

# 501(c)(3) and 501(c)(4) Collaboration

Bolder Advocacy and  
AFJ Action Campaign

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# The Power of Collaboration:

## 501(c)(3)s and 501(c)(4)s Working Together

### **Election years, when elected officials tend to be most responsive and engaged, are a very effective time for nonprofits to bolster their advocacy efforts.**

*Often, 501(c)(3)s and 501(c)(4)s—affiliated or otherwise—work together to coordinate their advocacy activities to further their respective goals. While 501(c)(3)s may work together with 501(c)(4)s, they must structure their activities to ensure they do not jeopardize their tax exempt status.*

*As funders and advocates grapple with how (c)(3)s and (c)(4)s can work strategically and legally together, they first need to understand what each type of organization—(c)(3) public charity, (c)(3) private foundation, and (c)(4) (and (c)(5) labor unions/(c)(6) trade associations)—can do alone.*

### **501(c)(3)s and (c)(4)s can advocate for policies and issues.**

501(c)(3)s and (c)(4)s can advocate for policies and issues, including engaging in election-related activities that do not support or oppose candidates for public office or political parties. For example, they can encourage common sense gun safety policies, urge a governor to issue an Executive Order, file a lawsuit challenging a voter ID law, or register people upon turning 18. In addition, (c)(3) public charities can lobby (including supporting/opposing ballot measures), up to generous limits; (c)(3) private foundations cannot spend money on lobbying, but can fund organizations that lobby; and (c)(4)s can lobby without limitations and can support or oppose candidates as long as doing so is not the primary purpose.

### **501(c)(3) can engage in a broad range of advocacy activities.**

501(c)(3) public charities can engage in a broad range of advocacy activities, such as research, public education, commenting on regulations, litigation, limited lobbying and ballot measure work, nonpartisan voter registration and get out the vote (GOTV), candidate education, and election administration. 501(c)(4)s can do all that, but they can also do an unlimited amount of lobbying and influence the outcome of elections. 501(c)(4)s can produce candidate scorecards, comparing candidates' views on key issues, criticize (or praise!) a candidate's policy platform, target voters in swing states, and even encourage people to vote for the pro-choice or female candidate.

### **Coordinated efforts of (c)(3)s and (c)(4)s bring a variety of strategies and tactics to any given effort.**

While (c)(3)s can engage in a wide range of advocacy activities—in fact more than most people think—they do face limits on what they can do. On the other hand, while (c)(4)s can do much more, raising (c)(4) dollars can be a challenge, as contributions are not tax deductible and private foundations are subject to expenditure responsibility rules. Together, however, they can employ a broad range of strategies making best use of available resources.

### **There are times when engaging in public education or other 501(c)(3)-permissible tactics is not enough to achieve policy wins.**

Sometimes, advocates need to engage policymakers in a more aggressive fashion, either through

extensive lobbying or partisan electoral work. For instance, as described by the Civil Marriage Collaborative, “moving forward on [marriage equality] would require multiple strategies, including litigation, public education, research and grassroots organizing, lobbying and electoral work.”<sup>1</sup> No one strategy is enough. A 501(c)(3) cannot do it all (limits on lobbying and prohibition on electoral work) and it is not strategic for a (c)(4) to do it all, as many tactics (such as litigation and public education) do not require precious (c)(4) money. Or, as described by one advocate, a (c)(4) can “ensure that the 501(c)(3) investment in [public] education isn’t just left to chance.”<sup>2</sup> The greater advocacy capability of a (c)(4) may be needed to “move an issue across the finish line.”

**In today’s political climate, so many issues—whether access to health care, climate change, immigration, minimum wage, let alone reproductive rights and gun control—have become hyper-partisan and political.**

It can be risky for (c)(3)s to discuss these issues in connection with voting or candidates, including when responding to comments being made by candidates. On the other hand, (c)(4)s can respond more directly and aggressively, without the need to water down or vet every response by legal counsel. In fact, a (c)(4) can much more strongly endorse policies instead of providing a balanced picture...it’s easier to have a side when you are working from the (c)(4) on....issues.”<sup>3</sup>

### **NOW IS THE TIME.**

Now is the time to invest in the collaboration of 501(c)(3) and 501(c)(4) organizations to build an effective long-lasting infrastructure for defending progressive issues and values.

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### **Notes**

- 1 Hearts & Minds: The Untold Story of How Philanthropy and the Civil Marriage Collaborative Helped America Embrace Marriage Equality. Proteus Fund, 2015. <https://philanthropynewyork.org/sites/default/files/resources/heartsandminds-proteus-fund.pdf>.
- 2 501(c)(4) Strategy and Discussion Guide, quoting Kevin Werner, Ohioans to Stop Executions Action Fund. The Atlas Learning Project, Alliance for Justice, and Alliance for Justice Action Campaign, 2016.
- 3 Id.

# Comparison of Permissible Activities:

## 501(c)(3)s and 501(c)(4)s

This fact sheet provides examples of the kinds of advocacy activities that 501(c)(3) public charities and 501(c)(4) social welfare organizations are permitted to do under federal tax law. Under federal tax law, partisan political activity cannot be the primary purpose of a 501(c)(4) organization. **When engaging in political activity, organizations must comply with federal, state, and local election law.** See [The Connection: Strategies for Creating and Operating 501\(c\)\(3\)s, 501\(c\)\(4\)s and Political Organizations, 3<sup>rd</sup> Ed.](#) and [The Rules of the Game, A Guide to Election-Related Activities for 501\(c\)\(3\) Organizations, 2<sup>nd</sup> Ed.](#) for more details about the activities described below.

ACTIVITY	501(C)(3) PUBLIC CHARITY	501(C)(3) PUBLIC CHARITY USING LOBBYING RESTRICTED FUNDS	501(C)(4)
Lobby for/against legislation	Limited	X	Unlimited
Support/oppose ballot measures	Limited	X	Unlimited
Conduct public education and training sessions about participation in the political process	✓	✓	✓
Educate candidates on issues within purview of the organization	✓ (must offer information to all candidates)	✓ (must offer information to all candidates)	✓
Sponsor a debate between candidates, where all viable candidates are invited and given equal opportunity to speak on a broad range of issues	✓	✓	✓

ACTIVITY	501(C)(3) PUBLIC CHARITY	501(C)(3) PUBLIC CHARITY USING LOBBYING RESTRICTED FUNDS	501(C)(4)
Distribute voter guides to the public that set out the candidates' views on a broad range of issues	✓	✓	✓
Distribute voter guides to the public that compare candidates on issues of importance to the organization	✗	✗	✓
Rent mailing lists and facilities at fair market value to other organizations, legislators, and candidates	✓ (if rent, must allow any candidate to rent)	✓ (if rent, must allow any candidate to rent)	✓ (may rent to select candidates only)
Conduct nonpartisan get-out-the-vote activities, voter registration, and education drives	✓	✓	✓
Conduct voter registration and GOTV activities based on party affiliation or how people will vote	✗	✗	✓
Conduct nonpartisan voter protection activities	✓	✓	✓
Endorse candidates and publicize its endorsements	✗	✗	✓
Fund independent expenditures in support of or opposition to a candidate	✗	✗	✓

ACTIVITY	501(C)(3) PUBLIC CHARITY	501(C)(3) PUBLIC CHARITY USING LOBBYING RESTRICTED FUNDS	501(C)(4)
Make campaign contributions (monetary or in-kind)	✗	✗	Depends on election law (prohibited for federal candidates; permissible in some states)
Establish and pay for the administrative and fundraising costs of a connected political organization (separate segregated fund)	✗	✗	✓
Criticize sitting elected officials	✓ (may not attack their personal characteristics or attack them in their status as a candidate)	✓ (may not attack their personal characteristics or attack them in their status as a candidate)	✓
Compare organization's issue position with that of a candidate	✗	✗	✓
Connect organization's criticism of public official to voting in an election	✗	✗	✓
Highlight the differences between candidates for public office on a high-profile issue on which the candidates have diverging views	✗	✗	✓
Ask candidates to sign pledges on any issue	✗	✗	✓
Post partisan political messages on Facebook, Twitter, or Tumblr	✗	✗	✓

# Mays and May Nots:

## 501(c)(3)/501(c)(4) Coalition Meetings

### Working in coalitions is an effective way for nonprofits to maximize resources and impact when working to create social change.

By pooling resources, engaging in joint policy discussions and strategizing, coalitions can stretch dollars, draw on collective expertise, and maximize efforts to create a more just society. When coalitions are composed of a mix of organizations, questions arise about the scope of discussions and strategies in which c3s may engage in without jeopardizing their tax status. This factsheet offers tips on the types of discussions and activities that 501(c)(3) public charity members of mixed tax status coalitions may participate in without jeopardizing their tax status.

#### In meetings of c3/c4 coalition members held to discuss goals and strategies, 501(c)(3) organizations:

- MAY** be present when groups share plans about what each organization is doing, including discussions about lobbying/ballot measure/voter registration efforts and the election-related goals of non-public charity members such as c4s and unions. It is ok for c3s to hear about these efforts by others, but a public charity should not use the information to make decisions about its own activities.
- MAY** engage in joint discussions to plan how to address a shared goal, such as passing immigration reform or raising the minimum wage.
- MAY** strategize, contribute to, and participate in lobbying and nonpartisan ballot measure efforts.
- MAY** strategize, contribute to, and participate in nonpartisan voter education, voter registration, and GOTV activities.
- MAY NOT** be part of discussions when c4 organizations strategize on projects and activities they will engage in to accomplish c4 political goals.
- MAY NOT** strategize on, contribute to, or engage in activities designed to influence the outcome of an election.
- MAY NOT** strategize on how the c3 can supplement the partisan work of c4 participants in the coalition. For instance, after hearing a discussion of a tight gubernatorial race in Michigan, a 501(c)(3) should not offer to do GOTV in the key swing district for the purpose of influencing the outcome of the election.

For more information, see Bolder Advocacy's [The Connection](#), and [Coalition Checklist](#).



