

**Memorandum of Understanding**

**Between**

**Iowa Department of Human Services**

**And**

**American Federation of State, County, and Municipal  
Employees, Iowa Public Employees Council 61, AFL-CIO  
(AFSCME)**

**April 4, 2008**

## **Memorandum of Understanding**

### **Article I Preamble**

This document outlines the Meet and Confer discussion between the Iowa Department of Human Services (DHS) (hereinafter referred to as the State) and the American Federation of State, County, and Municipal Employees, Child Care Providers Together (CCPT), Iowa Public Employees Council 61, AFL-CIO (AFSCME) (hereinafter referred to as the Union) pursuant to the provisions of Executive Order Number 45 issued January 16, 2006 regarding Registered Child Development Home Providers (RCDHP or Providers), attached hereto as Appendix A and made part of this Agreement.

Actions and agreements reached shall in no manner impact the purpose of any program or interfere in the relationship between Registered Child Development Home Providers and the consumers of services or the status of the Registered Child Development Home Providers as independent contractors. The parties further agree that the Registered Child Development Home Providers shall remain as independent contractors and specifically shall not be recognized as State of Iowa employees or public employees as a result of these meetings or any agreement which may be reached as a result of said meetings.

The State and the Union recognize and appreciate the unique nature of the services rendered by Registered Child Development Home Providers, who provide valued services. The special relationship between the provider and the recipient of service is deserving of the parties' sincere respect and appreciation.

### **Article II Recognition and Representation**

The State recognizes the Union as the authorized majority representative for Registered Child Development Home Providers pursuant to Executive Order Forty-Five issued on January 16, 2006, and the verification of majority status on February 15, 2006.

The State will not, during the life of the Memorandum of Understanding, meet and confer with any other organization of Registered Child Development Home Providers with respect to terms and conditions covered by this Memorandum. The Union understands and agrees that the State needs to and will communicate with other organizations and committees on matters of concern to childcare

providers and childcare services, but the State agrees that such communication will in no manner diminish or adversely affect the exclusive right of the Union to represent Registered Child Development Home Providers.

The parties agree that recognition and representation does not impact the purpose of childcare services and specifically Registered Child Development Home Providers in the State of Iowa. The parties further recognize and agree that the provision of services and funding of childcare services is subject to federal and State laws and regulations.

The parties agree that recognition and representation does not alter the status of Registered Child Development Home Providers being subject to the requirements of 441 IAC 110 (237 A); Department of Human Services Child Care Registration Guidelines; and, Iowa Administrative Code 170, Child Care Services. The parties further agree that Registered Child Development Home Providers remain as independent contractors and specifically are not recognized as State of Iowa or public employees as a result of the recognition and representation provided herein.

To the extent permitted by State and Federal law, the State will make public records available to the Union related to the Registered Child Development Home Providers upon request.

### **Article III Registered Child Development Home Provider Rights**

#### **Section A. General Provisions**

1. The State recognizes Registered Child Development Home Providers as an essential and invaluable resource.
2. The State recognizes that Registered Child Development Home Providers should be treated as professionals.
3. The State recognizes that Registered Child Development Home Providers should be treated in a non-discriminatory manner. It is the policy of the Department of Human Services to provide equal treatment in provision of services without regard to race, color, national origin, sex, religion, age, disability, sexual orientation, gender identity or veteran status.
4. Policies and Procedures of the DHS will be applied uniformly and consistently.

## **Section B. Records**

1. The State agrees to comply with legal requirements regarding the protection of the confidentiality of the files of the Registered Child Development Home Providers that are maintained by the DHS.
2. Registered Child Development Home Providers have the right to inspect and make copies of the files maintained by the Department of Human Services concerning their status as a Registered Child Development Home Provider.

