

Best Practices for Family Child Care Union Organizing

The Issue: Family child care providers are being organized in an increasing number of states by several national unions that want to represent providers in collective bargaining with the state agencies regulating child care and funding child care subsidy programs. Because family child care providers do not fit any existing union workforce models, a new model must be established.

At present there are several different approaches to organizing and establishing bargaining units being used, but because of our commitment to building an effective voice for family child care professionals and strengthening the profession of family child care, the National Association for Family Child Care (NAFCC) is publishing this paper as a starting point for developing a new model for a family child care union. It is our goal to develop a framework of best practices for family child care union organizing that will respect providers as early learning professionals and enhance, not replace, our current professional organizations.

With a strong voice, family child care providers can build public and political will to improve compensation and respect for our profession and to fund quality early learning opportunities for all the children we serve.

Background Information

In the United States, labor unions have, since the 1930's, become associated with organizations of manufacturing workers. Unions, however, can and have taken a variety of forms, bringing many different types of workers together under different industry contexts, and operating under labels such as professional unions, occupational unions, craft unions and amalgamated craft unions as well as "industrial" unions.¹ While this variety is evidence of the ability of unions to adapt to new situations, past union forms have one feature in common that does not fit family child care: unions organize *workers* to

bargain with *management* over the *terms* of their *employment relationship*, most often their *wages, hours* and *working conditions*.

Family child care providers are self-employed business owners who contract directly with clients and set the terms and conditions for the enrollment of children in their child care homes, including the program's tuition, fees and operating hours.

As a small business owner, a provider has no employer with whom she², or a union, can bargain for a salary increase or additional benefits; she sets her own salary, usually by paying all her other business expenses first and keeping whatever is left over as her wages. If she needs a salary increase or better benefits, she has two choices. She can *increase* her *gross*

income, either by raising the tuition and fees she charges parents or by finding alternative funding sources like the Child and Adult Care Food Program or grants for some of her program expenses, or she can *decrease* her program *expenses*.

Many providers are unable to raise rates or reduce expenses enough to make a significant improvement in their own salary and benefits. Therefore, to increase wages and benefits for family child care providers, a new organizing model must be created to access additional public and private resources to fund quality family child care. As the slogan of the Worthy Wage Campaign has reminded us for years, “Parents can’t afford to pay, providers can’t afford to stay, we have to find a better way!”³

The unions organizing family child care providers to bargain collectively with state governments are looking at two contact points between providers and states, and two overlapping groups of providers, as the basis for a new union. The first group is the providers who care for subsidized children and receive a *subsidy reimbursement payment from the state* for all or part of a low income child’s tuition. The second group is the regulated providers who operate their businesses in *compliance with state regulations*.

While it is indisputable that family child care providers are not employees of the state in a traditional employment relationship that would permit negotiating over wages, hours and working conditions, the unions organizing family child care providers argue that the relationship between providers and the state, based on payment of a subsidy or regulation, is sufficient to be the basis of collective bargaining. Unions are seeking to be providers’ exclusive representatives in negotiating binding contracts with the state to govern the terms of their relationship,

which instead of the traditional wages, hours and working conditions, are in this case the child care subsidy program and the family child care regulations. Unions want to negotiate directly with the state over policies that we have traditionally addressed with public policy advocacy efforts.

NAFCC was established in 1982 to be the voice for the family child care profession. It was created as a voluntary professional organization and for many years was operated by a volunteer board with no staff and very little funding. Growth has been slow but steady, and the stature of the organization has grown as NAFCC’s family child care accreditation gained recognition as the standard for quality in family child care programs.

As the only national organization dedicated solely to representing family child care providers, NAFCC is acutely aware of the enormous need to increase both the respect and the compensation received by family child care providers. We want to partner with other advocates who will work with us to build the public and political will to recognize our profession as an essential component of the early care and education delivery system and to raise the levels of professional development and compensation for all providers so that children in family child care homes receive the high quality early learning experiences they need and deserve.

The NAFCC mission is to promote quality child care by strengthening the profession of family child care, and we believe that financial benefits for providers cannot come at the expense of the quality of care provided to children. Unions committed to giving family child care providers an effective voice that can make funding for quality improvements in family child care a priority at the state and federal level,

including improving the compensation and professional development opportunities for family child care providers, can partner with us to create a new union model that respects family child care providers and the associations they have built to advocate for themselves.

