

**Final Report of the Workers' Rights Board  
Public Hearing on**

**FAMILY CHILD CARE**

**October 22, 2005  
Desmond Hotel  
Albany, NY**

**Not All Fun and Games: Unfair Practices in  
the Family Childcare Industry**

**The Workers' Rights Board (WRB) is a project of the Labor-Religion Coalition, the  
Jobs with Justice chapter in New York's Capital Region**

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## Forward

During the past two and a half decades families have experienced tremendous growth in the need for childcare. Societal factors fueling this growth include the necessity for two incomes to maintain a decent standard of living, the proliferation of single parents, the influx of women into the workforce pursuing careers and welfare to work initiatives.

Serious structural and systematic problems exist within the childcare system. Family child care, an integral component of the child care delivery system has been subjected to severe pressures over the past few years resulting in a decline in numbers in spite of an ever increasing need for child care. The Child Care Panel of the Workers' Rights Board was convened in an effort to address these problems.

Childcare in New York State is delivered through a mosaic of regulated, unregulated and, unfortunately in some instances, illegal facilities. Childcare centers and family childcare are the two most familiar regulated entities. A third, the informals, providers who care for one or two unrelated children, have recently become a part of regulated childcare. The remaining unregulated providers include grandparents, close kin and neighbors and friends who may or may not operate legally.

The most exciting development in the past few years has been research into the impact childcare has on regional economies and future economic development. Included in the Child Care Panel report is the executive summary of "Investing in New York, An Economic Analysis of the Early Care and Education Sector" by the Cornell University Department of City and Planning and the New York State Child Care Coordinating Council illustrating the significance of child care now as a part of the economic infrastructure.

One of the more surprising findings is that, in addition to the 14,000 licensed/registered family child care providers, another 35,000 New York State taxpayers annually identify themselves as child care providers on their federal tax filings. Who are these people? There is no definitive answer to the question. Is there any question as to why it is so difficult to process all these permutations and develop a clear picture of what the childcare system actually looks like in New York State? It resembles an incomplete jigsaw puzzle with pieces spread out all over a tabletop.

A second report is also included entitled "The Childcare Funding Crisis: What it Means to New York Families and Providers" was compiled by Cora J MacVilla, Strategic Campaign Coordinator, CSEA Local 1000 AFSCME and submitted to the panel on behalf of VOICE/CSEA Local 100a. It succinctly illustrates the positive effects childcare subsidies have on families and children and the negative impact thousands of families and providers are now experiencing because of flat funding and cut backs to the program.

Most important is the Child Care Panel Report itself. The passionate and eloquent testimony of committed family childcare providers speaks for itself. Broad sweeping reforms of childcare, in the family child care segment in particular, are imperatives for the future. The importance of early care and education is finally being recognized for its crucial role in the social, emotional and cognitive development of children. The survival of family childcare is a critical element in the early care and education initiatives currently being implemented across New York State.

### **Acknowledgements**

Acknowledging everyone who worked hard to bring the panel to fruition would be difficult. Four individuals should be recognized for their special contributions: Martha Schultz of the Labor-Religion Coalition of the Capital District, whose expertise, guidance, flexibility, and insight made the hearing possible. Fred Pfeiffer, of the Capital District Workers' Center of Albany, for his unflagging public support and tireless advocacy for less fortunate members of society, and Joyce Burch and Fran Nantista, family childcare providers and founding VOICE members, for finding the time to attend the numerous meetings and make the phone calls necessary to make all of this happen.

## Preface

In New York State there are approximately 14,000 family and group family childcare providers. A childcare system that is both high quality and accessible is important to parents and employers. Family childcare is an integral and critical element in the delivery of childcare in this state.

On a daily basis family childcare providers serve 150,000 children freeing parents and guardians to pursue essential economic and academic endeavors. Licensed and registered family childcare providers deliver high quality care in safe learning and nurturing environments. Many parents prefer the smaller, personal settings of the family childcare home as opposed to center-based care.

Family child care providers, however, have become infected with a malaise caused by an unwieldy, perplexing regulatory environment and a malfunctioning subsidy system that was intended to help low-income parents afford quality care for their child(ren) and productively remain in the workforce.

The Child Care Panel of the Workers' Rights Board was convened in an effort to bring the far-reaching problems family childcare providers face into the public eye. Before this hearing, family providers have not had the opportunity to effectively communicate from their experienced perspectives to community and political leaders whose influence could actually make a difference. This was a unique experience for the family childcare community and for the panelists alike.

The panelists heard descriptions of incompetent licensors issuing questionable regulatory violations, regulations that sometimes make no sense, a discouraging and dysfunctional subsidy system, public humiliation by the Office of Children and Family Services for alleged minor infractions, difficulties obtaining basic insurances such as homeowner's insurance and a general lack of professional respect.

