Leveraging Collaboration in Advocacy: An examination of the 501(c)(4) regulatory framework and its utility for advancing immigrant rights

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Leveraging Collaboration in Advocacy
An examination of the 501(c)(4) regulatory framework and its utility for advancing immigrant rights
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Abstract

The nonprofit sector is uniquely positioned for leading the charge in advocacy through various social justice movements, and their capacity to engage in lobbying work plays a crucial role in advancing policies that contribute to the collective good. The regulations on lobbying that are set forth and enforced by the Internal Revenue Service (IRS) for nonprofit 501(c)(3) public charities can limit them from aggressively engaging in policy and advocacy work that holds legislators accountable to their constituents. Nonprofit 501(c)(4) social welfare organizations are governed by a regulatory framework that has the potential to expand on 501(c)(3) charities’ work because they are allowed to engage in unlimited lobbying as well as some restricted amounts of partisan work. This report evaluates the 501(c)(4) social welfare organizational structure and its potential to be a strategic force multiplier in the field that can give advocates the ability to accomplish greater policy advocacy goals that advance immigrant rights.

Keywords: advocacy, coalition, immigration, organizing, policy
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Section 1. Introduction

In his campaign and throughout his presidency, immigration advocates have observed how effectively former president Donald Trump and his administration utilized dehumanizing rhetoric about immigrants to garner support and lay the foundation for the harmful policies that they went on to create. According to Pew Research Institute, the United States saw deeply partisan and personal divides during the Trump Administration, as evidenced by the widest partisan gap in approval for any president in the modern era of polling. The data indicated that core political values and issues that were not especially partisan before his arrival then became partisan, spurring concerns over the state of American democracy (Dimock & Gramlich, 2021). The same discriminatory narratives that Trump weaponized to dehumanize immigrants persist, and in 2024, Gallup survey data indicates that significantly more Americans are now naming immigration as the most important problem facing the United States (Jones, 2024). The research topic of this capstone was spurred by the increase in misinformation that continues to be spread about immigrants. The misconception about their strain on the economy, and their threat to public safety directly counters the reality that “immigrants are 30 percent less likely to be incarcerated than are U.S.-born individuals who are white” (Crawford, 2023).

What makes these narratives particularly dangerous is their effect on the public, which causes a rise in concern about immigration. Immigration has become increasingly polarizing and partisan, and immigrants are being used as a bargaining chip in political campaigns. As recently as the first few months of 2024, the Biden administration has shifted its political rhetoric in response to immigration concerns, raising concerns of “public safety”, particularly at the Southern border. It is hypothesized that this political pivot toward Republican talking points aims to demonstrate that Democrats can be tough on immigration and border patrol. For immigration advocates, it highlights the unpredictable immigration policy landscape that they have to contend in. It is likewise not a secret that more money is pouring into politics, and a 2024 article from
CalMatters notes that in 2023, nearly $480 million went into influencing legislation and regulatory decisions that are going through state government in California alone (Kimelman, 2024). According to a comprehensive 2023 report published by the Independent Sector, there has been a marked decrease over the decades when it comes to 501(c)(3) charity nonprofits’ knowledge of their role in advocacy and the allowances they actually have to engage in policy advocacy within the 501(c)(3) regulations (Faulk, Kim, & Maclndoe, 2023). The constant onslaught of attacks on immigrants combined with the increased influence of money on legislation underscores the dire need for nonprofits to leverage their unique positioning to engage in more aggressive policy advocacy work at the local, state, and federal levels to reinforce protections and advance the rights of immigrants. This report and research focus in on another kind of nonprofit, a 501(c)(4) social welfare organization, and its potential to be a strategic force multiplier that, together with 501(c)(3) charities, gives advocates the ability to accomplish greater policy goals.

The basic and distinguishing factor between these two entities is established by the regulatory backbone, the 501(c) Internal Revenue Service (IRS) Code. 501(c)(3) charities generally do not pay any taxes on their income, and their donors are able to enjoy tax deductions on their contributions. They can also engage in lobbying, though there are limitations set by the IRS Code to ensure that the donations they receive are primarily used for charitable purposes. In addition to the limitation on lobbying, 501(c)(3) organizations are also prohibited from supporting or opposing political candidates. In contrast, 501(c)(4) social welfare organizations generally do not pay taxes on their operating income, but donations made to them are not tax-deductible, which ties into the organization’s ability to engage in unlimited lobbying. The difference in the activities that are permitted for these two types of nonprofit organizations is the crux of the research question for this report – what is the utility of 501(c)(4) organizations and their effectiveness in policy advocacy work in comparison to 501(c)(3) organizations? The purpose of the research in this report is to examine the role of nonprofits in policy advocacy work and systemic change, understand how the 501(c)(3) and 501(c)(4) regulatory frameworks inhibit or expand lobbying and advocacy capacity within the immigrant rights space, and determine whether or not the perceived benefits of a 501(c)(4)’s unlimited lobbying and ability
to engage in partisan work is worth the skills, resources, and expertise that are required to create and manage it.

The literature that is reviewed in Section 2 of this report sets the foundation for understanding the regulatory context and the roles and responsibilities of nonprofit organizations in engaging in advocacy work on behalf of marginalized and underrepresented groups in the name of the collective public good. This is not without its scrutiny, however, because while collective public good is the theoretical aim, the involvement of governmental and economic interests exerts a certain amount of influence on the way that nonprofits carry out their work. Section 2 also dives deeper into the differences in allowable activities between charities and social welfare organizations, exploring their practice, especially with regard to lobbying, within the immigration advocacy context. Because outcomes are more difficult to measure for advocacy work versus direct services, both the methodology for measuring success and the limitations of the data around 501(c)(4) organizations are also addressed in this section.

Section 3 outlines the methodology utilized to collect data on this research, including the eight semi-structured expert interviews that were conducted with immigration nonprofit advocates that work at 501(c)(3) and 501(c)(4) organizations. Section 4 analyzes additional data along with the available literature and interviews to support the implications and recommendations, and conclusions in Sections 5 and 6.
Section 2: Literature Review

Setting the 501(c)(3) Public Charity Regulatory Context

The most important laws and regulations that apply to the actions of nonprofit organizations are regulated by the IRS and the Federal Election Commission (FEC), and there are also a number of laws that apply to 501(c)(3) charities that are dependent on the states in which they are incorporated; in some states, the local counties in which organizations operate can also dictate how their participation in lobbying activities is reported. The IRS Code Section 501(c)(3) lays out that organizations that are exempt under this section must be organized and operated exclusively for exempt purposes, which are “charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals…”, and it further defines charitable as relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency (IRS 2024).

Lobbying as a 501(c)(3)

Lobbying is a type of advocacy that involves activities that influence legislation, and it is broadly defined as “an attempt to influence the public policy and issue-making functions of a regulatory, administrative, or legislative body” (Boris & Krehely, 2002, p.302). These include activities that influence actions by “Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure” (IRS, 2024). 501(c)(3) charities are permitted to lobby, but with limitations according to an “insubstantial part test”, which outlines that lobbying cannot account for a substantial amount of a charity’s total activities, though what constitutes substantial is not clearly defined. If a charity is found to have
substantially engaged in activities that influence legislation, it risks losing its tax-exempt status. As a result of this dire consequence, charities are concerned about engaging in this type of work in part due to the lack of clarity around what constitutes a substantial amount of time or money. What further complicates the regulation of this work is that while the IRS and the FEC regulate lobbying and electoral activities at the national level, the state and local regulations differ for every organization based on where they are incorporated and carrying out work, meaning there is a lack of overall consistency (Boris & Krehely, 2002), and it falls to the 501(c)(3) to accurately navigate these regulations.

While the 501(c)(3) IRS Code limits lobbying, there is an option that provides more regulatory clarity to counteract the concerns surrounding what constitutes a substantial amount. Nonprofits that plan to engage in lobbying work may choose to take a 501(h) election by submitting the one-page Form 5768, which notifies the IRS that they will be engaging in lobbying work that was sanctioned by the IRS Code in 1976, and that they are electing to measure their activities by the Section 501(h) expenditure test versus the “insubstantial part test”. The IRS clearly provides information for calculating lobbying activities under the 501(h) expenditure test, where the lobbying limits are generally based on the organization’s overall annual expenditures. At the lowest expenditure amounts, charities that spend $500,000 or less on exempt-purpose activities are allowed to spend 20% of their funding on lobbying, and at the maximum, organizations with over a $17 million overall annual expenditure are capped at using a limit of $1 million for lobbying activities (IRS, 2024).

The 501(c)(3) charities that choose the 501(h) election need to track and report two kinds of lobbying – direct lobbying and grassroots lobbying. Direct lobbying refers to communication with a legislator, an employee of a legislative body, or another government employee about a point of view on a specific issue or piece of legislation that they may have influence over. It also includes appeals to an organization’s membership to contact legislators on specific legislation and communication directed at the public through referenda, initiatives, and proposed constitutional amendments (Boris & Krehely, 2002). Grassroots lobbying refers to attempts to “influence legislation by attempting to affect the opinion of the public with respect to the legislation and encouraging the audience to take action with respect to the legislation” (IRS,
such as through appeals to the public to reach out to their legislators on a particular piece of legislation. Grassroots lobbying is limited to 25 percent of the organization’s total lobbying limit. The 501(h) election expands a charity’s ability to drive legislative change, and though the exempt status still does ultimately put a restraint on its legislative advocacy activities, it is still a generous allowable amount to spend on lobbying. Data analyzed in Section 4 will demonstrate that despite these allowances, charities overwhelmingly do not choose to engage in advocacy and lobbying work, opting to focus on providing direct services. The research calls out a gap, where organizations, especially those that are dedicated to providing social and human services, do not maximize their “potential to fulfill their mission because they are meeting needs but not addressing the reason that so many basic needs exist” (Avner, 2016, p. 400).

