



# STRONGER TOGETHER!

Nonprofit Combinations for a More Resilient Industry

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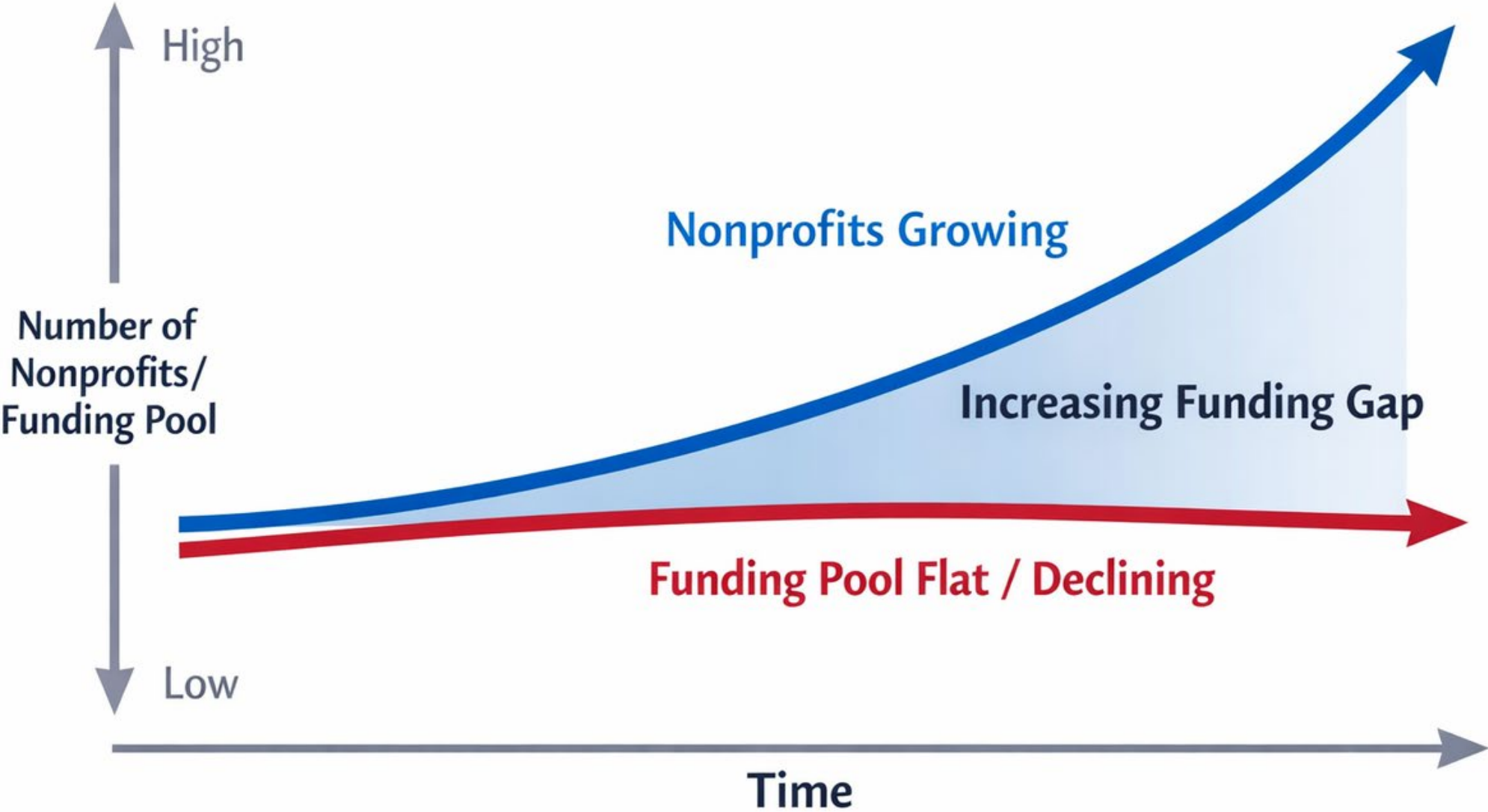
# RINGING THE BELL THE COMING STORM

2 Separate but Complementary Problems



# THE FUNDING PROBLEM

## Nonprofit Growth vs. Funding Availability



# THE NARRATIVE PROBLEM

## For-Profit World



- ✓ Mergers & acquisitions signal growth and positioning
- ✓ Expansion and opportunity

## Nonprofit Sector



- ✗ Mergers seen as failure and mission loss
- ✗ Institutional failure and stagnation



It's time to rethink how the nonprofit sector views mergers

# WHAT DO WE DO?

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## REFOCUS THE FUNDING



The problem isn't too little money –  
it's too many mouths.

