

# Navigating the Gray:

## Tips for working in coalition when the law isn't clear

**When (c)(3)s and (c)(4)s work together, either in coalitions of advocacy groups or in groups of funders with a shared social change goal, the law does not always provide clear answers on the parameters of collaboration.**

While there are lines that (c)(3)s may not cross, many of the issues that arise do not have bright-line answers. We think of these as questions that raise caution flags that should cause (c)(3)s to stop and think whether they are dedicating resources to impermissible activities. While (c)(3) organizations can be aware of the non-(c)(3) activities of their partners, a (c)(3) should always be sure it has, and can show that it has, a (c)(3)-permissible goal for its activities.

Those caution signs, or gray area questions about the joint activities of (c)(3)s and (c)(4)s most frequently asked of Bolder Advocacy staff, include the following:

- What* can (c)(3)s know of (c)(4) activities and plans?
- How* much joint strategizing may (c)(3)s and (c)(4)s do?
- Can* (c)(3)s describe the work of their affiliated (c)(4) in grant reports?
- Can* (c)(3)s and (c)(4)s share plans or coordinate activities?
- Can* we share resources?
- What* kinds of information and resources can be shared?
- When* is it acceptable for (c)(3) plans to acknowledge (c)(4) work and plans?

Funders also have caution flag/gray area questions related to working with (c)(4)s and coalitions composed of (c)(3)s and (c)(4) organizations. Commonly arising questions include:

- May* (c)(3)s—and private foundations-- be present in a meeting where partisan activities are discussed?
- Can* all funders be in the same room to discuss what they are funding or want to fund?
- What* should we do if a (c)(3) describes the work of their affiliated (c)(4) in a grant proposal or report?

While we cannot answer each of these questions since so many variables determine the answer, advocates and funders should apply the principles and best practices set out below.

### Solutions: Best Practices

Because each situation is unique, (c)(3) organizations should look to some best practices when deciding whether to engage in an activity with a (c)(4) partner.

- Know* what (c)(3)s may and may not do. See *the (c)(3)/(c)(4) toolkit*.
- Have* a written plan with clear, (c)(3)-permissible goals, strategies and expected outcomes for the activity. See *Flowchart and How to Write an Advocacy Plan*.
- Don't* use (c)(3) funds to participate in planning/ strategizing on activities (as opposed to hearing broad descriptions of plans) that are not permissible for (c)(3) organizations. See *Mays and May Not*s.
- To* ensure a proper flow of money, use grant agreements and keep timesheets to properly allocate costs.
- Documentation* and record keeping can show your (c)(3) is compliant.
- Disclaimers* are your friend.

**When (c)(3)s and (c)(4)s share resources, the key principle to keep in mind is that a (c)(3) may not subsidize a (c)(4).**

While a (c)(4) may provide resources, it is typical for (c)(3)s to have more resources given the greater ease (c)(3)s have in obtaining private foundation grants and tax-deductible contributions from individual supporters. (C)(3)s certainly may

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share resources with (c)(4)s; however, they should follow some simple best practices:

(C)(3)s may give funds to a (c)(4), but should only do so through a grant agreement that prohibits the funds from being used for any non-(c)(3) permissible purposes. The grant will be presumed to be entirely for grassroots lobbying, unless the (c)(3) specifies otherwise. If a grant of funds is intended to be used for lobbying, the (c)(3) should state how much can be used for direct and grassroots lobbying or require the (c)(4) to report back on the lobbying use. The funds used for lobbying will count toward the granting (c)(3)'s lobbying limit.

Private foundation funds to a (c)(4) are subject to expenditure responsibility requirements.

Affiliated (c)(3)s and (c)(4)s that share office space, resources, and employees should have a resource sharing agreement that requires the (c)(4) to pay for its portion of all resources it uses, including any overhead costs.

A (c)(3) should not create a resource (whether a report, factsheet, talking points, a graphic, etc.) solely for use by a (c)(4). The (c)(3) should have its own valid (c)(3) purpose for engaging in any given activity. Provided the (c)(3) has created a resource for genuine (c)(3) permissible purposes, a (c)(4) may use those materials if they are publicly available. Affiliated organizations could consider co-branding resources and allocating the costs between both organizations. For example, a (c)(3) health care group conducts a study on the financial costs to young adults undergoing cancer treatment. The (c)(3) needs to use the study for its own purposes, such as public education efforts about the cost of being sick or even lobbying for a bill to defer student loan payments while in treatment. It could not merely produce the report so a (c)(4) could use the data in its efforts to compare candidates' views on loan deferment programs for cancer patients.

A (c)(4) may allow a (c)(3) to use its list, but a (c)(3) cannot allow a (c)(4) to use its list unless the (c)(4) rents or purchases it at fair market value, or the (c)(3) receives an exchange of names of equal value. A (c)(3) may accept lists from (c)(4)s to conduct its nonpartisan activities, as long as there is no requirement or understanding that the (c)(3) will use that information to further the partisan interests of the (c)(4). The (c)(3) may not use lists that target particular geographic areas or individual voters based on partisan criteria for its nonpartisan voter engagement activity. For example, a (c)(3) may not use a list to conduct nonpartisan GOTV that identifies voters who live in Democratic precincts or who have been selected based on their support for a particular candidate.

A (c)(3) may not freely share with (c)(4)s the voter registration lists or other data that it collects during voter registration or education activities. The data may be rented to a (c)(4) at fair market value or exchanged for data of equal value.

(C)(3) staff and volunteers may accept training and other technical assistance from (c)(4)s if the information provided is strictly nonpartisan.

(C)(3)s may engage in voter education and registration with a (c)(4) so long as the activities are conducted in a strictly nonpartisan manner. All of the group's joint written materials and oral communications must be nonpartisan. No partisan literature or communications may be distributed by any of the participating groups as part of the joint activity. In addition, the geographic areas selected for conducting the activities must be determined using nonpartisan criteria (for instance, the coalition cannot engage in voter registration and GOTV in swing states, but instead could choose states where the groups have the most members).

For more information on how to share resources, including sample resource sharing agreements and list sharing agreements, see [The Connection](#) and [Coalition Checklist](#).

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