MERGER AND ALLIANCE TOOLKIT

LA PIANA CONSULTING

A GUIDE FOR NAVIGATING NONPROFIT MERGERS AND ALLIANCES

We help the social sector navigate change.

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CONTENTS

A Guide for Navigating Nonprofit Mergers and Alliances

The Merger and Alliance Toolkit offers practical guidance and concrete methods for assessing collaborative opportunities, negotiating agreements, implementing partnerships, and integrating systems and structures as needed to pursue a common mission.

Our goal with this online resource is to provide flexible support to you in your journey toward a strategic partnership or nonprofit merger. For additional support or more targeted assistance, you may wish to explore our Blog, Insights pages, or Client Stories. Or please contact us—we want to hear from you.

How to Use This Toolkit

This toolkit can help your nonprofit use collaborative strategies to achieve your mission. Using the navigation links on this page, you can either start at the beginning and work in order or choose the areas that are most relevant for your organization.

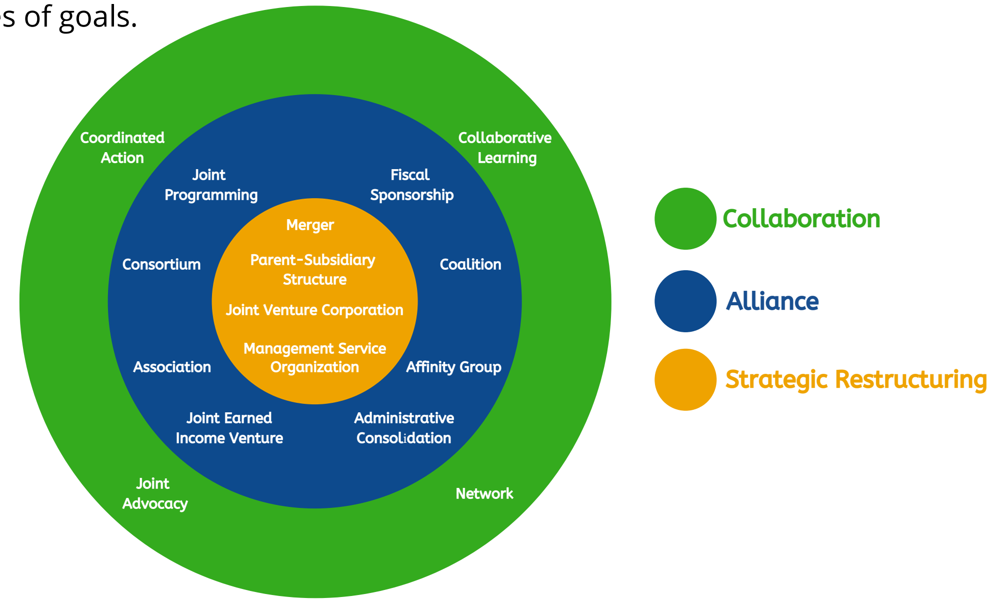
Tip:

Some sections of this toolkit are designed to support nonprofit mergers and may not be necessary for other types of strategic alliances; however, we find the core concepts are often adaptable to non-merger needs and have included tips for doing so. (Look for boxes like this one!)

1 GETTING READY...ASSESSMENT

1.1 Why are you considering a strategic relationship?

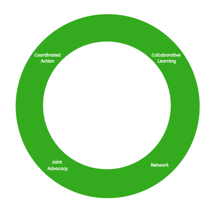
Nonprofit collaboration takes many forms—it's not just about merger! At La Piana Consulting, we have mapped more than a dozen different ways organizations can come together to advance a shared goal. When deciding which to pursue, it is useful to think about certain kinds of partnerships as lending themselves to certain types of goals.



And so, before we address the What and How of nonprofit partnerships, let's address the most important question of all: **Why?**

If you want to...

- Pool expertise or resources,
- Amplify a policy message,
- Create and share collective wisdom, or
- Tackle social issues requiring sustained, coordinated action...



Collaborations offer great flexibility in pursuing such goals without requiring any change in how partner organizations are structured or managed and need last only so long as it takes for goals to be reached.

If you want to...

- Develop a more robust level of organizational efficiency,
- Provide or receive the financial and infrastructural benefits of a 501(c)3,
- Provide services or programs,
- Share the benefits (and risks) of a revenue-generating social venture,
- Network and share learning, or
- Leverage advocacy, purchasing power, standards setting and enforcement, or other activities...

Alliances of various types can be very effective, and while they tend to be more formal and longer-term than collaborations, they still allow partners a significant level of organizational autonomy.

If you want to…

- Combine specific skills and expertise,
- Consolidate administrative and program areas, or
- Enhance service offerings, expand reach, and/or eliminate redundant administrative or programmatic activities…

Strategic Restructuring may be right for you, as such goals are often well served by highly integrated and permanent partnerships.

At the end of the day, your mission must guide any decision to pursue a strategic partnership or merger. If you're not clear on your organization's mission, download the **Mission Statement Worksheet**✏️ below.

It's also important to recognize that collaboration is just one strategy among many that your nonprofit could choose to advance its mission. Partnership is not always the answer. At this point, you may want to clarify the key strategic questions, or critical issues, facing your organization. Use the **Critical Issues Worksheet**✏️ to help with this.

Worksheets:

Mission Statement Worksheet

Critical Issues Worksheet

Keep reading, and we'll provide tools to help you further explore your motivations for collaboration.