# Mays and May Nots:

## 501(c)(3)/501(c)(4) Funder Groups

### Funder groups have a vital role in creating social change by supporting advocacy.

By pooling resources, engaging in joint policy discussions, and strategizing, funder groups can stretch dollars and maximize efforts to create a more just society. When funder groups are composed of a mix of private foundations, community foundations, and 501(c)(4) funds, questions arise about the scope of discussions and strategies that (c)(3) funders may engage in without jeopardizing their tax status. This factsheet offers tips on the types of discussions and activities that mixed tax status funder groups may participate in within the bounds of nonprofit laws and regulations.

#### In meetings of (c)(3)/(c)(4) funders held to discuss funding goals and strategies, private foundation funders:

- MAY** be present when groups share plans about what each organization is doing.
- MAY** be present when groups discuss their lobbying, ballot measure, voter registration, and other election-related efforts. It is ok for private foundation to hear about these efforts by others, but cannot use the information to make decisions about its own activities).
- MAY** engage in joint discussions to broadly plan how to address a shared goal, such as passing immigration reform or raising the minimum wage.
- MAY** share information about what its grantees are doing
- MAY NOT** strategize or contribute to lobbying/ballot measure efforts.
- MAY** share its own plans and ideas, including how much money it wants to spend, the issues it will address, and the states it will work in.
- MAY NOT** be part of discussions when (c)(4) funders strategize on projects and organizations they will fund to accomplish (c)(4) goals.

#### When making grants, private foundations:

- MAY** agree to fund (c)(3) advocacy efforts (see caveats below about lobbying and voter registration activities).
- MAY** agree to provide specific project grants up to the non-lobbying amount to public charities for projects with a lobbying component. This same rule applies to voter registration drives.
- MAY** agree to provide general operating support to public charities that engage in lobbying or voter registration activities.
- MAY NOT** earmark grants for lobbying activities or voter registration drives (unless the voter registration drive meets the section 4945(f) rules).
- MAY NOT** agree to fund (c)(4) partisan activities.
- MAY NOT** fund (c)(3) activities designed to supplement (c)(4) partisan goals. Private foundations must have a private foundation-permissible reason to engage in the activity or grant-

making strategy.

**MAY NOT** agree to fund an organization for the purpose of influencing the outcome of an election.

**In reports to private foundation boards about the activities of a (c)(3)/(c)(4) funder group, the board:**

**MAY**, for informational purposes, know what the funder group has agreed to work on, including any partisan work the (c)(4) participants will be doing.

**MAY NOT** approve any grants earmarked for lobbying or voter registration drives (except those that meet the section 4945(f) requirements).

**MAY NOT** vote to approve or strategize on any (c)(4) plans or activities.

**MAY NOT** strategize on how the private foundation can supplement the partisan work of (c)(4) participants in the funders group. For instance, after hearing a discussion of a tight gubernatorial race in Michigan, a private foundation program officer could not offer to fund groups to do GOTV in the key swing districts.

For more information, see Bolder Advocacy's [Philanthropy Advocacy Playbook](#), and [Investing in Change: A Funder's Guide to Supporting Advocacy](#).



# Navigating the Gray:

## 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 Notes.
- 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 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](#).



# How to Create a (c)(3) Advocacy Plan

**A good starting step for advocacy organizations working to create change is to create an advocacy plan that lays out the organization's goals, the strategies it will use to accomplish that goal, and the expected outcomes for those strategies.**

This is particularly important for (c)(3) organizations working in coalitions composed of (c)(3)s and (c)(4)s, but also for (c)(3) organizations when working in an election year. A written advocacy plan can be a group's best defense to show that the (c)(3)'s plans and expected outcomes were (c)(3)-permissible if the organization faces allegations that it has engaged in impermissible attempts to support or oppose a candidate for public office.

The following is a sample advocacy plan for an organization that wants to end puppy mills in its state. It is planning to conduct some of its advocacy work with the No More Puppy Mills Coalition, which was formed to support the introduction and passage of legislation to ban puppy mills and the sale of dogs that were bred by puppy mills. Members of the coalition include (c)(3) organizations and (c)(4) organizations.

In this hypothetical example, a (c)(4) partner in the No More Puppy Mills Coalition wants to hold legislators who vote against puppy mill legislation accountable in the next election cycle as part of their strategy. A (c)(3) coalition partner may not participate in or allow its name or resources to be used toward that (c)(4) goal, including allowing its name or resources to be used in messages that encouraged voters to hold legislators accountable for their votes in the next election. However, it could still work in coalition with the (c)(4) partner to educate the public about the puppy mill problem and to pass legislation and policies and do nonpartisan voter registration and get-out-the-vote activities, as well as educate candidates about the issues.

Creating a plan, such as the one below, would help a (c)(3) coalition partner show that its efforts to ban puppy mills were limited to (c)(3)-permissible strategies and expected outcomes.

The following plan is a simple plan; an organization may want to create a more detailed plan with timelines, targets, and names of staff responsible for implementing each strategy.

## 501(c)(3): Save the Puppies Education Fund's Plan

Goal: Ban puppy mills and the sale of dogs that were bred by puppy mills.

### Strategies

Engage in a public education campaign about the harms caused by puppy mills, including the abuse of animals, the health and mental impacts on dogs born in puppy mills and the costs families may incur when they purchase an unhealthy dog from a puppy mill.

Working with the No More Puppy Mills Coalition, encourage the Agriculture committees of the Senate and Assembly to hold a public hearing on puppy mills.

Engage in corporate advocacy to discourage pet stores from selling puppies bred in puppy mills.

Working with the No More Puppy Mills Coalition, encourage the legislature to introduce and pass legislation to ban puppy mills and the sale of dogs bred in a puppy mill in the state.

Include voter registration and information on the state's new vote by mail process at all community education events. On election day, have volunteers use social media to remind voters that the polls are open.

### Expected Outcomes

**Members of the public** will understand the harm caused by puppy mills.

**Members of the public** who want a puppy will seek a pet from a shelter, rescue organization or reputable breeder.

**Members of the legislature** will learn more about the puppy mill problem.

**The press** will put the issue into the news.

**Policy makers** will learn ways in which they can address the puppy mill problem.

**Pet stores** will not support puppy mill breeders

**The public** will not patronize stores that support the puppy mill industry.

**Legislation** will be passed and there will be no more puppy mills or sale of puppy mill puppies in the state.

**More members of the public**, including supporters of the effort to ban puppy mills, will be engaged in the civic process; they will be registered and vote in elections.

## When creating its organization’s advocacy plan, a (c)(4) coalition partner may include their own strategies to advocate for the election or defeat of candidates (subject to state law), such as the strategies in the following (c)(4) plan.

These are strategies that would not be permissible for the (c)(3) coalition partners who would need to ensure their actions, names, and funds were confined to (c)(3)-permissible goals, strategies, and expected outcomes.

### 501(c)(4): Puppy Justice Action Fund’s Plan

**Goal: Ban puppy mills and the sale of dogs that were bred by puppy mills.**

#### Strategies

Working with the No More Puppy Mills Coalition, encourage the Agriculture committees of the Senate and Assembly to hold a public hearing on puppy mills.

Working with the No More Puppy Mills Coalition, encourage the legislature to introduce and pass legislation to ban puppy mills and the sale of dogs bred in a puppy mill in the state.

Include support for puppy mill legislation in candidate questionnaires and make support for the bill a requirement to receive the (c)(4)’s endorsement.

In a swing district make independent expenditures that encourage voters to vote against an incumbent who voted no on the puppy mill ban bill.

#### Expected Outcomes

**Members of the legislature** will learn more about the puppy mill problem.

**The press** will put the issue into the news.

**Policy makers** will learn ways in which they can address the puppy mill problem.

**Legislation** will be passed and there will be no more puppy mills or sale of puppy mill puppies in the state.

**Voters** will know which candidates support the puppy mill ban and will hold opponents accountable in the upcoming elections.

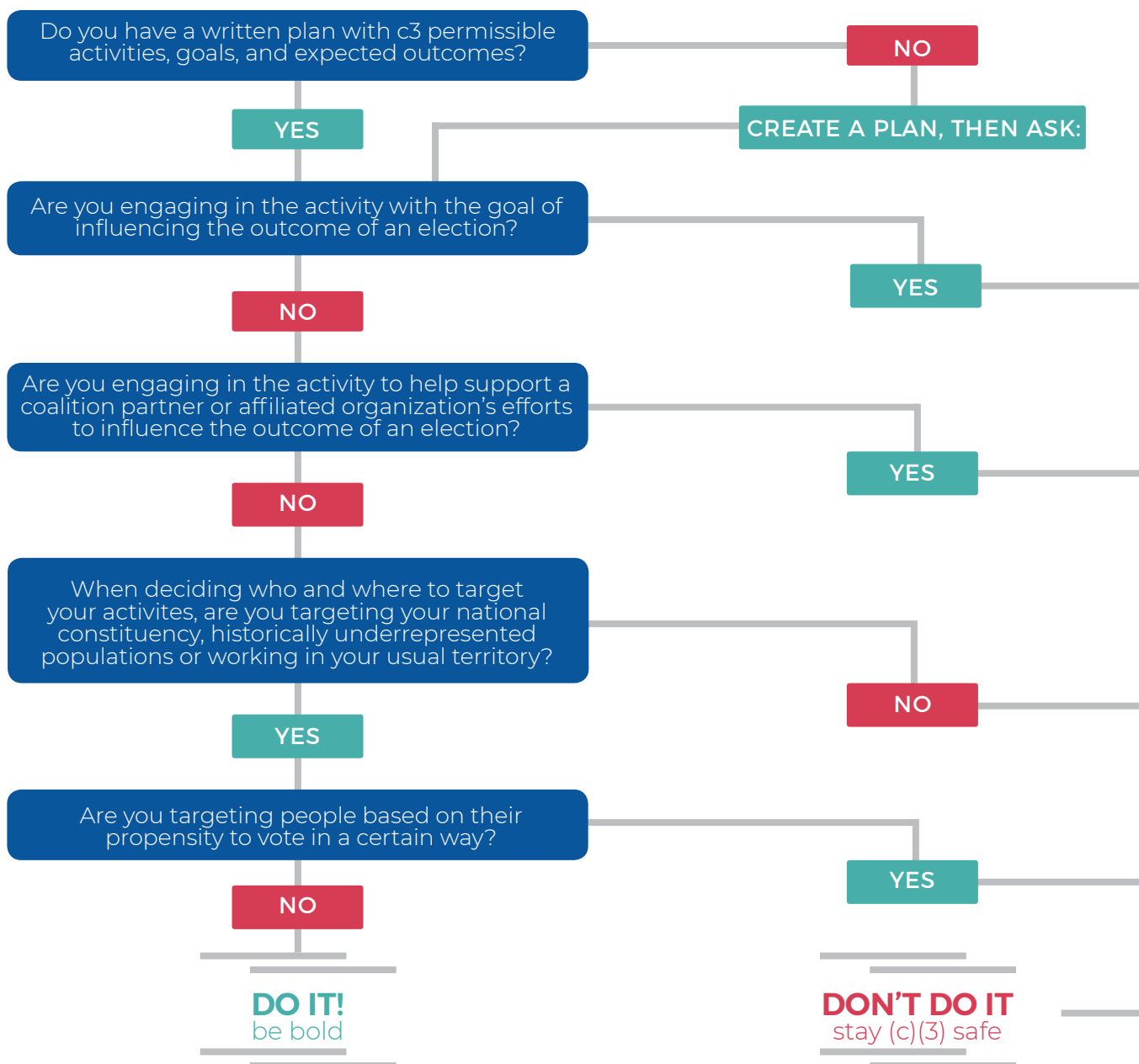
**An incumbent** that supported the puppy mill industry will lose the election and a candidate who favors the puppy mill ban will win the race.