Any 501(c)(3) that engages in lobbying work, regardless of the 501(h) election, must “implement reliable mechanisms for tracking and reporting its lobbying activities” (Fei & Gorovitz, 2018, p. 548) because there needs to be a paper trail that demonstrates its compliance with the regulations. Direct lobbying expenses, including staff time that is spent on lobbying as well as any applicable overhead costs do count against the organization’s lobbying limit. The necessary administration, management, and oversight of lobbying work “requires staff time and other expenditures that are often in short supply” (Fei & Gorovitz, 2018, p. 549). The expert interviewees referenced in Section 3 expressed at length the arduous work of tracking and reporting lobbying expenses because the regulations at the federal, state, and local levels need to be accounted for. A recommendation is that 501(c)(3) charities contract with outside counsel that specializes in nonprofit law and governance to ensure compliance.

**Government and Nonprofit Positioning**

“Public policy work is key for bringing about systemic, enduring change that can influence large segments of the population long into the future” (Alliance for Justice [AFJ], 2019, p. 21), and nonprofits have a long history of impacting the way that policy is shaped at all levels of government. They are uniquely positioned in their role among the private and governmental sectors as well as in their connection to the public and the communities they serve. Boris and Krehely (2002) discuss the importance of the nonprofit sector’s role in advocacy and how its
successes in shaping societal behaviors and norms can be observed most evidently through the lens of civil rights and social action organizations. Some examples include the political, social, and legal reforms that led to racial desegregation, women’s suffrage, and other issues such as environmental protection and healthcare access (p.299). Avner perfectly sums up the important responsibility that nonprofits have to engage in public policy and advocacy work, saying,

Nonprofit advocacy work…is a concrete component of an organization’s work to identify and meet needs, protect community resources, and ensure that individuals are using the power they have to be a voice on issues. Collectively, nonprofits promote, protect, and support policies and reforms that impact quality of life, community vitality, economic security, and justice (2016, p. 402).

In theory, nonprofit organizations are “supposed to respond to the twin failures of the market and government” (Grønbjerg & Prakash, 2017, p.880) by providing a multitude of services that include healthcare and education, human, legal, and social services.

The beginnings of what is recognized as the nonprofit sector in the United States has roots that go back to the 17th century, and analyzing the role of the growth and scale of governmental oversight in 1930-1980 paints a telling picture of how political and financial motivations are prioritized within a sector that was earlier characterized more by its charitable purposes and elements of voluntarism under President Reagan. Peter Dobkin Hall (2016) explores this time by describing how American public life was transformed by governmental changes, which stimulated the expansion in the private sector. This in turn affected how private sector subsidies impacted public sector subsidies on charitable giving, as well as the growth of nonprofit enterprises. Hall describes the period of the Great Depression and Presidents Hoover and Roosevelt’s attempts to recover through non-governmental fixes such as voluntary associations and the National Recovery Administration. These attempts promoted a partnership between business and government that would avoid expanding the government’s reach with regard to providing more social welfare protections and programs. Roosevelt’s New Deal created the regulatory framework that later stimulated governmental growth through policies around economic recovery, financial reform, and relief that would help to improve the lives of the American people:
Federal governmental policies played a key role in stimulating the growth in the number and importance of nonprofit organizations...indirectly through creating incentives to individuals and firms for contributing to private organizations through governmental ends, but also directly, through grants and contracts (Hall, 2016, pp.18-19).

Universalized income tax in addition to increased taxes on estates and business corporations encouraged more charitable giving to tax-exempt organizations. The partnerships between nonprofits and government continued to grow, where government contracts were given to nonprofits in order to more widely provide human and social services. By the late 1970s, government support of this work became a massive source of nonprofits’ revenue, surpassing giving from private entities by more than 10% (Salamon, 1999).

There is an extraordinary amount of governmental funding that fuels nonprofit programs, because when clients are unable to pay for services, “few for-profit providers [are] interested…this leaves the field of policy making in the intertwined hands of government and the relatively few nonprofit contractors able to provide the scope and complexity of services required” (Grønbjerg & Prakash, 2017, p. 885). This link between government and nonprofits suggests that nonprofit organizations are uniquely positioned to engage in advocacy work with governmental leaders and officials on behalf of the communities and individuals they serve.

Today, this funding relationship continues to be observed through the consistent presence of government funding in 501(c)(3) nonprofit revenue portfolios and the interdependency that results from those partnerships. “Important political decisions, legislation, and administrative rulings can have a profound impact on the success of nonprofits and their leaders” (Smith, 2016, p. 553). A 2019 report by CalNonprofits shows that California nonprofits rely on government funding for 30% of the nonprofit sector’s total revenue, and these levels of funding also reflect the degree to which the government relies on partnering with nonprofits to bridge service gaps step in as the delivery systems for providing a myriad of essential services to marginalized and underserved communities (p. 46). In California, the government funding data shows disparities between funding for organizations with bigger versus smaller organizational budgets. Even though rural nonprofits are more dependent on government funding to continue their programs, the majority of California state funding still goes to organizations in mostly metropolitan areas.
with larger budgets of over $10 million dollars. This trend of more government funding going to larger nonprofits speaks to the issue of capacity – the smaller the budget, the smaller the capacity, and less capacity means that the organizations are likely to dedicate the lion share of their funding to programming that supports direct services, not advocacy work.

The relationship between nonprofits and government entities brings forth the question of how nonprofits can engage in effective policy advocacy when they are reliant on funding from the enforcers and regulating bodies of the public policies that they are trying to reform. Government grants are known for being restrictive and incredibly bureaucratic in their administration, and the dynamic of this grantmaking structure shines a light on some hesitancy that nonprofits might feel when it comes to engaging in advocacy on behalf of the communities they serve (Smith, 2016). Smith suggests that this challenge is navigable but requires “persistence and a multipronged strategy, including education of board and staff on legal issues; investment in staff with expertise in advocacy; and building positive network relationships with government officials” (2016, p. 554). Because of the services they provide, they are well-positioned to advocate and give government agencies a report on what community needs are and what challenges they face in the field.

**Governmental Oversight of Immigration.** In the immigration space, where the federal government regulates immigration policies, there are several nonprofit organizations that will choose not to apply for and accept federal funding because of the possible consequences and restrictions on advocacy that could come with such a partnership. States do have some latitude to control some of the immigration laws in their states and how they are enforced, including if there is police collaboration with Immigration and Customs Enforcement (ICE). In states that generally have a more favorable stance, nonprofits have more opportunities for meaningful cross-sector partnerships and advocacy with government agencies that can result in impactful wins for immigrant communities. The California Immigration Legal Fellowship is one example of successful advocacy at the state level, where a coalition of immigration advocates, most of whom received state funding from the California Department of Social Services (CDSS) came together to advocate for this program.
California is historically more welcoming toward immigrants, and though lawmakers continually approve funding for expanding access to free immigration legal services, the challenge has been building up enough legal capacity in the state to serve immigrants, especially outside of the Bay Area and Los Angeles. Advocates submitted a proposal to the California state legislature in 2019 that included this pilot fellowship program, which aims to train and mentor legal fellows with the goal of placing them at immigrant-serving organizations in rural communities in the Central Valley, Central Coast, and Inland Empire – historically underserved regions in the state. This $4.7 million initiative became the first of its kind when it was included in the 2019 budget as the first state sponsored legal fellowship program (Immigrant Defense Advocates [IDA], 2022).

The Beneficiaries of Advocacy

When discussing advocacy within the nonprofit sector, it is important to address that by virtue of being nonprofit organizations, the assumption that follows is that the advocacy they engage in does not and will not benefit themselves or their own members. A commonly used rationale for nonprofits engaging in political advocacy is that they are representing the general public’s interests and collective good against powerful groups in the private sector. This rationale can be observed in practice through the way that the federal tax code is crafted and regulated – these organizations are exempt from paying income tax because their charitable activities are expected to benefit the public. But who is the public that nonprofits are expected to advocate for? Creating and advancing public good encompasses a broad set of interests, and naturally brings nuanced, and oftentimes, conflicting perspectives. It is important to acknowledge that there is no guarantee that all nonprofits provide services and advocate for policies that contribute to public good.

Though Avner makes an important point about nonprofits’ responsibilities to engage in advocacy work, the position that “the work of nonprofits is different from the work of political and business institutions, and nonprofits advance goals, ideas, movements, and programs separate from governmental and market priorities” (2016, p.401) fails to recognize how the decisions made by the government and how the behavior of the markets affect how nonprofits operate. The work among these groups is inextricably linked, intertwined, and oftentimes
interdependent and even conflicting. When considering how nonprofits obtain their funding through government grants, charitable foundations, and individual donors, Renée Irvin says, “economic interests are well-represented in nonprofit advocacy, and assuming that all nonprofits are ‘good’ actors, advocating on behalf of non-elites, would be shortsighted” (2023, p. 105). The increased role that money plays in American politics highlights the expanded ability for a small group of wealthy elites to use their financial power to influence policies and social movements that would benefit them and their interests. Despite the increased role of money in American politics that infers a possible decline in the influence that nonprofits have in public policy work, the research suggests that there has been an increase in the influence of nonprofit organizations in the public policy process. Boris and Krehely point out that nonprofit organizations have become more sophisticated, and therefore more effective in their advocacy work, where well-funded organizations are able to mobilize “hundreds and thousands of members, conducting expert research, and using sophisticated public relations techniques” (2002, p.300).