1.2 What do you hope to accomplish?

You may have noticed that "cutting costs" and "saving money" aren't among the goals listed in the previous section asking about your Why. One of the most common myths about nonprofit mergers is that they're a way to achieve significant cost savings. While a merger may result in some reduction in administrative costs (since you won't need two CEOs, for example), it seldom results in the kind of cost reductions seen in the for-profit sector—at least not in the short term.

Ultimately, it is useful to think about nonprofit partnerships overall as the opportunity not to do more with less, but to do more with more.

It's equally problematic to seek out partnership as a way to avert financial crisis, or as a last-ditch effort to keep from closing your doors. An organization in turmoil is not well positioned to attract a partner to the negotiation table, and while it may be possible to "save" a valuable program that would otherwise be discontinued, merger alone can't fix a fundamentally flawed financial model.

If you completed the Critical Issues Worksheet in the previous section, consider how your responses might translate to motivators, or driving forces, leading you to consider partnership. Such drivers might include shifts in your external operating environment such as increased competition for funding or demand for your services, or internal factors like the impending retirement of your executive director. Download the **Motivations Worksheet**✏️ below to facilitate your thinking about this.

Tip:
For non-merger partnerships, motivations and desired outcomes may be more straightforward: e.g., serve more youth through a joint program or obtain back office support through administrative consolidation. It is still important to take the time to be clear about what you hope to achieve. Remember: collaboration is a strategy to achieve a mission-related end, not an end in itself.

Once you're clear on what's motivating your interest, you can dig deeper into what specific outcomes you'd like to see come out of a partnership: Are you looking to expand the scope or geographic range of your programs? Develop more effective administrative functions? Or have a stronger advocacy voice? When identifying outcomes, think about how you'd state them in measurable terms (e.g., "We will serve an additional 500 people annually."). Use the **Desired Outcomes Worksheet**✏️ below.

Worksheets:

Motivations Worksheet

Desired Outcomes Worksheet

In the next section, we'll build on the thinking you've already done about why you want to pursue a partnership and further test your organization's readiness to do so.

1.3 Are you ready?

Before entering into any effort to form a strategic relationship, nonprofit leaders are wise to undertake a systematic assessment of their organization's readiness. Assessment is important not only for examining the organization's strengths and weaknesses and how they might affect a potential partnership, but for gauging the level of internal alignment and agreement around these. After all, if the organization can't approach the prospect of a partnership with a baseline of commonality and unified voice, it will have difficulty coping with the issues raised in a negotiation process.

In addition to the motivations and desired outcomes surfaced in the previous section, consider these readiness questions:

Readiness: Are you ready for a partnership?

- What experience have you had with strategic relationships? How did it go? What did you learn from it?
- Do you know of other nonprofit mergers—successful or unsuccessful? How do these stories inform your knowledge and attitudes about a potential collaborative relationship?
- Does the board and CEO/Executive Director have a strong relationship? Is there a strong basis of mutual trust, communication, etc.? (See also the **Board-Management Relationship Worksheet**✏️ below.)
- Is your board generally amenable, or at least open, to the idea of partnership? Can the board speak with one voice and work in a unified way toward a chosen strategy?
- Is your organization currently facing a crisis? If so, how might it affect the partnership process?
- Is your organization risk-tolerant? Growth-oriented? Merger almost always entails both. (Download the **Risk-Taking Orientation and Growth Orientation Worksheets**✏️ below.)
- Does the idea of this partnership or merger raise concerns about individual self-interest or organizational autonomy? (See the **Concerns Worksheet**✏️ below for discussion prompts.)
- Does your organization, especially its lead staff and key board members, have the time to devote to a partnership exploration/negotiation process?

Download these questions as a **Discussion Guide** here.

We recommend that you walk through these questions with representatives from the board and staff. Seeking various perspectives enriches the discussions and provides better guidance regarding your strategic partnership options. It will also help contribute to the development of the internal working relationships and common understandings necessary for your team to successfully complete a merger.

Tip:
Assessment questions may differ for non-merger partnerships, which typically require less risk, are usually time-limited, etc. For these, the most salient issue may be your capacity to effectively participate in a collaboration—e.g., can you put the time, attention, and (potentially) resources toward a joint effort? In many cases, collaboration is an "extra" demand on your organization's capacity; even if grant funds are available to alleviate the pressure, it is important to remember that collaboration is not resource-neutral: it takes work.

The assessment phase is so fundamental in setting the stage for an effective partnership that La Piana Consulting has developed the Merger and Alliance Assessment Tool (MAAT) to guide organizations in thoroughly exploring their readiness. Combining a self-assessment survey with facilitated discussion, the MAAT process helps stimulate thinking and alignment about a nonprofit's strengths and challenges, and how it might leverage or address those through partnership with another organization.

Learn more about the Merger and Alliance Assessment Tool (MAAT) here.

At this time, it's worth giving some attention to the question of leadership of the merged organization, by asking questions like: If we were to merge, would we be comfortable with another organization's ED taking leadership? Do we know of other organizations with strong leaders? One of the toughest issues in a nonprofit merger is the choice of an executive to lead the combined organization. Some mergers are actually motivated, at least in part, by the impending departure of an executive leader, but when this is not the case, it is an important decision to be ready for. Download the **Leadership of the Merged Organization Worksheet** ✏️ below for guidance in thinking this through.

Worksheets:

Board-Management Relationship Worksheet

Risk-Taking Orientation Worksheet

Growth Orientation Worksheet

Concerns Worksheet

Leadership of the Merged Organization Worksheet

Whether using a guided process like the MAAT or a more informal approach using questions like those suggested above, you should come away with a clearer sense of how good a candidate for merger you would make.