It is our firm belief that a single, unified voice for family child care providers is a necessity for effective advocacy for our profession at the state and national levels. This does not mean that only one organization can represent family child care providers; it simply means that the messages policy makers receive on family child care issues must be consistent and focused on supporting providers in ways that will improve the quality of care.

Competition between segments of the field and between organizations attempting to voice their competing concerns will not persuade policy makers or the public to make family child care an early learning priority. In light of these concerns, NAFCC would like to collaborate with unions to create a model that will be most beneficial to providers and their associations. As a first step in this collaboration, we would like to suggest the following guidelines for a “best practices” model for family child care union organizing.

Step 1: Determining eligibility for membership in a family child care union

Much attention has been focused on the current conflict over the most appropriate way to divide family child care providers into bargaining units. The model used in Illinois and Washington creates bargaining units based on a provider’s receipt of subsidy payments, and the model in Oregon and Iowa creates bargaining units based on a provider’s regulatory status. State and local

family child care associations, which have operated as professional organizations for family child care providers since the late 1970s and early 1980s, focus on strengthening the quality of family child care and have, therefore, primarily targeted regulated providers for membership, because these are the providers who made an intentional decision to enter the profession.

Unfortunately, however, association membership seldom exceeds 25 percent of regulated providers for reasons including their limited resources for outreach to providers and the difficulty of recruiting members without a significant financial benefit other than free or discounted professional development training. One important benefit which is difficult for association members to access is affordable health insurance.

Using the receipt of subsidy payments as the determining factor in bargaining units divides a state’s regulated family child care providers into two separate units -- those who participate in the public child care subsidy system and those who do not -- rather than uniting them around their common concerns. This was the primary reason the Maryland State Family Child Care Association (MSFCCA) opposed and defeated the union sponsored organizing legislation, with bargaining units based on subsidy payments, in the 2006 legislative session.⁴

In Maryland, children receiving subsidies are cared for by approximately 2,000 license-exempt providers and 3,000 of the state’s 9,000 regulated providers, but this is a very fluid group, so the providers with subsidized children in their care one month are not necessarily the same providers with subsidized children in their care the next month. The MSFCCA has been the voice of

regulated providers since 1983. They insisted that providers need a strong unified voice when addressing the state's regulation of their businesses, and putting one-third of the regulated providers in one unit and two-thirds in another unit, with providers moving back and forth between units as subsidized children entered and left their programs, would sever the unified voice of regulated providers.

Structuring bargaining units on the basis of subsidy receipt can also create a potentially serious conflict of interest within the bargaining unit when the interests of regulated providers diverge from those of license-exempt providers. Regulated providers have made a commitment to comply with state regulatory requirements and participate in professional development, whereas license-exempt providers, for a variety of reasons, choose not to become regulated and often do not participate in professional development initiatives. If both regulated and license-exempt providers are in the same bargaining unit, whose interests will the union represent in subsidy rate increases or when regulatory and professional development standards come up for review?

If an overwhelming majority of the union members are license-exempt, it is likely that the "anti-regulation" voice will dominate. Would a union dominated by license-exempt providers be likely to negotiate for substantially higher subsidy rates for regulated providers than license-exempt providers, or to support increases in licensing requirements that would result in more monitoring to protect the health and safety of children and more required professional development to improve quality? The result of negotiations dominated by license-exempt providers could be a shift of resources with more benefits for license-exempt providers and a

serious loss to those who have worked hard to elevate the status, quality and compensation of the family child care profession.

At the present time, Illinois is the only state with a contract in effect, and it is not yet clear how the contract will impact the quality of family child care. The Illinois contract included subsidy rate increases of \$3.27 per day over three years, representing a 35% increase, for license-exempt providers, and \$5.00 to \$6.00 per day over three years, representing an increase of 17% to 49%, for regulated providers, with the differences in rates depending upon the region of the state in which they reside. The contract also included tiered reimbursement for both license-exempt and regulated providers beginning in the second year and health insurance coverage for all providers receiving subsidy reimbursements in the third year.

NAFCC recognizes that license-exempt providers represent an important part of the field of family child care. These providers cannot be excluded from a strategy to unify the profession as we increase quality and compensation because they serve so many vulnerable low-income children who need the best early care and education available. A unifying and best practice approach must thus include both license-exempt and regulated providers as we raise quality and compensation, but the strategy should include ways to help interested and qualified license-exempt providers to become regulated and meet higher standards in order to receive increased compensation. Precisely how to achieve this balance is something that will continue to be worked out in the field.