The nonprofit sector itself is broad and covers a number of issue areas and communities, and organizations have a variety of missions, strategies, and fields of expertise. Despite best efforts for collectively working together for collective good, determining what that means in practice is complicated. The needs of one group can oftentimes intersect or even conflict with another, making advocacy work layered and complex. Within the immigrant rights movement, even the identification of target communities and priority areas for targeted advocacy work is difficult because of the way that immigration intersects with other issue areas, especially within the criminal justice space. Immigrants who have contact with the criminal justice system are in more danger of being put into detention, making them more likely to be deported and separated from their families. One of the fundamental questions that immigration advocates grapple with is how to create an accessible and equitable immigration system while also dismantling the oppressive system that criminalizes and dehumanizes immigrants (S. Hafiz, personal communication, May 3, 2024). Though nonprofit organizations are legally sanctioned to operate as vehicles through which individuals can mobilize around specific communities and issues, immigration has evolved into a contentious and multifaceted partisan issue, which blurs the lines of partisan and nonpartisan activities and opens up the possibility of drawing more scrutiny of
nonprofits by regulatory entities. Oppressive state and local policies compounded with the federal policies that govern immigration add another level of complexity to the work that needs to be done. Because of the dire need to engage in policy advocacy work across all levels of government to reinforce protections for immigrants, 501(c)(3) organizations have taken to forming targeted and issue-specific coalitions to mitigate conflicts that might hinder progress. The most crucial piece of this advocacy work is educating, engaging, and mobilizing directly impacted communities in an effort to bring them into the fight while ensuring proper representation of their needs.

Engaging the Public and Community Organizing. Nonprofit staff are experienced experts in the field and have proximity to the communities they serve, giving them ample opportunities to educate them on the issues that affect them. Nonprofits are also able to step up as liaisons between community members and public leaders, bridging gaps and amplifying community voices in spaces that they would not normally have access to. A longstanding role for nonprofit organizations has been to

engage people in the decisions that affect their lives...through nonprofit information and organizing efforts, individuals who would otherwise be silent add their ideas, interests, and insights to the policy debate...people who are not engaged in the public life of the community may become voters, participate in community and public sector decision making, and exercise their potential to work for their communities’ interests. (Avner, 2016, p.402)

When community members develop the knowledge and skills to address issues that directly affect them, such as immigration, food insecurity, and healthcare access, they have the chance to engage in activities that have an impact on improving their quality of life. These activities can be both political and nonpolitical, including individuals voting and volunteering for activities that contribute to the betterment of their communities (Adams, et al., 2023). Nonprofit organizations have a unique and integral role in cultivating an informed public dialogue and fostering public engagement because of the trust they have built with these communities through the services they provide. Nonprofits that prove they can be trusted and held accountable to the people they
serve also have the responsibility of being trusted sources of information when community members need help understanding the policy issues that affect them and their well-being. This trust then allows them to bring the community together and mobilize members to advocate for important policy issues.

Grassroots community-based organizing is an essential kind of advocacy that is integral to achieving both short term and long term policy wins. It enables people to “build the power they need to advance issues, challenge failed systems, and become respected participants in decisions that affect their lives” (Avner, 2016, p.418). Organizing work consists of a cycle of ongoing work of identifying and building a base of supporters, informing and educating community members, preparing them for participating in advocacy activities, working with them to engage in advocacy activities, and then debriefing and reengaging for the next cycle of advocacy work. Advancing public policy reforms is incremental, and organizing typically continues on with the cultivation of new supporters and reengagement with the supporter base (Avner, 2016). Advocacy for public policy issues relies on building support and mobilizing the people within legislators and elected officials’ constituencies, focusing on community voices to build pressure within districts to convey the importance of an issue and a specific position. Expert practitioners in the field (interviewees referenced in Section 3) validate the literature, also emphasizing the importance of having directly impacted community members speak directly to legislators. “Charities often serve those whose interests are deeply affected by public policy decisions but whose voice in public discourse may be marginalized by poverty, a lack of access to education, a lack of representation, or disenfranchisement from civic engagement” (Fei & Gorovitz, 2018, p. 538). Nonprofits that work on campaigns for specific issues face challenges when operating within a polarized landscape because of elected officials’ high level of loyalty to their political parties. Though staff at nonprofit organizations have the training and the expertise, the most impact comes from immigrants telling their own stories and expressing what resources they need to be able to exist in their communities without fear of separation from their families.

Led by the Immigrant Legal Resource Center (ILRC), the Dignity Not Detention (DND) Coalition is an example of a coalition that consists of many different nonprofit organizations working together with immigrant community members to “advocate for policies that create a
path toward abolishing [the abusive immigration detention system]” and dismantle immigrant detention, pushing for “stronger legislative protections around immigration detention” (ILRC, n.d.). In addition to working with partners such as faith-based and criminal justice organizations, it also brings in immigrants who have experienced immigration detention, inviting them to play a direct role in determining the coalition issue priorities. In a recent 2023 win, the DND Coalition successfully pushed through a California $5 million budget initiative called HEAL (Healthy Economies Adapting to Last). This initiative puts funding aside for incentivizing cities to “divest from immigration detention by providing them funding to invest in new industries in jobs” (ILRC, 2023), which is a huge step toward closing detention centers.

**Expanding Advocacy Capacity**

There is a tradition of advocacy work in the nonprofit sector, allowance for it in IRS regulations, and clear policy wins that are nonprofit and community led, but there is still a reluctance in the sector to engage in this work. In addition to a fear of drawing more scrutiny, the hesitancy in the sector to participate in lobbying and advocacy efforts can be traced both to a misunderstanding around the complexities of allowable electoral work (Avner, 2016) and the perception that engaging in these efforts will increase regulatory compliance and scrutiny (Fei & Gorovitz, 2018). The guiding principle for 501(c)(3) charities participating in advocacy work is that they do not engage in activities that influence the outcome of an election. While it can generally be a clear restriction, it is not always a bright line in practice.

When applying the 501(c)(3) regulatory framework to the ability to comment on candidates or political parties during election season, it becomes particularly sticky when placed within the immigration context. As a part of his campaign in 2020, President Joe Biden promised to reverse former President Donald Trump’s dangerous and harmful immigration policies, especially those related to asylum seekers. According to the Migration Policy Institute, the Biden administration has outpaced the immigration-related executive actions undertaken during Trump’s term, and by its calculations, the 535 executive actions taken by Biden through January 17, 2024 “were issued in one of the most turbulent migration periods within the Western Hemisphere, and indeed globally in recent history” (Bush-Joseph, Chishti, & Putzel-Kavanaugh,
The strong distinction from the Trump Administration on immigration created the expectation of more welcoming policies from Biden, but the record unprecedented migrant arrivals to the United States in 2023 have challenged his Administration to manage challenges at the Southern border. Despite the efforts that have “helped bolster the U.S. economy, and reduced fears of seemingly arbitrary enforcement against removable citizens” (Bush-Joseph, et al., 2024), the Biden Administration’s shift in political rhetoric and leaning into tougher border security in 2024 showcases the unstable immigration policy landscape that advocates must contend in. Despite the complex political arena, it is permissible for advocates at 501(c)(3) charities to comment on incorrect things that candidates for office might say, though they undoubtedly need to exercise extreme caution. In addition to ensuring that the issue the charity speaks on is clearly aligned to its mission, it should be prepared by scripting responses and designating specific staff to speak on behalf of the 501(c)(3). Alliance for Justice also provides the following recommendations:

- Focus on the issue and not who said it.
- Avoid talking about a candidate’s qualifications or whether someone is a good or bad candidate.
- Avoid discussing a candidate’s record; commenting on a candidate’s record is very close to commenting on a candidate’s qualifications or whether he or she should be elected.
- Avoid identifying the candidate by name.
- Be very cautious if asked about which candidate is better on the 501(c)(3)’s issues, or whether the 501(c)(3) agrees with a statement a candidate made.
- Issue a disclaimer in a one-on-one conversation or in a press release, such as “As you know, we’re a 501(c)(3) and can’t endorse candidates” (2022, pp.1-2).

