

HOUSE No. 1878

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to improving quality of early education and care through center child care providers..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 15D of the General Laws is hereby amended by adding the
2 following sections:

3 SECTION 17

4 Subject to appropriations and notwithstanding the provisions of any general or special
5 law to the contrary, it is hereby declared to be the policy of the Commonwealth to assure quality
6 early education and care for children by center child care providers as defined in this chapter.

7 It shall also be the intent of the General Court that child care center providers and the
8 Commonwealth work jointly to establish a quality early education and care program that serves
9 eligible low income families through providers who have the requisite skills and training.

10 SECTION 18. COLLECTIVE BARGAINING RIGHTS FOR CHILD CARE
11 PROVIDERS

12 In order to address these problems, child care center workers and directors are to be given
13 the opportunity to work collectively to improve standards in their profession and to expand
14 opportunities for educational advancement to ensure continuous quality improvement in the
15 delivery of early learning services by collectively bargaining with the Commonwealth over its
16 role in improving the quality of child care and subsidizing child care for the Commonwealth’s
17 families.

18 This new bargaining relationship does not intrude in any manner upon relationships
19 governed by federal labor relations law. In becoming members of an organization that represents
20 them in their dealings with the state, child care workers and directors do not forfeit their rights
21 under federal law.

22 SECTION 2. Chapter 15D of the General Laws is hereby amended by adding the
23 following section:

24 SECTION 19. DEFINITIONS RELATING TO COLLECTIVE BARGAINING
25 RIGHTS OF CHILD CARE SERVICES PROVIDERS

26 In addition to the definitions defined in Section 1A of this Chapter for purposes of
27 sections 17 – 21, inclusive, the following words shall have the following meaning:

28 “Division,”- the Division of labor relations established by section 90 of chapter 23.

29 “Employee Organization” – an employee organization as defined in section one of
30 chapter 150E.

31 “Child care center” and “school age child care program” shall be as defined in Section
32 1A of this Chapter 15D, which is licensed by the Commonwealth and holds a contract with the
33 Department for the provision of subsidized child care services.

34 “Provider” – child care center and school age child care program directors and workers.

35 “Services” – child care services provided for less than 24 hours in a day in any child care
36 center or school age child care program as defined in this section.

37 SECTION 20. PROVIDERS’ RIGHT TO SELECT A REPRESENTATIVE FOR AND
38 ENGAGE IN COLLECTIVE BARGAINING.

39 (a) Providers shall be considered public employees, as defined by and solely for the
40 purposes of chapter 150E. Said chapter 150E shall apply to providers except to the extent that
41 chapter 150E is inconsistent with this section, in which case this section shall control. Providers
42 shall have the right to form, join and participate in the activities of employee organizations of
43 their own choosing for the purpose of representation and collective bargaining exercised in
44 accordance with the rights granted to public employees under chapter 150E. In addition,
45 providers shall be treated as state employees solely for the purposes of this section.

46 (b) Solely for the purposes of collective bargaining and as expressly limited under
47 subsections (a) through (f) of Section 21, the Commonwealth of Massachusetts acting through
48 the Commissioner of the Department of Early Education and Care is the public employer, as
49 defined in section one of chapter 150E, of providers and is authorized to agree to terms and
50 conditions of collective bargaining agreements on behalf of the Commonwealth.

51 (c) The only appropriate collective bargaining unit for providers shall consist of a
52 statewide unit of all providers in the Commonwealth who are on the most current list provided
53 by the Department of Early Education and Care, regardless of the number of hours of care such
54 providers have worked.

55 SECTION 3. Add the following new section to Chapter 15D:

56 SECTION 21.

57 (a) Every child care center and, school age child care program, as defined in Chapter 15
58 Section 1A, shall provide to the Department of Early Education and Care a list of the names,
59 home addresses, phone numbers, workplace and job title of all current employees and directors
60 annually by January 30, except that initially such lists shall be provided within thirty days of the
61 effective date of this section.

62 (b) The Department of Early Education and Care shall, upon request, provide to a labor
63 organization a list of all current providers, including workers and directors in the unit that the
64 organization seeks to organize. Such list shall contain information including name, home
65 addresses, telephone number, workplace and job title with regard to such employees, as is
66 necessary for the purposes of this act.

67 (c) Notwithstanding section 6 of chapter 150E, the scope of collective bargaining for
68 child care providers under this section shall be limited solely to: (i) professional development
69 and training; (ii) minimum standards for worker compensation in subsidized programs, including
70 career and wage ladders, and health and welfare benefits; (iii) economic compensation to child
71 care centers and school age child care programs, such as manner and rate of subsidy and

72 reimbursement, including tiered reimbursements; (iv) other economic matters; and (v) grievance
73 procedures related to i through iv.

74 (d) In lieu of the deductions authorized under subsections 17 A and G of Chapter 180,
75 and agency service fee provisions authorized under Chapter 150E, the Commonwealth and the
76 exclusive representative of the bargaining unit of providers as defined in Section 21 shall agree
77 to a representation fee to be paid to the exclusive representative for the costs of representation.
78 The Commonwealth and its agents or contractors who administer or disburse payments to child
79 care centers or school age child care programs for the provision of subsidized child care shall
80 deduct from said monthly payments such a representation fees and transmit them to the secretary
81 of the exclusive bargaining representative

82 (e) The mediation and interest arbitration provisions of Chapter 150E shall apply.
83 Nothing in this act grants providers the right to strike. This section applies only to the
84 governance of the collective bargaining relationship between the employer as defined in this
85 section, and providers of early education and care.

86 (f) This section does not create or modify:

87 (1) The parents' or legal guardians' right to choose and terminate the services of any
88 family child care provider or early education and care center, facility or program that provides
89 care for their child or children;

90 (2) The child care centers' right to choose, direct, and terminate the services of any child
91 care worker that provides care in the center;

92 The rights of employers and employees under the National Labor Relations Act, 29
93 U.S.C. §§ 151 et seq.

94 (4) The secretary of the executive office of health and human services' and the
95 Commissioner's right to adopt requirements pursuant to chapter 15D except for requirements
96 related to grievance procedures and collective negotiations on personnel matters as specified in
97 this section;

98 (5) The General Court's right to make programmatic modifications to the delivery of
99 Commonwealth services through child care subsidy programs, including standards of eligibility
100 of parents, legal guardians, and child care centers participating in child care subsidy programs,
101 and the nature of services provided.

102 (g) In enacting this section, the General Court intends to provide state action immunity
103 under federal and state antitrust laws for the joint activities of family child care providers and
104 those of child care workers and directors and their exclusive bargaining representatives to the
105 extent such activities are authorized by this chapter.

106 GENERAL PROVISIONS

107 SECTION 4. If any part of this act is found to be in conflict with federal requirements
108 that are a prescribed condition to the allocation of federal funds to the state, the conflicting part
109 of this act is inoperative solely to the extent of the conflict and with respect to the agencies
110 directly affected, and this finding does not affect the operation of the remainder of this act in its
111 application to the agencies concerned. Rules adopted under this act must meet federal
112 requirements that are a necessary condition to the receipt of federal funds by the Commonwealth.

113 SECTION 5. This act may be known and cited as the Access to Quality Early Education
114 and Care Workforce Act.

115 SECTION 6. Sections 1 through 6 of this act are necessary for the immediate
116 preservation of the public peace, health, or safety, or support of the Commonwealth and its
117 existing public institutions, and take effect immediately.