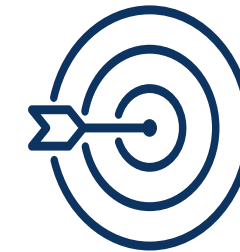
Spread thin = weak organizations  
Concentrated = durable impact

Same dollars. Few organizations.  
Greater impact.

## REFRAME THE NARRATIVE



Combinations as strategic tools, not  
last resorts



Organizational viability is a  
prerequisite to fulfilling mission



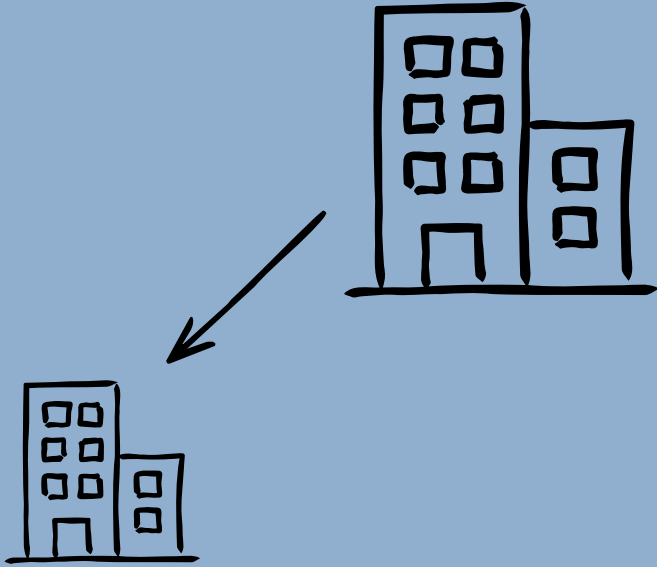
Proactive planning vs. crisis-driven  
decision-making

# The Three Main Forms of Collaboration

*Affiliations, Asset Transfers, and Mergers*

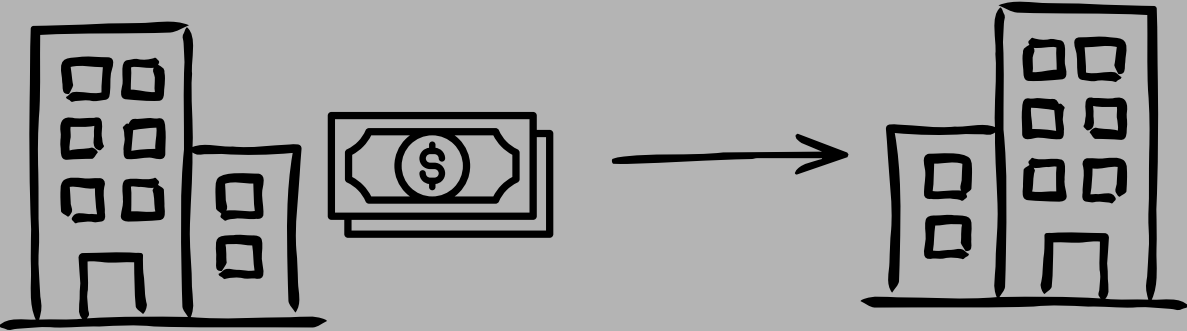
# OVERVIEW: THE COLLABORATION SPECTRUM

## Affiliation (Parent-Subsidiary)



Separate legal entities, shared control

## Asset Transfer



Targeted transfer of programs or assets

## Merger



Full combination into one entity

# WHAT IS AN AFFILIATION?

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**Definition** : one nonprofit becomes the sole member of another nonprofit corporation