Creating a 501(c)(4). For 501(c)(3) charities that might fear participating in more extensive policy advocacy work, they might consider creating an affiliate 501(c)(4) social welfare organization or partnering with a 501(c)(4) in coalition work to further public policy reform in the legislative arena. A 501(c)(4) can engage in any activities that a charitable organization can, in addition to having the ability to engage in unlimited direct and grassroots lobbying, (Fei &
Lobbying can even be its sole activity if the issues are related to the exempt primary purpose of the organization. Social welfare organizations also have some allowance for engagement in partisan political activities, provided that partisan political activity is not exclusively its primary exempt purpose, but the IRS Code does not precisely define what it considers to be “exclusive”. In its interpretation, the IRS determines that “exclusively” means “primarily”, and a generous and perhaps controversial reading suggests that 501(c)(4) organizations can devote up to forty-nine percent of their activities on partisan political activities that are not considered to promote social welfare (Fei & Gorovitz, 2018). Political activities “support or oppose a political party or candidate for public office” (Ratliff & Schadler, 2024, p.18), and though there is an argument for this interpretation, due to the lack of a clearly outlined test to determine the limits in the same way that it can be laid out for 501(c)(3)s through the 501(h) election, the literature cautions that a 501(c)(4) social welfare organization should ensure that it does not spend more than 40% of its total budget on political activities (Ratliff & Schadler, 2024).

When discussing the formation of 501(c)(4) organizations, experts in the field most often address it within the context of having charity/social welfare “tandem” organizations in which a charity and a social welfare organization closely coordinate on a shared mission and strategy (Fei & Gorovitz, 2018). The 501(c)(3) charity is most commonly the original, or the “anchor” organization that initially has more members and more financial resources, though it is possible for a 501(c)(4) to be the original with a 501(c)(3) affiliate (Ratliff & Schadler, 2024). The foremost advantage of having an affiliated 501(c)(4) organization is its unlimited capacity to lobby, because it creates the opportunity for charities to expand upon their advocacy efforts (Fei & Gorovitz, 2018).

**Setting the 501(c)(4) Social Welfare Context.** The IRS Code Section 501(c)(4) is a catch-all for many organizations and outlines the tax exemption for two different types of organizations under this section – social welfare organizations and local associations of employees, both of which play different roles in society. For the purposes of this report, the focus is on social welfare organizations, which are defined as “civic leagues or organizations not organized for profit but
operated exclusively for the promotion of social welfare” (IRS, 2024). The code further specifies that a 501(c)(4) organization “may further its exempt purposes through lobbying as its sole or primary activities without jeopardizing its exempt status.” (IRS, 2024). The IRS recognizes many public policy issues that a 501(c)(4) can engage in, including environmental protection, reproductive rights, firearms control, immigration, and civil rights. Despite the additional capacity to engage in policy advocacy work, including lobbying and partisan activities, “very few 501(c)(4) organizations consider themselves to be advocacy organizations…[they] are not interested in changing laws, influencing elections, or representing their members’ interests to policymakers” (Koulish, 2016, p.6), and Irvin affirms this ambivalence toward policy advocacy work in their article in 2023, saying that less than 10 percent of 81,000 identified 501(c)(4) organizations actually participate in this kind of work (2023, p.108).

“Dark Money” Controversy. As a result of its ability to engage in unlimited lobbying and charitable activities, federal law “imposes two significant disadvantages that affect fundraising” (Fei & Gorovitz, 2018) for 501(c)(4) organizations. Individual donors of 501(c)(4) organizations are not allowed to receive a tax deduction for their contributions, and the rules that govern private foundations also impose more oversight and accountability requirements on grants that are made to social welfare organizations, including the obligation to include language on grant agreements that explicitly prohibit using the grant funds for lobbying purposes (Fei & Gorovitz, 2018). Due to these requirements, foundations are deterred from funding social welfare organizations. Though Fei and Gorovitz call these disadvantages, Irvin calls out how federal legislation has essentially opened the door for laundering money through 501(c)(4) organizations to influence political outcomes. Because neither charitable and nor social welfare nonprofits need to disclose their donors to the public, donors, unions, and corporations are able to anonymously donate unlimited amounts of money to political action committees “if they first donate to a social welfare organization, which becomes the donor of record” (2023, p. 103). Irvin goes on to explain that the funding links between donors and political campaigns become effectively invisible, because “the arrangement can be elaborate, with funding routed through one or more social welfare organizations conducting political advocacy, transferring funds to
political action committees, and giving grants to smaller social welfare organizations throughout the country” (2023, p.103).

Irvin’s condemnation of social welfare organizations is certainly compelling, and there have been calls for eliminating 501(c)(4)s and debates about whether they should exist. Jeremy Koulish of the Urban Institute points out that elimination of the 501(c)(4) status entirely would not be effective, saying “Granted, that would be one way to ensure 501(c)(4) status is no longer exploited by partisan-oriented political organizations, in the same way that it’s possible to kill a mosquito with a chainsaw” (2013, para. 2). It is important to understand the scrutiny that surrounds the use of 501(c)(4) organizations, especially with the increasing role that money plays in the political arena. In the same vein, interviews with experts in the field demonstrate the utility of social welfare organizations when they engage in lobbying and political activities that hold legislators accountable to promises to their constituents to protect and advance the rights of immigrants. What remains to be seen is whether the utility of 501(c)(4) organizations outweighs this level of public scrutiny as well as the fundraising disadvantages.

**Stronger Together: 501(c)(3) and 501(c)(4) Coalition Work**

A constant fixture throughout the literature, data, and expert interviews is the importance of coalition work among different kinds of organizations. For the purposes of this report, the focus is on coalitions where a number of issue-aligned 501(c)(3) and 501(c)(4) organizations come together to work strategically and legally, coordinating their advocacy strategies to advance their collective goals. There are no successful advocacy efforts that can be attributed to the work of just one organization or one initiative, or even one strategy. Schmitt and Teles say,

Successful efforts to change public policy often require grassroots as well as elite strategies…success in one issue area often builds a foundation for others by creating a sense of political momentum, restoring faith in government, establishing precedent, or creating habits of cooperation within legislative institutions (2011, para. 22-24).

There is strength in numbers, and coming together as a coalition allows organizations to draw on their collective expertise, maximize their funding, and deploy a number of different tactics, including litigation, public education, research and grassroots organizing, narrative and media
advocacy, lobbying, and electoral work. While 501(c)(3) organizations can utilize the majority of these tactics, they have limitations on their ability to lobby and are prohibited from engaging in electoral work. Where their limitations can be barriers, the 501(c)(4) organizations are positioned to pick up and conduct an unlimited amount of lobbying, which is particularly useful when supporting or opposing ballot measure campaigns (AFJ, 2019).

Though 501(c)(4) organizations can also engage in all the activities that 501(c)(3) organizations can, they historically have a harder time raising funding as referenced earlier, so it is not recommended that their limited budgets be spent on activities that the 501(c)(3) coalition partners are able to do. It may also be risky for 501(c)(3) organizations to comment on issues that are related to candidates, especially within an election season, because of how hyper-partisan and political so many issues have become. So, 501(c)(4) organizations can step in hold candidates and elected officials accountable when it comes to the issues that the coalition is advocating for, because they have the ability to

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 (AFJ, 2019, p.2).

In addition to being able to leverage resources and mobilize cross-sector entities including other nonprofits, government agencies, businesses, and labor unions, the collaboration through coalitions also offers a shield around individual organizations from targeted exposure from oppositional groups (Boris & Krehely, 2022). There are many advantages to working in coalitions, and to collaborate safely, AFJ puts forth a number of recommendations for 501(c)(3)s to review before deciding whether or not to engage in activities with a 501(c)(4) partner in order to mitigate the risks of jeopardizing their tax-exempt status:

- Know what c3s may or may not do
- Have a written plan with clear c3-permissible goals, strategies and expected outcomes
- Don’t use c3 funds to participate in planning/strategizing on activities (versus hearing broad descriptions of plans)
- Ensure proper flow of money with grant agreements and timesheets
- Documentation and record keeping to show the c3 is compliant
- Use disclaimers - they are your friend (2019, p.9).

While partnerships between 501(c)(3) and 501(c)(4) organizations are a mainstay of policy advocacy work, there are a number of precautions that need to be taken to ensure that neither one engages in activities that might jeopardize their tax-exempt status. The overarching gray area when working in coalitions consisting of both kinds of organizations is how much joint strategizing can happen and what kinds of resources and information can be shared. The table below adapted from Alliance for Justice illustrates the kinds of strategies that 501(c)(3) organizations can safely engage in:

**Table 1. Allowable Activities in 501(c)(3) and 501(c)(4) Partnerships**

<table>
<thead>
<tr>
<th>When working in a coalition with 501(c)(4) organizations, a 501(c)(3) may:</th>
<th>When working in a coalition with 501(c)(4) organizations, a 501(c)(3) may <strong>NOT:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Be present when groups share plans about what each organization is doing, incl. Discussions about lobbying/ballot measure/voter registration efforts and the election-related goals of non-public charity members such as c4s and unions. Ok for c3 to hear about efforts, but should not use information to make decisions about its own activities</td>
<td>Be part of discussions when c4 organizations strategize on projects and activities they will engage in to accomplish c4 political goals</td>
</tr>
<tr>
<td>Engage in joint discussions to plan how to address a shared goal, such as passing immigration reform or raising minimum wage</td>
<td>Strategize on, contribute to, or engage in activities designed to influence outcome of an election</td>
</tr>
<tr>
<td>Strategize, contribute to, and participate in lobbying and nonpartisan ballot measure efforts</td>
<td>Strategize on how c3 can supplement partisan work of c4 participants. For instance, after hearing a discussion of a tight gubernatorial election...</td>
</tr>
</tbody>
</table>
Case study: ICE out of California and SB 54. An example of successful coalition work among 501(c)(3) and 501(c)(4) partners is in the advocacy to pass California’s Sanctuary State Law (SB 54, California Values Act). Prior to the bill’s passing in 2017 and subsequent implementation in 2018, state and local law enforcement agencies collaborated with ICE to detain and deport immigrants. Several organizations, including immigrant and civil rights organizations, faith-based groups, worker and criminal justice advocates, agencies assisting domestic violence victims, healthcare providers, and labor unions formed a statewide alliance called ICE Out of California, which was created to fight back against the abuses by federal immigration authorities. (AFJ, 2019, p.33). 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 (AFJ, 2019 p. 33).

