

Unionization of Home-Based Child Care



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Role of Unions

- Unions have begun organizing home-based child care providers.
 - Regulated family child care (FCC) providers.
 - “Family, friend, and neighbor” (FFN) care providers who receive public funds.



States' Actions

- Eight states-IL, IA, MI, NJ, NY, OR, WA, and WI-have authorized union representation and negotiation with the state on behalf of FCC and/or FFN providers.
- Three states-IL, OR and WA-have negotiated and signed statewide contracts.
 - Improvements in compensation, training and treatment of home-based providers.
- In these 3 states, governors also requested funding in their budgets for child care centers receiving subsidies.
- In three states - WI, MI, and IA – there has not yet been significant progress.
- Four governors (CA, MA, NY and RI) vetoed legislation before 2007.
- Localities in a few states have granted some degree of union recognition.

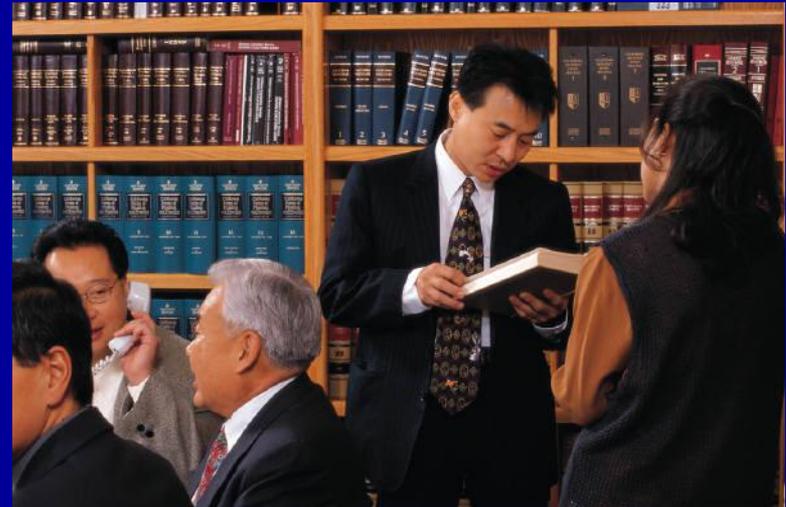
Development of a New Organizing Model

- In the 1980s SEIU began developing a new model of labor organizing to organize low-paid, mostly women who provide home-based care giving services.
- Since home-based care providers received payment from the state, the state could serve as an “employer of record” with whom to bargain.
- SEIU, AFSCME, Communication Workers of America (CWA), United Auto Workers (UAW), and the American Federation of Teachers (AFT) adapted this model to organize FFN providers who receive subsidy payments and regulated FCC providers.



Legal Authority for Unionization

- Unions working to organize home-based child care providers have sought special legal authority from the state requiring it to:
 - Serve as providers' employer of record.
 - Bargain collectively with their union representative.
- No state has made providers public employees without qualification.



Legal Authority for Unionization

- The legal authority needed for FCC and FFN providers to unionize and negotiate with the state generally has been derived from an executive order from the governor, state legislation, or both.
- Executive orders can be revoked by succeeding governors. Legislation is more difficult to repeal.
- In all 8 of the states that have authorized FCC and FFN providers to unionize and negotiate, the governor issued an executive order. In 2 states the orders were followed by legislation.
- Although an executive order is not legally necessary, it may be a helpful politically.
- In RI, CA, MA, and NY, bills passed the legislature without any executive order. In all 4 states, the governor vetoed the legislation before 2007.

Definition of the Bargaining Unit

- The primary focus of unions' efforts has been FCC and FFN providers who receive state subsidies. These providers have a financial, employment-like relationship with the state and the receipt of subsidies provides a mechanism for identifying them.
- FCC providers who are regulated by the state but do not receive subsidies are sometimes included, either in the same bargaining unit as the providers who receive subsidies, or in a separate bargaining unit.



Definition of the Bargaining Unit

- Executive orders and legislation permitting home-based providers to organize specify which providers may be grouped together for representation and bargaining purposes.
- Providers may be grouped into one or more units based on regulatory status, subsidy participation, and/or geography.
- How these bargaining units are defined may be a function of union preference, provider preference, or political factors.



Election of a Representative

- Once the bargaining unit (or units) is defined, the providers who want a union, or want to join a particular union among competing unions, sign a card indicating their support.
- If and when a certain percentage of providers indicate their support for a union, the card-signing itself may be verified and taken as the election, or the cards are taken as demonstrating sufficient interest in having an election.
- An individual's decision whether to join a union is always voluntary.