# Check the Chart: Is it (c)(3) Compliant?

This graphic will help 501(c)(3) organizations working in coalition with non-501(c)(3) organizations to determine if their activities are permissible for a c3 organization.

During election years, c3s should ensure they are not engaging in activities that support or oppose any candidate for public office.



# Lessons Learned:

## Best Practices for Collaboration

### Organizations across the country frequently work together to advocate for the causes they believe in.

This often includes different types of organizations – including 501(c)(3)s, 501(c)(4)s, labor unions, and political committees – collaborating to maximize their effectiveness. However, these collaborative efforts can also create challenges for coalition members concerned about protecting their tax-exempt status when advocating with other types of organizations.

While there is no single answer for how to minimize risks while maximizing impact, Bolder Advocacy had the opportunity to meet with nonprofit organizations in two states, Florida and Minnesota, to see how organizations of different tax statuses came together to advocate boldly while ensuring coalition members were protected.

In Minnesota, organizations prioritized four concepts:

**Know** when to work together.

**Have** a shared understanding of the rules.

**Invest** in accountability.

**Invest** in and support your partners and your community.

In Florida, organizations learned the following lessons to ensure a more harmonious and productive working relationship:

**Prioritize** your constituents' needs.

**Communication** is crucial.

**Have** a shared understanding of the rules.

**Make** the most of your relationships.

Collaboration can be the most effective way to stretch limited resources while creating real change.

# Lessons Learned:

## Minnesota Nonprofits Leverage Their Respective Strengths to Deliver Greater Impact

### **When an array of Minnesota organizations in the 501(c)(4) and 501(c)(3) nonprofit community began working on good-government issues, they were excited to find many willing allies and partners in the same space.**

This wealth of partnerships provided them an opportunity to collaborate to maximize their limited resources, take steps to prevent duplicative efforts, and provide a space to share their expertise – resulting in lasting relationships that have since created an effective and robust advocacy community. Illustrated below is what organizations in Minnesota learned in their years of collaborative advocacy.

The organizations prioritize the following four concepts:

**Know when to work together.** The experiences of four nonprofits offer lessons for the challenges that arise when coalition partners work across varying tax-exempt statuses. Take Action Minnesota (a 501(c)(4)), State Voices/Minnesota Voices (a 501(c)(3)), ISAIH Minnesota (a 501(c)(3)), and COPAL (a 501(c)(3)) each has their own unique mission but share a common agenda when it comes to advocating for good government. These groups and others work together in coalitions when an issue arises, and often pursue joint campaigns to accomplish their goals – such as launching a nonpartisan voter engagement project, securing mandatory paid sick days in Minneapolis and St. Paul, and working to expand access to health care for residents in the state.

**Have a shared understanding of the rules.** Working in coalition naturally produces challenges, which these groups have learned to overcome. One particular challenge is the issue surrounding the different rules regarding the types of advocacy that 501(c)(3)s and 501(c)(4)s can engage in, given the frequent uncertainty about which activities are permissible under their 501(c)(4) and 501(c)(3) status. The aforementioned groups hit on a simple solution, agreeing the coalition's members would be best served by having the same legal counsel. This way, the four groups do not have to navigate conflicting legal advice in their joint advocacy – a common issue that can stall advocacy projects.

**Invest in accountability.** Progressive organizations in Minnesota found that Republican lawmakers would often decline to meet with the 501(c)(3)s due to the electoral work of 501(c)(4) coalition partners. While the 501(c)(3)s could not say they would hold these legislators accountable at the ballot box, their 501(c)(4) partners could – and did. However, as the 501(c)(3)s often received significantly more funding than the 501(c)(4)s, the accountability work of the 501(c)(4)s was frequently underfunded, limiting its effectiveness. Groups believed an important solution would be for funders to invest more in 501(c)(4)s, which have the added clout of holding lawmakers accountable.

**Invest in and support your partners and your community.** Organizations in Minnesota recognized that there was a need for leadership and financial stability among newer and smaller nonprofits. One group, Take Action, is now serving as a fiscal sponsor for two organizations that are just starting up – allowing them to focus on building their organizational strength and institutional systems. Another established organization, State Voices/Minnesota

Voices, runs a fellowship program that helps build skills and leadership in service-provider and partner organizations, including COPAL, New American Development Center, and Every Child Matters, among others. Furthermore, these nonprofits make extensive use of digital and social media technology to stay in constant touch with remote partners.

The nonprofits pointed to patience and wisdom as some of the most valuable lessons they've learned as they grow their community in the state. They say it's important to recognize that, especially with new groups and new leaders, mistakes will be made as advocates learn, grow, and better understand how they can be effective. Funder support is especially important to demonstrate long-term commitment to these nonprofit organizations over the long term, and ensure a path to nonprofit success.



# Lessons Learned:

## Florida Nonprofits Find Creative Ways to Partner to Meet Local Needs

**When nonprofits in Florida came together to increase the civic engagement of the state's many diverse communities, they quickly realized that an innovative structure would be needed to prioritize local issues and elevate local leadership.**

The organizations workshopped several ideas before identifying strategies to overcome the challenges presented by the size of the state and the diverse needs of each community. Illustrated below are the steps these organizations took to effectively provide a voice for their constituents while working together as team players.

While the diverse mix of local and national groups in Florida is typical of that found in many states, such cross-cutting partnerships have often been a recipe for friction. A cross-section of organizations working in the state, including the New Florida Majority, Organize Florida, For Our Future, America Votes, the Florida Rights Restoration Coalition, and the Florida Immigration Coalition developed the following creative approaches to ensure a more harmonious and productive working relationship:

**Prioritize your constituents' needs.** The local Florida groups found that while national groups bring great expertise and resources to their community, local groups have the strongest sense of their constituents' needs. Their solution was to create their own statewide tables and to divide them along two lines: by issue area and by tax-exempt status ((501(c)(3) public charities and 501(c)(4) social welfare organizations). So, for example, advocates could participate in an environmentally-focused 501(c)(3) table, or an immigration-focused table for 501(c)(4)s. This strategy has helped resolve two issues: relieving nonprofits, especially the 501(c)(3)s, of concerns about jeopardizing their tax-exempt status while taking part in table activities, and permitting the groups to focus more effectively on local issues.

Any concerns about siloes cropping up on the landscape proved to be unfounded – the groups say the arrangement has actually facilitated collaboration between 501(c)(3) and 501(c)(4) tables because the organizations felt that their respective tables were now adequately representing the respective issue areas.

**Communication is crucial.** Members of Florida's nonprofit community found that the size of the state created communications challenges. To help build even greater collaboration and awareness, Florida nonprofits created the Statewide Alignment Group ("SWAG") which includes a variety of nonprofits: 501(c)(3) public charities; 501(c)(4) social welfare organizations; and 501(c)(5) organized labor. Members of SWAG are also members of the aforementioned state tables, and SWAG members have weekly calls to align policy goals across issue areas. The group is able to apply a unique and insightful local lens to its work: for example, bringing awareness of Florida's racially charged history to SWAG's advocacy in favor of a renter's bill of rights or its work to fight the proliferation of private prisons.

**Have a shared understanding of the rules.** To ease collaboration, the groups also landed on an effective way to ensure they are all on the same page when it comes to understanding the law governing their advocacy work: having a common attorney among the tables. The arrangement has proven efficient and cuts down on the risk that groups will receive conflicting

legal advice.

**Make the most of your relationships.** With these robust state networks in place, the Florida nonprofit community also made use of technology and resources that were available from large national organizations, such as the Voter Activation Network (VAN) database available through America Votes. The database is used by the statewide issue-specific tables to increase voter engagement and turnout. And while the groups report that they still grapple with some resource and data-sharing issues, access to national resources helps maximize their impact on the key issues they are working to address.

The way in which Florida's 501(c)(3) and 501(c)(4) nonprofits have chosen to organize themselves stands as a great example of how groups can collaborate to maximize their advocacy and power, while elevating local leadership and putting local needs first. It's a strategy that promises great things for Florida's future.



# Case Studies:

## Successful 501(c)(3)/501(c)(4) Collaboration

### Creating policy change is one of the most important roles nonprofits play.

Public policy work is key for bringing about systemic, enduring change that can influence large segments of the population long into the future. Advocacy works best when various types of organizations—501(c)(3) public charities, 501(c)(3) private foundations, 501(c)(4) social welfare organizations, and 501(c)(5) labor unions—work together.