Understandably, the coalition faced opposition from law enforcement and other organizations with local influence, including the Peace Officers Research Association, the California State Sheriffs’ Association, and the California Police Chiefs Association. This led to a compromise in the language in the bill that included complex exceptions to the rules, appeasing some of its strongest opposition. The compromise is not considered to be a loss, but rather a necessary
contention for the fight for ensuring that law enforcement is held accountable and that laws protecting immigrants are upheld in California.

The success of ICE out of California can be attributed to the varied strategies it was able to deploy because of the collective expertise of the coalition partners. It was led by a mix of 501(c)(3) and 501(c)(4) organizations, and each organization had its primary role to play in the variety of tactics they used to pass SB54 in addition to being involved in rallies, days of action, grassroots social media campaigns, and visits to state legislators’ field offices (AFJ, 2019). Each used their specific strengths and expertise to contribute to the work, primarily using their own funds to support their advocacy efforts and coordinating staff and resources. California Immigrant Policy Center (CIPC), who had a strong communications team, led press releases and conference calls, and also held an Immigrant Day in Sacramento in 2017, drawing almost 1,000 activists supporting the bill. Asian Americans Advancing Justice-California (AAAJ-CA) and the ILRC took the lead in drafting the legislation. As a 501(c)(4) in the coalition and a beneficiary of an increase in revenue as a result of support in response to Trump’s Muslim ban, the ACLU of California (now ACLU California Action, made up of ACLU of Northern California, ACLU of Southern California, and ACLU of San Diego & Imperial Counties) was able to make SB 54 a legislative priority. It paid for newspaper ads that called out key legislators to vote yes on SB 54, and mobilized its staff in Sacramento to rally and make legislative visits to garner support for the bill. In addition to these partners, ICE out of California also gained endorsements from outside of the coalition, including mayors, unions, counties, and businesses.

The Trump Administration attempted to stop California’s sanctuary law, asking for an injunction, and arguing that “the state’s laws would make it more burdensome for the Federal government to enforce Federal law” (AFJ, 2019, p.34). Thankfully, U.S. District Judge John A. Mendez denied the request, and this ruling demonstrated the coalition’s stronghold on protecting immigrant rights in California. ICE out of California continues to actively monitor the implementation and enforcement of the immigrant rights laws that it prioritizes. “Success on one issue area often builds a foundation for others by creating a sense of political momentum, restoring faith in government, establishing a precedent, or creating habits of cooperation within legislative institutions” (Telles & Schmitt, 2011, para. 24), and this case study of California’s
Sanctuary Law demonstrates how coalitions can effectively come together to advance immigrant rights. While the passage of SB 54 outlines a clearly successful policy advocacy effort, there is no clear indication that deploying this same set of strategies and tactics would be likely to succeed when applied to a different state, especially those that are less immigrant-friendly such as Texas. It is not a reflection of the organizations’ capabilities, but rather the nature of politics and “complicating features of the terrain of policy and institutional change” (Schmitt & Teles, 2011, para. 15).

Measuring Advocacy Impact

Finding accurate benchmarks for measuring and evaluating advocacy impact is difficult and not as straightforward as evaluating the success of programs that provide direct services to individuals. In the immigration sector, a nonprofit that provides direct legal services to immigrants who are in deportation proceedings can accurately measure how many clients it serves and how many of those clients are able to stay in the United States as a result of the legal services that were provided (though definitive outcomes can take years). In contrast, that same nonprofit that is working in a coalition with other nonprofit partners that are working on policy advocacy campaigns to dismantle the immigration detention to deportation pipeline is going to have a more difficult time measuring its impact, outputs, and outcomes. So much of advocacy work is about small and incremental wins that build up to bigger ones, and in many cases, “a cause can remain in ‘abeyance’ for decades, but if the fires are kept burning, it’s possible to get things moving when conditions become more permissive” (Schmitt & Teles, 2011, para. 16).

Though ICE out of California was successful in its advocacy to pass SB 54, the conditions were not permissive with its 2021 bill, the Vision Act (AB 937). Immigration issues do not exist in a vacuum, and often spill over into other domains—economic inequity, racial and criminal justice, and others. The failure of the Vision Act highlights how “the American political system is profoundly wired for stasis” (Schmitt & Teles, 2011, para. 9) and showcases the delicate nature of the political system when it is confronted with grappling with intersecting issues and populations. Despite the continued strength, expertise, and funding that supports ICE out of California, its efforts are ambitious when taking into consideration the political landscape,
the harmful narratives that dehumanize individuals who have contact with the criminal justice system, and the nature of the Vision Act’s legislative asks. While SB 54 decreases local law enforcement agencies’ power when it comes to immigrant community members that are in public spaces, protecting immigrants who have had contact with the criminal justice system presents a different and more nuanced dimension to the issue. The Peace Officers Research Association, a familiar oppositional face in ICE out of California’s advocacy for SB 54, also opposed this bill because of how it would put law enforcement in the situation of choosing between enforcing state and federal laws – the rules laid out on SB 54 about how law enforcement collaborates with ICE do not apply to the prison system. The Vision Act aims to “protect refugee and immigrant community members who have already been deemed eligible for release from being funneled by local jails and our state prison system to immigration detention”, (CIPC, 2022). Many immigrants who end up in ICE detention, including longtime legal residents with green cards, end up deported. Governor Gavin Newsom had already vetoed similar legislation in 2019, stating that it could “negatively impact prison operations". Though AB 937 passed the state Assembly in 2022, it fell short in the Senate even though eight California counties already ended these transfers along with precedent from other states including Illinois, Oregon, and Washington, D.C.

When measuring advocacy efforts for their effectiveness, the success or failure of a bill cannot be the reigning indicator that defines the effectiveness of different advocacy strategies and tactics, nor can it be used to understand a coalition and individual organizations’ capacity for engaging in policy advocacy work. Addressing the elusiveness of evaluating advocacy, Schmitt and Teles propose three areas of focus for evaluation of organizations engaging in advocacy work: long-term adaptability, strategic capacity, and network evaluation. They posit,

Successful advocacy efforts are characterized not by their ability to proceed along a predefined track, but by their capacity to adapt to changing circumstances…determine whether the organization can nimbly and creatively react to unanticipated challenges or opportunities. The key is not strategy so much as strategic capacity: the ability to read the shifting environment of politics for subtle signals of change, to understand the opposition, and to adapt deftly (2011, para. 20).
This methodology, though vague, is appropriate within the policy advocacy context, and though their remarks address the assessment of individual organizations, the same overarching latitude and principles should be applied to organizations that actively participate in coalitions. When the Vision Act failed, the ICE out of California Coalition reorganized and continued to work with Assemblymember Wendy Carillo, who authored the Vision Act, and moved forward with the HOME Act (AB 1306). This time, there was no organized opposition and it passed both the state Assembly and Senate in 2023, but it was still ultimately vetoed by Governor Newsom. The ability of the coalition to recalibrate and move forward demonstrates its capacity to adapt to the political landscape and deploy different tactics to continue pushing forward on the important issues. Despite the veto, it is critical to note that unlike its predecessor, the HOME Act passed in the Senate, which is an important and incremental win that will undoubtedly pave the way for reinvigorated policy advocacy efforts.

Alliance for Justice takes Telles and Schmitt’s position from the more abstract to concrete, laying out some adaptable benchmarks for evaluating all types of advocacy activities, which are helpful for goal setting and applying to the specific tactics that are utilized within a coalition working on policy advocacy. Some of those indicators that apply to organizations that engage legislative advocacy are:

- Possesses a clear working knowledge of the rules regarding lobbying by a nonprofit organization.
- Understands and complies with federal and state rules governing direct and grassroots lobbying and reporting of lobbying.
- Analyzes proposed legislation and develops proposed changes, when needed, to significant bills that it tracks.

Though organizations can track and report on the success of their work based on indicators such as these, understanding the effectiveness of the tactics that led to the success of passing a bill such as SB 54 is more difficult to isolate. Though there are certainly lead organizations in ICE out of California, it is impossible to point to any one organization and understand how much its individual contribution played a role in passing SB 54. Similarly, in a broader context, teasing out the utility of just 501(c)(4) coalition partners versus the 501(c)(3) organizations would be
futile because it is the integrated efforts of all coalition partners that makes successful advocacy possible.

