



## **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

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<sup>1</sup> 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.

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? s**

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.