

EXECUTIVE ORDER

01.01.2007.14

Collective Negotiation by Family Child Care Providers

- WHEREAS, Child care is a fundamental need for Maryland families with many children under 6 years of age having both parents, or their sole parent, in the workforce;
- WHEREAS, Family child care providers play a crucial role in providing quality and affordable child care for young children;
- WHEREAS, The State of Maryland, through the Maryland State Department of Education, seeks to ensure a supply of child care that meets the diverse needs of parents;
- WHEREAS, Maryland parents deserve the freedom to choose the most appropriate child care services for their children, including family child care, and therefore the State seeks to attract and retain sufficient numbers of well-qualified family child care providers;
- WHEREAS, There is a need to stabilize the family child care workforce, which includes both registered providers and providers legally exempt from registration;
- WHEREAS, Family child care providers are located throughout the State and therefore may not be able to effectively voice their common concerns about participation in the State's Child Care Subsidy Program, State regulation of child care services, and challenges including limited access to affordable health insurance;
- WHEREAS, The Maryland State Department of Education, a principal department of the State government subject to my constitutional authority to ensure the faithful execution of the laws, has plenary authority to determine the terms and conditions under which child care services are provided in the State's Child Care Subsidy Program, including setting rates and devising a process for ensuring that those rates are fair and reasonable; and

WHEREAS, The State would benefit from a system of representation for family child care providers in implementing its goals for improvement of the State's Child Care Subsidy Program.

NOW, THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. The State shall recognize a provider organization designated by a majority of the registered and registration-exempt family child care providers who participate in the State's Child Care Subsidy Program known as the Purchase of Care Program (POC), voting in a mail ballot election, as the representative of the POC providers in the State. A provider organization may petition for certification by submitting a petition for representation to the official or officials designated by the Governor to administer this Order. The petition must be accompanied by a showing of interest supported by 30 percent of the providers in the appropriate unit indicating their desire to be represented by the petitioner for the purpose of collective bargaining. Signatures in support of election shall be dated no earlier than one year prior to the submission of the petition for certification. No petition for certification may be filed prior to August 6, 2007. Within 5 days of determination that a valid petition has been submitted, the official or officials designated by the Governor to administer this Order shall notify interested provider organizations of the pending election petition. Any interested organization that wishes to intervene must submit a petition of intervention which must be accompanied by a showing of interest supported by 10 percent of the providers in the appropriate bargaining unit indicating their desire to be exclusively represented by the intervener for the purpose of collective bargaining, which petition must be filed within 15 days of notice of the pending election petition. Such petition must be supported by signatures that date back no more than one year prior to the petition for intervention. An election under this Order shall be held within 60 days of a request for such an election. All costs associated with the election verification shall be borne by the organization(s) seeking designation as the representative. The Maryland State Department of Education shall provide a list of all registered and registration-exempt providers who participate in the POC Program.

B. Certification of a provider majority bargaining representative shall continue so long as such organization satisfies the criteria of this Order and subsequent guidelines applicable to certification. A petition to decertify an existing majority bargaining representative may be filed in the same manner as a petition for certification, as provided in Section A of this Order, except that no decertification petition may be filed for any bargaining unit if:

(1) A majority bargaining representative for that bargaining unit has been certified within the preceding 2 years; or

(2) The bargaining unit has in effect a valid memorandum of understanding that, by its terms, does not exceed 3 years in duration; provided that the limitation imposed by this paragraph shall not bar the filing of a decertification petition within the 90-day period immediately preceding the expiration of such memorandum of understanding.

C. The State, through the Governor, shall designate appropriate representatives to meet and confer with the provider representative concerning the terms and conditions of the participation of family child care providers in the POC Program, including reimbursement rates under the POC Program, payment procedures, and benefits. Any agreement reached shall be reduced to writing. If any of the provisions of the agreement require legislative action, the parties will jointly seek the enactment of such legislation.

D. Nothing in this Order shall in any way diminish or infringe on any rights, responsibilities, power or duties conferred by the Constitution of the State of Maryland and the Annotated Code of Maryland. The designation of representatives by the Department under this Order does not prevent the designated provider organization or any other organization or individual from communicating with any State official on matters of interest, including appearing before or making proposals to the Department at a public meeting or hearing or at any other Department forum. This Order does not mandate participation by any child care provider.

E. This Executive Order is not intended to and will not alter in any way either (1) the role of parents in selecting, directing and terminating the services of family child care providers nor (2) the fact that the providers are not State employees.

F. This Executive Order is not intended to grant any right, or to imply that family child care providers have any right to engage in a strike or other collective cessation of the delivery of services.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis this 6<sup>th</sup> day of August, 2007.

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Martin O'Malley  
Governor

ATTEST:

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Dennis Schnepfe  
Secretary of State