501(c)(3)s can educate about issues, engage in nonpartisan voter engagement activities, and lobby within limits. 501(c)(4)s and (c)(5)s can do all that and more; they can conduct an unlimited amount of lobbying, which is useful for ballot measure campaigns, since much work supporting or opposing measures constitutes lobbying. They can also support or oppose candidates as long as that is not their primary activity. When working collaboratively and strategically, each organization can play to its strength and use its resources to achieve the greatest good.

Increasingly, (c)(3)s, (c)(4)s, and unions are working together to bring about policy change, often using ballot measures, which include educational, lobbying, and voter engagement components. To illustrate why and how these groups have come together, as well as set out some best practices, we have prepared the following five case studies.

**Mainers for Health Care-Medicaid Expansion.** Mainers for Health Care was formed to support a ballot initiative intended to expand Medicaid coverage in Maine. Mainers for Health Care was comprised of a broad range of nonprofits, including a mix of (c)(3)s, (c)(4)s, labor unions, and religious organizations, as well as for-profits and other entities.

**Raising the Minimum Wage in SeaTac.** A 2013 ballot measure campaign to raise the minimum wage in SeaTac, Washington, illustrated how 501(c)(3) public charities, 501(c)(4) social welfare organizations, and 501(c)(5) labor unions can work together to successfully meet their advocacy goals. By election day, the SeaTac campaign had increased the electorate by 10%. In the end, the \$15 minimum wage won by 77 votes.

**Redistricting in Ohio.** The Fair Districts=Fair Elections coalition in Ohio, comprised of (c)(3)s, (c)(4)s, and (c)(5)s, has been working across the state since 2015 to reform electoral districts—passing a ballot measure in 2015 to change the way state legislative districts are drawn and another in May 2018 to change how congressional districts are drawn. In May 2018, Ohio voters approved a constitutional amendment to change the way congressional districts are drawn in the state.

**California Sanctuary State Law.** ICE Out of California is a statewide alliance that was created when state-based organizations decided to fight back against abuses by federal immigration authorities. Under the coalition's umbrella, immigrant and civil rights organizations joined together with faith-based groups, worker and criminal justice advocates, agencies assisting domestic violence victims, healthcare providers, and unions to pass SB 54, the California Values Act (also known as the California sanctuary state law).

**New York's Women's Equality Act.** In New York, the Women's Equality Coalition ("WEC") worked, from 2013 to 2015, to support passage of a legislative package, the Women's Equality Act (WEA). Formed as a 501(c)(4) in 2013, WEC had a steering committee that included

representatives from 501(c)(3), 501(c)(4), and 501(c)(5) organizations. Due to WEC's work, New Yorkers now benefit from stronger pay equity and anti-discrimination laws, greater access to courts for victims of on sex-based employment and credit discrimination, and more support for survivors of human trafficking.

After each case study, we pose some additional questions. In most cases, the questions address key issues that often surface in this type of coalition work. They are intended to further the discussion about the decisions groups need to make when working together.





# Case Study:

## Mainers for Health Care Push for Medicaid Expansion

### Summary

Mainers for Health Care was formed to support a ballot initiative to expand Medicaid coverage in Maine. The initiative was proposed after the state's governor vetoed Medicaid expansion legislation five times. As the governor's vetoes continuously thwarted legislative efforts, a coalition formed to take the question directly to voters.

Mainers for Health Care was composed of a broad range of nonprofits, including a mix of (c)(3)s, (c)(4)s, labor unions, and religious organizations, as well as for-profits and other entities. Steering committee members included Maine Center for Economic Policy, Maine Equal Justice Partners, Maine Voices Network (all 501(c)(3)s), as well as Maine People's Alliance and Planned Parenthood of Northern New England Action Fund, both 501(c)(4) organizations.

On Election Day, voters supported the initiative, but the coalition's work continues to ensure the state implements and fully funds the program.

### Strategies

501(c)(3) organizations were indispensable to the overall effort. As the initiative was certain to place a fiscal cost on taxpayers, an important component of the educational work was to focus on the value of Medicaid in not only bettering people's lives but also the state's economy. In addition to their research and messaging roles highlighting the importance of Medicaid in general, (c)(3)s focused on passing the measure itself. Some made direct contributions to the ballot measure campaign (staying within their lobbying limits) while others endorsed the measure—lending their names and reputations—without spending much money or time. With this solid base of support, non-501(c)(3) partners were able to dedicate their resources to the lobbying-intensive component of the campaign.

501(c)(4)s were critical from start to finish. They funded the initial “boots on the ground” efforts to collect enough signatures to place the measure on the ballot as well as get out the vote (GOTV) activities to ensure supporters cast their votes. In between, they funded TV ads that helped voters understand why they should vote yes. The first ad featured a Maine hairdresser who could not afford health coverage. The woman had a chronic illness and in the ad, she explained how she was often faced with “a choice between oxygen and paying my bills.” The second ad featured a nurse who talked about how the expanded coverage would benefit patients who could not afford care. These ads can be viewed on the Mainers for Healthcare campaign website at <http://mainersforhealthcare.org/>.

The coalition, through its various partners, also encouraged voters to submit public comments on the ballot initiative language and worked to ensure a long list of endorsers, including business owners, health care providers, and government officials. The coalition then published the list of endorsers on its website and disseminated the list to media outlets.

A group of health care providers joined in support of the ballot initiative. At a gathering of providers on October 12, 2017, several spoke about the necessity to expand health care coverage. Bryan Wyatt, representing Maine Primary Care Association said: “Maine's failure to expand Medicaid has created a crisis for many of the clinics in the state . . .” The group also heard from Sam Zager of the Maine Academy of Family Physicians and Maine Providers Standing Up for Healthcare, who said:

“(i)ncreasing the number of Mainers with health insurance by expanding Medicaid would improve quality of life, increase workplace productivity and save lives.”<sup>1</sup>

Small business owners not only signed on to support the ballot measure but also sent letters to the editors of local newspapers explaining the importance of expanding Medicaid. In one such [letter](#) to the editor, the leader of the Maine Small Business Coalition wrote “I work with small-business owners every day who say that their business depends on both the physical and financial health of their employees and communities. Expanding Medicaid would [create 3,000 jobs](#), spurring local demand for products and services, and ensuring more employees have secure health care.”

## Foundation Role

Coalitions can also engage the help of private foundations in various ways. In the case of Mainers for Health Care, the coalition was able to use research published by the Maine Health Access Foundation whose mission is to promote access to quality health care in Maine, especially to the uninsured and underserved. In April 2015, the foundation issued a [report](#) on the estimated positive impact Medicaid expansion would have on the state budget. Building on that report, the foundation also commissioned a series of fact sheets covering basic details about the Medicaid program, such as funding and coverage, as well as analyzing the importance of Medicaid to the state’s health system.

According to Jesse Graham, director of the (c)(4) Maine People’s Alliance<sup>2</sup>, the foundation’s materials were valuable to the coalition’s research and communication teams. He recommended that coalitions talk to private foundations in the earliest stages of forming a coalition, so private foundations’ restricted funds can be used for preliminary issue education.

## Outcome

The coalition’s efforts were a success, as almost 60 percent of voters supported the initiative, making Maine the first state in the nation to use a ballot measure to expand Medicaid coverage.

Despite the clear support of voters, Maine’s governor, Paul LePage, continues to obstruct Medicaid expansion. In April 2018, a lawsuit (*Maine Equal Justice Partners et al. v. Hamilton*) was filed seeking to force the governor’s administration to submit a state plan to the U.S Department of Health and Human Services to expand the Maine Medicaid program. A (c)(3) coalition partner, Maine Equal Justice Partners, led the litigation effort. Since litigation does not generally constitute lobbying, (c)(3)s have great flexibility to participate in legal challenges. The trial court judge ordered the governor to implement the law by July 2nd, and the coalition turned its attention to the legislature for the money needed for the program.

Mainers for Health Care, with its (c)(4) partners, persuaded the legislature to appropriate \$60 million from the state surplus and tobacco settlement money to fund their first year of coverage.<sup>3</sup> Yet Governor LePage vetoed the spending bill and has appealed the trial court decision. The governor has said he will not implement the law until the legislature provides a long-term funding plan that does not rely on using state surplus money. In mid-July 2018, the Maine Supreme Judicial Court heard arguments about whether the governor needs to act while his appeal is pending. Just days before the state’s highest court held hearings in the matter, Governor LePage said, “I will go to jail before I put the state in red ink. And if the court tells me I have to do it, then we’re going to be going to jail.”<sup>4</sup>

Despite the struggles in Maine to implement the ballot measure, groups in Idaho, Nebraska, and Utah are mounting similar ballot measure campaigns this year to expand their states’ Medicaid eligibility coverage.<sup>5</sup>

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Following are some frequently asked questions that arise in coalitions.

**What if a private foundation received a proposal to fund the campaign?**

Private foundations cannot earmark their grant funds for lobbying. Therefore, they would need to turn down a proposal seeking funding specifically to fund the initiative campaign. However, private foundations could fund 501(c)(3)s that are supporting Medicaid expansion—either by making general support grants or using the specific project grant safe harbor. The grant agreement should state that the funds are not earmarked for lobbying, but the agreement does not need to prohibit the use of funds for lobbying.

In addition to awarding grants to 501(c)(3) organizations, private foundations may also support the educational and charitable work of non-501(c)(3) organizations provided the private foundation exercises “expenditure responsibility.” Expenditure responsibility grants cannot be used for lobbying. See [Investing in Change: A Funder’s Guide to Supporting Advocacy](#) to explore this option further.

Community or public foundations have more flexibility than do private foundations and can even earmark their grants specifically for lobbying. Grants earmarked for lobbying will count against the public foundation’s limit on lobbying as well as the grantee’s limit (if they are a (c)(3) organization). For more details on how to track grants earmarked for lobbying, refer to “Investing in Change” above.

