



Case Study: New York's 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.¹ 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 ads² 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.

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>

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](#).³

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

³ Some of the archived posts from the WEC can be found at <http://nownyc.org/tag/new-york-womens-equality-coalition/>

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*](#).