Serious regulation of family childcare began to gain momentum in the 1980's. Until the early 1990's, counties were the primary regulators. In the early 1990's New York State took over all the licensing and regulation of family childcare. A local county official was heard to say during a meeting with providers, "You will rue the day the state takes over regulating you". Her chilling prophecy was precise.

During the nineties, the Office of Children and Family Services promulgated new regulations regularly. Providers recognized the authority of OCFS and the power it had over them. Though they did not agree with everything OCFS did, providers found a way to adapt and adjust. A natural, healthy tension between the providers and OCFS existed as the numbers of family child care providers continued to grow.

Then a major change in the relationship between OCFS and the provider community occurred. In the late 90's the Office of Children and Family Services declared the regulations to be in a state of emergency. It began issuing new regulations on what seemed to be a daily basis. Because of the declared "state of emergency" OCFS did not have to wait for public comments for implementation. OCFS rushed to implement them

with a “here they are, live with it” attitude. In 2000, the Quality Childcare Act of 2000 was passed and, thereafter, Alyssa's Law and Medication Administration Training. Confusing policy statements and constant rewording of regulations muddied the waters. The era of attempting to create a quality childcare system by force of regulation had begun. This autocratic posture coupled with draconian cuts in childcare funding during the past few years has proven to be a recipe for disaster.

The behavior of the Office of Children and Family Services during the past six years is reminiscent of a nefarious employer exerting coercive power over employees. The current climate has seriously damaged family childcare and childcare quality in general. It drives out high quality providers and stunts expansion by discouraging motivated, skilled candidates from entering the childcare field. These developments have led to a statewide backlash erupting within the provider community. The testimony of providers to the Child Care Panel paints a disturbing picture of a system with severe internal and structural problems in dire need of sweeping reform.

Family providers have said "enough!" The shabby, heavy-handed and unconscionable treatment of the provider community has to stop. The way to build a quality childcare system is through cooperation, reasonableness, fair treatment, open lines of communication and mutual respect. Recognition of the professionalism of family providers is paramount to the future success of the childcare system. They are the ones who daily produce and deliver the services to the families and children of New York State.

## DEFINITIONS

**Family Childcare/Family Childcare Provider:** three to six children cared for in the provider's own home form more than three hours per day. One or two more children may come after school and there are no more than two infants being cared for in the program. The provider is registered by the state, is fingerprinted, is cleared through the statewide child abuse registry and has a criminal background check performed. The provider is subject to extensive regulation, intense scrutiny by the state and must complete 30 hours of continuing education every two years.

**Group Family Childcare/Group Family Childcare Provider:** seven to twelve children are cared for in the home with the help of an assistant. One or two children may come home after school and there are no more than four infants being cared for in the program. The provider is licensed by the state, is fingerprinted, cleared through the statewide child abuse registry and has had a criminal background check performed. The assistant must also be fingerprinted, cleared through the child abuse registry and have a criminal background check performed. Both the provider and the assistant must complete 30 hours of training every two years.

In both family and group family, household members over the age of 18 must submit their fingerprints, clear the child abuse registry, and have a criminal background check performed.

**Informals:** an individual who receives subsidized payments to take care of one or two children other than her/his own. . At the time of the hearing, no regulation of these individuals was in place. Since August 1, 2006, the state has begun to enroll the informals and to set standards through regulation.

Note: Legally Exempt applies to individuals who take one or two private pay children other than their own children. They are not subject to any type of regulation.

**Panelists Listen to Two Hours of Riveting Testimony.  
Pledge to Work on Behalf of Family Childcare Provider Issues.**

For two hours on Saturday Oct 22, 2005 a distinguished panel of concerned individuals listened intently to compelling testimony by VOICE/CSEA Local 100a members as they explained the difficulties and challenges they face on a daily basis as Family Daycare Providers. The theme of the hearing was FAMILY CHILDCARE PROVIDER JUSTICE—“*SUPPORTING THE PEOPLE WHO HELP RAISE OUR CHILDREN WHILE WE WORK*”.

The event coincided with the VOICE/CSEA Local 100a Leadership Summit held on Oct.21 and 22, 2005. VOICE/CSEA Local 100a is the family childcare provider union founded in partnership with CSEA, the Civil Service Employees Association. VOICE stands for the VOICE of Organized Independent Childcare Educators.

A standing room only crowd of 150 community participants including over 100 members of VOICE/CSEA Local 100a showed their support with numerous rounds of applause and standing ovations as the testimony was delivered.