To underscore, it is the position of NAFCC that a family child care union model must work toward two goals: a unified voice for all

family child care providers and a commitment to raising compensation, respect and program quality for all family child care providers. If a union wants to be recognized as *the voice of family child care*, then union membership should be open to all family child care professionals who are committed to these goals. A union that excludes members of the profession cannot be the voice of family child care. An inclusive plan must be designed and implemented so that both the membership and the leadership of a family child care union reflect the full range of diversity in the profession, including providers of all races, ethnicities, languages, ages, education levels and income levels, serving children of all ages, income levels and needs.

A commitment to quality must be built into a family child care union for multiple reasons. First, a family child care union must be committed to quality because all children in child care need high quality child care to reach their potential, and a union representing large numbers of providers can support nothing less than quality for children. It is simply the right thing to do. Second, only a union with a quality vision will galvanize the professional leadership in the family child care field.

Many of us are wholly devoted to making the world a better place for children and those who care for them, and if we can craft a union vision that is our vehicle for honoring children and their families and achieving better jobs for providers, we will flock to that union. Third, only a union with a quality vision can attract the public support essential to achieve the public investment necessary to transform the field.

Family child care providers often demonstrate their commitment to quality in their profession by attaining the highest level of licensing available in their state and by

pursuing advanced professional development opportunities including NAFCC accreditation, the Child Development Associate (CDA) credential, and college courses leading to degrees in early childhood education. If the goal of union organizing is to increase provider compensation and respect and to make quality family child care more accessible for parents, then increases in compensation should be inextricably linked with quality improvement.

All providers should be given incentives to improve the quality of care they provide and to attain the highest level of licensing available in their state. All providers, regardless of whether they receive subsidy reimbursements, need adequate compensation in order to stay in the field and to participate in the professional development activities they need to improve the quality of the care they provide.

To this end, an effective organizing campaign should be linked to a comprehensive financing plan that includes a range of financial supports, linked to quality improvements, for *all* providers -- not just higher public subsidy reimbursement rates. (See Step 6: Advocacy and Funding, below.)

A best practice family child care union model will likely borrow from the craft union model. Using this model, unions of electricians, plumbers and carpenters have upheld high standards for their profession and required a rigorous system of apprenticeship that combines classroom education with on-the-job experiential learning and workplace mentoring. In fact, an increasing number of apprentices earn college credit, sometimes an Associates degree, in conjunction with their journey person's card. Is there a way

we could structure membership in a family child care union along a progressive ladder of professional development, working up from family, friend and neighbor care, to license-exempt providers receiving subsidy reimbursements, to regulated providers meeting minimum licensing standards, and finally regulated providers with advanced certification, degrees and accreditation?

A model focused on using a professional development ladder to maintain high quality standards would reflect the mission of increasing the compensation and respect received by providers while improving the quality of care provided, and it could be beneficial in the effort to ensure the inclusion of family child care in the system of early care and learning and to build the public and political will to finance the system.

Step 2: Before organizing a campaign in a state

Before putting any organizers on the ground in a new state, unions should attempt to contact state and local family child care associations and other organizations already serving as a voice for family child care providers. Many states have family child care associations that have been speaking on behalf of providers for decades with varying levels of effectiveness. Others have provider networks and support groups. In some states other organizations, like a National Association for the Education of Young Children (NAEYC) affiliate or a child care resource and referral agency, work closely with family child care providers to give them a voice in policy issues.

If family child care providers already have a voice in early care and education policy making, unions should respect the work being done and attempt to partner with existing family child care advocates, rather than ignoring and attempting to supplant

them. NAFCC has a list of all active state family child care associations with contact information and can help unions make contact with provider associations.

Unions should make a good faith effort to meet with the leadership of state and local provider associations to establish direct and open communications and to plan and implement an organizing drive that will meet the needs of the providers. Unions should find creative ways to offer existing family child care associations affiliate memberships in the union. All union campaigns can be organized around the goal of increasing provider compensation and respect and making quality family child care more accessible for parents, but one plan will not work for all campaigns, and the specific issues focused on will vary from state to state.

The strengths and challenges of any organization serving as the voice of family child care in a state should be considered in crafting the plan to organize providers to address policy issues, and providers should make up the leadership team setting the agenda for the campaign.

In addition to working with the provider associations and other early childhood advocates, unions should find a way to collaborate among themselves, both in their organizing and in their advocacy efforts. All providers working in early care and education have similar interests, and the field could be stronger if we coordinate resources and efforts.