Union Dues

- FCC and FFN providers who join the union must pay union dues.
 - If the provider receives child care subsidies, the dues payments may be deducted from their reimbursement check.
- In several states, the legislation recognizing providers' right to unionize also authorizes the union to negotiate and deduct a "fair share" fee from the reimbursement payments of a provider who does not join the union.
 - Amount is typically set by collective bargaining but can be no higher than the dues amount.

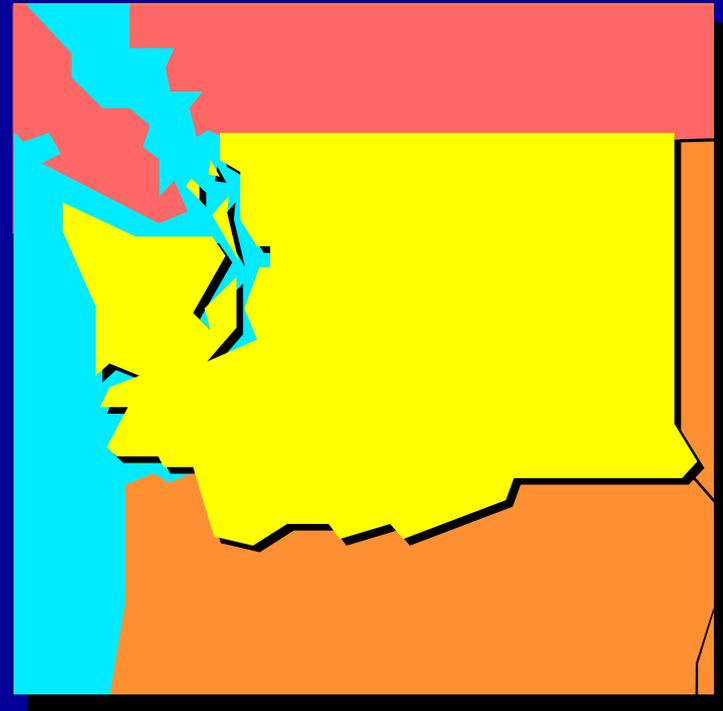


Illinois Agreement

- Illinois was the first state to complete negotiations and sign a statewide contract for home-based child care providers.
- SEIU and Illinois agreed to a three-year estimated \$250 million contract that provides:
 - *Rate increases:* FCC and FFN providers will receive 4 rate increases totaling 35% over three years. FCC providers who meet certain training or quality standards receive an additional 5-20% increase.
 - *Health Insurance:* The state will contribute \$27 million toward premiums for subsidized FCC and FFN providers to obtain health insurance beginning the third year.
 - *Grievance Procedures:* Payments to subsidized FCC and FFN providers must be processed in a timely fashion and grievances may be settled by binding arbitration.
- An additional \$18 million will increase rates for child care centers.

Washington

- Created two bargaining units:
 - Subsidized FCC and FFN providers.
 - FCC providers who do not receive subsidies.
- FCC providers not receiving subsidies have the right to union representation only for purposes of “negotiated rule making.”

