement supersedes all prior written agreements.

SECTION XVIII: DEFINITIONS AND TERMS

Day:	Calendar day unless otherwise specified.
CCD:	The Child Care Division of the Oregon Employment Department. CCD may be used to refer to the staff of the Child Care Division.
DHS:	The Department of Human Services. DHS may be used to refer to the staff of the Department of Human Services.
Director:	The person who is identified as the head of an agency.
Core Knowledge Categories:	The core body of knowledge for Oregon’s Childhood Care and Education Profession as defined by the Center for Career Development of Portland State University.
The Oregon Registry:	The voluntary registry at the Oregon Center for Career Development in Childhood Care and Education at Portland State University that documents the training, education, and experience of individuals who work in childhood care and education.
Provider:	The person in whose name the license for a registered or certified family child care home is issued.
Registered Family Child Care Provider:	A person who is a licensed registered family child care home provider, who may provide child care for up to 10 children.
Certified Family Child Care Provider:	A person who is a licensed certified family child care provider, who may provide child care for up to 16 children.
Chair:	Person who is given the responsibility to facilitate and provide support to a group or committee.
Policy:	A written plan or course of action representing general goals and acceptable governing practice for agencies to follow.
Complaint:	An allegation that a provider is in violation of the statute or administrative rule that governs child care.

Primary Language of the Provider:	The language the provider identifies as preferred for receiving information.
Oregon Administrative Rules (OAR):	Any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency. [ORS 183.310(9)]
Oregon Revised Statutes (ORS):	The statute laws of Oregon.
Eligible Union Members:	Licensed Registered Family Home Child Care Providers and Licensed Certified Family Home Child Care Providers.
Complaint Findings:	The determination made by CCD staff resulting from an investigation of a complaint.
Valid:	There is evidence that the noncompliance occurred.
Invalid:	There is evidence that the noncompliance did not occur.
Unsubstantiated:	There is conflicting evidence or evidence is not available on whether the noncompliance occurred.

ACRONYMS

OCCD:	Oregon Center for Career Development in Childhood Care and Education at Portland State University
ODE:	Oregon Department of Education
CCDF:	Child Care and Development Funds
CCR&R's:	Child Care Resource and Referral Agencies
HR:	Human Resource

TERMS OF AGREEMENT

This Agreement shall be in effect upon its execution and except as amended or modified, shall remain in full force and effect until September 30, 2008.

Signed this 30th day of September, 2006 in Salem, Oregon.

FOR THE AGENCIES

Sue Nish
Janice Warner
Brene Sedberry
Kathleen M. Harris
MARC WOODRUFF
J. Lynn
~~Cheryl Rice~~

FOR THE UNION

Kay Allen
A. J. W.
Marian C. McDonald
Bob Allen
Sue Mackey
Mara Gonzalez Mendez
Regina Martinez
Cheryl Rice
J. J. J.
Faye Zyzanski
Laura B. Michel C.

APPENDIX A

FAMILY CHILD CARE PROVIDER BILL OF RIGHTS

All family child care providers have:

1. The right to be treated as a professional with courtesy, dignity, consideration and respect.
2. The right to be given the same consideration and treatment as all other providers regardless of race, color, religion, gender, sexual orientation, national origin, political affiliation, disability, marital status, age or union affiliation.
3. The right to file a complaint with the appropriate agency when provider believes they have been discriminated against because of race, color, religion, gender, sexual orientation, national origin, political affiliation, disability, marital status, age or union affiliation.
4. The right to request and be given a new licensing specialist for cause one time so long as staffing allows in that area.
5. The right to receive written information such as notices and explanation in provider's primary language as provided for in law and agency policy.
6. The right to receive written notice of any changes to payment or programs that affect families receiving state subsidies.
7. The right to have the information in their own provider file kept confidential, except as otherwise provided for by state and federal law.
8. The right to review all information in their provider file, except as otherwise provided for by state and federal law.
9. The right to require representatives of Agencies to show photo identification and leave a business card.
10. The right to be advised by the Agency of the type of visit.
11. The right during all visits to be treated professionally and receive an objective impartial assessment.
12. The right to request a witness to observe and document any visit including compliance visits, so long as it does not delay the compliance visit.
13. The right to receive an accurate report of the visit including the evaluator's findings listing each observed deficiency. The description of the evaluator's observation shall include a clear explanation of why the existing condition constitutes a deficiency and the provider's explanation of the deficiency.
14. The right to be informed of the evaluator's supervisor and his/her contact information.
15. The right to be given technical assistance by the agency if provider receives a compliance visit that identifies "valid" out of compliance issues.
16. The right to have CCD complaint allegations found "valid" before registration or certification is revoked or suspended. Once a complaint is found valid, and action is taken on the license, CCD may send letters to parents. Letters are not sent to parents during the course of an investigation except for open investigations of criminal conduct and child abuse.
17. The right to have a Union representative present during any interactions so long as it does not delay the interaction.