Step 3: Hiring and training the initial organizing staff

Most providers' first contact with a union organizing campaign will be the person who knocks on their door and invites them to sign a union card. In hiring and training the staff

who will visit providers in their homes, unions must require anyone visiting providers in their homes to behave in a professional and respectful manner so the provider does not feel threatened or intimidated. This visit should be an opportunity for her to learn about the benefits the union can offer.

Unions also need to acknowledge that **when a provider is caring for children, visiting her in her home is the same as visiting a Head Start or child care center teacher in the classroom.** A family child care providers' work educating and supervising children should not be interrupted or treated with less respect because it occurs in a home instead of a classroom.

In an organizing campaign that keeps the focus on respect for family child care, union staff need the following qualifications:

- Some experience and/or training in family child care or early childhood education, which could include an orientation conducted by someone with family child care experience;
- Familiarity with state and local family child care regulations, particularly those regarding the supervision of children, and awareness of the difference between licensing regulations and best practices standards, such as those found in the NAFCC Accreditation Standards⁵ and the American Academy of Pediatrics' *Caring For Our Children* standards⁶;
- Respect for family child care providers as self-employed business owners with primary responsibility for the health, safety and education of the children enrolled in their programs; and

- A criminal background check for anyone who will be in a family child care home when children are present.

Providers may be most likely to feel comfortable when their first contact with the union is another provider. In fact, unions have recognized the value of using organizers who come from the field over the last 15 years. This may be especially important in a unique field like family child care where the concept of a union is an alien one.

In addition, guidelines to protect the children in family child care providers' home from harm and to protect the providers from potential liability for injury to the children are essential. In most cases, the union organizer knocking on a provider's door will be a stranger to the provider and the children in her care. NAFCC strongly recommends that for the safety of the children, providers should never allow any strangers into their homes in the presence of child care children, especially if the provider is the only adult present.

If a provider who is responsible for the supervision of children engages in conversation with a union organizer, particularly if the discussion of organizing issues becomes intense, not only may the provider have to interrupt her planned curriculum but her attention may be distracted from her duty to supervise the children in her care, which could result in injury to the children and liability for the provider.

To protect both the providers and the children in their care, unions should not permit their staff to make unscheduled visits to family child care homes during child care hours. Anyone going into providers' homes should be instructed to follow some basic

rules to demonstrate their respect for family child care providers, including the following:

1. Union representatives should always clearly identify themselves and the union they represent, presenting photo identification and leaving some documentation from the union, so providers will know after the visit with whom they have spoken.
2. If a union employee wants to visit a provider during child care hours, the employee should schedule an appointment when the provider can have another adult present to supervise the children. If the provider is the only adult present to supervise the children when the union employee arrives, the union employee should ask the provider what time the child care program closes for the day and return after child care hours but should never stay and distract the provider from her duty to supervise children.
3. Union employees may visit providers without an appointment when no children are in care, but making an appointment shows more respect for the provider.
4. Union employees may never harass, intimidate or disrespect a family child care provider and must leave immediately when a provider asks them to leave.
5. If a provider clearly and definitively states at the end of a visit that she/he has no interest in signing a union card, the provider should not be visited again by any representative of the union.

Under no circumstances should unions take any retaliatory action against individual providers who oppose union organizing, and provider associations opposing a union organizing campaign should not discriminate in any way against individual providers who support or join a union.

Step 4: Recognition of a union; establishing structure and governance

NAFCC has no position on whether legislation or executive orders should be used to create the right of family child care providers to organize for collective bargaining, as long as membership in the union is open to all providers. Similarly we take no position on whether recognition is based on presentation of signed cards from a majority of the members of the bargaining unit or an election, but we do have some reservations about an election in which only a small minority of the eligible members actually cast a ballot if the union election will result in an assessment of representation fees. We would hope that the union and the providers could agree on an election procedure that assures that the result reflects the will of the majority of the providers eligible to vote in the election.

Once the union has been recognized to represent family child care providers, it must establish a structure that will empower providers to take leadership roles in family child care issues. All union providers in the state should be working together on statewide issues. There should also be a structure established so the state family child care leaders can work together on a national family child care campaign, coordinate state family child care campaigns and share lessons learned and exciting new policy initiatives. Ideally, family child care providers should have representation on state and national union policy and

governing bodies, with the ability to make family child care a union policy priority.