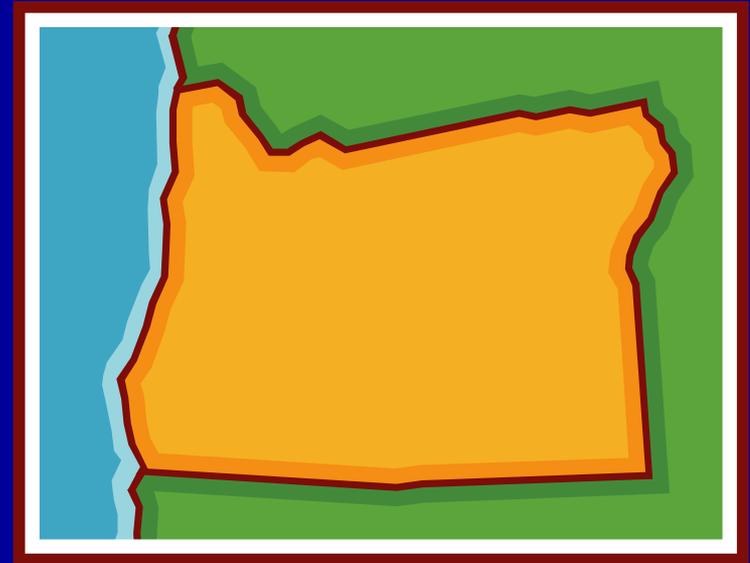


Washington Agreements

- In November 2006, the union and the state reached an estimated \$50 million, two-year agreement approved by the legislature:
 - *Subsidy rate increases:* FCC providers will receive a 10% increase over 2 years, plus additional financial incentives for infants during nonstandard hour care. FFN providers will receive uniform rates for each child in their care (instead of the lower rate now in effect for siblings of the first child), plus a 7% increase in that uniform rate over 2 years.
 - *Health Insurance:* Beginning in 2008, subsidized FCC providers caring for at least four children receiving child care subsidies will have access to health insurance coverage. The state will contribute up to \$555 per month per provider. The total amount is capped.
 - *Other supports for both subsidized FCC and FFN providers:*
 - Increased training opportunities.
 - FFN providers receiving subsidies will qualify for the Child and Adult Care Food Program.
- The final Washington state budget for 2007-2009 includes \$85 million to implement the agreements and to increase subsidy rates for child care centers in line with the increases for FCC providers.

Oregon

- AFSCME and SEIU, representing two different groups of providers, have each signed agreements with state agencies.
- The first executive order applies to FCC providers, both subsidized and unsubsidized.
- The second order applies to FFN providers who receive subsidies.
- A third order, combining the provisions of both of the earlier orders, was issued in February 2007.
- The two unions did not coordinate their negotiating efforts, although some of their demands overlapped.



Oregon Agreements

- *Subsidy rate increases:* Both contracts include increases in subsidy rates.
 - The AFSCME/FCC contract requires the Department of Human Services to include in its budget request funds to increase rates for FCC providers to the 75th percentile of 2006 market rates.
 - The SEIU/FFN contract requires DHS to include in its budget request funds to increase rates for FFN providers to 88% of the 75th percentile of 2006 market, and to increase “enhanced” reimbursement rates (for meeting certain training requirements) to 95% of the 75th percentile.
- *Payment Procedures:* Both contracts require DHS to make improvements.
- *Eligibility Expansion:* Both contracts call on DHS to include in its budget request funds to restore the eligibility for subsidized child care to 185% of the federal poverty level (from 150%).
- *Reductions in Parent Co-payments:* Both contracts call on DHS to lower co-payments by 20%.

Oregon Agreements

- *Health Insurance:* In the AFSCME agreement the union and the agencies agreed to “work together to explore” ways to help FCC providers “access affordable, comprehensive health insurance coverage.
- *Provider Bill of Rights:* The AFSCME/FCC contract contains a “Provider Bill of Rights” appendix that establishes many procedural protections for FCC providers in their dealings with state regulatory agencies.
 - Right to have a union representative present during interactions with regulators.
 - Right to have complaints be found “valid” before the provider’s registration/certification may be revoked.
- *Payment Processes:* The SEIU/FFN contract addresses procedures for dealing with disputes and overpayments.
- *Training:* FCC providers will have a larger voice in training and the agencies will work to make training for FFN providers more accessible and affordable.

New York

- On May 8, 2007, Governor Spitzer signed Executive Order No. 12, authorizing child care providers to unionize. This move came 11 months after then-Governor Pataki vetoed legislation that would have given providers similar rights.
- The order recognizes four separate bargaining units:
 - all subsidized FCC and FFN child care providers in New York City;
 - all unsubsidized FCC providers in New York City;
 - all FCC providers outside of New York City; and
 - all subsidized FFN providers outside of New York City.
- Under the order the state will negotiate with the unions on the stability, funding and operation of child care programs; expansion of quality child care; and improvement of working conditions, including subsidies, benefits or payment, for child care providers.
- The order specifically states that it does not authorize providers to strike and it does not make providers employees of the state.

Union Competition and Cooperation

- In the summer of 2006, SEIU and AFSCME announced a plan under which one union or the other would take the lead in organizing FCC and FFN providers in sixteen states, and in one state, each union would take the lead in a different part of the state.
 - AFSCME will have jurisdiction for: Hawaii, Michigan, Oklahoma, New Jersey, New Mexico, New York, Ohio and Wisconsin
 - SEIU will have jurisdiction for: Arizona, Colorado, Connecticut, Louisiana, Massachusetts, Maryland, North Carolina and Rhode Island.
 - The unions will share jurisdiction in Minnesota.