**Gaps in the Literature**

There is a glaring gap in the literature when it comes to evaluating the efficacy and utility of the policy advocacy work undertaken by 501(c)(4) organizations as standalone entities that operate without 501(c)(3) affiliates or coalition partners. While it is clear that the work of 501(c)(4) social welfare organizations plays a key role in expanding lobbying efforts past the restrictions that inhibit 501(c)(3) organizations, there is a lack of research to support the advantage of creating a 501(c)(4) organization for advancing immigrant rights when a 501(c)(3) is able to do virtually all of the same activities while also enjoying the fundraising benefits. Looking into three of the most well-known 501(c)(4) organizations that were referenced in the literature, the American Civil Liberties Union (ACLU), the National Rifle Association (NRA), and the Sierra Club, they all operate with 501(c)(3) foundation affiliates.
Section 3: Methods and Approaches

I utilized a mixed-methods approach consisting of both primary and secondary resources for the purposes of working in tandem to create a comparative analysis of advocacy strategies within the 501(c)(3) and 501(c)(4) organizational models and the limitations that come with them. Secondary resources were retrieved online through the University of San Francisco’s Gleeson Library database; the JSTOR digital library that is a part of ITHAKA, a not-for-profit organization; databases for Urban Institute, Migration Policy Institute, Independent Sector, and Pew Research Center; Alliance for Justice’s advocacy resources; and a content review of a sample of well-known immigrant-serving advocacy organizations’ websites and their Form 990s that are publicly available on Guidestar/Candid.

I have some professional experience in immigration work, as I have worked for the ILRC for over five years. The ILRC is a national-reaching immigration nonprofit that has office locations in California (San Francisco and Central Valley), Texas (Austin, Dallas, Houston, Laredo, and San Antonio), and Washington, D.C. Its work is focused on three main programmatic areas of civic engagement, technical assistance and training, and policy and advocacy at the local, state, and federal levels. I have held different roles at the ILRC, though without direct involvement in policy and advocacy work. I more recently served as a project manager for a statewide removal defense program that expands free legal services for immigrants who are in imminent danger of deportation.

As a result of my work at the ILRC, all but one of my interviewees have been direct recommendations and connections made from within my professional network. Professor Takagi and his work was heavily featured throughout the course of the Master of Nonprofit Administration program. Please note that the professional experiences listed below are not comprehensive. The titles and former employers included for the expert interviewees are included only to the extent that they were referenced and discussed within the context and scope of the expert interviews:

- Mike Corradini: Associate Director for Universal Representation Design, Vera Institute of Justice
I conducted semi-structured expert interviews through Zoom video conferencing with these immigration advocates that have familiarity and direct experience with engaging in advocacy work within the 501(c)(3) and 501(c)(4) organizational structures. Taking into account the breadth of immigration policy work, the intersection of different policy issue areas, and the various professional backgrounds of each of the interviewees, the interview questions were adjusted to their experiences. To understand the policy landscape that the experts work in, I reviewed the websites of the organizations they worked at and referenced in the interviews, putting specific focus on the organizational websites that reference immigrant rights in their mission statements and/or issue areas. I also pulled the recent and available Form 990s from their organizations and known affiliates to analyze their lobbying trends. The data and major themes from this content and the expert interviews are discussed in the next section of this report. Not all experts are quoted, though their insights heavily contributed to guiding the direction of my research.
Section 4. Data Analysis

Research Questions

At the beginning, the literature and research for this report were highly targeted toward the formation of 501(c)(4) social welfare organizations and the benefits of this regulatory framework for policy advocacy work to advance the rights of immigrants. The original research question, “How are 501(c)(4) social welfare organizations better equipped for engaging in policy advocacy work to advance immigrant rights in comparison to 501(c)(3) charitable organizations” had a foundation of my strong underlying bias for the 501(c)(4) regulatory framework because of the perceived benefits of additional capacity for lobbying and partisan electoral work. As I uncovered more information about the 501(c)(4) regulatory framework and what these organizations do (or do not do), the research question for this report pivoted to focus on challenging the perceived utility of 501(c)(4) organizations and their effectiveness in policy advocacy work in comparison to 501(c)(3) organizations. The additional questions stemming from this pivot include:

- What is the perception of 501(c)(4) social welfare organizations and how they engage in partisan work? Is the “dark money” scrutiny well-founded?
- As 501(c)(3) charities rely on grants and public donations, how might the decision to create a 501(c)(4) affiliate affect public perception of their objectives and credibility?
- How does the immigration sector capitalize on 501(c)(4) organizations’ ability to engage in unlimited lobbying and partisan policy advocacy work?
- How do 501(c)(4) organizations measure effectiveness, success, and impact in advocacy?
- To what extent are 501(c)(3) organizations maximizing their potential to engage in policy advocacy work within their regulatory limits?
- What effect does the ability to engage in partisan work have on advancing policy advocacy strategies?

As indicated in Section 2, the most commonly available literature on 501(c)(4) social welfare organizations outlines the mechanics of creating a 501(c)(4), its allowable activities and funding
restrictions, and how it works in tandem with 501(c)(3) charities. Additional information discusses the IRS’ scrutiny of 501(c)(4) organizations and the way they engage (or do not engage) in their work to benefit marginalized and underserved communities. The literature suggests that 501(c)(4) social welfare organizations do not generally operate publicly, nor do they have requirement to do so, as they might exist for the sole purpose of funneling funding for political campaigns. As a result, there are many gaps and limitations to this research, and while it is possible to extrapolate general trends based on existing data and apply current known practices, it is difficult to make definitive and accurate links between the involvement of 501(c)(4) organizations and successful outcomes in policy advocacy activities. The implications will be addressed in Section 5 of this report.

**Analysis of Organizational Profiles**

All expert interviewees except for one are immigration practitioners who are actively working in the policy advocacy space. They have worked or currently work at 501(c)(3) and 501(c)(4) immigrant-serving nonprofit organizations that have budgets of $10 million or more, which allows them the freedom of having more lobbying capacity than other nonprofits with smaller organizational budgets. It is crucial to note that these interviews were semi-formal, and while the questions had a similar throughline with regard to involvement in policy advocacy work, the questions were adapted based on both the experts’ experiences and additional questions that came up based on the literature and previous interviews.

The organizational profiles below are chosen for analysis because they are the organizations where the expert interviewees currently work or previously worked. Their organizations’ websites needed to mention immigrants in their mission statements and/or include immigrant rights as at least one of their issue areas. The 2022 Form 990s for the 501(c)(3) organizations offer up valuable information regarding their tax status, organizational budgets, 501(h) election, and lobbying limitations and expenditures for the 2021 fiscal year. Social Good Fund, a 501(c)(3) and the fiscal sponsor for IDA, is not included here because the lobbying expenses that are reported cannot be specifically attributed to IDA. For the two organizations that are 501(c)(4)s, ACLU California Action and Vera Action, the Form 990s from their affiliate
501(c)(3) organizations are also reviewed apart from the other 501(c)(3) organizations to highlight the differences in revenue and validate the fundraising limitations highlighted by the literature.

**Table 2: Analysis of Expert Interviewee Organizational Budgets**

<table>
<thead>
<tr>
<th>Organization</th>
<th>2021 Budget (Gross Receipts)</th>
<th>501(h) Elector</th>
<th>Lobbying Limitations</th>
<th>Lobbying Expenses Reported</th>
<th>Percentage of Lobbying Limits Utilized</th>
</tr>
</thead>
<tbody>
<tr>
<td>CIPC</td>
<td>$4,804,355</td>
<td>Y</td>
<td>$326,690</td>
<td>$56,653</td>
<td>17%</td>
</tr>
<tr>
<td>ILRC</td>
<td>$31,954,937</td>
<td>Y</td>
<td>$1,000,000</td>
<td>$93,185</td>
<td>9%</td>
</tr>
<tr>
<td>NDWA</td>
<td>$41,072,197</td>
<td>Y</td>
<td>$1,000,000</td>
<td>$753,423</td>
<td>75%</td>
</tr>
<tr>
<td>Vera Institute of Justice</td>
<td>$296,561,309</td>
<td>Y</td>
<td>$1,000,000</td>
<td>$81,655</td>
<td>8%</td>
</tr>
</tbody>
</table>

*Source: author, data compiled from Form 990s available on Candid*

**Figure 1: Vera Institute of Justice Lobbying Expenses**

*Source: author, data from Vera Institute of Justice Form 990s available on Candid*
The way the Trump Administration wielded its anti-immigrant narratives and policies was unrelenting, and thus came the need for immigrant-serving nonprofit organizations to rethink their strategies and get involved in more advocacy work. Vera Institute of Justice made the decision to engage in more political advocacy in addition to the work it dedicates to piloting and scaling projects designed to aid in its mission of “ending the overcriminalization and mass incarceration of people of color, immigrants, and people experiencing poverty” (Vera, n.d.). Its work on the issues regarding the intersection between the immigration and criminal justice systems used to be more palatable across political lines (M. Corradini, personal communication, April 4, 2024), and the trend that can be observed in Vera’s lobbying expenses showcases the ebb and flow of the political climate. As it became less friendly to immigrants, the need to engage in policy advocacy work increased. Of note is that its 501(c)(4) affiliate, Vera Action, was launched in 2021 (Vera Action, n.d.), and there is a noticeable dip in the lobbying expenses for Vera in that year. A reasonable conclusion can be made that a substantial amount of lobbying started to be done under the umbrella of its new 501(c)(4), which can engage in unlimited lobbying.

The finances of ACLU California Action, established in 2022, are more difficult to trace and pull trends from due to the structure of this organization. It is a 501(c)(4) organization that is jointly formed by the three ACLU affiliates in California: ACLU of Northern California, ACLU of Southern California, and ACLU of San Diego and Imperial Counties (ACLU California Action, n.d.). While the ACLU of Southern California and ACLU of San Diego and Imperial Counties are 501(c)(3) organizations, the ACLU of Northern California is a 501(c)(4) organization with a 501(c)(3) foundation affiliate, ACLU Foundation of Northern California. While the flow of funding from the affiliates to ACLU California Action is unclear, it is highly likely that there is no shortage of funding for a well-established, well-known, and reputable 501(c)(4) like the ACLU.