## **Section C. Inspections and Investigations**

1. DHS will inform the Registered Child Development Home Provider whether the visit is about a complaint or a spot-check.
2. DHS will review and discuss with the Registered Child Development Home Provider the minimum requirements as related to the purpose of the visit.
3. If a minimum requirement is not being met, DHS will explain why it needs to be met, and explore with the Registered Child Development Home Provider ways to meet or fulfill the requirements.
4. The State recognizes that the Registered Child Development Home Providers should be treated with respect during visits, inspections, and investigations conducted by the DHS.
5. Upon request of a Registered Child Development Home Provider, DHS employees will present identification during a home site visit.
6. Upon request of a Registered Child Development Home Provider, DHS will provide the name and contact information of the employee's supervisor.
7. Registered Child Development Home Providers may have a representative present at any DHS-scheduled in-home site visit, provided this does not delay or postpone the visit.

## **Section D. Recourse**

1. Registered Child Development Home Providers may file concerns or complaints with the supervisor of the DHS employee. Complaints may also be filed with the DHS Division of Results Based Accountability, Hoover State Office Building, 1<sup>st</sup> Floor, 1305 East Walnut Street, Des Moines, Iowa 50319 or by email at [stopit@dhs.state.ia.us](mailto:stopit@dhs.state.ia.us).
2. Registered Child Development Home Providers may file an appeal regarding any adverse action taken against them by the DHS.

## **Section E. Grievability**

1. The provisions of this article are not subject to the grievance or reconsideration procedures contained in this Memorandum of Understanding.

## **Article IV Union Rights**

### **Section 1. Information**

The State will provide the Union with a list of all Registered Child Development Home Providers electronically on a monthly basis (by the tenth business day of each month). The list will be provided at no cost to the Union. With regard to each Registered Child Development Home Provider, this list will include: provider registration number; date of registration; registration expiration date; name; mailing address; county; and, telephone number. With regard to each child care assistance provider, this list will also include: month in which service was provided; CCA/POS ID for payment; date approved to receive child care assistance payments; child care assistance expiration date; billing address; number of units billed; amount billed; amount allowed; and, amount paid.

### **Section 2. Orientation and Training of Providers**

The State will advise Child Care Resource and Referral (CCR & R) Agencies that the Union may provide an orientation program regarding Union membership contiguous to agreed upon courses coordinated and/or provided by the CCR & R. Participation by providers in such sessions shall be on a voluntary basis.

If outside organizations are invited to speak or set up informational tables at a CCR & R sponsored provider training session, the Union will be allowed to participate in the same manner.

### **Section 3. Bulletin Board Space**

The State agrees to make bulletin board space available to the Union in DHS office public areas for information related to Registered Child Development Home Providers and child care services. This should not be construed as recognition of Registered Child Development Home Providers as State or public employees or provide any rights or privileges as employees and does not provide access rights to locations or premises beyond access granted to other members of the general public.

If Child Care Resource & Referral (CCR & R) agencies make bulletin board space available to other entities or organizations in agency offices where child development home providers regularly visit, the State shall advise the agencies that they are authorized to make bulletin board space available to the Union for information related to Registered Child Development Home Providers.

#### **Section 4. Dues Deduction**

The State agrees to cooperate with the Union and other organizations designated by the Union regarding the withholding of AFSCME dues deductions, any associated fees, Union sponsored insurance programs, and the AFSCME PEOPLE deduction for Registered Child Development Home Providers who receive payment from the State. The Union recognizes that pursuant to Iowa Code Section 8A.516, the State does not have the authority to deduct or withhold such payments for independent contractors to the State of Iowa. The State will work with the Union and other organizations as designated by the Union to assist the Union or a designated representative of the Union to withhold such payments.

The Union shall indemnify and hold the State 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 State for the purpose of complying with the provisions of this Section.

The State will not, during the life of this Memorandum of Understanding, cooperate with any other organization of Registered Child Development Home Providers regarding the withholding of dues deductions.

#### **Section 5. No Discrimination**

Registered Child Development Home Providers have the right to join or participate in or refuse to join or participate in the activities of the Union. The State will take no adverse action against Registered Child Development Home Providers on account of their participation in or refusal to participate in the Union.

#### **Section 6. Union Representatives**

The Union shall notify the State of the names of its official representatives and stewards, and changes in such representatives, as changes occur.

#### **Section 7. Notification of Review**

The Department of Human Services agrees to provide adequate time to review and provide comments to changes to forms and support materials prior to publishing or implementing such forms or materials.

Notification regarding administrative rules shall be provided as required by statute.