### Can foundations engage in ballot measure activity?

While private foundations may not lobby or earmark grants for lobbying efforts, they can play an important role by conducting research and supporting advocacy organizations by building capacity, convening policy leaders, and funding groups that work to create social change. Community foundations can take a step further, and engage in lobbying efforts on their own behalf, using their influence and power to speak out on behalf of a policy agenda.

### What if Governor LePage were not term limited and was seeking reelection in November 2018? What type of advocacy activities could the coalition engage during an election year?

Coalitions can continue their advocacy work in an election year, but coalition members must ensure their activities and spending are permissible under their tax-exempt status.

For instance, the coalition, with its 501(c)(3) partners, could not oppose LePage’s reelection. It could not compare LePage’s views with those of his opponents on Medicaid expansion, or ramp up its criticism of LePage’s opposition throughout the campaign. However, it could still report on the ongoing litigation, lobby the legislature to take action, and urge the Maine Department of Health and Human Services to issue rules.

Additionally, the (c)(4) and (c)(5) coalition members could expand their work, if they thought it helpful, and engage in partisan electoral activity up to the limit permitted for their tax-exempt status. In this case, care will need to be taken during communication and joint activity with (c)(3) members so partisan activity is not attributed to, or linked to, the (c)(3), jeopardizing its tax-exempt status. The partisan activity cannot be done in the name of the coalition with 501(c)(3) members. However, the additional partisan electoral activity could allow the c4 or c5 coalition members to plan their voter registration or GOTV activities with a candidate, candidate’s agent, or political party, publicly endorse or oppose certain candidates, share lists or resources with a candidate, candidate’s agent, or a political party, or work with a candidate or party’s vendors for messaging or other activity (subject to campaign finance rules).

Most importantly, coalitions can continue their advocacy work during an election year, but care should be taken to comply with each organization’s tax-exempt purposes and limits.

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### Endnotes

- 1 <http://mainersforhealthcare.org/health-care-providers-stand-up-for-a-yes-vote-on-question-2/>
- 2 <https://www.mainepeoplesalliance.org>
- 3 <https://www.nytimes.com/2018/07/24/health/maine-medicaid-expansion-lepage.html?login=email&auth=login-email>
- 4 <https://www.pressherald.com/2018/07/12/paul-lepage-says-hed-go-to-jail-before-he-expands-medicaid/>
- 5 <https://www.pressherald.com/2018/07/12/paul-lepage-says-hed-go-to-jail-before-he-expands-medicaid/>

# Case Study:

## Raising the Minimum Wage in SeaTac

### Summary

A 2013 ballot measure campaign to raise the minimum wage in SeaTac, Washington, illustrates how 501(c)(3) public charities, 501(c)(4) social welfare organizations, and 501(c)(5) labor unions can work together to successfully meet their advocacy goals.

In 2005, airlines with operations at the Seattle-Tacoma International Airport laid off unionized workers, outsourced jobs, and limited the hours of many long-time workers. Workers who made living wages at the time of their layoff were then rehired at wages under \$10.00 an hour with no benefits. Despite efforts by labor organizations to mobilize workers, members of the SeaTac community were reluctant to unionize, due in part to fear of retaliation and distrust of unions. These attacks on workers' rights continued for years.

Then, in 2011, car rental agencies in SeaTac suspended 32 Muslim workers when they refused to clock out to complete their prayer services (something they had not previously been required to do). The Teamsters organized a "Pray-In" where workers came together to pray and rally outside of the rental car agencies. This show of solidarity brought together the labor, religious, and immigrant communities, assuaging some prior distrust the workers had about the unions.

As a result of this, a broad grassroots alliance came together. Where unions alone had failed to reverse the attack on workers, by bringing together faith leaders, the Win-Win Network, and other 501(c)(3) organizations, the coalition work was enhanced by the community outreach of local organizations. The coalition ran a massive education and voter registration campaign, increasing the electorate by 10% and passing a minimum wage ballot measure in 2013 that raised the minimum wage and provided additional protections for some workers.

### Background

Following the events of 2011, residents of and employees in SeaTac, Washington began a grassroots lobbying campaign to persuade the city council to raise the minimum wage. When the legislative campaign failed, the coalition decided to take the issue to the voters and moved forward with a ballot initiative in 2013 to boost minimum wages for certain hospitality and transportation employees to \$15 per hour (as well as other benefits, including tip ownership and paid sick time). Working Washington, a 501(c)(4), formed a ballot measure committee, Yes! For SeaTac, and facilitated a coalition involving 501(c)(3), (c)(4), and (c)(5) organizations. The coalition had two steering committees, one that handled the day to day campaign work and the other that handled governance issues.<sup>1</sup>

### Strategies and the 501(c)(3) Role

The 501(c)(3) organizations focused primarily on the educational component, discussed below, and on conducting an aggressive voter registration campaign related to the ballot measure. The 501(c)(4)s and unions engaged in more direct canvassing in support of the ballot initiative. Instead of paid canvassers, the coalition was able to recruit local community volunteers.

One of the primary 501(c)(3) groups in this campaign was the community organizing group, Puget Sound Sage. Puget Sound Sage partnered with religious groups, including the Church Council of Greater Seattle and mosques such as Orcas Mosque; immigrants' rights groups, like One America;

economic justice groups like Low Income Housing Institute of Washington; and others. With these groups on board, Puget Sound Sage spearheaded the economic research for the campaign, which informed the media and helped publicize and frame the debate over increasing the minimum wage. They also prepared a much-publicized [white paper](#) that highlighted the benefits of raising wages.

The 501(c)(4)s and 501(c)(5)s played a larger role in working with the ballot measure committee to persuade voters to vote yes, and were responsible for much of the legislative (or issue advocacy) canvassing, paid media, surveys, and phone banking in support of the ballot measure. Social welfare organizations, labor organizations, and trade associations can all engage in an unlimited amount of lobbying and make valuable coalition partners for ballot measures.

## Outcome

Venues historically associated with minority populations, such as mosques, churches, and cricket games, became locations for 501(c)(3)s to engage in voter registration drives. Union canvassers went door to door advocating for passage of the ballot, while Somali and Ethiopian activists affiliated with the 501(c)(3)s engaged with and educated their communities. By election day, the SeaTac campaign had increased the electorate by 10%. In the end, the \$15 minimum wage won by 77 votes.

Yasmin Aden of SEIU Local 6 sat down for an interview with the University of Washington to discuss the ballot initiative.<sup>2</sup> Aden explained that utilizing local members of the community who worked for SeaTac was especially helpful in personalizing the issue with residents, many of whom had family members working for the airport authority. Aden explained that many employees at SeaTac and many of the new voters had a shared heritage as recent immigrants from Eastern Africa. Connecting with first-time voters from Somalia or Eritrea was something 501(c)(4)s and labor unions were unlikely to be able to do on their own, as many new citizens had resisted efforts to join the unions for a variety of reasons. Aden pointed out that being a part of the community allowed their conversations to resonate and meant that canvassers were always just a few degrees of separation from the household they were canvassing.

In addition, Sterling Harders, Vice President of SEIU 775, found that working in a coalition, and including groups such as religious organizations that unions traditionally had not worked with, was instrumental in this campaign. Reflecting on the effort, she said, “Helping workers build power by an initiative was not a concept that was foreign to us. The other labor unions and community groups that were in the coalition with us were supportive of this as well because workers at the airport had just tried so hard for so long to build power through traditional means ... and workers were getting nowhere over a period of a decade. It was just time, it was just time to try something new, which is ultimately what we did.”<sup>3</sup>

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Following are some frequently asked questions that arise in coalitions.

**What if, during the ballot measure campaign, one of the mayoral candidates endorsed the initiative leading the (c)(4)s and unions to endorse the candidates? Would the 501(c)(3)s need to stop supporting the measure?**

While this campaign moved forward with a clear focus on passing the ballot initiative only, the coalition dynamics might have changed had candidates or political parties supported or opposed the initiative or if the unions and 501(c)(4)s endorsed (or opposed) candidates based on their position on the initiative.

For instance, if coalition members endorsed a mayoral candidate due to their support of the initiative, the coalition—and its branding, lists, and other resources—would have had to choose: align with the candidate and lose participation of the 501(c)(3) members, or keep the

coalition itself completely nonpartisan. Keeping the coalition nonpartisan means not allowing its brand, messaging, or other resources be used to support or oppose candidates.

However, just because a (c)(4) or union is part of the nonpartisan coalition does not mean it cannot, on its own, support or oppose candidates. The c4s or unions just need to do so independently of the coalition and not use the coalition's resources or imply the coalition supports the partisan activity. The (c)(4) or union should adopt proper internal safeguards to avoid tainting the 501(c)(3) activity with the appearance of partisanship.

If the living wage issue became partisan, 501(c)(3)s could continue their work within the coalition, although they would need to ensure they have their own tax-exempt reason for participating in the activity. It is crucial that 501(c)(3)s have their own defined goals and that any participation with other organizations is conducted to further shared charitable objectives. The fact that there is a political component for the 501(c)(4)/union campaign is not, in and of itself, enough to harm the 501(c)(3)s in the coalition.

Accordingly, if any member of this coalition engaged in partisan political activity, the 501(c)(3)s would need to have a written campaign plan that laid out the rationale for engaging in any shared activities. Any shared meetings would need to ensure that the 501(c)(3) avoid partisan outcomes and messaging, though objective facts could have been shared (e.g. "Candidate X is running for reelection"). In addition, the 501(c)(3) would want to ensure that any ballot measure advocacy they engage in did not align with or echo partisan language (e.g. "Democrats for Prop 1").

### **What if several members of the coalition engaged in voter registration activities surrounding the ballot initiative; could the members exchange lists of registered voters?**

Communicating with supporters is an activity that nearly all coalitions engage in as part of their work. Lists that are created for reaching supporters take time and effort to build and maintain and are considered valuable resources. As they may choose to do with any other resource, 501(c)(3)s may share their lists – given appropriate compensation and privacy safeguards.

