

# **Avoiding Conflict in Collaborations: Addressing Legal Issues in Nonprofit Collaborations**

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To maximize the impact of pro bono engagement by connecting a network of attorneys with nonprofits in need of free business legal services.

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  - ✓ Be located in or serve the greater Atlanta area.
  - ✓ Serve low-income or disadvantaged individuals.
  - ✓ Be unable to afford legal services.
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## Goal of Presentation

To identify legal issues and provide a series of questions organizations should ask when considering entering into collaborations with one another.

# Agenda

- Benefits & Challenges of Collaboration
- Types and Forms of Relationships
- Collaboration Structures
- Key Issues to Consider when Collaborating
  - ✓ Scope of the Collaboration
  - ✓ Oversight and Day-to-Day Management
  - ✓ Financial Management
  - ✓ Handling Change in the Collaboration

## Benefits of Collaboration

- Able to serve clients in a more holistic fashion with greater efficiency and combined resources
- Coordinated efforts lead to less duplication
- Joint pursuit of financial resources
  - ✓ Generates more funding options and potential for greater dollar amounts; reduces competition for the same funding dollars
- Increased credibility and stability

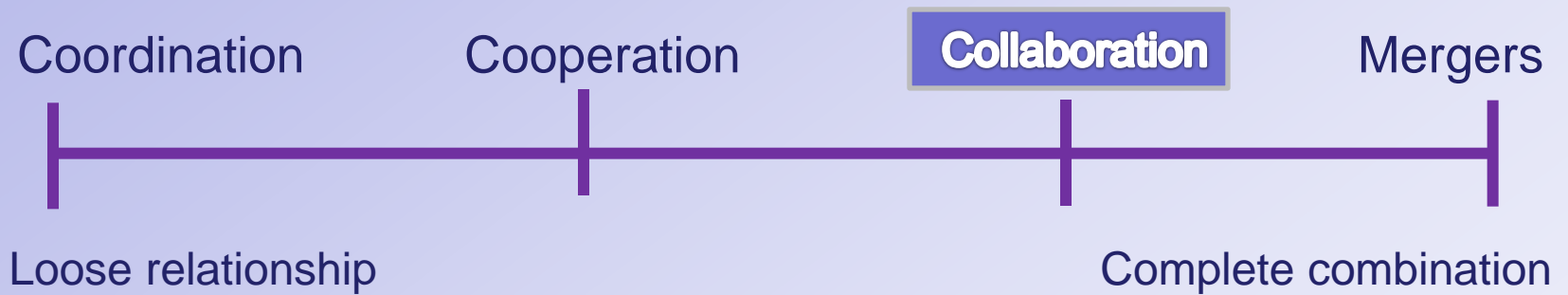
## Challenges of Collaboration

- Finding collaborators with the same goals, expectations, desired outcomes and similar personality
- Requires asking hard questions of each other and working hard to obtain answers
- Possible drain on time and resources of leadership of organizations to form the collaboration
- Need agreement on money management between collaborators
- Potential conflicts of interest (individual organization interests vs. collaboration interests)
- Requires open and regular communication



# Spectrum of Relationships

Types:



## Collaboration Structures

- Participation structure
  - ✓ Responsibilities divided amongst organizations
  - ✓ Each organization responsible for its delegated activities
- Lead organization structure
  - ✓ Authority for the activities are delegated to one organization
- Governing Committee structure
  - ✓ Committee makes strategic decisions
  - ✓ Each organization has one or more of its employees or board members on committee

## Case Study

- Three non-profit entities serving families that are homeless and have children in a local school system:
  - ✓ Organization 1 – Homeless prevention, emergency shelter and interim housing
  - ✓ Organization 2 – Job placement assistance
  - ✓ Organization 3 – Rapid re-housing
- All services are essential to stabilizing disrupted lives:

“The Collaborative offers education, housing and employment services to homeless families, with the goals of assisting families in securing housing, achieving income stability and supporting stable school attendance and performance.”
- Working together, these entities can serve their common clients in an efficient and productive way
- The collaboration was designed to outlast current leadership at each organization for benefit of clients

# Key Issues to Consider When Collaborating

## Scope

- What is the clear mission, purpose, goal and planned outcome of collaboration?
- What will the specific activities include and involve?
  - ✓ Location/facilities
  - ✓ Programming activities
    - Services
    - Lobbying
  - ✓ Staff
  - ✓ Resources and expenses

## Key Issues to Consider When Collaborating (cont.)

### Scope (cont.)

- As conflicts of interest arise, how will they be handled?
  - ✓ Activities within group
  - ✓ Competition by individual group members
  - ✓ Examples: fundraising, separate activities

## Key Issues to Consider When Collaborating (cont.)

### Oversight and Day-to-Day Management

- How will strategic decisions be made?
  - ✓ Structure: participant, lead organization, committee, other?
  - ✓ Meetings

## **Key Issues to Consider When Collaborating** (cont.)

### **Oversight and Day-to-Day Management** (cont.)

- Who will manage operations and day-to-day functions?
  - ✓ Program Management – example: right to sign contracts
  - ✓ Reporting and recordkeeping
  - ✓ Communication amongst the collaborators: how, when, whom
  - ✓ Managing the marketing and publicity of the collaboration

# Key Issues to Consider When Collaborating (cont.)

## Financial Management

- Will a fiscal agent be designated?
  - ✓ One of the collaborators or a third party?
  - ✓ Possible duties
    - Accounting and Recording
      - Management and distribution of funds
      - Budgeting and bookkeeping
    - Reporting
      - Financial reporting/Form 990
      - Donor acknowledgements
      - Audit/review



# Key Issues to Consider When Collaborating (cont.)

## Financial Management (cont.)

- How will other monetary issues be addressed?
  - ✓ Contribution of resources from collaborators
    - Who contributes what? How will it be decided if additional contributions needed?
    - How will assets be used and maintained?
    - Is ownership retained such that a license or lease is needed?
    - Where do assets go when the collaboration is over?
  - ✓ Fundraising activities
    - Who leads and oversees joint fundraising efforts?
    - Who will complete required Charitable Solicitation registration and compliance?
    - Will there be any paid solicitors or professional fundraisers? Who hires them?
    - Clearly defining responsibilities - who, what, when, where?

## **Key Issues to Consider When Collaborating** (cont.)

### **Handling Change in the Collaboration**

- Should the collaboration be flexible enough to allow for expansion?
- What should happen to the collaboration if a member decides to end its participation?
- What should happen if the collaboration itself needs to end?

## Other Issues to Consider

- Who will own the intellectual property of the Collaboration?
  - ✓ Name and logo of program
  - ✓ Photos and marketing materials
  - ✓ Program manuals/materials
  - ✓ Websites
  - ✓ Licensing agreements
- What additional insurance is needed and who will obtain that insurance?
  - ✓ What activities are being conducted?
  - ✓ Who is conducting these activities?
  - ✓ Who is benefitting from the activities?

## Contract Provisions to Consider

- Length of collaboration- Dissolution/Termination/Default
- Confidentiality & Non-compete clauses
- Indemnification & Insurance- liability & liability release clauses
- Compliance with laws and regulations
- Changes/Amendments
- Assignment and sub-contracting
- Fees and Expenses related to organization
- Timeframes
- *Be sure to contact an attorney to assist in preparing a contract for collaboration efforts.*

## Lessons Learned

- Clearly define scope at outset
- When considering what structure:
  - ✓ Consider external factors- funding flows, legal and regulatory requirements
  - ✓ Consider level of stability and trust
- Clearly identify roles, responsibilities, and boundaries
- Make sure there are adequate resources
- Ask the hard questions and work hard at finding the answers
- Expect change (and the unexpected)

## **For More Information:**

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

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