**THE PANEL**

**Paul Tonko**, New York State Assemblyman

**James Tedisco**, New York State Assembly Minority Leader

**Lynn S. Morris**, Early Childhood Educator,

**David Soares**, District Attorney of Albany County,

**Reverend Alexandra Lusak**, Pastor, First United Presbyterian Church in Troy, NY

**Wanda Parsons**, of the Labor-Religion Coalition, served as moderator.

**TESTIMONY SUMMARY**

A total of 20 individuals (19 providers; 1 graduate of a family childcare setting who is now an adult) submitted written testimony to the panel. The topics were wide ranging and included unprofessional licensing representatives, cuts in the subsidy funding, the Office of Children and Family Services website, recalcitrant local officials defying state law, child support laws forcing children out of the system, the economic importance of childcare, the high turnover rates in childcare, the dangers of unregulated care, and burdensome regulations that sometimes make no sense. Nine individuals (including the translation of Spanish to English) gave oral testimony to the panel.

# Testimony Index

## Oral Testimony

1. **How Quality Family Childcare Changed Our Lives**  
Betsy Martin Doud  
Family Childcare Graduate  
(as read by Barbara Stevens, parent of children in family childcare)
2. **Child Care Funding Cuts Cut Deeply**  
Linda Scott  
Niagara County
3. **Incompetent Licensor Abuses Power**  
Fran Nantista  
Albany County
4. **Labeled a Troublemaker for Speaking the Truth**  
Sharon Foti  
Monroe County
5. **Town Officials Ignore State Law---Create a Nightmare  
for Family Childcare Provider**  
Roxanne Savage  
Suffolk County
6. **Providers Publicly Humiliated with Scarlet Letters**  
Edith Gaines-Rivera  
Westchester County
7. **New Child Care Support Law Devastates Providers, Parents and Children**  
Claudia Ruiz  
Suffolk County  
(en espanol)
8. **Translation of Claudia Ruiz's Testimony**  
Jennifer Rios  
Suffolk County
9. **Childcare is Vital to the Economy**  
Ed Gresco  
Statewide Organizer—VOICE/CSEA Local 100a

## **Written Testimony**

- 10. Why Quality Providers are Shutting Their Doors**  
**Kim Bannister**  
**Erie County**
  
- 11. Huge Communication Gap Between Providers and Regulatory Agencies**  
**Mary Jarvis**  
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- 20. Group Family Ratios Make No Sense**  
**Kathy Stearns**  
**Cayuga County.**

## Epilogue

There is a growing belief within the family child care community that the Office of Children and Family Services is intentionally working to reduce the number of family providers across the state. The harsh treatment of providers and the imposition of complex and questionable regulations lend credence to this belief.

Why would OCFS want to reduce the number of family childcare providers? One answer is the long-standing institutional bias of the Office of Children and Family Services against family childcare providers. OCFS fails to recognize the high quality of care family childcare providers already provide and the overall potential benefits family childcare holds for New York State. The deep, abiding mistrust and disrespect of family providers is illustrated by funding policies favoring centers, the lack of a fair venue to redress grievances and the punitive nature of its website. Granted, as in any type of business, unqualified family childcare providers do exist. However, the vast majority of family childcare providers are hard working, rule abiding and conscientious individuals.

It makes no sense to pursue a policy of reducing the numbers of family childcare providers. It is nothing less than blatant mismanagement to execute policies, which drive out many highly qualified providers. A flourishing, sensibly regulated family child care system should be expanded and developed as a low cost, quality component of the child care system.

When funding a childcare center, the very minimum amount that needs to be spent **per child** is \$6500 with \$10,000 **per child** considered an optimal target for high quality. To set up a high quality center to serve 10 children would cost \$100,000, at the very least. In most cases, candidates to become family or group family providers do not have to invest vast sums of money in their homes to begin operations. Very few spend even a grand total of \$6500.

In June of 2006, Governor Pataki proudly announced that \$2,000,000 in grants would go to centers and other agencies to expand and improve childcare. Not a penny of that money went to family childcare. The money will create only 404 new slots for children due to the targeting of the allocation. How many more slots could have been created by the same amount of money by including family childcare?

Family childcare fills a huge niche in the childcare delivery system, and policies promoting its growth should be a priority. Given the right incentives, a pool of qualified candidates could easily be recruited and trained. A motivated family provider community with skills, abilities and commitment would contribute immensely to the social, educational and economic good of New York State. In reality, family childcare is a cost-effective opportunity for qualitative and quantitative expansion.

Providers have formed 2 unions in New York State to combat the ongoing mistreatment from OCFS. They are working hard to obtain recognition by the state. Providers have done this because they deserve to be included in the policy process and not merely subjected to its potentially corrosive and debilitating effects. They are committed to serving the needs of children and families and are proud of the professional work they do.

Providers have the experience and insight of being on the front lines of childcare everyday. By forming unions, providers seek to be the driving force in the development of an inclusive, high quality childcare system, of which New York State can be proud.