A 501(c)(3) can rent or sell its list to a 501(c)(4), provided the 501(c)(3) receives fair market compensation. A 501(c)(3) and a 501(c)(4) could also agree to build lists and exchange the information with each other, provided the lists are of comparable value – otherwise, the 501(c)(4) should reimburse the 501(c)(3) for the difference in value.

If a 501(c)(4) wants to share a list with a 501(c)(3), it can do so for free. The 501(c)(3) must ensure the list is scrubbed of partisan information, since 501(c)(3)s cannot engage in partisan political activity. A 501(c)(3) could also exchange a list with a non-501(c)(3) if an equivalent number of names and information is provided in exchange.

Some coalitions do not create lists; instead, coalition members use their own lists to send out information and action alerts. Other coalitions choose to create a new list that contains names from all members. Before a coalition decides to generate its own list of supporters, members should decide how the list will be used and what will happen to the names after or if the coalition disbands.

It is best at the outset of the coalition's work, to document any list sharing or resource sharing agreements in writing. Bolder Advocacy maintains a sample list and cost sharing [agreement](#) on its website.

### **How can private foundations fund voter registration efforts?**

Foundations can support nonpartisan voter engagement activities, including allowing grant funds to be used for voter registration. Private foundations (but not other 501(c)(3)s) are subject to additional rules when making grants *earmarked* for voter registration drives.

According to Alliance for Justice's factsheet [Voter Registration Rules for Private Foundations](#),

A private foundation may earmark funds for voter registration and a public charity may accept such funding only if the charity's program meets the criteria and special rules provided under section 4945(f). A public charity may seek an advance ruling from the IRS stating that it satisfies the 4945(f) requirements.

...[T]hese requirements apply to grants from private foundations that are earmarked for voter registration and to grants made to public charities that engage exclusively (or almost exclusively) in voter registration activities only. If a private foundation provides a general support grant to a charity, the charity may choose to use some, or all, of the grant for voter registration work without penalty to the charity or to the private foundation.

Unless there is a specific oral or written understanding that the grant is to be used for voter registration activities, a general support grant will not be deemed "earmarked" for voter registration. In addition, the amount of the general support grant may not exceed the total amount the grantee spends on non-voter registration activities. Similarly, grants earmarked for a grantee's other projects, other than voter registration, are not subject to the rules under 4945(f).

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## Notes

- 1 Alliance for Justice interview with David Rolf, President of SEIU 775 and Board President of Working Washington <http://www.workingwa.org/about/leadership/>
- 2 <http://digitalcollections.lib.washington.edu/cdm/ref/collection/ohc/id/1955>
- 3 <http://digitalcollections.lib.washington.edu/cdm/compoundobject/collection/ohc/id/1881/rec/1>

# Case Study:

## Redistricting in Ohio

### Summary

In May 2018, Ohio voters approved a constitutional amendment to change the way congressional districts are drawn in the state. Ohio voters had faced previous ballot measures to create a redistricting commission but without success. The 2018 victory would not have been possible without the work of 501(c)(3), 501(c)(4), and 501(c)(5) organizations working together.

Every 10 years, the U.S. Constitution mandates a census, a population count of everyone residing within the country. The states then use this data from the census to redraw congressional and state legislative election district boundaries so that the districts contain equal numbers of people. This process of redistricting is done to ensure that each person's vote is counted equally. State lawmakers in 37 states control how to redraw the election districts, and new technology makes it increasingly easy for lawmakers to draw themselves into safe election districts based upon past voting results. This process, often called gerrymandering, results in decreased competition, reduced turnout, and a weaker democracy. A number of states have turned over the redistricting process to an independent or bi-partisan commission who completes the work, often without reliance upon voting results or incumbents' addresses.

The [Fair Districts=Fair Elections coalition](#) in Ohio, composed of (c)(3)s, (c)(4)s, and (c)(5)s, has been working across the state since 2015 to reform electoral districts—passing a ballot measure in 2015 to change the way state legislative districts are drawn and another in May 2018 to change how congressional districts are drawn.

### Background

In 2015, the Fair Districts=Fair Elections Ohio coalition supported a ballot measure addressing the gerrymandering of state legislative districts. The measure created a bipartisan redistricting commission to replace a heavily partisan process. The passage of the measure was the culmination of years of work of (c)(3)s, (c)(4)s, and unions to educate voters about how gerrymandered districts impact the state. Through gerrymandering, some voters are disenfranchised, and the number of competitive races decreases, which in turn can make it nearly impossible to remove ineffective elected officials. Voters had defeated three previous measures to create a less partisan method of drawing legislative districts, so coalition partners had focused on a state-wide effort to educate voters to secure passage of the 2015 initiative.

Because the 2015 vote only applied to the drawing of state district lines, the coalition stayed together to extend that initial victory to the redistricting process for congressional districts. This effort culminated with Issue 1 on the May 2018 ballot, a bi-partisan effort garnering 74.85% of support from voters.

Coalition members included a mix of (c)(3)s, (c)(4)s and unions. A diverse range of organizations was part of the effort to secure a bipartisan redistricting process, including Common Cause, Ohio Voice, the League of Women Voters, America Votes, Columbus Chapter Alumnae of Delta Sigma Theta, a number of unions, religious associations including Nuns on the Bus Ohio, the Ohio Farmers Union, Ohio Student Association, and the Ohio Unity Coalition.<sup>1</sup>



## Strategies

Coalition members worked within their tax-exempt status to maximize their advocacy reach. They formed two separate ballot measure committees, one for the 2015 state legislative ballot measure and a second for the 2018 congressional district ballot measure.

In each campaign, (c)(3) coalition partners played an important role in educating voters about the impact of gerrymandered districts and educating voters about the unfairness of gerrymandered districts. (C)(3) coalition members engaged in a state-wide effort to reach voters in town hall gatherings, through social media, and through public reports illustrating how gerrymandered districts can limit an individual's electoral power. Coalition partners with extensive advocacy expertise also contacted smaller, less well-resourced (c)(3)s, explaining that (c)(3)s are allowed to support ballot measure proposals.

During both campaigns, (c)(3) coalition partners maintained a website providing information about the issue of gerrymandered districts and the proposed solutions. (C)(3) partners also provided sample op eds, letters to the editor, and pre-designed social media content that coalition partners from across the state could use in their communities.

However, educating the public about the importance of the issue was not enough. The (c)(4)s and unions—with their unlimited lobbying capacity—developed a campaign to talk with voters about the ballot measures. In the 2015 and 2018 primary elections, an intensive lobbying effort was needed to secure passage. 501(c)(4) and (c)(5) coalition partners, utilizing their ability to engage in unlimited lobbying, stepped up their efforts and engagement within the coalition; these organizations helped persuade voters to get out and vote for the measures.

The coalition organized a broad, statewide effort to gather signatures for the 2018 congressional boundary measure, gathering 200,000 signatures from citizens. This successful show of voter support even pushed the legislature to take its own action to create a ballot initiative. At this point, there were two ballot measures (a voter-initiated ballot measure and a legislatively-created ballot measure).

The Fair Districts coalition decided on a dual strategy of supporting the legislatively-referred initiative, while they also continued to gather signatures to place their more-specific proposal on the ballot in case the Issue 1 measure failed.

The 2018 ballot initiatives were unique in that there was no formal opposition.

## Outcome

The 2018 legislatively-referred measure passed with resounding support from voters. Support topped the 2015 measure, earning 75% support from voters. Although successful, the work of the coalition is not yet done, as lines will not be drawn until after the 2020 census. The coalition knows that advocacy organizations will need to be involved in the census to ensure there is an accurate count as well as the actual legislative district map drawing. The coalition believes the role of (c)(3)s will continue to be important in both educating the public about the census as well as the upcoming legislative line drawing process. The effort to ensure new legislative districts are created without partisan bias will involve a new lobbying effort as the legislature will need to vote to approve the new legislative maps with the lines drawn by the bipartisan commission. This process offers an important opportunity for (c)(4) and (c)(5) coalition partners to get involved.

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Following are some frequently asked questions that arise in coalitions.

**What if a state did not permit voter-initiated ballot measures? Could coalitions still work together to pass a bill accomplishing their same goal?**

A mix of (c)(3)s, (c)(4)s, and unions could form a coalition to lobby the legislature to enact

redistricting reform outright or refer the measure to voters. While (c)(4)s and unions can engage in an unlimited amount of lobbying, 501(c)(3) public charities need to stay within their lobbying limits and track their work as direct lobbying, grass roots lobbying, or non-lobbying advocacy. If a 501(c)(3) contributed money to a coalition, its entire contribution might be counted against the 501(c)(3)'s grassroots lobbying limit unless it otherwise limited how the money should be spent. Whenever a 501(c)(3) grants money to a (c)(4) or union, it is best practice to have a written grant agreement that describes a charitable or educational purpose for the grant and states that the funds cannot be used for partisan political activity.

Also, in states where independent redistricting commissions draw electoral district lines, efforts to influence commission decisions may or may not even be considered lobbying under IRS rules.

### What form should a ballot initiative coalition take?

Coalitions can take many different forms. A coalition could have its own separate legal entity or simply be a group of organizations that agree to work on the same goal. If a group is large, such as Fair Districts = Fair Elections, a steering committee is often recommended to handle the strategy and day to day decisions. Coalitions can also involve for-profit organizations as active participants or donors to the cause.

When dividing up work among coalition members, each group should consider its own tax-exempt status. For instance, since (c)(3)s must stay within lobbying limits, it could be more strategic for a (c)(4) or union to pay for an outside lobbyist or to run a paid grassroots lobbying ad while the (c)(3)s research and write a white paper that fits within the “nonpartisan analysis” lobbying exception.

Coalitions might wish to adopt an Operating Agreement to handle decision making, conflict resolution and resource or list sharing. Some coalitions might also use a List Sharing Agreement or Sign-On Agreement as a means for defining membership and outlining the use of resources. Sample agreements and a coalition checklist can be found [here](#).

