

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER # 172

**Directing DHFS and DWD to Meet and Confer With Family
Child Care Providers in Order to Improve the
Delivery of Quality Child Care Services**

WHEREAS, the State of Wisconsin Department of Health and Family Services and the State of Wisconsin Department of Workforce Development are empowered to establish and maintain standards for the delivery of quality child care services provided in family child care centers. These standards include regulation and licensing of family child care centers and the establishment of reimbursement rates for family child care providers who deliver publicly subsidized care in the Wisconsin Shares program; and

WHEREAS, family child care providers deliver essential services to thousands of low-income Wisconsin children and families as part of Wisconsin Shares, the State's child care assistance program; and

WHEREAS, the number of families and children served under the Wisconsin Shares program has increased significantly over the past six years, from 17,990 families and 32,029 children in January 2000 to 30,745 families and 53,413 children in January 2006; and

WHEREAS, over 35% of all children receiving child care in the Wisconsin Shares program were served by family child care providers in 2005; and

WHEREAS, the number of licensed family child care providers has gradually increased over the last five years in Wisconsin, but turnover among family child care providers has been significant, with nearly 15% of licensed family child care centers closing in 2005, and an even higher turnover rate among certified providers; and

WHEREAS, in order to promote access to quality child care and increase parental choice of providers, there is a need to stabilize the child care workforce and to ensure that licensed and certified family child care centers reach higher quality standards; and

WHEREAS, the Quality Counts for Kids Task Force recommended a Quality Rating system to fit both licensed group child care centers and licensed and/or certified family child care, and also recommended that a statewide professional development system be created for early care and education personnel; and

WHEREAS, licensed and certified family child care providers are located throughout Wisconsin and usually work hours which may prohibit them from effectively voicing their common concerns about child care regulation and the child care assistance program, their role in the program, or the terms and conditions of their provision of services under the program without representation; and

WHEREAS, it is important for the State of Wisconsin to receive input from a majority of family child care providers in order to improve the delivery of quality child care services and to learn about issues that discourage child care

providers from continuing in the field and/or becoming licensed through the state's licensing program; and

WHEREAS, it is desirable to have family child care providers select a representative to meet and confer with the state on their behalf on issues that affect the delivery of quality child care services for children in the child care assistance program and issues that affect their livelihood;

NOW, THEREFORE, I, JIM DOYLE, Governor of the State of Wisconsin, by virtue of the authority vested in me by the Constitution and Laws of the State of Wisconsin, do hereby:

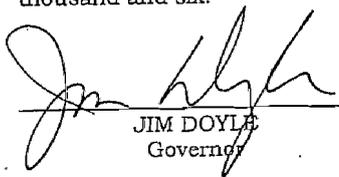
1. Direct the Secretary of the Department of Health and Family Services (DHFS) and the Secretary of the Department of Workforce Development (DWD) to meet and confer with a recognized exclusive majority representative of family child care providers in Wisconsin, as selected by a majority of all licensed, certified and provisionally certified family child care providers. The verification of exclusive majority status shall be based on signed authorization cards, and shall be conducted by a neutral third party who is mutually acceptable to the parties. Any cost associated with verifying majority status shall be borne by any organization seeking majority status. DHFS and DWD shall provide the neutral third party with a record of licensed, certified and provisionally certified family child care providers covered by the Executive Order; and
2. Direct that, in meeting and conferring with the authorized representative of family child care providers, the Secretary of DHFS and the Secretary of DWD shall discuss issues of mutual concern, including quality standards, training and certification requirements, reimbursement and payment procedures, benefits, health and safety conditions, the monitoring and evaluating of family child care centers, licensure and other fees, and any other matters and regulations that would improve recruitment and retention of qualified family child care providers, encourage certified providers to become licensed and improve the quality of the programs they offer; and
3. Direct that, after meeting and conferring pursuant to paragraph 2, the Secretaries of DHFS and DWD shall enter into a written agreement embodying the agreed upon terms of the parties, to the extent agreement is reached on any of the possible issues. The Agreement shall reflect the parties' mutual understanding concerning the issues discussed in accordance with paragraph 2 above. Any agreement that requires rule-making or statutory changes will be contingent upon the successful completion of such regulatory or legislative action. If any provisions of the agreement require legislative action, or require the appropriation of funds to be effective, the parties will jointly seek the enactment of such legislative action. If any provisions of the agreement require the adoption or modification of rules and regulations of any department or agency of State government to be effective, the department or agency shall seek the adoption or modification of such rules or regulations through the appropriate regulatory process.
4. General Provisions.
 - a. Nothing in this Executive Order shall be construed to infringe upon the existing relationship between consumers and family child care providers, including parental rights to select and deselect family child care providers.
 - b. This Executive Order is not intended to create any contractual rights or obligations. It is intended solely as executive direction to the state agencies identified herein. Nothing in this Executive Order is intended to give to family child care providers, or imply that family child care

providers have, any right to engage in a strike or a collective cessation of the delivery of family child care services. Nothing in this Executive Order is intended to provide any entity with third-party beneficiary rights.

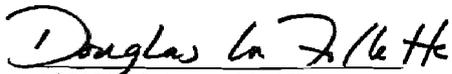
- c. Nothing in this Executive Order shall be construed to preclude anyone from meeting and/or conferring with the Secretaries of DHFS and DWD.
- d. Family child care providers are not employees or agents of the State. Nothing in this Executive Order is intended to alter the existing relationship between family child care providers and the State or in any way imply an employer-employee or principal-agent relationship.
- e. In connection with this Executive Order, the "State Action" exemption to federal antitrust laws shall be fully available to the State, family child care providers and their Exclusive Representative, and exempt conduct shall be actively supervised by the Executive through DHFS and DWD.
- f. Nothing in this Executive Order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this sixth day of October in the year two thousand and six.


JIM DOYLE
Governor

By the Governor:


DOUGLAS LA FOLLETTE
Secretary of State