

Module 1

SECTION FOUR

OPERATING A STRONG FAMILY CHILD CARE BUSINESS
Business Plan Development
Section 4.2 Legal Aspects



Section 4.2.3 Contracts

Learning Outcomes

After each activity, participants will be able to:

Activity 1

- Define what a contract is

Activity 2

- Name and describe the key elements of a contract

Activity 3

- Explain the difference between contracts and policies

Handouts

- 42. Contracts - Definition
- 43. Contracts vs. policies

Key Points

- A contract is a voluntary, deliberate, agreement, enforceable by law, with specific terms between two or more competent persons or entities that creates legal obligations to do or not do a particular thing or things.
- A contract is used to communicate clearly, facilitate communication, set business-like expectations for the clients, and avoid misunderstandings.
- Contracts may be written or verbal. Verbal contracts are more difficult to enforce than written contracts.
- Contracts and policies are not the same thing. Contracts are legally enforceable; policies are not. They should be separate documents.
- Contracts address issues of time and money.

Activity #1

Learning Outcomes

Define what a contract is

Materials Needed

Handout 42: Contracts – Definition

Methodology: Teaching others

Preparation

Make copies of Handout 42 and cut along the dotted lines to separate.

Distribute the strips randomly among the participants.

Activity

Ask the participants to read the definitions, paying attention to the words that stand out for them.

Have each participant define what a contract is for the person on either side of them, based on what they read.

Ask the pairs to find the common language in their definitions.

Together, as a large group, create a master definition that includes all the attributes stated in the various definitions.

Refer to the key talking points for guidance.

Key Points

- A contract is a voluntary, deliberate, agreement, enforceable by law, with specific terms between two or more competent persons or entities, which creates legal obligations to do or not do a particular thing or things.

Activity #2

Learning Outcomes

Name the key elements of a contract

Materials Needed

Paper and pens

Methodology: Practice, Discussion

Preparation

Place paper and pens out for the participants to use.

Activity

Start the activity with a brief reflection about the participants' experiences with contracts. Pose the following general question:

- *What has your experience been with contracts?*

Share the following scenario with the participants:

You operate a family child care home. Your neighbor is now working the evening shift and would like you to take care of her daughter while she is at work. She does not know how long she will need your services. You have agreed to do it but want to have a basic, written contract in place ahead of time. What would you include in it?

Ask participants to develop a list including the basic elements of contract, either individually or in small groups.

Facilitate a discussion that allows participants to share their work and explore the key elements of a contract. Explain what the elements are and give examples.

- *Who are the parties involved in your agreement? (**Parties involved:** name, contact, information)*
- *What does your contract say about when you will be providing the service? (**Hours of operation:** start date, business hours)*
- *How does your contract address payment for the services to be rendered? (**Terms of payment:** various rates of pay that apply)*
- *Does your contract include any **termination procedures** (trial period, last payment, notices)? Explain.*
- *Who will sign your contract? (**Signatures:** all the parties involved)*

Activity #3

Learning Outcomes

Explain the difference between contracts and policies

Materials Needed

Handout 43: Contracts vs. Policies
Larger poster paper and markers

Methodology: Lecture, Discussion, Practice

Activity

Distribute Handout 43.
Review the Key Talking Points.

Engage the group in a discussion that points out the differences between contracts and policies. Ask questions to help guide the conversation. For example:

- *Which of the two documents is legally binding? What does this mean?*
- *What is the difference between an agreement and an informative document? Which is which (contracts, policies)?*
- *"In my program, I serve meals family style." Would you include this statement in your contract or in your policies? Why?*
- *What are some examples of terms and conditions related to money that you would include in a contract? (e.g., rate of pay, when to pay, payment method, late pick-up fee)*

Practice

Place participants in small groups of 3-4. Give each group one of the topics below and ask them to create either a contract or policies to share with families in their child care program.

- *Drop-Off and Pick-Up Policies*
- *Cancellation of Services Contract*
- *Child Illness Policies*
- *Enrollment Contract*
- *Breastfeeding Policies*
- *Payment Contract*

Give group time to share with the larger group. Be sure to encourage discussion and reinforce Key Points.

Key Points

- A contract is used to communicate clearly, facilitate communication, set business-like expectations for the clients, and avoid misunderstandings.
- Contracts and policies are not the same thing. Contracts are legally enforceable; policies are not. They should be separate documents. They complement each other but serve different functions.



HANDOUT #42: CONTRACTS – DEFINITION

A contract is...

An agreement with specific terms between two or more persons or entities in which there is a promise to do something in return for a valuable benefit known as consideration

<http://legal-dictionary.thefreedictionary.com/contract>

An agreement between two or more entities which creates a legal obligation to do or not do a particular thing

<http://www.unh.edu/purchasing/policy/contracting/12-005.htm>

An agreement creating obligations enforceable by law

<http://www.law.cornell.edu/wex/contract>

A voluntary, deliberate, and legally binding agreement between two or more competent parties

<http://www.businessdictionary.com/definition/contract.html#ixzz2PWj3gT8c>

An agreement between two or more entities which creates a legal obligation to do or not do a particular thing or things

<http://www.unitedafa.org/contract/education/about/default.aspx>

An agreement between two or more parties, especially one that is written and enforceable by law.

<http://www.thefreedictionary.com/contract>

A contract is a voluntary, deliberate, agreement, enforceable by law, with specific terms between two or more competent persons or entities, which creates legal obligations to do or not do a particular thing or things.



HANDOUT #43: CONTRACTS VS. POLICIES

A CONTRACT

- Is a legally binding document.
- Can be legally enforced in court.
- Represents an agreement between people.
- States the terms of an agreement.
- Must be signed by the adults involved.
- Addresses terms and conditions related to time and money.

A POLICIES DOCUMENT

- Is not a legally binding document.
- Cannot be legally enforced in court.
- Is an informative document and does not constitute an agreement.
- States rules and regulations.
- Does not require any signatures.

For more detailed information about contracts in family child care, refer to the book *Family Child Care Contracts and Policies*, 3rd edition, by Tom Copeland.