

**COMBINING FORCES:  
A MERGER MANUAL FOR CAAS**

CAPLAW TRAINING WEBINAR  
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PRESENTED BY:  
ELEANOR EVANS, ESQ.  
EEVANS@HEMBAR.COM  
(617) 557-9711

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**Polling Question #1**

1. Why are you interested in mergers  
*(select all that apply):*

- a. To save money
- b. To improve / expand services
- c. To improve administrative capacity and efficiency
- d. To enhance visibility and connections
- e. None of the above - I'm Zoom-bombing

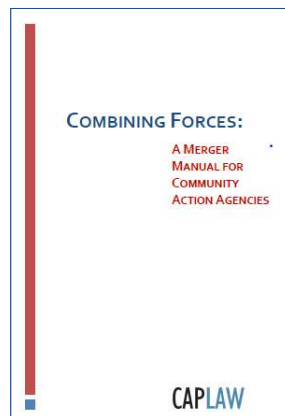
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## CAA Merger Manual

### Intended to help nonprofit CAAs:

- Understand mergers and what's involved
- Assess merger readiness and goals
- Identify and evaluate potential partners
- Work through steps in the process
- Anticipate obstacles
- Learn from CAAs that have merged



## Working Definition of Merger

### Working Definition

- General term used to describe a partnership in which two or more organizations become one
  - *Legally, governed by state nonprofit corporate law and generally describes a transaction where one organization is the successor to all of the assets and liabilities of the other organization*

### Many different ways of structuring a merger

- First, discuss **goals** of partnership
- **Form** (choice of partner and structure) will follow **function** (what we hope to achieve)
- Language matters in framing partnership

## Using the Manual

- Common questions
- Key terms
- Worksheets
- Sample documents
- CAA case studies

## CAA Case Studies

### MERGER CASE STUDY

Merger between Mesa Community Action Network (MesaCAN) and A New Leaf, Inc. (A New Leaf)

*This case study is based on CAPLAW's interview with Kathy Di Nolji, Executive Director of MesaCAN, and Michael Hughes, CEO of A New Leaf. This case study presents an example of a parent-subsidary merger between a small, non-profit CAA facing significant financial challenges and a larger, more financially robust non-profit organization providing overlapping social services in the same service area.*

#### Mesa Community Action Network

At the time of the merger, MesaCAN was a 501(c)(3) non-profit community action agency (CAA) that provided a variety of anti-poverty services in Mesa, AZ, including homelessness prevention and emergency housing assistance, Low-Income Home Energy Assistance Program (LIHEAP), a men's homeless shelter, emergency food assistance and referrals, Individual Development Accounts (IDA), income tax preparation, and financial literacy classes. MesaCAN had an annual operating budget of approximately \$2 million and around 25 employees.

#### A New Leaf

At the time of the merger, A New Leaf was a 501(c)(3) non-profit organization that provided a broad array of social services in Mesa, AZ, including affordable housing units, domestic violence shelters and services, a family homeless shelter and services and youth and behavioral health services. A New Leaf had an annual operating budget of approximately \$20 million and around 250 employees.

## CAA Case Studies

### Agency A

- Non-profit CAA; \$15M annual revenue
- 24 board members; 92 employees
- Serves 3 counties (mix urban/rural)
- **Programs:**
  - CSBG
  - Head Start
  - Energy assistance
  - Weatherization

### Agency B

- Non-profit CAA; \$5M annual revenue
- 18 board members; 65 employees
- Serves 2 counties, adjacent to Agency A's 3 counties (urban)
- **Facing financial difficulty** (significant loans that CAA cannot repay; built a number of homes as part of a housing development that could not be sold).
- **Programs:**
  - CSBG
  - Head Start
  - Energy assistance
  - Weatherization

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## Using the Manual

- **Work through one section at a time:**
  - Key points before starting
  - Organizational assessment and identifying a partner
  - Next steps in the merger process
  - Merger structures and alternatives
  - Regulatory issues
  - Potential obstacles and lessons learned

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## Key Points Before Starting

## Why Consider Merging?

- Improved, expanded or preserved programs and services
- Strengthened financial position
- Upgraded administrative capacity and efficiency and/or
- Enhanced visibility, branding and reputation

## Why Consider Merging?

- The ultimate goal of a merger should be to further your CAA's mission
- Evaluate merger from perspective of people and communities served

## Merger Costs

- Staff time
- Professional fees
- Systems integration expenses
- Human resources costs
- Facilities costs
- Re-branding costs

## When Should We Start?

- **Before it is necessary** (i.e., before there is a crisis/before programs have been damaged)
- Often **leadership transitions** can be a good time to initiate conversations internally and externally
- Process may take several months to a couple years