1.4 What's the importance of organizational culture?

Each nonprofit has a unique culture, or personality, shaped by its history, its politics and philosophy of service, and its relationship to the community. It is revealed in the little things, such as where staff sit at the conference table or whether they wear suits or jeans to work. It's also evident in more meaningful characteristics such as how decisions are made and power is shared, the diversity of the board, or how staff are supported and held accountable. Culture influences how services and operations are run on a day-to-day basis, as well as how long-term strategy is developed and implemented.

Organizational culture is comprised of some elements that can be easily “seen” or grasped and others that are less obvious. Many have used the “iceberg” metaphor (below) to illustrate that the explicit elements of organizational culture are often just the tip of the iceberg, and that there are many more that may be implicit or hidden from view. The iceberg model reminds us that strategic partnerships and mergers are not just “business” deals but have emotional implications for the individuals involved.

Content Issues
Formal Issues

- Mission, goals
- Structures, systems
- Technology
- Policy, procedures, work processes
- Programs, performances
- Resources (financial and human)

- Managerial styles
- Decision-making modes
- Access to power
- Degree of inclusion
- Trust level
- Values, perceptions, attitudes
- Feelings
- Intra-personal styles
- Conflict management
- Linkages, friendship, power dynamics

Process Issues
Informal/Covert Issues

Collaborations are relational, not merely transactional. The process of bringing two or more organizations together has numerous technical elements that must be attended to, but it is even more important to develop a common understanding of how the people in those organizations will relate to one another, communicate, and work together to achieve shared goals. The negotiation phase itself tests out and models—in real time—how their organizational cultures may align or differ, giving helpful insight into cultural issues to explore in negotiations and continue to pay close attention to in the integration phase.

Although organizational culture can come into play in non-merger strategic partnerships, such as when nonprofits jointly operate a program and must define a common way of working, cultural integration—the fusion or adaptation of two or more old cultures into a new culture moving forward—is most critical in a nonprofit merger. The greater the level of integration, the greater the need to identify and assess the cultural elements and work through those issues.

It can be difficult for an organization to recognize its own culture, simply because it is so ingrained that it becomes taken for granted. Asking questions like the ones below can help nonprofits begin to bring their current culture into focus.

Identifying the Characteristics of Your Current Organizational Culture

- How inclusive is your organization, and do staff / board members from diverse backgrounds, perspectives, and experiences feel as though they belong?
- Who is involved in decision making, and how explicit are you about different levels of involvement?
- Who exercises authority, and how equitably is authority spread across the organization?
- What is the role of the board?
- How formal or informal is your organization?
- What is the prevailing communication style?
- How are staff trained and supported? (Look at what happens when a new person is hired. Those first 30 to 60 days tell a lot about culture. For example, is it a sink-or-swim situation, or are supports in place?)
- How are achievements celebrated (or not)? Are individuals acknowledged, or are only team successes noted?

Download these questions as a **Discussion Guide 1.4** here.

The questions above will result in greater clarity about your organization's dominant culture. However, to dig deeper, you need to explore differences in how the culture is experienced across differences in race, gender, immigration status, etc. The dominant culture need not—and should not—be assumed to be the best one to carry a partnership forward. Rather, a primary marker of a successful organizational culture is adaptability. An adaptive culture is one which:

- Expects and welcomes change
- Includes all perspectives, with equity at the forefront
- Understands, surfaces, and redirects natural human tendencies that hinder change
- Mobilizes staff to surface, examine, and perhaps abandon deeply held beliefs and practices

This focus on adaptability is particularly relevant for an organization considering a major change such as a partnership or merger. For a more in-depth review of your organization's culture as part of your consideration of a strategic relationship, contact us directly to learn more about how this can be done..

1.5 How does your organization handle change?

An organization's ability to manage change is key to successfully advancing its mission. As noted in the prior section, developing an adaptive culture is critical for successful change management. In addition, learning from your specific past experiences with change can provide valuable lessons for better understanding how your organization may respond to future change.

Adopting a new strategy of any kind—including one related to organizational collaboration and integration—entails organizational change. Mergers and alliances can be a pretty big departure from the status quo, requiring leaders to be intentional and skillful about managing not only the technical aspects of the merger, but the people issues that inevitably arise. As with any major change, merger can inspire fear, resistance, or even (at the other end of the spectrum) unrealistic optimism. In addition to nurturing an adaptive culture, leaders can help their teams manage these normal human responses by being honest and transparent, ensuring people feel heard and supported, and—most importantly—involving everyone in staying focused on the mission.

At this assessment stage, it may be instructive to reflect on how your organization typically responds to change. Consider these questions for discussion with your staff and board:

Questions for Assessing How Your Organization Handles Change

1. Recount 1-3 major changes your organization undertook successfully. What factors that were within your control (i.e. how you managed that change) led to your success?
2. Are there other times when your organization undertook a major change but did not succeed? What controllable factors led to this lack of success?
3. Is your organization more or less likely to take on a major change as a result of these positive or negative experiences?
4. Given your reflections, how is your organization likely to respond to a merger? What kind of preparation might be most important in helping it weather such a change?

Download these questions as a **Discussion Guide 1.5** here.

This reflection exercise is about learning from past experience, but to build your organization's capacity for change, you're looking at developing an adaptive culture. La Piana Consulting can help leaders and their organizations develop a more adaptive culture and successfully manage change. To learn more, contact us.

Once you have a better understanding of your organization's readiness, it's time to tackle the question of how to find a strategic partner.

1.6 How do you find and approach a partner?

Now that you've decided that exploring a partnership makes sense for your organization, how do you actually find that potential partner? This requires careful consideration, both for mergers (where the stakes tend to be highest and the stigma most significant) and other forms of partnership. The same process of thoughtfully approaching a potential partner can be useful for all kinds of partnerships.