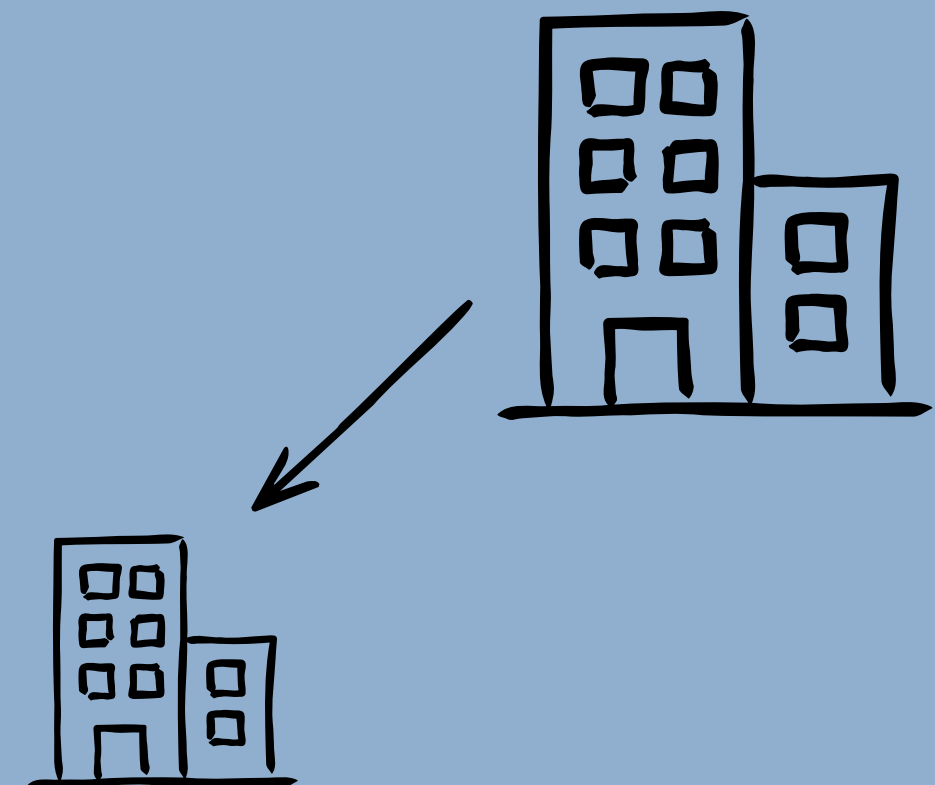
**How it works** :

- The “parent” serves as the sole member of the “subsidiary”
- Both nonprofits remain separate legal entities

**Key Governance Mechanics** :

- The “parent” holds governance rights and oversight
- Leadership and boards are aligned or coordinated
- The “parent” has ultimate decision -making authority

## Affiliation (Parent-Subsidiary)

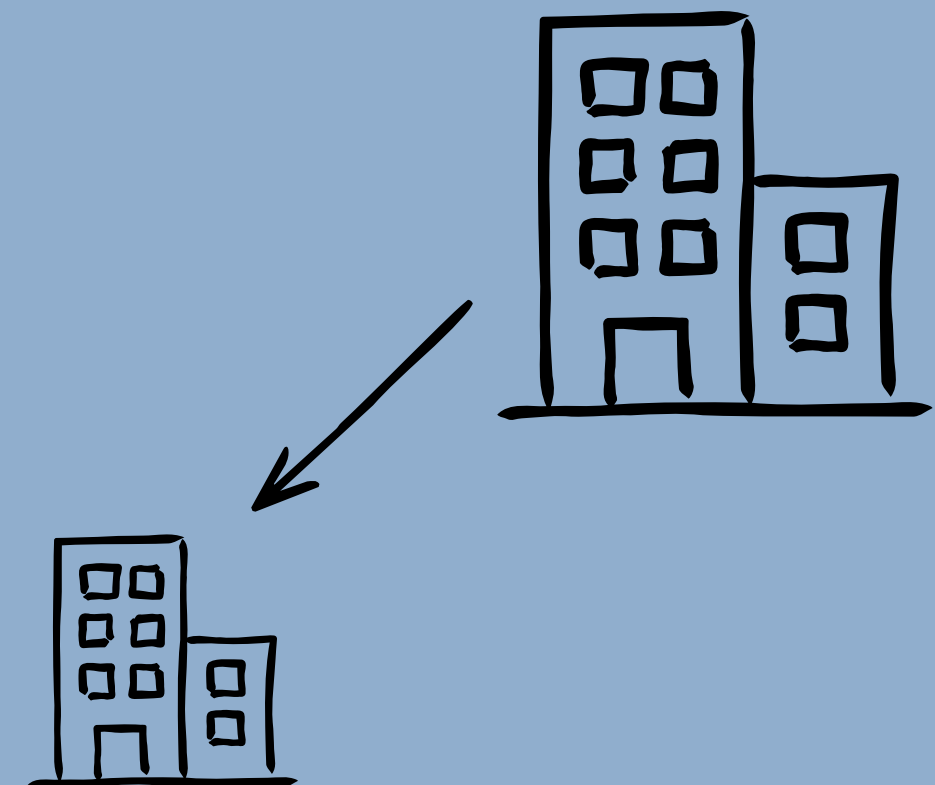


# AFFILIATION: ADVANTAGES

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- Each nonprofit keeps its own identity and mission
- Maintains distinct staff, donor relationships, and programmatic identity
- Shared operations can reduce costs
- More flexible - easier to restructure or unwind than a merger if needed
- Less disruption to existing contracts, grants, and licenses
- Can be a stepping stone toward a deeper partnership