### Do states treat ballot measure activity as lobbying?

For federal tax law purposes, supporting or opposing ballot measures constitutes lobbying. On the other hand, states regulate ballot measure work under their campaign finance regimes. The rules vary from state-to-state, and groups (whether 501(c)(3), (c)(4), union, or for-profit) may need to register with the state as a ballot measure committee and/or report spending, contributions, or even donors. For state-specific information, see Bolder Advocacy's [State Law Resources](#).

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### Notes

- 1 <https://www.fairdistrictsohio.org/about.html>

# Case Study:

## California Sanctuary State Law

### Summary

ICE Out of California is a statewide alliance that was created when state-based organizations decided to fight back against abuses by federal immigration authorities. Under the coalition's umbrella, immigrant and civil rights organizations joined together with faith-based groups, worker and criminal justice advocates, agencies assisting domestic violence victims, healthcare providers, and unions to pass SB 54, the California Values Act (also known as the California sanctuary state law). The bill, signed into law on October 5, 2017, limits the use of state and local resources to assist U.S. Immigration and Customs Enforcement ("ICE") in deportations. SB 54 prohibits law enforcement officers from asking about a community member's immigration status and prevents state and local law enforcement agencies from detaining anyone for deportation without a judicial warrant. It also puts in place a system to create safe community spaces, including at schools, health facilities, and courthouses.

The ICE Out of CA coalition is led by California Immigrant Policy Center (CIPC), Asian Americans Advancing Justice-California (AAAJ-CA), California Immigrant Youth Justice Alliance (CIYJA), Immigrant Legal Resource Center (ILRC), National Day Laborer Organizing Network (NDLON), PICO-California, and the ACLU of California (ACLU-CA). The various coalition partners primarily used their own funds to support different aspects of the work, with each organization's own strengths. For example, CIPC had a strong communications department and took the lead on press releases and coalition conference calls and AAAJ and ILRC attorneys helped draft the legislation.

More than 200 mayors, cities, counties, unions, and other entities such as service providers and businesses, partnered in endorsing SB 54.

### Strategies

501(c)(3) organizations used a variety of tactics to engage their members and communities in passage of SB 54 including: state-wide call-in days; local rallies, press conferences, and days of action; visits to state legislators' field offices; and grassroots social media campaigns. Various organizations across the state coordinated staff and resources and made SB 54 a central focus of their annual lobby events, like CIPC's 2017 Immigrant Day in Sacramento, which drew more than 900 activists to advocate for the bill.

As a 501(c)(4), the ACLU-CA took on SB 54 as a legislative priority. The ACLU-CA was uniquely positioned to champion this fight in 2017; not only did the ACLU's 501(c)(4) status permit it to engage in unlimited lobbying, but the outpouring of support in the wake of Trump's Muslim ban also provided the ACLU with a surge of unrestricted funding. For example, the ACLU of Southern California saw an increase in revenue from approximately \$2 million in FY 15-16 to approximately \$8 million in FY 16-17.

The three ACLU affiliates in California (ACLU of Northern California, ACLU of Southern California, and ACLU of San Diego & Imperial Counties) joined forces as the ACLU of California. For example, the ACLU-CA paid for newspaper ads in districts of key legislators, urging a yes vote on the legislation. "Assemblymember Sabrina Cervantes... Californians are calling on you to help pass the California Values Act... to protect families and communities across the state from President Trump's cruel and out-of-control deportation machine...[W]e are counting on you to stand with your community, stand with Californians, and stand up to those who target our communities." In

addition, ACLU-CA mobilized its Sacramento-based legislative staff and more than 400 members and community activists to rally and make legislative visits as part of its annual Conference and Lobby Day.

The coalition also garnered the support of the California Labor Federation, the SEIU State Council, and many local unions. These and other labor organizations involved their staff and volunteer members through in-district legislative visits, public actions, and by including SB 54 in their lobbying day priorities.

One of the primary challenges the coalition faced in mobilizing the coalition was opposition from other local influential organizations. Among these were the California State Sheriffs' Association, the California Police Chiefs Association, the California Peace Officers Association, and the Peace Officers Research Association of California. In response, the ICE out of CA coalition attempted, with limited success, to garner some sheriff and police chief support for the bill. Though there was modest direct support from the law enforcement community, the ICE out of CA coalition agreed to modify some of the legislative language in an effort to dampen opposition to the bill. This compromise language resulted in some highly complex exceptions to the rules that did not result in law enforcement support for the bill, but did mollify its most vocal opponents.

## Outcomes and Impact

Due to the close coordinated efforts of the coalition, the California Values Act was signed into law on Oct. 5, 2017 and went into effect on Jan. 1, 2018.

CIPC's Government Affairs Director, Gina Da Silva, reflected on how the coalition's joint efforts brought about growth in the greater movement. "This collaboration to pass SB 54 led to a broader coalition, which includes faith, labor, domestic violence groups, and others that has evolved over time. Now, this coalition is not just about lobbying and advocacy, but also correct implementation of California laws protecting immigrant rights and holding law enforcement accountable."

In addition to the California Values Act, ICE Out of California continues to be active in monitoring enforcement of the immigrant rights laws it has helped to pass, such as the TRUTH Act<sup>1</sup>; providing model policies and fact sheets for cities and workplaces; and offering valuable information for other jurisdictions hoping to pass similar laws.

As a final note, the Trump Administration had asked for an injunction against the implementation of SB 54, as well as two other state laws, arguing that the state's laws would make it more burdensome for the Federal government to enforce Federal law. On July 5, 2018, U.S. District Judge John A. Mendez denied the Trump administration's request to immediately halt California's sanctuary state law, finding that "the laws make [immigration] enforcement more burdensome than it would be if state and local law enforcement provided immigration officers with their assistance. But refusing to help is not the same as impeding." ICE Out of California's Steering Committee issued the following statement in response, "This new ruling is yet another victory for our values of equality and compassion - and yet another defeat for the federal government's cruel, immoral and hateful agenda. This new decision makes it resoundingly clear that the Trump administration cannot force local governments to do the dirty work of separating families. Community members and organizations across the state fought hard to win these protections. And we will keep fighting to uphold our shared humanity and to protect due process for everyone, including immigrants." The Trump administration is expected to appeal this decision.

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Following are some questions that frequently arise in coalition work beyond what was described in the case study.

**What would happen if a coalition member reaches out to a private foundation for assistance in the coalition's efforts?**

There are several ways in which a private foundation could work with the members of a coalition. While private foundations are functionally prohibited from lobbying and may not earmark grants for lobbying, they can make general support or specific-project grants. Additionally, they can engage in educational activities and use the IRS' exceptions to lobbying.

Broadly speaking, a general support grant is a grant that is not earmarked for a specific purpose. The public charity grantee may thus use a general support grant for any purpose, including lobbying. These are also sometimes referred to as general operating grants.

A specific project grant is another option for private foundations. When making a specific project grant to a public charity, the private foundation must review the grantee's project budget and may give a grant in an amount up to the non-lobbying portion of the budget. The public charity must use the grant funds only for the specific project. Private foundations may also support the educational and charitable work of a non-501(c)(3) organization by making a grant that follows "expenditure responsibility" rules. You can find more information in [Investing in Change: A Funder's Guide to Supporting Advocacy](#).

Private foundations can also engage in educational materials to inform the general public of the importance of an issue, so long as the private foundation does not include a call to action. Additionally, private foundations can also use the IRS' lobbying exceptions, which includes the non-partisan analysis. Under this exception, if a private foundation can discuss legislation without incurring a taxable expenditure. You can learn more [here](#).

### **If a mayor endorsing SB 54 were also a candidate for public office, would the coalition or its 501(c)(3) members have had to end their advocacy for the bill?**

Nonprofit coalitions, including their 501(c)(3) members, can continue their legislative advocacy even after a candidate for office endorses their legislative goal. However, care should be taken to ensure that the coalition's work does not support the candidate. Accordingly, the coalition could include the mayor in their list of endorsements and identify the mayor in his or her official capacity. However, coalitions that do have 501(c)(3) members should not draw attention to the mayor's candidacy, or otherwise comment on the election.

Individual members of the coalition that can engage in electoral activities, such as 501(c)(4)s and 501(c)(5)s, may support or oppose candidates for public office, including the mayor, but should take steps to ensure their partisan activities are not attributed to the coalition.

### **If 501(c)(4)/501(c)(5) coalition partners engage in partisan political activity, what do 501(c)(3) members need to know?**

Whenever a coalition includes 501(c)(3) organizations, all members need to be aware of the rules that govern joint activities. Protecting 501(c)(3) organizations' status should be a consideration when planning the activities, tactics and messages for the coalition's campaign.

With that in mind, public charities must ensure that their legislative advocacy remains nonpartisan. This standard must be applied to all aspects of the campaign and all coalition activities in which public charities participate. For example, unions and 501(c)(4)s may target their outreach and communications to voters because of their propensity to vote a certain way, whereas a 501(c)(3) cannot.

### **If there is an organization with an affiliated 501(c)(3) and 501(c)(4), and both organizations are part of the coalition, what should the organization keep in mind?**

It is perfectly legal for affiliated organizations to participate in a coalition together. Both organizations may be present in coalition meetings, including discussions of lobbying activities and voter registration activities. In addition, the 501(c)(3) organization may hear about the partisan electoral activities of non- 501(c)(3) organizations, though the 501(c)(3)s must not use that information to direct their own activities.

However, affiliated organizations must remember that they are required to have

programmatic independence and have their own independent reasons for engaging in any activity. There are few explicit rules describing the necessary programmatic separation between related 501(c)(3) and 501(c)(4) organizations. 501(c)(3) activities fall along a spectrum of risk, so less separation between affiliated organizations can be riskier for a 501(c)(3), depending on the type of activities conducted by the 501(c)(4).

For example, while there is some risk in doing a joint lobbying campaign, there is considerably more risk if a 501(c)(3) allows its affiliated 501(c)(4) to use the 501(c)(3)'s educational materials for partisan political activities. These rules do not change because both organizations are in a coalition together.



## Notes

- 1 The TRUTH Act requires that local law enforcement provide “Know Your Rights” information to individuals before an ICE interview, and inform an individual when they have shared the individual’s release date with ICE. The TRUTH Act also increases transparency of local law enforcement collaborations with ICE.