### **Section 8. Neutrality**

The State shall remain neutral on the question of union membership and union representation for Registered Child Development Home Providers. Questions addressed to the State concerning membership in or representation by the Union will be referred to the Union.

### **Section 9. Meet and Confer Agenda Items**

The parties agree that the agenda for each Meet and Confer meeting will include at least the following items:

- Federal legislation
- Federal rules
- Federal budget
- State legislation
- State rules
- State budget

## **Article V Consumer Rights Regarding Selection of Providers**

Nothing in this document limits the consumer's role and undisputed right to select and to terminate the services of any Registered Child Development Home Provider pursuant to the applicable provisions of the Code of Iowa and any lawful contract for child care services between the consumer and the Registered Child Development Home Provider.

## **Article VI Communications**

### **Section 1. Communication with DHS**

Registered Child Development Home Providers may contact the DHS regarding child care services by telephone, letter or email. The DHS may also be reached through the DHS website. Registered Child Development Home Providers will need to use personal email accounts.

## **Section 2. Provider Registry**

The DHS will maintain its registry of all Registered Child Development Home Providers available on the DHS website, but this registry shall not include provider addresses. This registry of providers is public information. All providers are included in this registry. The DHS shall encourage consumers to use the Child Care Resource and Referral system.

## **Section 3. Availability of Documents**

The State agrees to post a copy of any written documentation of this Meet and Confer process on the DHS web site providing open access to each party and the general public. At their own cost, either party may make copies of such documentation.

The State will provide a copy of the current Registered Child Development Home Provider manuals to newly registered providers and to those providers who renew their registrations.

The State also will make the Registered Child Development Home Provider Manuals available on the DHS web site so that Registered Child Development Providers who have internet access will be able to review up-to-date information regarding programs and services and updated policies, procedures, and forms.

## **Section 4. Consumer Confidential Information**

Union representatives and Registered Child Development Home Providers shall maintain confidentiality regarding any consumer or any child receiving Child Care Assistance and shall not disclose personal information pertaining to a consumer or any child obtained from any source unless the disclosure is with express written, and legally compliant consent of the consumer, is compelled by legal processes, or is otherwise required by state and/or federal law.

# **Article VII Grievance Procedures**

## **Section 1. Dispute Resolution Philosophy**

The State and the Union commit to address and resolve issues in a fair and responsible manner at the lowest possible level, and to use mediation and conflict resolution techniques when possible. Our relationship depends on mutual

respect and trust based on our ability to recognize and resolve disagreements rather than avoiding them. Prior to filing a grievance, the Union and the State will attempt whenever possible to resolve problems informally.

## **Section 2. Scope of Grievance Procedure**

Disputes involving the application or interpretation of the provisions of this Memorandum of Understanding are subject to the grievance procedure. A grievance shall be defined as a dispute concerning an alleged breach of a specific provision of this Memorandum.

Disputes involving the interpretation or application of rules or regulations must be addressed through the appeal procedure or other dispute resolution procedures as outlined in the Iowa Administrative Code. The grievance procedure shall specifically not apply to consumer rights or matters over which the DHS and/or State has no jurisdiction.

## **Section 3. Individual Participation**

Participation in the grievance procedure in any capacity shall be solely on the individual registered child development home provider's own time.

## **Section 4. Grievance Procedure**

### **Step 1**

A Registered Child Development Home Provider or the Union may file a written grievance on the form provided by the Union with the designated DHS official within fourteen (14) calendar days of the date of the alleged violation of the Memorandum of Understanding. The designated DHS official will meet with the Union representative, in person or by phone, to review the grievance (with or without the individual provider) and issue a response within fourteen (14) calendar days of receipt of the grievance.

### **Step 2**

If not satisfied by the Step 1 response, the Registered Child Development Home Provider or the Union may file the grievance with the designated DHS official within fourteen (14) calendar days of the date of the receipt of answer at Step 1. The designated DHS official will meet with the Union representative, in person or by phone, to review the grievance (with or without the Registered Child

Development Home Provider) and respond to the grievance within fourteen (14) calendar days of the receipt of the grievance at Step 2.