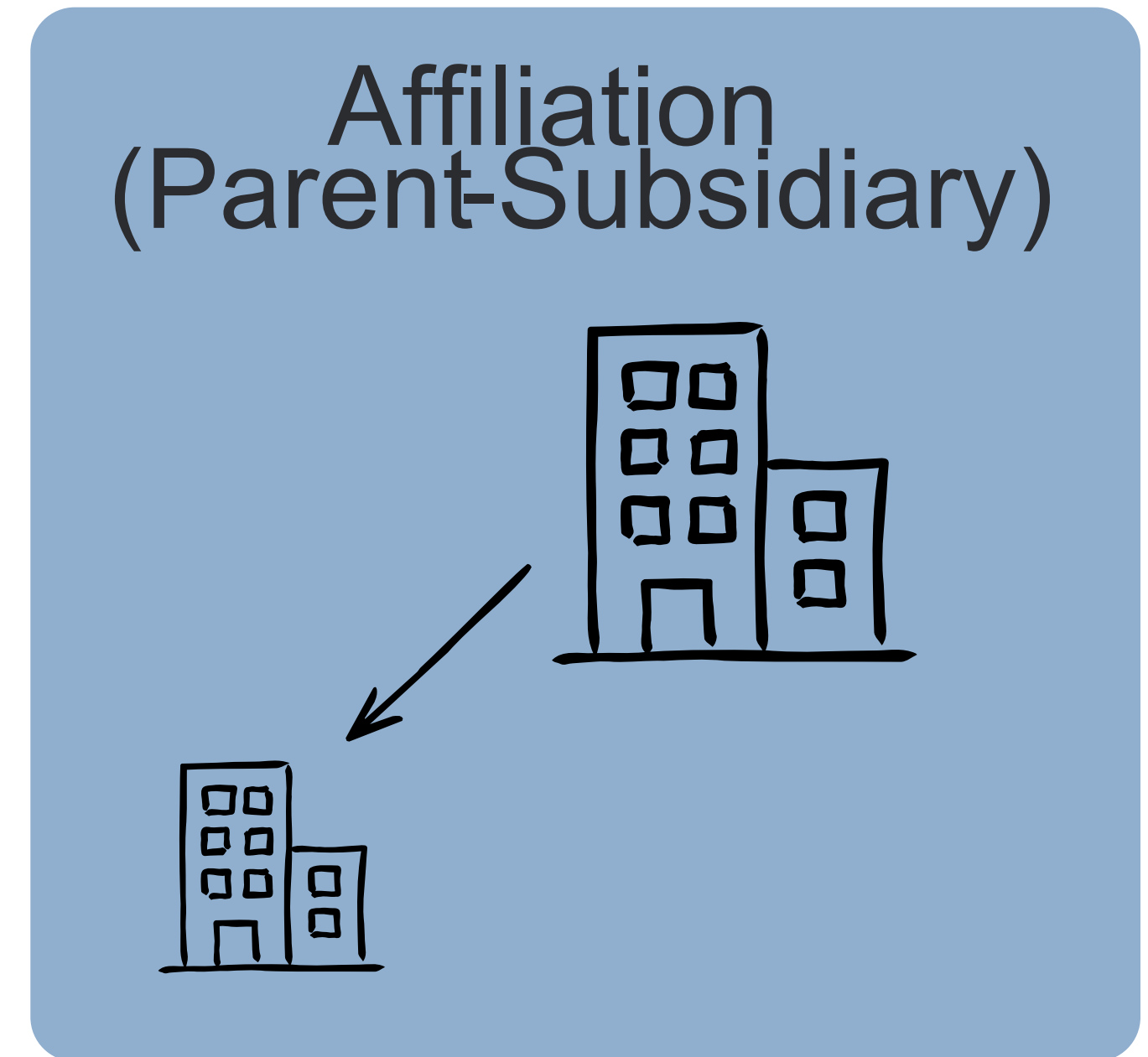
## Affiliation (Parent-Subsidiary)