## Who Does What?

- **Board generally oversees the merger process**
  - Analyzes pros and cons of merging, whether and how it will fulfill mission and votes on merger
  - Fiduciary duties:
    - Duty of Care
    - Duty of Loyalty
- **Executive directors lead day-to-day work**
- **Joint merger committee**
- **Outside assistance:**
  - Merger consultant, funders, associations, attorney, accountant, interim ED other consultants

## Organizational Assessment and Identifying a Partner

## Organizational Assessment

- Mission
- Motivations for merging
- Goals it hopes to achieve by merging
- Critical issues facing the organization
- Potential obstacles and red flags
- Financial position
- Strengths and weaknesses as a merger partner



## Organizational Assessment

ORGANIZATIONAL ASSESSMENT WORKSHEET

COMPLETE THE FOLLOWING EXERCISES AND DISCUSS THEM WITH YOUR COLLEAGUES.

WRITE YOUR CAA'S MISSION STATEMENT BELOW:

MISSION STATEMENT

DESCRIBE YOUR VISION FOR THE ORGANIZATION—HOW YOU WANT TO SEE IT 3–5 YEARS FROM NOW:

VISION FOR THE ORGANIZATION

ORGANIZATIONAL ASSESSMENT WORKSHEET

LIST YOUR ORGANIZATION'S CURRENT STRATEGIC PLAN GOALS IN ORDER OF PRIORITY (#1 = MOST CRITICAL PRIORITY):

PRIORITY	CURRENT STRATEGIC PLAN GOALS

LIST CRITICAL ISSUES (OPPORTUNITIES/THREATS) YOUR ORGANIZATION FACES (E.G., UPCOMING EXECUTIVE DIRECTOR RETIREMENT, COMPETITION FOR FUNDING AMONG LOCAL NONPROFITS, AGING POPULATION IN SERVICE AREA) AND RANK IN PRIORITY ORDER (#1 = MOST CRITICAL):

PRIORITY	CRITICAL ISSUES OUR ORGANIZATION FACES

## Finding Merger Partners

- **What are some ways of identifying potential partners?**
  - Existing alliances and collaborations
  - Board or ED contacts/relationships
  - Working with a consultant
    - E.g., state CSBG office or CAA state/regional association

## Finding Merger Partners

MERGER PARTNER IDENTIFICATION WORKSHEET

BASED ON ORGANIZATIONAL ASSESSMENT WORKSHEET RESPONSES, LIST IN PRIORITY ORDER CHARACTERISTICS OF A MERGER PARTNER MOST LIKELY TO HELP YOUR ORGANIZATION MEET ITS STRATEGIC PRIORITIES:

PRIORITY	MOST IMPORTANT MERGER PARTNER CHARACTERISTICS

LIST POSSIBLE MERGER PARTNERS AND NOTE WHY EACH COULD BE A GOOD MERGER CANDIDATE:

POSSIBLE PARTNER	WHY GOOD CANDIDATE

MERGER PARTNER IDENTIFICATION WORKSHEET

FOR EACH POTENTIAL PARTNER, ANSWER THE FOLLOWING QUESTIONS AND BRIEFLY EXPLAIN YOUR ANSWERS:

— IS THERE A HISTORY OF COLLABORATION OR SHARED SERVICES BETWEEN THE TWO ORGANIZATIONS?

— ARE THE ORGANIZATIONS' MISSIONS COMPATIBLE?

— ARE THE ORGANIZATIONS' VALUES AND ORGANISATIONAL CULTURES COMPATIBLE?

— WILL MERGING WITH THIS ORGANIZATION HELP THE CAA FILL GAPS IN SERVICES CURRENTLY BEING PROVIDED, FACILITATE INTEGRATION OF SERVICES OR HELP CAA EXPAND THE NUMBER AND TYPES OF CLIENTS IT SERVES?

— WILL THE MERGER OPEN UP NEW STREAMS OF FUNDING (INCLUDING UNRESTRICTED FUNDS), ENHANCE THE CAA'S EXISTING FUNDING STREAMS OR IMPROVE ITS FUNDRAISING EFFORTS?

— WILL IT IMPROVE THE CAA'S ADMINISTRATIVE CAPACITY (FINANCIAL, HR OR IT) STAFFING AND SYSTEMS, ADDITIONAL FACILITIES, ADMINISTRATIVE EXPERTISE?

— WILL IT ENHANCE THE CAA'S OUTREACH AND CONNECTIONS TO COMMUNITIES IN THE SERVICE AREA OR BEYOND?

— WILL MERGING WITH THE ORGANIZATION PROVIDE OPPORTUNITIES FOR THE CAA TO IMPROVE ITS BRANDING OR REPUTATION?

— WHAT STRENGTHS WOULD THE ORGANIZATION BRING TO THE MERGER? WHAT WEAKNESSES?