Comparison: 501(c)(3) Versus 501(c)(4) Assets

When comparing the assets of 501(c)(3) versus 501(c)(4) organizations, there is a stark difference in the financials. The difficulty with fundraising for 501(c)(4)s is highlighted in the
behavior of foundations, who, despite their ability to fund 501(c)(4) organizations (with caution), prefer to make grants to 501(c)(3) organizations because of the restrictions discussed in Section 2. Of note, however, is that in their interviews, Corradini and Sayeed infer that funders and donors supported and encouraged their organizations to engage in more policy advocacy work, especially during the Trump Administration when there were relentless attacks on immigrants.

Throughout the literature and through the interviews with the experts, it is evident that the information about 501(c)(4)s is almost always connected to that of 501(c)(3) organizations. Three of the most well-known 501(c)(4)s that are frequently called out in the literature – ACLU, Sierra Club, and the National Rifle Association, all have affiliated 501(c)(3) foundations that have more assets than their 501(c)(4)s. 501(c)(3) and 501(c)(4) affiliates are able to share resources, including office space, equipment, and even employees, provided they carefully track the staff members’ time and ensure that each organization pays its share of overhead and other related costs.

Figure 2: 501(C)(3) Versus 501(c)(4) Assets

The group of organizational profiles of the expert interviews is small, but it does demonstrate that despite large lobbying limits, 501(c)(3) organizations are generally not even close to tapping into their full potential to engage in this work. The data pulled from Independent Sector (Faulk, L., Kim, M., & MacIndoe, H., 2023) adds another dimension to the picture: on a larger scale, nonprofits are not taking advantage of engaging in lobbying work, even though they all have the potential to do so. In 2023, less than 3 percent of 990-filing organizations reported any lobbying expenses, and less than 1% of them actually took advantage of the 501(h) election that expands their ability to engage in lobbying activities.

**Identifying the Need for a 501(c)(4)**

The first expert interview with Sayeed was instrumental in setting the stage for future research, because despite having extensive experience working with and creating 501(c)(4) organizations, she advised that there are rarely good enough reasons for 501(c)(3) public
charities to go through the laborious process of creating a 501(c)(4) affiliate, especially within the immigration sector where nonprofits tend to have less funding in comparison to other sectors such as health (A. Sayeed, personal communication, March 22, 2024). She, as well as Hafiz and Ruiz all agreed in their opinions that there are plenty of ways to engage in policy advocacy work within the 501(c)(3) regulations, and that organizations with large budgets are allowed lobbying expense limits that are more than sufficient for their needs and their work, especially as 501(h) electors. Gonzalez, Policy Director at IDA and a registered lobbyist, also agreed with this take, noting the care with which she chose the organizational structure for her organization. As a fiscally sponsored project of Social Good Fund, a 501(c)(3), IDA can use Social Good Fund’s extensive budget (gross receipts of $95.2M according to its Form 990 from 2022) to determine its lobbying limits. (J. Gonzalez, personal communication, April 17, 2024).

When listing the activities allowable by 501(c)(4) organizations, the literature often says that they can do everything that 501(c)(3) organizations can do, plus the unlimited lobbying allowance and ability to engage in some partisan work. At face value, these additional abilities present an advantage, allowing 501(c)(4) organizations to pick up where 501(c)(3) lobbying limitations end, allowing them substantial room to expand on policy advocacy work unencumbered by the meticulous tracking and reporting that 501(c)(3) organizations need to be mindful of.

**Understanding the 501(e)(4) Advantage**

Within the context of advancing policy advocacy for immigrant rights, the literature and discussions with experts demonstrate the ways in which 501(c)(4) organizations would be a value-add, particularly in coalition work. They can take on a more aggressive role as legislative advocates and hold legislators and elected officials accountable. Despite the ability to engage in partisan work, however, both ACLU California Action and Vera Action specifically note on their websites that they are nonpartisan organizations. Though their issue areas might imply more left-leaning values, they choose to maintain nonpartisan positions. With the experience of having previously worked at the ACLU (not ACLU California Action) and now at Vera Action, Tashman noted that while more partisan groups might be able to have closer relationships with
legislators, he cautioned that a group that is overtly aligned with a particular party might not be able to talk with people in the other party to communicate the important points or bills that Vera Action supports, or correct misunderstandings and misconceptions. The advantage of being nonpartisan is the ability to find common ground among people from both parties and try to close gaps in understanding on the policies being advocated for. Rather than emphasizing its lobbying activities, Tashman explained that Vera Action focuses on narrative change work and shifting discussions around public safety. Making sure to have solid messaging that accurately outlines their legislative goals and dispelling the misinformation about immigrants and individuals who have had contact with the criminal justice system is crucial to laying the foundation for understanding important policies that are put forth (B. Tashman, personal communication, April 4, 2024).

Despite also posturing as a nonpartisan organization, Valencia described a more aggressive and lobbying-intensive strategy for ACLU California Action, expressing the importance of keeping legislators accountable and engaging in advocacy at both the local and state levels. The organization is deeply embedded in grassroots work, bridging the gaps between talking to community members as well as to the people who are making the decisions (C. Valencia, personal communication, April 26, 2024). Among its other work, ACLU California Action maintains legislative scorecards on Senate and Legislative Assembly members in each region of California, giving them scores based on their voting records when it comes to civil rights and civil liberties issues, including immigrant rights (ACLU California Action, n.d.). They also call out their champions, who are the legislators who voted 100% for ACLU California Action’s priority areas and co-sponsored bills on the critical issues, which are criminal justice and policing, racial and economic justice, education equity, immigrant rights, LGBTQI rights, reproductive justice and gender equity, technology and civil liberties, and democracy and civic engagement (ACLU California Action, n.d.).

The interviews with Tashman and Valencia highlight how effective having dedicated 501(c)(4) organizations are in advancing advocacy work. They can engage without the need to be careful of lobbying limitations and using partisan language when discussing an increasingly partisan issue like immigration. As it has become highly politicized over the years, the ability to
hold legislators accountable to immigration reform goals and correct misinformation is crucial for gaining ground for policy wins. However, pulling out some of the more contentious (especially within an election season) and possibly partisan political activities that 501(c)(3) organizations are allowed to engage in, the question is how much of a difference the 501(c)(4) status makes when the organizations choose to do largely nonpartisan work. Comparing what 501(c)(3) versus 501(c)(4) organizations are allowed to engage in underscores the experts’ positions that there appear to be few practical reasons for an immigrant-serving nonprofit charity to create a 501(c)(4) affiliate, and there is even less reason for a standalone 501(c)(4) organization if its aim is to advance immigrant rights.
Section 5: Implications and Recommendations

Implications

The 501(c)(3) regulatory framework allows for substantial advocacy and lobbying work.

When examining organizations that have large budgets and staff that regularly engage in lobbying efforts, it is evident that they still have more than enough room to engage in lobbying work within the confines of the 501(c)(3) regulatory framework, especially when opting in to the 501(h) election. The literature review outlines that 501(c)(3) organizations are not only well-positioned to engage in policy advocacy work – they are legally allowed to do it, irrespective of their organizational budget size. There are several ways they can participate, as long as the activities are nonpartisan, and they do not exceed their lobbying limitations. As demonstrated in the data in Section 4, though 501(c)(3) charities are allowed to engage in lobbying work, an overwhelmingly small percentage of organizations choose not to.

Creating a 501(c)(4) without a 501(c)(3) is not a practical option.

The literature and expert interviews demonstrate that there does not appear to be a situation in which creating a standalone 501(c)(4) organization would be practical. There are also a finite number of circumstances in which creating an affiliate 501(c)(4) organization be recommended because of the necessary resources, skills, and operational support that are required to manage both organizations. For immigrant serving 501(c)(3) organizations that are not as well-funded, the practical and financial requirements for this tandem setup would not be feasible. The limitations in data collection for 501(c)(4)s hinders understanding around how many 501(c)(4) organizations are engaging in policy advocacy work – specifically lobbying and partisan political activities. However, the available content, literature, and interviews imply that there are three crucial factors that can determine whether or not the creation of a 501(c)(4) affiliate should even be considered as an option:

1. A clear strategy and mission separate but aligned with the 501(c)(3) organization is established. The advantages of having a 501(c)(4) affiliate are fully realized if it engages in advocacy work that expands upon that of the 501(c)(3) so that the funding for the 501(c)(4) is
not wasted on activities that can be carried out by the 501(c)(3). Leveraging the strengths and expertise of the two while maintaining legal separation can contribute to successful policy reforms.

2. **The 501(c)(3) has reputational influence** and is well known in the immigration sector and to the public at large. A 501(c)(4) is at a disadvantage when it comes to fundraising, so when the anchoring 501(c)(3) organization is already well-known, the 501(c)(4) will be recognizable and have a built-in mechanism for drawing interest and encouraging contributions. A 501(c)(3) that is recognized as having expertise in the field will bolster the new 501(c)(4)’s credibility and ability to pursue collaboration opportunities with other nonprofits.