Identify

Often, mergers occur between organizations that already have a collaborative relationship. In this case, the choice of a potential partner may be obvious. But if you have not yet identified a potential partner, a good first step is to look at organizations in your community that either offer programs that are similar to yours or that work with the same constituency. Think about not only the ways in which you are alike, but areas of difference that are complementary to one another—as long as there is a link between your respective missions that makes strategic sense of the pairing.

Tip:
For non-merger partnerships, the field of potential partners may already be defined by the opportunity, such as an existing network or learning community. That, or the desired characteristics will depend on the type of partnership sought (e.g., whereas you might prioritize communications capacity in a joint advocacy partner, you would be interested in the business acumen of a potential partner for a joint earned income venture).

Assess

Next, you'll want to learn all you can about the organization(s) you have identified before taking the step of engaging them directly—but weighing the suitability of potential organizational partners is best done when you're clear about the key characteristics you seek. Through a discussion among board and staff, create a Partner Screen that lists the questions and characteristics you need to consider. Then, build on what you already know and do a little light research. Look at their website, review their 990s on GuideStar, talk to others in your community who know the organization. Try to get an overall sense of their business model: their programs and services, their geographic reach, the populations they serve, and major sources of funding.

Below is a list of questions you might use in your **Partner Screen**.

- Mission and Vision Compatibility: Do your organizations have similar goals?
- Alignment of Organizational Culture: Do your organizations share common values, customs, beliefs, and practices?
- Past Collaborations: Have your organizations worked together before? If so, how did it go?
- Mutual Trust: Do you have a high enough level of trust in the organization on which to build a merger relationship? What specific experiences have influenced your feeling of trust or distrust?
- Strengths and Weaknesses: Does the organization's strengths complement your organization's needs, and vice versa?
- Usable Skills and Assets: Can what they bring to the table be used to advance your mission? (See also the **Usable Skills and Assets Worksheet**✏️below.)
- Financial Condition: Does the organization's financial status raise any red flags?
- Attraction: What makes this organization a desirable merger partner overall?

Download these Partner Screen questions as a **Discussion Guide 1.6** here.

As noted in section 1.3 Are You Ready?, our Merger and Alliance Assessment Tool offers a more in-depth facilitated process, and it can also be used with potential partners to assess mutual readiness and alignment.

Worksheets:

Usable Skills and Assets Worksheet

Approach

The first conversation with a prospective partner is an important step, and you want to be sure to get it right. One approach is to initiate a phone call with the other organization's executive director. A meeting with the executive directors and board chairs of both organizations might be another good way to start. Below are some practical tips for engaging prospective partners at this stage.

1. Keep the ask open-ended. Frame your interest in terms of the opportunity to explore ways your organizations might work more closely, without leaping directly to proposing a merger.
2. Focus first on building rapport and begin with the basics. Take the time to get to know one another as people, then on sharing high-level information about your organizations.
3. Ask for confidentiality. Stress the fact that these are only exploratory conversations but that you still treat them as privileged, so that you don't become the subject of gossip or rumor.
4. Make yourself vulnerable. Share some initial thoughts about what strengths or challenges you're hoping to address through a partnership; this invites your partner to do the same.
5. Agree on next steps. Set a date when you can regroup and either continue the discussion, take it to the next level, or mutually decide to discontinue the exploration.

For a more complete guide to approaching prospective partners, download **Meeting Your Match** here.

At this early stage, you want to be careful not to give off the impression (or believe) that you've got it all figured out and just need them to "sign on the dotted line." You must allow the other organization the time and space to have its own conversations like the ones you have had internally. If they arrive at the same place, then you can begin a more formal negotiations process to explore what a future together might look like.

Get ready: we'll delve into the negotiations process next!

2 PENCILING IT OUT: NEGOTIATION

2.1 What's the process?

Tip:
While non-merger partnerships may be less formal than a full organizational integration, it's important in all cases to be sure to address your respective—and shared—needs, interests, concerns, and questions in a systematic way.

The negotiation process gives potential partner organizations the opportunity to envision, in detail, how they might operate in a strategic partnership or merger. The term "negotiation" often conjures images of opposing sides alternately maneuvering to score an advantage or digging in to protect their turf. To be sure, organizations exploring a strategic partnership must be clear on those areas where they're willing to work differently or cede authority, and those where they are not. But approaching negotiation through a "winner take all" lens rather than a "what best advances a shared mission" lens will impede your ability to develop a successful partnership.

In a formal negotiations process, organizations may be asked to think through all the aspects required of a merger, but not coming to a merger agreement is not a "failure." You may determine, through this process, that another form of partnership is the better path to achieve your shared goals. Or you may decide not to partner at all. The mark of a successful negotiation is that all parties arrive at a well-thought-out decision that is right for them and their mission.

The negotiation process unfolds in three phases: 1) committing to negotiations and forming a negotiations committee; 2) planning and conducting negotiations; and 3) developing a proposed agreement for a board decision.

1. Commit to Negotiations and Assemble Negotiations Committee

- Two or more parties identify potential merger opportunity
- Boards decide whether or not to enter into negotiations
- Boards establish an ad hoc negotiations committee

2. Plan and Conduct Negotiations

- Formal negotiations begin
- Issues identified
- Due diligence process undertaken

3. Develop Proposed Agreement for Board Decision

- Committee disbands and brings its recommendations to the boards
- Boards meet to vote on the agreement
- If both boards are in agreement, merger moves forward

2.2 Who should be involved?

Committing to Negotiation

Mergers require board involvement. Once two or more nonprofits identify a potential merger opportunity, the idea should be brought to their respective boards, along with the rationale for the partnership. It is up to each board to decide whether to enter into negotiation, documenting this decision as a written board resolution.

