



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, particularly around ballot measures. Ballot measure campaigns include educational, lobbying, and voter engagement components. To illustrate why and how these groups have come together, as well as to set out some best practices, we have prepared the following three case studies. 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.

Do you have a story of collaboration you want to share? Let us know!

### **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

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<sup>1</sup> <http://mainersforhealthcare.org/health-care-providers-stand-up-for-a-yes-vote-on-question-2/>

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 2<sup>nd</sup>, 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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<sup>2</sup> <https://www.mainepeoplesalliance.org>

<sup>3</sup> <https://www.nytimes.com/2018/07/24/health/maine-medicaid-expansion-lepage.html?login=email&auth=login-email>

<sup>4</sup> <https://www.pressherald.com/2018/07/12/paul-lepage-says-hed-go-to-jail-before-he-expands-medicaid/>

<sup>5</sup> <https://www.pressherald.com/2018/07/12/paul-lepage-says-hed-go-to-jail-before-he-expands-medicaid/>

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 in 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.

### **Case Study: Raising the Minimum Wage in SeaTac**

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>6</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>7</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

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<sup>6</sup> Alliance for Justice interview with David Rolf, President of SEIU 775 and Board President of Working Washington <http://www.workingwa.org/about/leadership/>

<sup>7</sup> <http://digitalcollections.lib.washington.edu/cdm/ref/collection/ohc/id/1955>

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>8</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.

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<sup>8</sup> <http://digitalcollections.lib.washington.edu/cdm/compoundobject/collection/ohc/id/1881/rec/1>

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).

## **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>9</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

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<sup>9</sup> <https://www.fairdistrictsohio.org/about.html>

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 in 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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The Alliance for Justice Action Campaign (AFJAC) serves as the nation’s leading resource on the legal framework for 501(c)(4) nonprofit advocacy efforts. AFJAC provides invaluable resources, training, and technical assistance to help nonprofit organizations and their donors advocate more efficiently and effectively. The information contained in this fact sheet and any attachments is being provided for informational purposes only and not as part of an attorney-client relationship. The information is not a substitute for expert legal, tax, or other professional advice tailored to your specific circumstances, and may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code. Alliance for Justice Action Campaign publishes plain-language guides, offers educational workshops, and provides technical assistance for nonprofits engaging in advocacy.