3. **The 501(c)(3) has the capacity and funding necessary to create, maintain, and manage the 501(c)(4).** Creating, maintaining, and tracking the activities of two organizations requires a sizeable amount of resources, skills, and capacity. Due to the robust reporting and tracking required to maintain both entities, serious consideration must be taken if the 501(c)(3) does not have existing capacity. The most important of all of these is that the 501(c)(3) has sufficient unrestricted revenue to be able to support its own lobbying and the operations of the 501(c)(4).

**Figure #4: Necessary Conditions for a 501(c)(4)**

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The utility of a 501(c)(4) is diminished without an affiliate 501(c)(3)

The amount of internal coordination that is required and the complexities involved with sorting out what qualifies as lobbying work and reporting it appropriately might make a 501(c)(4) affiliate attractive. However, without a 501(c)(3) affiliate, a social welfare organization loses out on the many benefits that would keep it afloat, including the ability to provide tax deductions for contributions, fundraising potential with foundations, and available unrestricted funding that is easier for charities to obtain. Further, the 501(c)(4) would be able to capitalize on the positive public perception of charities that make it more appealing for individual and corporate donors. The 501(c)(4) would need to leverage a 501(c)(3)’s support in order expand upon the existing lobbying activities.

Recommendations

The overarching recommendation is that 501(c)(3) charities do not pursue the creation of a 501(c)(4) affiliate, and instead utilize their full potential to lobby and engage in policy advocacy work within the 501(c)(3) allowable limits. Given the literature, available data, and interviews conducted, the organizations that choose to create a 501(c)(4) entity should consider the implications above to make an informed decision.

Leverage resources and prioritize education on advocacy work

The 501(c)(3) IRS code acts as a deterrent to organizations because of the complexities around reporting lobbying and engaging in activities that might be construed as partisan or unallowable electoral work. Participation in the restricted activities might jeopardize their tax-exempt status, but there are a number of activities they can engage in that are unlimited, and within their purview as 501(c)(3) organizations, including:

- Educating the public about mission-aligned issues that affect them
- Holding educational voter registration drives and nonpartisan get-out-the-vote activities
- Distributing voter guides to the public that outline candidates’ views on issues

The lack of resources, capacity, and education for engaging in advocacy work play an integral role in dissuading 501(c)(3) organizations from stepping away from their more programmatic and direct service activities. Growing their networks and working alongside other mission-
aligned organizations in coalitions would serve to expand their access to resources, funding, and expertise. Further, working together on advocacy work under a coalition offers more protection from being singled-out and scrutinized as individual organizations.

**Build lobbying capacity and implement tracking and reporting mechanisms.**

It is important to coordinate among programmatic and finance staff to implement a mechanism for tracking and reporting lobbying activities. Staff who participate in lobbying need to track their time, and finance staff must also account for any direct and overhead costs associated with that work. For organizations that actively engage in lobbying work, those 501(c)(3) charities that have larger budgets and wield more influence within the immigration space draw more scrutiny from opposition, making the threat of jeopardizing their tax-exempt status more realistic, though ultimately rare. To help alleviate some of the burden, it is recommended that financial resources be used to hold training for staff on how to report lobbying. If possible, it is also beneficial to hire counsel to consult with who can answer complicated questions and ensure that the reporting is accurate.

**Organizations engaging in policy advocacy work should establish benchmark indicators.**

When determining the strategies and advocacy activities they will participate in, the 501(c)(3) organization should keep in mind establishing clear benchmark indicators for its activities that will showcase its strategic strength and capacity. As mentioned in the literature review, it is important to separate the policy advocacy wins from the individual activities that are involved in the wider advocacy work to better understand impact. The ability to consistently report on incremental successes in a more tangible way that showcases progress has the potential to bring in more funding and opportunities for collaboration.
Section 6: Conclusions

Immigration continues to be a highly partisan issue in today’s political landscape, and the targeting of immigrants by both political parties functions as a calling card to advocates to engage in more aggressive advocacy efforts at the local, state, and federal levels. Despite the integral role that nonprofit organizations play in providing services that benefit our communities and advancing policies that contribute to the collective good, the data suggests that 501(c)(3) charities do not frequently engage in allowable lobbying work to try to enact policies that will have an impact on the marginalized, underrepresented, and underserved communities that they serve. Experts in the sector anticipate more attacks on immigrants, irrespective of which president is in office, and the data demonstrates that there is more than enough untapped potential, at least from a regulatory and budgetary standpoint, for 501(c)(3) charities to increase their current lobbying expenditures. The lobbying limits imposed by the 501(c)(3) regulatory framework are generous and do not hinder charities’ ability to lobby – rather, the compliance requirements and the lack of resources and capacity to adequately navigate them prevents nonprofits from fully engaging in more aggressive lobbying tactics as a policy advocacy strategy.

By examining and investigating how 501(c)(3) and 501(c)(4) organizations work together to gain ground on advancing policy wins that will benefit immigrant communities, this report exposes the gaps in data and literature to address how effective a 501(c)(4) social welfare organization can be without a 501(c)(3) charity as its anchoring affiliate. The case studies highlight the undeniable impact of their work in tandem, where the 501(c)(4) acts as a positive force multiplier for the 501(c)(3) organizations that are already engaging in lobbying work. However, as a standalone organization, the implication is that the benefits of a 501(c)(4) over a 501(c)(3) do not outweigh the disadvantages it has for fundraising. They can both engage in a lot of the same work, and because the 501(c)(4) is not able to fundraise as easily, the advantages that a 501(c)(4) might offer are diminished.

This report bolsters the important positioning that 501(c)(3) charities have, highlighting their strong position to understand community needs due to their direct service work in the field
and frequent partnerships with government. It also explores how 501(c)(4) social welfare organizations can be a value-add for policy advocacy because of their ability to engage in an unlimited amount of lobbying in addition to some allowance for participation in partisan activities that open the possibility of holding legislators accountable while also educating the public on important issues that affect them. There is a strong demonstration of the power of mixed-organization coalitions that are made up of 501(c)(3) and 501(c)(4) partners, where both have their specific roles and activities that each play crucial roles in policy wins. Despite the clear benefits that 501(c)(4)s offer, this report challenges how effective social welfare organizations are when considering how many resources are required to maintain and manage it. The data, literature, and expert interviews imply that the ability to successfully create and operate a social welfare organization for the purpose of accomplishing greater policy advocacy goals that advance immigrant rights is not widely accessible. It can only effectively be used by well-funded 501(c)(3) charities that have considerable reputational presence and influence with expertise on how to leverage their resources and use the 501(c)(4) regulatory framework to build on and amplify their existing policy advocacy capacities.

**Limitations and Expansion**

The biggest challenge to understanding the effectiveness and impact of a 501(c)(4) social welfare organization as compared to a 501(c)(3) charity is the lack of data on 501(c)(4) activities and an accurate way to determine which ones engage in policy advocacy work – much less identify how many specifically work on issues that affect immigrants. The nature of the 501(c)(4) structure lends itself to the lack of research available. Because 501(c)(4) organizations are not required to report their activities in the way that charities are, the identification of 501(c)(4)s and their activities requires more methodology and cross-cutting of data across systems. The literature includes extensive information about how social welfare organizations collaborate with charities both as affiliate organizations and in coalitions, but there are insufficient case studies that address their utility as standalone organizations within the immigrant rights space, or even in other human rights and social movements. Considering these limitations, the answers to missing data points can provide more insight, but it is also necessary to acknowledge that some of these
data points will not be readily available absent an IRS reform that requires 501(c)(4)s to provide more robust reporting on their activities:

- How many 501(c)(4) organizations are engaging in policy advocacy.
- How much funding are 501(c)(4)s spending on direct and grassroots lobbying and in which issue areas do they operate.
- What impact engaging in partisan work has in policy advocacy.
- Tracking for which 501(c)(4) organizations are funneling money into political action committees and other 501(c)(4) organizations.

The literature that was available for this report was largely focused on how to create 501(c)(4) organizations, the allowable activities under the IRS Code, and how 501(c)(4) organizations effectively work in tandem with 501(c)(3) charities. Additional research and case studies on 501(c)(4) organizations and how they work across issue areas would provide a more rounded and advanced understanding of the different strategies and tactics that are unique to social welfare organizations.

An important follow up for this research project would be expanding on the question of how 501(c)(4) activities negatively affect social movements and undermine the democratic process. The legitimate scrutiny of 501(c)(4)s and the way that they are utilized for the nefarious purposes of funneling money into political action committees is a crucial dimension to this project that should be investigated further. The lack of required reporting data and IRS oversight can inevitably lead to a higher rate of potential abuses. It would be beneficial for the sector to understand how anti-immigrant 501(c)(4) organizations might be instrumental in allowing elites to pull levers within the political arena that hamper advocates’ pursuit of advancing rights for immigrants.
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Christine served in the Peace Corps from 2016 – 2018 and designed innovative approaches for strengthening Costa Rica’s educational communities in the underserved Limón region. She collaborated closely with educators under the Ministry of Public Education (MEP) and mentored future English teachers at the University of Costa Rica. She served as the Chair of the Intercultural Competence, Diversity, and Inclusion (ICD&I) Committee, and strongly advocated for and implemented cultural competence and diversity inclusion initiatives at her post.

Christine holds a B.A. in Rhetoric from the University of California, Berkeley.