A resolution does several things. It commits the organization to good-faith negotiation toward a possible merger. It also establishes an ad hoc committee to carry out the negotiation and report back to the board, and sets a time period for negotiations to occur (four to six months is usually adequate). It does NOT, however, commit the organization to a merger. (Download a **Sample Board Resolution** here.)

Tip:
For many non-merger partnerships, the executive director has the authority to commit to participation on behalf of their organization, such as through a memorandum of understanding (MOU) or even a contract for services. Thus, a full board resolution and negotiations process is probably not necessary. The board should, however, at least be aware of such commitments and involved in overseeing any involving potential liability, such as providing fiscal sponsorship services.

Forming a Negotiation Committee

A merger negotiation committee should be formed as a single committee composed of people from both organizations, not as two committees negotiating with each other. The committee should include the executive directors and up to four to six board members of each organization so that each party is equally represented. Committee composition should reflect a range of skills, such as financial analysis, insight into stakeholder needs, program knowledge, etc. It is essential that those chosen are able to participate consistently and follow through on commitments from meeting to meeting.

A word of caution: avoid choosing only committee members who are proponents of merger. Far better to include a couple constructive critics, both to enable robust debate and to ensure that the rest of the board and staff feel that the deck was not stacked in favor of merger.

2.3 What issues need to be addressed?

Planning and Conducting Negotiations

Because merger negotiations require that prospective partners share financial and other potentially sensitive information, you may want to enter into a confidentiality or non-disclosure agreement. Even among organizations already sharing a high level of trust, such an agreement can help formalize your expectations and mutual responsibilities regarding the handling of confidential information.

Negotiation will occur over a series of several meetings. For the first meeting, plan for at least a half-day. This sets a firm foundation for the work to come and allows committee members to get to know one another and establish a rapport, to review information about their respective organizations and motivations for partnership, and to scope out the full range of issues to be addressed in subsequent meetings toward a proposed recommendation.

If a consultant is used to facilitate the negotiations, they should lead the meetings. If not, appoint one co-chair from each of the participating organizations (selecting from board members, not the executive directors, as it is important that the negotiations be owned as a board process).

Negotiations commonly address issues in several key areas, including governance, finances, human resources, capital, program, and communications.

For detailed examples, see the **Discussion Guide** here.

Working through all of the issues raised will likely take several meetings and may require "homework" between meetings. Track agreements about these issues by taking detailed, written minutes of every meeting; such documentation will prove essential when developing a proposed agreement. It is also important, at the end of every meeting, to consider whether there is any information to be communicated to your organization's different constituencies, including staff, other partners, and funders. Early on in the process, there will likely be little to say, beyond, "we've started discussing whether we might work together more closely." But, over time, there may be value in (or need for) communicating more information as certain issues are resolved. The main point is to spend time after each meeting ensuring that all participants agree on what should be communicated, to whom, and through what channels.

Tip:
For non-merger partnerships, it is still important to put agreements in writing to ensure that all partners understand and agree to the terms of the relationship. Jointly develop a memorandum of understanding (MOU), but keep it simple: What are the goals of the partnership? Who is involved? What will each partner contribute? How will decisions be made? Is the relationship time-limited/renewable?

Due Diligence

The due diligence process is critical to merger negotiations and involves the exchange, review, and analysis of confidential legal and financial information, so as to ensure that any liabilities either party is bringing to the merger are known. Often attorneys or consultants undertake the due diligence process on behalf of, and report their findings to, the negotiation committee. (The committee may decide to take a more active role but should seek out legal or financial expertise as needed.) Understanding each organization's financial history is a critical element of the negotiation. Hear more about the value of financial due diligence here. Download a sample **Due Diligence Checklist** here.

Budget

This is also a good time to begin preparing a thorough, well-thought-out budget for your merger. In addition to professional fees you might already have incurred as part of assessment and negotiation, other costs that may emerge in merger implementation and integration include, severance or hiring costs, legal or consulting fees, moving costs, systems integration costs, design and production costs, and the cost of celebrations and public relations. See **Funding a Merger** for more on this topic.

2.4 How do you finalize a recommendation?

Developing a Proposed Agreement

Once the negotiations committee has worked through all the key issues, completed their due diligence, and are ready to recommend an integration, they have another choice to make: what legal structure should we use? Several factors influence the decision about which structure best fits your situation. We recommend you seek legal counsel to help determine the most appropriate path forward..

If you decide to pursue a legal merger, you will need to determine which corporation should survive, and be the legal entity for the integration. It may become evident in the course of negotiations which corporation should remain the survivor and which should dissolve. But there are sometimes licensing, regulatory, or structural issues that must be considered. In such cases, the decision should also be made with the consultation of an attorney who specializes in nonprofit mergers. See the **Which Corporation Should Dissolve Worksheet** ✏️ to explore this topic further.

An important note on legal issues:

Most nonprofits don't need to use an attorney to negotiate their merger, but do need legal assistance to formalize the merger. It is essential that once you think you know what you want to do—and before you actually do it—you consult an attorney specializing in nonprofit law in your state. You may be able to hire a single attorney jointly with your partner organization to avoid the potential for conflict, as you're not hiring them to "represent" you so much as to review your proposed merger agreement (around which there's presumably already agreement) and point out any red flags before you move forward. However, some attorneys may balk at representing both parties.