Step 5: Collective bargaining

To effectively represent family child care providers, unions will need to determine what issues are a priority for providers. One way to determine this is by conducting a membership survey. Provider leaders should be involved in drafting a statewide bargaining survey to determine what issues are most important to the members of a family child care provider union, and the providers should have a primary role in setting a bargaining agenda. Items to be considered for the survey and agenda could include:

- Linking compensation/funding increases to initiatives for quality improvement, including:
- NAFCC Accreditation
- Tiered reimbursement for providers accepting subsidy reimbursements
- Quality rating systems with financial incentives for all providers
- Training/professional development systems and scholarships
- Mentoring
- Benefits, including health insurance and retirement savings plans, for providers
- Reform of the licensing system, subsidy program and enforcement mechanisms
- Peer advocate/shop steward support for providers in grievance and enforcement cases
- Family child care participation in state funded preschool programs
- Public engagement campaign to build public and political will for financing an early childhood education system that

includes family child care as an essential component

- Leadership development opportunities for providers
- Targeted vs. universal benefits, and how to increase funding to reach all providers
- Distributing information on the benefits of family child care to all union members

The negotiating team for collective bargaining should be an inclusive reflection of the membership, and bargaining sessions should not be held without provider representatives. Whenever possible, bargaining sessions should be held in the evening or on the weekend, to accommodate providers' schedules. Members of the family child care provider union must have the opportunity to participate in the ratification of any negotiated contract that will effect state regulations concerning family child care or the subsidy reimbursements providers receive.

Step 6: Advocacy and Funding

A family child care union must be committed to understanding the early care and education system as a whole and the varied (and sometimes conflicting) rules, regulations, standards and funding streams that govern programs. Additionally, union leaders should join with the broader early care and education sector to fight for a more rational system as well as increased public and private investment. In addition to the compensation/funding efforts noted above under Step 5: Collective Bargaining, the union should help to strengthen the ECE system as a whole and expand the resources and support available to providers and the families they serve. This includes efforts such as:

- Advocate for increased private sector funding by making employer-supported child care funds a priority in all union collective bargaining efforts. The 1199 Child Care Fund (in New York City) and the New York Joint Labor Management Child Care Advisory Committee are two excellent examples. These funds use the collective bargaining process to leverage significant, new funding to help families pay for child care as well as to support the cost of quality early care and education services.
- Advocate for increased government funding via the tax system -- such as refundable tax credits for families that use quality child care (like the Maine Quality Certificate initiative); refundable credits for quality providers (like those proposed in New York and Colorado); or child care investment tax credits (like the Oregon Child Care Investment Tax Credit.) Using the tax system as one, among many, ways to finance early care and education allows dollars to flow to a wide range of providers that serve families at all income levels.
- Advocate for family child care providers as home-based teachers, with the capacity to participate in state and local pre-kindergarten, Head Start or other early learning programs and initiatives.
 - Advocate for expansion of the subsidy system to serve more low income families.

Conclusion

NAFCC is committed to giving family child care providers a unified voice in policy making decisions that impact the family child care profession at the state and national levels. With a strong voice, family child care providers can build public and political will to prioritize funding to improve compensation

and respect for our profession and to enhance quality early learning opportunities for all children in family child care. We want to partner with unions and other advocates to develop best practices for a family child care union model that will respect providers as early learning professionals and enhance, not replace, our current professional organizations and the services we provide. Associations and unions can provide services to the provider community that are complementary, not competitive, and we must work together to define what our roles will be as we continue to serve the family child care community.

¹ For a survey of different union forms, functions and collective identities, see Howard Wial, "The Emerging Organizational Structure of Unionism in Low-Wage Services," *Rutgers Law Review* 45 (Spring 1993): 671-738.

² In this document, we will refer to family child care providers using feminine pronouns because the overwhelming majority of providers are women, but we want to acknowledge that we recognize the importance of the work done by the men in our field as they serve as positive male role models for the children in their care.

³ The Worthy Wage Campaign is a national grassroots campaign, coordinated from 1991 through 1999 by the Center for the Childcare Workforce. For more information, see the website of the Center for the Child Care Workforce, a project of the American Federation of Teachers Educational Foundation, at http://www.ccw.org/about_wage.html.

⁴ The "Quality Child Care Access and Affordability Act" was introduced as Senate Bill 809 (<http://mlis.state.md.us/2006rs/billfile/sb0809.htm>) and crossfiled as House Bill 1478 (<http://mlis.state.md.us/2006rs/billfile/hb1478.htm>) in the 2006 Session of the Maryland General Assembly.

⁵ Quality Standards for NAFCC Accreditation 2005, www.nafcc.org/accreditation/accredstandards.asp.

⁶ Caring for Our Children: National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care, 2nd Edition, <http://nrc.uchsc.edu/CFOC/index.html>.