



**TED STRICKLAND**  
GOVERNOR  
STATE OF OHIO

## **Executive Order 2008 – 02S**

### **Establishing Collective Bargaining for Child Care Home Providers**

- 1. The Role of Independent Child Care Home Providers.** Independent Child Care Home Providers (ICCHPs) offer an invaluable service to Ohio's children and their parents by providing them with child care in a home environment that allows parents to fulfill their daily responsibilities while knowing their children are in a safe, nurturing and educational environment.
- 2. The State Must Ensure the Availability of Child Care Services.** In order to ensure that child care services for Ohio's children are accessible and of the highest quality possible, ICCHPs should have access to proper training and to effective representation in order to negotiate for work-related benefits.
- 3. ICCHPs Have No Adequate Method for Addressing Work-Related Concerns.** Currently, ICCHPs, and the recipients of their care, have no standardized means of communicating their concerns about home child care programs, their respective roles within those programs, or the reimbursement rates or benefits for ICCHPs.
- 4. Role of the State in Addressing the Needs of ICCHPs.** The State has control over certain aspects of the work life of ICCHPs, including the rate of reimbursement received for publicly subsidized child care services, licensing and certification requirements, and the ability to offer benefits and training to ICCHPs who participate in the child care subsidy program.

5. **Selection of Independent Child Care Home Providers for Collective Bargaining Purposes.** In order to ensure that the State addresses the concerns and interests of ICCHPs, the State shall recognize one representative as the exclusive collective bargaining representative for all ICCHPs, designated in a manner as follows:
- a. **ICCHPs Defined.** For the purposes of this Order, ICCHPs are child care providers categorized, pursuant to Ohio law, by the Ohio Department of Job and Family Services as either "Type A" licensed providers, who do not meet the definition of employee under the National Labor Relations Act, or "Type B" certified providers and in-home aides, who contract with the county Departments of Job and Family Services, but are not county employees.
  - b. **Eligible Voter List.** Upon the request of a labor organization, the State shall create a list of eligible voters. The eligible voter list shall be composed of all ICCHPs at the time the petitioner requests the list. The list shall include the names, addresses, and phone numbers of all eligible voters and shall be provided to the election monitor and any petitioning or intervening labor organization. The eligible voter list shall be valid for ninety (90) days from the issuance of the list for use in determining whether a showing of interest justifying an election has been established and shall constitute the list of eligible voters in any such election.
  - c. **Showing of Interest Justifying Election.** Should a labor organization be able to demonstrate to the satisfaction of an impartial election monitor, by either authorization card or petition, that thirty (30) percent of ICCHPs on the eligible voter list request an election to select an exclusive bargaining representative, the organization seeking representation shall provide a request to the Governor, or his designee, for a secret ballot election. An impartial election monitor shall conduct a representation election if such monitor determines that that the petitioner has established a thirty (30) percent showing of interest. The election monitor shall be from the American Arbitration Association (AAA) or other entity mutually agreed upon by the petitioner for the election and the Governor or his designee. The cost of the election process shall be borne by the organization seeking representation. The election may be conducted by mail and shall commence thirty (30) days from the date the election monitor determines a showing of interest.
  - d. **Election Interveners.** Subsequent to a valid election request, but not later than ten (10) days prior to an election, any non-petitioning labor

organization can submit to the election monitor a request to participate in the representation election, provided that it can demonstrate to the satisfaction of the election monitor that at least ten (10) percent of eligible voters wish to be represented by such labor organization. If the intervening labor organization is found to be eligible to participate in the election, it shall bear the cost of the election process equally with the petitioning labor organization.

- e. **Majority Vote Required.** In order for any labor organization to be recognized as the exclusive bargaining representative of the ICCHPs, the election monitor must certify that a majority of ICCHPs voting in the election voted affirmatively for the representation of a specific labor organization. After such results are certified, the State must recognize the labor organization as the exclusive representative of all ICCHPs working in the State.
  