## Finding Merger Partners

- **Initially, have a discussion between organizations' leaders**
  - Identify potential merger partners
  - Engage in discussions with leaders of various organizations to assess interest

## Evaluating Merger Partners

- **What should we look for in a partner?**
  - May, but need not necessarily be, another CAA or Head Start grantee
  - Both organizations bring strengths (e.g., resources, relationships, experience, skills) to the table
  - Compatible missions, services, organizational cultures
  - Strategic service fit
  - Geographic fit

## Evaluating Merger Partners

### MERGER PARTNER EVALUATION MATRIX

CUSTOMIZE THIS MATRIX TO FOCUS ON YOUR ORGANIZATION'S PRIORITIES AND FIT THE MERGER CIRCUMSTANCES. IN THE VALUE COLUMN, A NUMBER X# = HIGH IMPORTANCE. IN THE PRIORITY COLUMN, H = HIGH, M = MEDIUM, L = LOW.

NAME OF POTENTIAL PARTNER: \_\_\_\_\_

VARIABLE	VALUE	PRIORITY	SCORES BASED ON 100 TOTAL POINTS
DECISIONMAKERS	Board leadership, sr. staff	H	
TIMEFRAME	3-6 months	M	
PROGRAM/MISSION FIT	X100	H	
OPERATIONS FIT	X75	M	
CULTURE	X75	M	
RELATIVE FIT OF BOARD	X55	M	
SYSTEMS	X35	L	
PUBLIC RELATIONS/FUNDRAISING	X95	H	
IS THERE A NEED?	X55	H	
ECONOMICALLY FEASIBLE?	X100	H	
IMPACT ON OTHER PROGRAMS?	X55	M	
CAN WE PROVIDE A QUALITY SERVICE?	X100	H	
ASSETS	X90	M-H	
CURRENT ASSETS/LIABILITIES	X90	M-H	
LEASES OBLIGATIONS	X50	L	
PENDING LITIGATION ISSUES	X100	H	
OTHER BENEFITS THE MERGER BRINGS?		H	

## Next Steps in the Merger Process

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## Merger Process

- **Once parties are committed to moving forward ...**
  - **Get board approval to move forward**
  - Often sign a “Letter of Intent” (also known as a “Term Sheet” or a “Memorandum of Understanding”)
  - Enter into a confidentiality agreement (**see CAPLAW sample Confidentiality Agreement**)
  - Consider forming a joint merger committee
  - Articulate a shared vision for the merger
  - Conduct due diligence (**see CAPLAW sample Due Diligence Checklist**)

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## Merger Process

- Choose a merger structure
- Engage in negotiations and develop recommendations
- Plan and manage communications
- Work with regulators, funders, licensors, accreditors, vendors to get approvals and transfer grants/contracts
- Plan for and start working on integration
- Prepare legal documents
- **Get board approval of merger**
- Sign and file merger documents
- Integrate the organizations

## Merger Structures and Alternatives

## Merger Structures

- Statutory merger
- Consolidation
- Parent-subsidary relationship
- Asset transfer/acquisition
- Program transfer

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## Alternatives to Merging

- Maintaining status quo
- Conducting joint program activities
- Sharing administrative functions or facilities
- Giving up program(s)
- Shutting down

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## Regulatory Issues

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## Regulatory Issues

- CSBG
- Head Start
- Ability to transfer other government grants/contracts, licenses, accreditations
- Merger costs likely to be unallowable charges to federal grants, except with prior approval
  - See Uniform Guidance, 2 C.F.R. § 200.455
- Union issues
- **Keep your funding sources informed!**

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## Potential Obstacles and Lessons Learned

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## Potential Obstacles

- Concerns about loss of identity
- Cost and time
- Funding source rules
- Lack of buy-in
- Short-term focus
- Organizational culture

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## Polling Question #2

2. What do you see as the biggest obstacle to your CAA merging with another organization? (*select one*)
- a. Loss of identity and goodwill in the community
  - b. Amount of money, time, and effort required to merge
  - c. Staff concerns about employment post-merger
  - d. Need to recompetete Head Start grant
  - e. Lack of compatible merger partners

## Lessons Learned

- Ensure the merger furthers each partner's mission
- Articulate a shared vision for the merger
- Get early board buy-in
- Identify merger champion(s)
- Make the time to identify and build trust
- Conduct thorough due diligence
- Communicate with funders early and often
- Strategize about community outreach
- Get T&TA
- Prioritize organizational culture

## Polling Question #3

3. After this webinar, it is likely that your CAA will *(select all that apply)*:
- a. Seek out additional information on mergers
  - b. Explore merging with another organization
  - c. Explore sharing services with another organization
  - d. Consider transferring or acquiring program(s) to/from another organization
  - e. None of the above

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