In some cases, expert legal advice is needed on a substantive issue raised by the merger. For example, if one party has a collective bargaining agreement, you should consider a labor attorney to clarify your position; if there are potential antitrust issues, such as in the merger of two hospitals, a health care antitrust attorney should be consulted; if your board is concerned about a disputed property line, a real estate attorney could help.

The actual transactions required for a typical nonprofit merger are fairly straightforward, but we stress that they are best carried out by an attorney who is a nonprofit specialist. Inexperienced attorneys who are accustomed to for-profit mergers may inappropriately translate corporate practice to your nonprofit merger and create a great deal of unnecessary confusion and expense.

The negotiation committee will have completed their charge once they've either negotiated the terms of a merger or determined that they cannot in good conscience recommend a merger—both are valid outcomes. At this point, they need to bring their recommendation (which will be shaped by what has been documented in the committee's meeting minutes throughout the negotiations process, perhaps with a preface or summary added).to their respective boards for approval. It's important to understand that while the board vote is a formal board action, the recommendation is not in itself a merger "contract," but more a "deal in principle." Once a recommendation is approved, it is necessary to work with a qualified attorney to review your proposed plans, ensure compliance with federal and state laws, troubleshoot any other legal issues, and execute the legal documents required.

Worksheets:

Which Corporation Should Dissolve Worksheet

2.5 What does legal implementation look like?

Legal implementation is often fairly straightforward: you file the appropriate papers, wait the necessary time, and you are merged. If one corporation is dissolving into another, it will need to file papers with the responsible state body (Secretary of State, Corporations Secretary, or Attorney General) as a first step. However, if both corporations are dissolving into a new entity, it will require securing a new 501c3 designation from the IRS, which could take considerable time.

Remember that, as a legal issue, a nonprofit merger can happen with one or more corporations dissolving into an existing corporation (acquisition) or all corporations dissolving and uniting under a new corporate entity (merger). But we should also mention that a parent-subsidiary structure is sometimes used as an option short of full merger, either as a transitional step or for the long term. A parent-subsidiary relationship allows both organizations to maintain their own separate legal identities while one organization exerts legal "control" of the other. It's done by having one corporation making itself a membership corporation with only one member: the other organization. This may be a desirable option when legal, licensing, or regulatory restrictions will not allow the organizations to fully merge.

These are big decisions with far-reaching implications, so be sure to obtain the services of an attorney with expertise in nonprofit mergers who can advise you and generate the paperwork that will put the merger into effect.

2.6 How will you <u>communicate your decision</u>?

Once the decision to merge has been made, it must be announced both internally and externally. This announcement should not only inform various stakeholders about the merger but ideally excite them about the possibilities that lie ahead. The core message should be the rationale for the merger and the positive impact that it will have on your mission. Staff and other internal stakeholders should be the first to be informed of the decision to merge and of your plans for integration. For external stakeholders, the news should be delivered more or less simultaneously and may include a press release and/or event.

Use our **Messaging Worksheet** and **Talking Points Worksheet** to help craft communications to your different stakeholders.

There is usually a gap in time (often as many as several months) between board approval of a merger and the date on which it legally goes into effect, so many nonprofits make a public announcement of their decision stating the future date at which the merger becomes "official." This enables the merging organizations to begin actively integrating and working as if they are already merged, smoothing the way for when they actually become one. This is an illustration of how merger communications may be "phased"—just be sure they are transparent and consistent so as to avert the likelihood of rumors that may threaten the success of the new organization.

Announcements should ultimately address all major changes resulting from the merger, including:

- The identities of the new leadership (staff and board)
- The merged organization's name, and the process for selecting and adopting it
- Staff reductions and/or additions
- Changes in roles and responsibilities (for management, staff, and volunteers)
- Changes to location of staff
- Changes to programs and services

Worksheets:

Messaging Worksheet

Talking Points Worksheet

If you thought all the hard work was over—not so much. Getting to a merger agreement is only the beginning. Now it's time for integration!

3 BUILDING THE FUTURE: INTEGRATION

3.1 What's the process?

The approval of a merger agreement is a major achievement, and you'll have done a lot of work to get this far. Although there's still much to do before the merger can fairly be called a success, take the time to celebrate, at least in-house. This will help you maintain momentum for the work of integration.

Tip:
Non-merger partnerships may not be as permanent as merger, but may still involve some level of integration. A programmatic collaboration, for example, may benefit from an integrated program team. Collaboration on fundraising will require clarity about the roles to be played by staff of each organization. Whatever the degree of integration that is expected and required, this should be made explicit.

Also, non-merger partnerships often need to be sustained for months or even years to achieve their strategic goals. How do such efforts maintain momentum during the ebb and flow of enthusiasm, funding, participant turnover, etc.? Strategies like formalizing agreements and processes in writing, planning for leadership/participant succession, using data to make progress visible, expanding the partnership over time, investing in continual learning, and building on successes to do more can all be helpful in fueling momentum and continuing to deliver on the benefits of collaboration. With each of these strategies, it will be important to specify roles and responsibilities for each partner.

First, it must be said that you have already done some of the footwork. Successful integration often begins in the negotiation stage. A well-conducted and thorough negotiation that builds trust between the partners and works through key issues lays the groundwork for integration.

Integration brings all the months of negotiation and planning to life, weaving together the strategy, people, programs, and systems of the entire newly merged organization. It's also where a merger succeeds or fails. Only through successful integration will the merged entities truly unite behind their shared mission.

There are ten basic areas to address in the nonprofit merger integration process. Whether the primary motivation of the merger was to gain market share, expand program services, increase advocacy capacity, or attract highly skilled board members or staff, the merged organization must address these fundamentals to achieve success.