# Case Study:

## New York Women's Equality Act

### Summary

In New York, the Women's Equality Coalition ("WEC") worked, from 2013 to 2015, to support passage of a legislative package, the Women's Equality Act (WEA). The WEA was a 10-point bill designed to address barriers to women's equality and to promote equity. The bill's provisions included the codification of *Roe v Wade* into New York law, an equal pay requirement for all genders, and new protections for victims of domestic violence and human trafficking. It also combined several controversial issues that advocates had been unable to pass in the Republican-controlled State Senate, including provisions that addressed abortion and equal pay. It took two legislative sessions, but in 2016, 9 out of 10 of the provisions were enacted into law.

This WEC effort demonstrated the power of working collectively across organizations and issue areas to achieve policy change. Many of the bill's provisions had been languishing in the legislature for years until the coalition was formed and tapped the collective strength of its members to build public support and push the State Senate to pass all but the most controversial abortion provision. Prior to the coalition's formation, many of the groups had never worked together, with groups siloed into advocacy addressing their respective issue areas. By combining several bills, all important to the health and welfare of women and families, WEC created a compelling agenda to support many issues critical to New York women's lives.

### Strategies

Formed as a 501(c)(4) in 2013, WEC had a steering committee that included representatives from 501(c)(3), 501(c)(4), and 501(c)(5) organizations including the state's Planned Parenthood affiliates, the New York Civil Liberties Union, A Better Balance, AFL-CIO, League of Women Voters, AAUW, NOW NYC, YWCAs of New York, the New York State Coalition Against Domestic Violence, Sanctuary for Families, and representatives from coalitions that had formed to address human trafficking and equal pay. The Coalition prepared a written operating agreement that created the steering committee and provided a mechanism for conflict resolution.

WEC grew to over 800 organizations comprising women's groups, businesses, religious organizations, medical, and other advocacy groups. It grew its membership as a show of strong support for the WEA. Polls showed that voters were also on their side, with over 60% of New Yorkers supporting all 10 points of the original bill.

Despite their limited lobbying ability, the (c)(3) coalition members played important advocacy roles. Some of the WEA issues were new to coalition members, so the (c)(3) members, such as New York State Coalition Against Domestic Violence, served as subject matter experts, educating other members about the specifics of the different provisions. For instance, the Executive Director of NYCADV explained that her organization joined the coalition "because every plank of the WEA affected victims of domestic violence."

Many of the (c)(3)s provided information about experiences of other states, created fact sheets on issues addressed by the WEA, and educated their own supporters and communities across the state about the need for the bill. The (c)(3) organizations also lobbied, including doing targeted phone banking to connect supporters of the legislation directly with their lawmakers.

Although there were some educational aspects to the advocacy around the bill, the majority of

WEC's work was lobbying. Under New York State law, WEC itself needed to register as a lobbyist because it reached the spending threshold that triggers registration as a lobbying entity. The majority of lobbying conducted under the WEC's name was through TV and radio ads designed to gain public support for the bill.<sup>1</sup> These ads were paid for from contributions from businesses, individuals, and coalition members, with the larger c4 members contributing the bulk of the funds because the (c)(3) members had limited funds that could be devoted to lobbying. While the public advertising was paid for and reported by WEC, a large portion of the direct lobbying was conducted by coalition members in their own organizational capacity. For example, the NYCLU delivered thousands of postcards from voters supporting WEA directly to the state lawmakers. NOW-NYC also posted action items on their website to encourage the public to contact their lawmakers in support of the bill. Some Coalition members also organized a rally and sit-in against one member of the Senate who was wavering in his support for the abortion provision. These lobbying efforts were separately tracked and reported by each organization.

Some of the non-(c)(3) coalition members even got involved in electoral activity, with NARAL Pro Choice's PAC running independent expenditure ads<sup>2</sup> in several legislative races following the first year of the Coalition's existence. The NYCLU sent mailers to voters connecting legislators to their positions on the WEA and sponsored radio ads.

## Outcome

WEC faced organized opposition from Feminists for Life, New Yorkers for Constitutional Freedom, and the New York State Catholic Conference. In WEC's first year, the Democratic controlled Assembly passed the full 10-point agenda. The Senate, however, refused to move on it because of the abortion provision. Not wanting to be depicted as voting against women, the Senate passed nine of the ten provisions as separate pieces of legislation. The opposition considered it a "win" when the full bill failed to pass in the first year.

The WEC had a choice—should it support the passage of the incomplete package or hold out for all the components of the original bill? WEC stood firm the first year, as did members of the Assembly, and withheld support unless the abortion provision was included. The following year, WEC supported the Assembly's passage of nine provisions. Although WEC members were disappointed that they were unable to secure passage of the provision to codify Roe v Wade, coalition members felt its inclusion in the original bill was ultimately helpful in securing passage of the equal pay provisions that had been stalled for many years in the conservative-leaning Senate. In their re-election campaigns, Republican lawmakers claimed they were "pro-women" even though they had voted no on the abortion provision.

Years later, the Women's Equality Act continues to be an issue in New York politics. Lawmakers, candidates and advocacy groups alike, make reference to the Women's Equality Act to advance their legislative and electoral activities. Katharine Bodde, Senior Policy Counsel for the NYCLU, believes the Coalition helped to build lasting relationships among nonprofits who had never worked together before. Due to WEC's work, New Yorkers now benefit from stronger pay equity and anti-discrimination laws, greater access to courts for victims of on sex-based employment and credit discrimination, and more support for survivors of human trafficking. A summary of the laws can be found [here](#).<sup>3</sup>

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Following are some questions that frequently arise in coalition work beyond what was described in the case study.

**Once the Senate eliminated the abortion plank from the bill, could a WEC supporter post a comment on WEC's Facebook page saying "Remember the Senate's cowardice in November" in reference to the upcoming election?**

Social media provides a great opportunity for coalitions to spread their advocacy message. But since WEC includes (c)(3) members, care must be taken that electoral activity is not



attributed to the Coalition. Whether the WEC is required to monitor and remove posts depends upon whether they maintain editorial control over the content or have created an open forum for discussion.

If the Coalition is providing a forum for public discourse without asserting any editorial control, communications made by outside commenters are less likely to be attributed to the charity.

While the IRS has never specifically addressed this issue, two likely important factors are whether the charity asserts editorial control over content (e.g., by moderating the forum) or whether a charity is simply providing a public forum for political discourse. A social media tool that allows for longer and more substantive comments might be more likely seen by the IRS to be a forum for public discourse than would a venue where comments are brief.

One approach the Coalition could take with their Facebook page is to post a policy in the “General Information” section that states “It is the WEC’s policy not to delete comments posted by the Facebook community, though we reserve the right to make exceptions when those comments involve personal attacks, obscenity and/or ethnic slurs. Posts from the community do not necessarily represent those of WEC.” This policy is like the one Alliance for Justice uses on their Facebook page.

### **What if one of the c4 coalition partners endorsed a candidate for the state senate that supported the coalition’s work?**

A coalition that includes (c)(3) members must keep the coalition’s work nonpartisan. However, a c4 that is a member of such coalition could endorse a candidate on its own, keeping its activities separate from the coalition work.

When c4s engage in partisan activity, they need to ensure that their activities are not attributed to, or linked to, the (c)(3). However, when acting in their own capacity, the c4 members can, as long as not their primary purpose and subject to campaign finance rules:

- endorse candidates,
- compare candidates’ views on issues,
- plan their voter registration or GOTV activities with a candidate, candidate’s agent, or political party,
- publicly endorse or oppose certain candidates,
- share lists or resources with a candidate, candidate’s agent, or a political party, or
- work with a candidate or party’s vendors for messaging or other activity.

On the other hand, nonprofit coalitions, including their 501(c)(3) members, can continue their legislative advocacy even after a candidate for office endorses their legislative goal.

Accordingly, the coalition could include the legislative candidate in their list of endorsers. However, the coalition should not draw attention to the supporter in their candidate capacity or connect the legislative issues to the up-coming election.

### **Could the Coalition seek private foundation funding for their advocacy work?**

As the WEC was organized as a 501(c)(4) organization, private foundation funding is limited but still permissible. Private foundations may fund non (c)(3) organizations provided they exercise “expenditure responsibility” to ensure that the foundation’s money is only used for education and charitable work and not lobbying or electoral activity. For additional information on “expenditure responsibility” and how private foundations can fund non (c)(3) nonprofits see pages 19-21 in [Bolder Advocacy’s Investing in Change: A Funder’s Guide to Supporting Advocacy](#).

The (c)(3) coalition members could seek private foundation funding on their own to a greater extent than could the Coalition as a whole. Private foundations can award grants to (c)(3) organizations that conduct lobbying, but they must follow certain rules.

**Most importantly, when a private foundation makes a grant to a public charity, the funds**

may not be “earmarked” for lobbying. Why? Earmarked funds create a taxable expenditure to the foundation. A grant is considered earmarked for lobbying if it is conditioned upon an oral or written agreement that the grant be used for lobbying purposes. The prohibition on earmarking does not mean that private foundations must require grantees to refrain from using grant funds for lobbying. In fact, a grant agreement that forbids use of the funds for lobbying is unnecessarily restrictive.

Under federal tax law, private foundations may make two types of grants that avoid creating taxable expenditures, while permitting grantees flexibility in the use of their funds. The IRS refers to these as general support grants and specific project grants. For more details on private foundation support for public charities, see pages 12-19 in [Bolder Advocacy's Investing in Change: A Funder's Guide to Supporting Advocacy](#).

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## Notes

- 1 One of the ads purchased by the Women's Equality Coalition can be found at <https://www.youtube.com/watch?v=1qHVSNRQByo>
- 2 For more information on independent expenditures, see our Independent Expenditures factsheet here: <https://afjactioncampaign.org/wp-content/uploads/2017/08/AFJAC-Independent-Expenditures-Factsheet.pdf>
- 3 Some of the archived posts from the WEC can be found at <http://hownyc.org/tag/new-york-womens-equality-coalition/>



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