### Step 3

If the matter is not resolved at Step 2 and the Union wishes to advance the grievance further in the process, the Union shall submit the matter to Step 3, Mediation. The Union must request mediation of the dispute in writing within fourteen (14) calendar days of receipt by the Union of the written response from the designated DHS official in Step 2.

Within 30 calendar days of receipt of the request for Mediation, the grievance will be scheduled and heard by a Mediator agreeable to both parties.

The Mediator shall only serve as a facilitator to assist in resolving the issue(s) in dispute, and the Mediator does not have the authority to order a remedy. Costs of Mediation shall be split evenly between DHS and the Union. All offers made and matters discussed at Mediation are confidential and shall not be disclosed, nor shall any offers made at Mediation be raised in subsequent proceedings. If the issue is successfully resolved by Mediation, the resolution shall be final and binding on all parties.

### Step 4

If the grievance is not settled at Step 3, it may be appealed by the Union to Arbitration. The Union must notify the designated DHS official of its intent to arbitrate the grievance within twenty-one (21) calendar days of the close of the Mediation. If not appealed to Arbitration, the grievance shall be considered resolved in accordance with the Step 2 answer. The arbitrator shall be selected from a panel of arbitrators mutually agreed upon by DHS and the Union. The decision of the arbitrator shall be final and binding on all parties.

No less than seven (7) calendar days prior to an Arbitration hearing, the parties shall exchange witness lists and any documentary evidence that will be used during the course of the Arbitration hearing.

The parties shall equally share the cost of the Arbitration. Each party shall bear its own cost of representation including preparation of post hearing briefs, if required. In the event a party chooses to have a court reporter present, the requesting party shall bear the cost.

## **Section 5. Bifurcation of Procedural Issues**

When an issue regarding arbitrability exists due to timeliness or other procedural issues, the designated DHS official shall provide written notice of the arbitrability issue to the Union. If the Union wishes to proceed, such an arbitrability issue shall be submitted to an arbitrator, other than the arbitrator selected to determine the merits of such grievance. The Arbitration shall be conducted by written submission and telephone hearing.

## **Section 6. Time Limits**

Time limits in the grievance procedure may be modified only by written agreement of both parties. Email shall be considered written for the purpose of this section.

## **Section 7. Stewards**

For informational purposes only, the Union shall provide the State with a written list setting forth the names and jurisdictional areas of Union representatives. The State shall supply the Union with a list of its representatives to contact on grievance matters.

## **Section 8. Provider Records Review**

Registered child development home providers have the right to inspect and make copies of the files maintained by the Department of Human Services concerning their status as a Registered Child Development Home Provider.

## **Section 9: Reconsideration Process**

Disputes involving the interpretation or application of rules or regulations and disputes regarding payments to Registered Child Development Home Providers (including, but not limited to, disputes concerning timeliness, sufficiency, or accuracy of calculations) may be submitted to the DHS by the Union for reconsideration.

A request for reconsideration must be submitted by the Union in writing within 30 calendar days of the date of the decision, action, or issuance of payment which give rise to the dispute. Reconsideration will consist of: (1) the identification of

the issue by the Union, (2) an explanation of the decision by the DHS, (3) a discussion of any information which the Union believes is relevant to the decision, and (4) a statement by the DHS regarding the decision.

This process of reconsideration shall be a supplemental dispute resolution procedure for disputes involving the interpretation or application of rules or regulations. However, for disputes involving payments, if the process of reconsideration is used, it shall be the exclusive dispute resolution procedure.

A final decision regarding a request for reconsideration is not subject to the regulatory appeal process. Implementation of this section is subject to the adoption of any administrative rules which may be required for State and Federal compliance.

### **Article VIII Meet and Confer Meetings**

To assist in facilitating open communications, the parties agree to Meet and Confer two (2) times per year to review issues regarding Registered Child Development Home Providers. An equal number of individuals from each party may attend said meetings with no more than twelve (12) representatives from a single party. The meetings shall be held on a mutually agreeable day and time at a location in the Des Moines metropolitan area. The agenda for said meetings shall be submitted by each party to the other party at least ten (10) working days prior to the meeting. Meetings shall be set at least thirty (30) days prior to the meeting date. Additional meetings may be scheduled by mutual agreement.