1 ***Board integration*** is the process of developing a new, effective board of directors from the boards of the pre-merger organizations. It involves not only the identification of new roles and responsibilities, but the creation of a new cultural identity and a sense of shared ownership for the newly merged organization.

2 ***Management integration*** involves the determination of key leadership positions as well as the creation and articulation of a new managerial culture and philosophy for the new organization. This includes setting up an effective management team and the structures to support that team in its work.

3 ***Financial integration*** includes the consolidation of all financial records and systems including accounting, budgeting, payroll, purchasing, and inventory tracking. This may require assessing and choosing from systems already in use or exploring and adopting new ones.

4 ***Program integration*** may include the melding of some programs and the development of linkages between and among other programs. It may also entail closing a program or finding it another home if it no longer fits the mission or strategy of the merged organization.

5 ***Staff integration*** involves the determination of the appropriate staff roles, size, and structure for the new organization as well as the creation of clear goals and a shared culture. A well-integrated staff will perform well as a healthy working team in support of the organization's mission.

6 ***Human resources*** integration includes the merging of human resources philosophies, policies, procedures, and programs to best support the new organization's mission. The primary goal is to promote effectiveness, cohesiveness, and safety.

7 ***Fundraising integration*** entails combining all sources of contributed income while respecting donor restrictions. It also includes merging of all donor databases, management systems, proposal writing processes, case statements, campaigns, etc.

8 ***Communications integration*** includes alignment of all systems that facilitate the exchange of ideas and information, both internally and with external stakeholders. This includes marketing communications and may entail branding the organization's new, merged identity.

9 ***Information technology integration*** includes both the integration of the systems themselves (i.e. the hardware, software, and processes) and the training of all staff on how to use and take full advantage of the organization's technological resources.

10 ***Facilities integration*** may entail reduction or consolidation of space and facilities, purchase or lease of new facilities, remodeling or reconfiguration of facilities, and/or relocation of departments, programs, and people. The focus is to ensure best and most effective use of available space and facilities.

You can download the list above here.

Finally, underpinning all these is ***cultural integration***, which is about defining a new, merged culture for the organization. We'll look at all these areas of integration more closely in the sections to follow.

3.2 How do you define success?

An important consideration as you enter into the integration process is how you define success for the merger. One way to define success is to look at the partner organizations' greatest challenges and opportunities pre-merger, specifically those you thought the merger would address. If you used the worksheets in sections 1.1 and 1.2 of this Toolkit to identify critical issues, motivations, and desired outcomes for merger, you could review, consolidate, and update these to reflect your expectations and monitor progress. Alternately, or in addition, you could consider outcomes that describe the basic attributes of a healthy nonprofit, and track these using the **Outcome Targets Worksheet** below.

Whichever tool you use, decide how often you'll measure your progress against the outcomes you have set, keeping in mind that it will likely take months, if not years, to achieve full post-merger integration. At minimum, plan to review your progress quarterly for the first year and annually after that for as long as it seems necessary.

Worksheets:

Outcome Targets Worksheet

3.3 How do you manage the process?

The Integration Plan

To succeed, a merger must be actively managed. The integration plan provides a map to the highly complex process of creating a new organization out of those that have merged. A good plan will identify actions, persons responsible, and timelines for achieving key objectives in each of the ten basic areas of implementation described in section 3.1—plus cultural integration. Whether you use the **Sample Integration Plan Worksheet** as a template or create your own, the plan should be concrete and easy to use. Remember that you'll be juggling integration activities with the regular ongoing business of your nonprofit, so the integration plan will be critical for setting and adjusting priorities and holding those responsible accountable for progress.

The Integration Team

In many small organizations the executive director of the merged organization creates and implements the integration plan. However, they have many other responsibilities and often cannot single-handedly give the time and attention to detail required to manage the process. We recommend that the executive serve as the overall leader of the integration process—and set the tone, both internally and externally—but delegate primary responsibility to an integration team. The integration team should be made up of one or two board members and several senior managers representing each of the pre-merger organizations, and reports to the executive director.

The Integration Manager

Even with a well-functioning integration team, some individual must ultimately oversee the integration and ensure that its processes are coordinated and completed on time. This may be the executive director, another senior staff person, or a consultant. Often, the executive is best relieved of the day-to-day responsibilities of managing the integration process, but they still must continue to be the overall visionary and champion of the merger.

Integration Working Groups

For each integration area, appropriate staff may be assigned to working groups—under oversight of the integration team—to flesh out the integration plan for their area and focus on implementing the details of those activities. These groups may be formed as needed and disbanded when the work is complete.

Worksheets:

Sample Integration Plan Worksheet

Having outlined a structure and planning tool you can use to guide integration, let’s return again to the bigger picture of what you’re trying to achieve in this stage.