# AFFILIATION: DISADVANTAGES

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- Governance complexity - dual boards, potential for conflict between parent and subsidiary
- Does not fully consolidate resources or eliminate organizational duplication
- Risk of mission drift or cultural tension between entities
- Potential confusion among donors, funders, and the communities served
- Ongoing separate legal, compliance, and reporting obligations for both entities
- Parent's oversight authority may create friction with subsidiary relationship



# WHAT IS AN ASSET TRANSFER?

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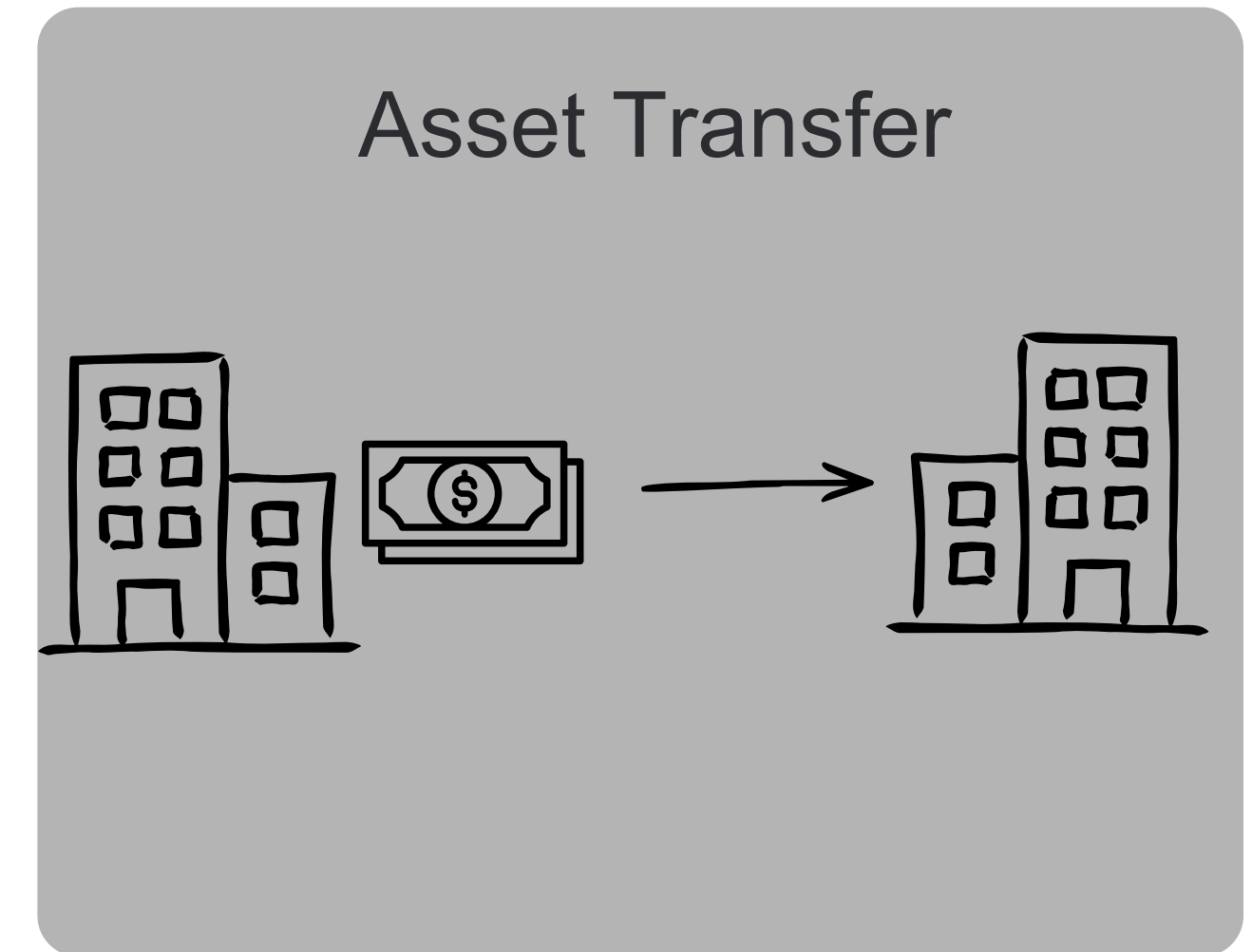
**Definition** : one nonprofit transfers some or all of its assets to another nonprofit