### **Article IX Education and Training**

#### **Section 1. The Importance of Education and Training**

The Union and the State recognize the importance of education and training in relation to the continuity and quality of childcare. The Union and State will work together to promote appropriate education and training.

## Section 2. Orientation and Training of Providers

The State will distribute a packet of orientation materials to new Registered Child Development Home Providers, including such items as the provider manual, the provider handbook, and lists of related resources that may be helpful to the Registered Child Development Home Providers. The State will include Union membership applications and Union orientation materials furnished to the State by the Union in orientation packets.

The State will post on the DHS web site and/or disseminate information regarding training opportunities to Registered Child Development Home Providers.

## Section 3. Review of Education and Training Needs

The State agrees to have a focused discussion regarding education and training opportunities and needs during the second Meet and Confer meeting held each year. The discussion will include basic and advanced education and training needs, and web-based interactive training programs. The Directors of the Child Care Resource and Referral agencies (CCR&R) will be participants at this meeting.

### Article X Child Care Assistance Compensation

#### Section 1. Rate of Payment

The provider rates paid by the Child Care Assistance Program cannot exceed what a provider receives for private pay rates. The current maximum allowable rates for basic care and special needs are shown in Table 1 and Table 2 below:

Age Group	Child Development Home Category A or B	Child Development Home Category C	
Infant & Toddler	\$12.00	\$11.50	
Preschool	\$11.25	\$11.25	
School Age	\$10.00	\$10.00	

Table 2 Half-Day Rate Ceilings for Special Needs Care			
Age Group		Child Development Home Category A or B	Child Development Home Category C
Infant & Toddler		\$15.75	\$12.38
Preschool		\$14.63	\$12.38
School Age		\$13.50	\$11.25

## **Section 2. Review of the Rate of Payment**

The Department sets reimbursement rates as authorized by appropriations enacted by the Iowa Legislature for payment of the reimbursements. Subject to State legislative approval and funding and Federal approval, as necessary, and effective October 1, 2008, the State agrees that the current Half-Day Rate Ceilings for Basic Care and the Half-Day Rate Ceilings for Special Needs Care for Registered Child Development Home Providers set forth in Tables 1 and 2 above will be increased by two percent (2.0%).

## **Section 3. Appealing Rates**

Maximum rate ceilings are not appealable or grievable.

## **Section 4. Timely Payment**

The Department shall remit payment to a Registered Child Development Home Provider within ten (10) business days of receiving a complete and accurate bill or claim for services provided. If the Department determines that a bill has an error or omission, the Department shall notify the Registered Child Development Home Provider within five (5) business days of receiving the billing or the error or omission and identify any correction needed before issuance of payment to the Registered Child Development Home Provider. The Department shall remit payment to the Registered Child Development Home Provider within ten (10) business days of receiving a complete, accurate bill or claim for services provided.

The parties agree to work together for the rapid resolution of untimely payment issues. A primary goal of the new childcare information system is to greatly improve the turnaround time on payments and the accuracy of the invoicing and payment process. The State will provide regular progress reports to the Union, and will routinely seek feedback from the Union about aspects of the information system that affect providers during both the development and the implementation phases.

The parties agree that untimely payment matters are not subject to the appeal process if the reconsideration process provided in Article 7, Section 9 is utilized.

### **Section 5. Paid Absent Days**

Payment may be made to a Registered Child Development Home Provider for an individual child not in attendance not to exceed four (4) days per calendar month, as specified in Administrative Rule 170.4(7) and subrule 170.4(3), providing the child is regularly scheduled on those days and the Registered Child Development Home Provider also charges a private individual for days of absence.

### **Section 6. Termination of Assistance Payments**

A notice of decision is used to notify clients of agency actions that affect the client's eligibility or benefit level. A Registered Child Development Home Provider will be notified of the start and end date of the certification (eligibility) period for each client. Registered Child Development Home Providers are notified regarding approval, review cancellation, change in services, and reduction in services. Notification will be sent to a provider when an application for continued certification is denied.