- f. **Decertification of ICCHP Representative.** Except as stated below, the ICCHPs may not seek a decertification election during the term of any collective bargaining agreement or sooner than 12 months after a representation election has been conducted. Such petition may be filed no sooner than one hundred twenty days, or no later than ninety days, before the expiration of a collective bargaining agreement or after the expiration date until the parties enter into a new collective bargaining agreement. Upon the request of any ICCHP, the State shall create a list of eligible decertification voters. The eligible decertification voter list shall be composed of all ICCHPs at the time the petitioner requests the decertification election. The list shall include the names and addresses of all eligible decertification voters and shall be provided to the election monitor. The eligible decertification voter list shall be valid for ninety (90) days from the issuance of the list for use in determining whether a showing of interest justifying a decertification election has been established and shall constitute the list of eligible voters in any such election.
  
- g. **Showing of Interest Justifying a Decertification Election.** Should any ICCHP show by petition that fifty (50) percent of ICCHPs on the eligible decertification voter list request a decertification, the petitioning individual shall provide such petition to the Governor, or his designee, for a secret ballot decertification election. The petition must contain a statement that the incumbent bargaining representative is no longer the representative of a majority of the eligible decertification voters. An impartial election monitor shall conduct a decertification election if the monitor determines that that petitioner has established a fifty (50) percent showing of interest. The

election monitor shall be from the AAA or other entity mutually agreed upon by the petitioner for the election and the Governor or his designee. The cost of the election process shall be borne by the State. The election may be conducted by mail and shall commence thirty (30) days from the date the election monitor determines a required showing of interest.

- h. **Majority Decertification Vote Required.** In order for any labor organization to be decertified as the exclusive bargaining representative of the ICCHPs, the election monitor must certify that a majority of ICCHPs voting in the election voted affirmatively to decertify the incumbent exclusive bargaining representative for the ICCHPs. After such results are certified, the State will no longer recognize the incumbent exclusive bargaining representative.
6. **Bargaining with ICCHPs.** Although ICCHPs are not State employees, the State, acting through the Office of the Governor or his designee, shall engage in collective bargaining with the elected representative of the ICCHPs regarding reimbursement rates, benefits, and other terms. Bargaining shall begin within ninety (90) calendar days after the certification of an exclusive representative of the ICCHPs.
7. **The Parties Will Work Jointly to Obtain Necessary Legislative Changes.** Any agreement reached shall be embodied in writing and shall be binding on the State of Ohio, except the terms contingent upon the successful completion of such state and federal regulatory or legislative action as may be required to implement the terms of the agreement. If any provisions of the agreement require legislative action, rule-making, or the appropriation of funds, the parties will jointly seek the enactment of such legislative action. Bargaining about items that require the appropriation of funds must reach some resolution prior to July 1<sup>st</sup> of any even-numbered year so that they may be included in the proposed Executive budget.
8. **The Relationship Between Provider and Consumer Will Not Change.** This Order in no way alters the unique relationship between ICCHPs and the consumers who opt to use their services. The consumers retain the absolute right to choose and discontinue use of ICCHPs. However, the State retains its responsibilities under Ohio law and administrative regulations to take appropriate action when an ICCHP fails to behave in a manner consistent with such laws and administrative regulations.

9. Procedure if the Parties Reach Impasse during Negotiations. Nothing in this Order shall permit ICCHPs to engage in any strike or collective cessation of the delivery of child care services. If the parties reach impasse during negotiations, they shall employ the services of a third-party neutral who will make a non-binding recommendation as to contract provisions. If the services of a third-party neutral are necessary, any costs shall be borne equally by the parties.
10. The State Action Exemption Applies for the Purpose of Antitrust Laws. In according the ICCHPs the right to act through an exclusive representative and seek an agreement with the State according to the terms of this Order, the State intends that the "State action exemption" to application of the federal and state antitrust laws be fully available to the State, ICCHPs, and their elected representative to the extent that their activities are authorized pursuant to this Executive Order.
11. The Order is Non-Severable. Should any part of this Order be declared to be invalid or unenforceable, or should the enforcement of or compliance with any part of this Order be suspended, restrained or barred, by the final judgment of a court of competent jurisdiction, the remainder of this Order shall be void.
12. I signed this Executive Order on February 1, 2008 in Columbus, Ohio and it will not expire unless it is rescinded.



*Ted Strickland*  
Ted Strickland, Governor

ATTEST:

*Jennifer Brunner*  
Jennifer Brunner, Secretary of State