3.4 What needs to happen?

Below are high-level considerations and key benchmarks for each major area of implementation. Read through these, then download the **Integration Checklist Booklet** below to help you plan in more detail.

a. Board Integration

As soon as possible after the decision to merge, establish a board integration committee comprised of board members representing each of the merging organizations. You do not need to wait for the merger to legally take effect before beginning board integration; the board integration committee should immediately begin developing a plan to guide the board integration process (which will feed into the overall implementation plan).

b. Management Integration

As early as the assessment phase, each organization should consider its own management structure: its strengths, weaknesses, critical issues, and desired outcomes. During negotiations, the negotiation committee should consider questions like: Who will lead the merged organization? How will the senior management team be selected? What requirements, if any will the committee establish regarding how management positions will be filled? And How will transitions be handled, both for individuals leaving the organization and those changing roles? This way, senior management positions can be filled as soon as possible and the management team can hit the ground running.

c. Financial Integration

Financial integration begins during the due diligence process, with information exchange and analysis. After merger, it is time for the actual integration of all financial records and systems—i.e. accounting, budgeting, payroll, purchasing, inventory tracking, etc. A well-integrated organization will take the best financial practices from the pre-merger entities and combine them or replace them with new and better ideas, tools, and systems. This is best done by a working group (reporting to the implementation team) that includes the top financial people from each entity, charged with crafting a budgeting process, accounting system, staff structure and training, etc. to support the merged organization's needs.

d. Program Integration

The specific tasks of program integration will vary from merger to merger, depending on the number, type, and focus (geographic and otherwise) of the programs involved. Program integration should be led by a working group that includes program staff who can develop recommendations and advance the process. The sign of a successful program integration is that the organization's programs are seen as coherent, mission-aligned, and led by staff who work together, trust each other, share learning, and coordinate as "we" rather than "us and them."

e. Staff (and Volunteer) Integration

Staff integration is much more art and science, depending heavily on awareness of people's concerns and on helping them manage the change. This work intersects with that of management integration, human resources integration, and cultural integration—success in one area depends on success in the others. Staff integration also includes specific activities such as clarifying roles and responsibilities, realigning reporting relationships, communicating changes to human resources policies and practices, etc. Organizational leadership must take the lead in balancing the needs and concerns of staff with the needs and requirements of the organization and its mission, which is paramount.

f. Human Resources Integration

Human resources integration is an ideal opportunity to take stock of what each organization's human resources function does and does not offer, and to craft a new and improved system that will serve the merged organization more effectively and efficiently in the future. A good first step may be to complete a human resources audit for each organization to identify strengths and weaknesses. You can then use what you learn to design a new human resources system.

g. Fundraising Integration

As with all areas of integration, the groundwork for integrating the fundraising systems is laid during the negotiations process—in this case, through due diligence, when the organizations share their grant histories and donor lists. Once the merger is approved, those responsible for fundraising integration should review and analyze the current fundraising activities, practices, and systems at each merging organization, and make recommendations for integrating these in a way that will ensure the fundraising success of the new entity.

h. Communications Integration

Because effective communication is an integral component of a successful integration process, this should be one of the first functions to be integrated. Beginning in the negotiation phase, staff with communication responsibility from each of the merging organizations should meet to develop a plan for communication throughout negotiations and into the integration phase. At least one of these individuals should also serve on the integration team. Be sure to consider both external and internal communication needs, and communicate, communicate, communicate!

i. Information Technology Integration

As soon as possible after the merger has been approved, a technology audit should be performed to assess what each organization has, how it does things, and what are its technological strengths and weaknesses. At least one person with technological expertise should be on the integration team; they may work with technology staff from each of the pre-merger organizations and/or with a separate technology work group tasked with developing a detailed plan and budget for necessary hardware, software, systems, and training.

j. Facilities Integration

A merger may result in the reduction or consolidation of facilities, sale or renegotiation of leases on unneeded facilities, purchase of new facilities, remodeling, and/or relocation. As the decision to merge approaches, organizations with a complex physical infrastructure may find it useful to conduct a facilities audit to assess what exists, what the newly merged organization needs, and options for meeting those needs.

Download the **Integration Checklist Booklet** here.

Cultural Integration

Cultural integration is woven throughout all the other areas of integration, and development of a new merged culture is necessary to merger success. To create a new culture, you must first spend time examining the cultures that currently exist in the merging organizations so you can ultimately bring them into harmony as something new.

Nonprofit mergers do not fail because the organizations cannot integrate their financial systems or HR policies, but because they each want to hold onto their own individual cultures and fail to create a new culture.

Creating a new culture is an intentional process. Leaders of the merged organization must resist the tendency to view organizational culture as a natural phenomenon that will simply "develop in its own time." The strength of the old cultures will make this difficult. Leaders must be diligent in seeding the new culture, tending it, and helping it take root.

The work of putting a new culture into practice includes ongoing monitoring, continual reinforcement, and small course corrections as needed. It is important that creating the new culture be made explicit through open and ongoing communications and transparency. Activities may include:

- Communicating the new culture consistently, telling the organization's new stories
- Supporting the new culture with deliberate traditions, systems, rewards, processes, etc.
- Defining indicators that will gauge whether the new culture is in effect
- Developing interventions to help get the desired culture "back on track"

Overall, organization leaders must be patient and respect the time needed to move through the cultural integration process. The old organizational cultures were not formed in a day (or even weeks or months)—the new culture will also take time.

LIST OF WORKSHEETS, DISCUSSION GUIDES, AND OTHER DOWNLOADS:

- Mission Statement Worksheet
- Critical Issues Worksheet
- Funding a Merger
- Motivations Worksheet
- Desired Outcomes Worksheet
- Discussion Guide 1.3
- Board-Management Relationship Worksheet
- Risk-Taking Orientation Worksheet
- Growth Orientation Worksheet
- Concerns Worksheet
- Leadership of the Merged Organization Worksheet
- Discussion Guide 1.4
- Usable Skills and Assets Worksheet
- Meeting Your Match
- Discussion Guide 1.5
- Discussion Guide 1.6
- Sample Board Resolution
- Discussion Guide 2.3
- Due Diligence Checklist
- Which Corporation Should Dissolve Worksheet
- Messaging Worksheet
- Talking Points Worksheet
- 10 Areas of Integration
- Outcome Targets Worksheet
- Integration Plan Worksheet
- Integration Checklist Booklet