The State agrees to include a discussion of the timeliness of notification to Providers of benefit determinations in the first Meet and Confer meeting to be held after the execution of this Agreement.

## **Article XI Health and Insurance Benefits**

### **Section 1. The Importance of Health Insurance Coverage**

The State and Union recognize the importance of making health insurance coverage accessible to Registered Child Development Home Providers.

## **Section 2. Funding of a Study**

To the extent permitted by State law and subject to State legislative approval and funding for the State, the parties will contribute, on a matching dollar for dollar basis, up to a maximum of \$50,000 to a fund to be used to study enhancing accessibility of health insurance coverage for Registered Child Development Home Providers. The Union will provide a quarterly accounting of the expenditure of funds used for this purpose. The accounting and expenditure of funds are subject to audit by the Department of Human Services and Auditor of the State of Iowa. Records shall be maintained for a minimum of three (3) years.

## **Section 3. Joint Committee**

Not later than sixty (60) days after the execution of this Agreement, a health insurance committee shall be formed. The committee shall consist of five (5) representatives of the State and five (5) representatives of the Union. Each party shall designate one of its representatives to be a co-chair of the committee, and the committee shall meet at such times that it deems to be appropriate.

The committee will focus its efforts on gathering data and information regarding the accessibility and affordability of health insurance coverage for Registered Child Development Home Providers. The committee shall make a report to the Meet and Confer committee prior to the second Meet and Confer meeting.

## **Article XII**

### **Seats on Councils, Commissions and Boards**

#### **Section 1. Seat on State Child Care Advisory Council**

The State agrees to make available three seats for Registered Child Development Home Providers on the State Child Care Advisory Council, for which it designates and appoints membership, to be designated by the Union. At least one of these appointees must be from a county with a population of less than twenty-two thousand. Appointments will be made upon the expiration of existing terms and as seats become available.

## **Section 2. Seats on Future Commissions or Boards**

The Department of Human Services agrees to make seats available for Registered Child Development Home Providers, designated by the Union, on any commissions or boards established by the Department after the signing date of this Memorandum of Understanding that will review or make recommendations dealing with policy or regulations directly affecting the work of Registered Child Development Home Providers, or the operation of Registered Child Development Homes.

### **Article XIII Quality Rating System**

Within six months following the date of the execution of this Memorandum of Understanding, the State agrees to convene a summit to discuss issues regarding the Quality Rating System (QRS) which will include, but not be limited to, system categories and the delivery of technical support.

The Union will participate on the summit planning committee. The Union will submit the names of three (3) representatives of Registered Child Development Home Providers to serve on the planning committee.

### **Article XIV Printing of the MOU**

Prior to the final printing, the Union will be given a copy of this Memorandum of Understanding to review the content and form.

The printing and the distribution of the Agreement shall be the responsibility of each party (i.e., the Union shall print and distribute to Registered Child Development Home Providers (except as otherwise provided in this Memorandum); the State shall print and distribute to others.)

**Article XV  
Savings Clause**

In the event any Article, section or portion of this Memorandum should be held invalid and unenforceable by operation of law or by any tribunal or competent jurisdiction, such decision shall apply only to the specific Article, section or portion thereof specifically specified in the decision; and upon issuance of such a decision, the State and the Union agree to immediately meet and confer concerning a substitute for the invalidated Article, section or portion thereof.

Should any provision of this Memorandum jeopardize the receipt by the State of any federal grant-in-aid funds or other federal allotment of money, the provision shall be deemed invalid. However, such invalidation shall not invalidate the remaining portions hereof, and they shall remain in full force and effect. The parties shall immediately meet and confer concerning a substitute provision.

**Full Understanding**

The parties agree that this Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth here in. The Memorandum of Understanding may only be modified in writing by mutual agreement of the Parties.

**Article XVI  
Term of Agreement**

The term of this Memorandum of Understanding shall be through April 4, 2009.

Iowa Department of Human Services

AFSCME Council 61, AFL-CIO

Kevin W. Concannon  
Kevin W. Concannon, Director

Dan Homan  
Dan Homan, President

Date: April 4, 2008

Date: April 7, 2008

James C. Hanks  
James C. Hanks, Chief Negotiator

Date: April 4, 2008