**How it works** :

- The transferring nonprofit moves programs, funds, or other assets to another nonprofit
- The transfer can be partial (e.g., specific programs) or complete (followed by dissolution)

**Key Considerations** :

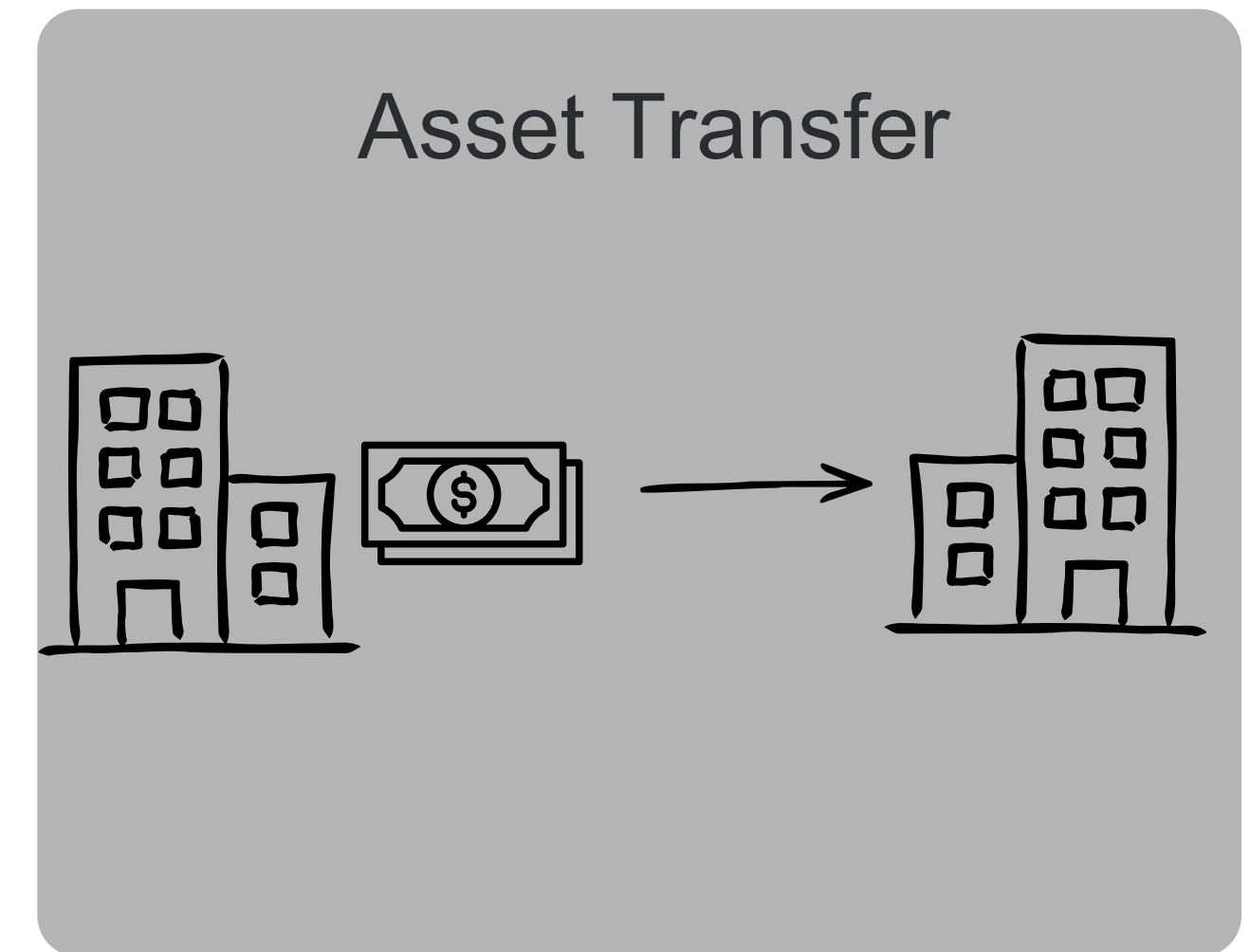
- The transferring nonprofit must approve the transaction
- Certain transfers may require notice to the Attorney General
- Restricted funds must continue to be used as intended
- Liabilities do not automatically transfer and must be addressed separately



# ASSET TRANSFER: ADVANTAGES

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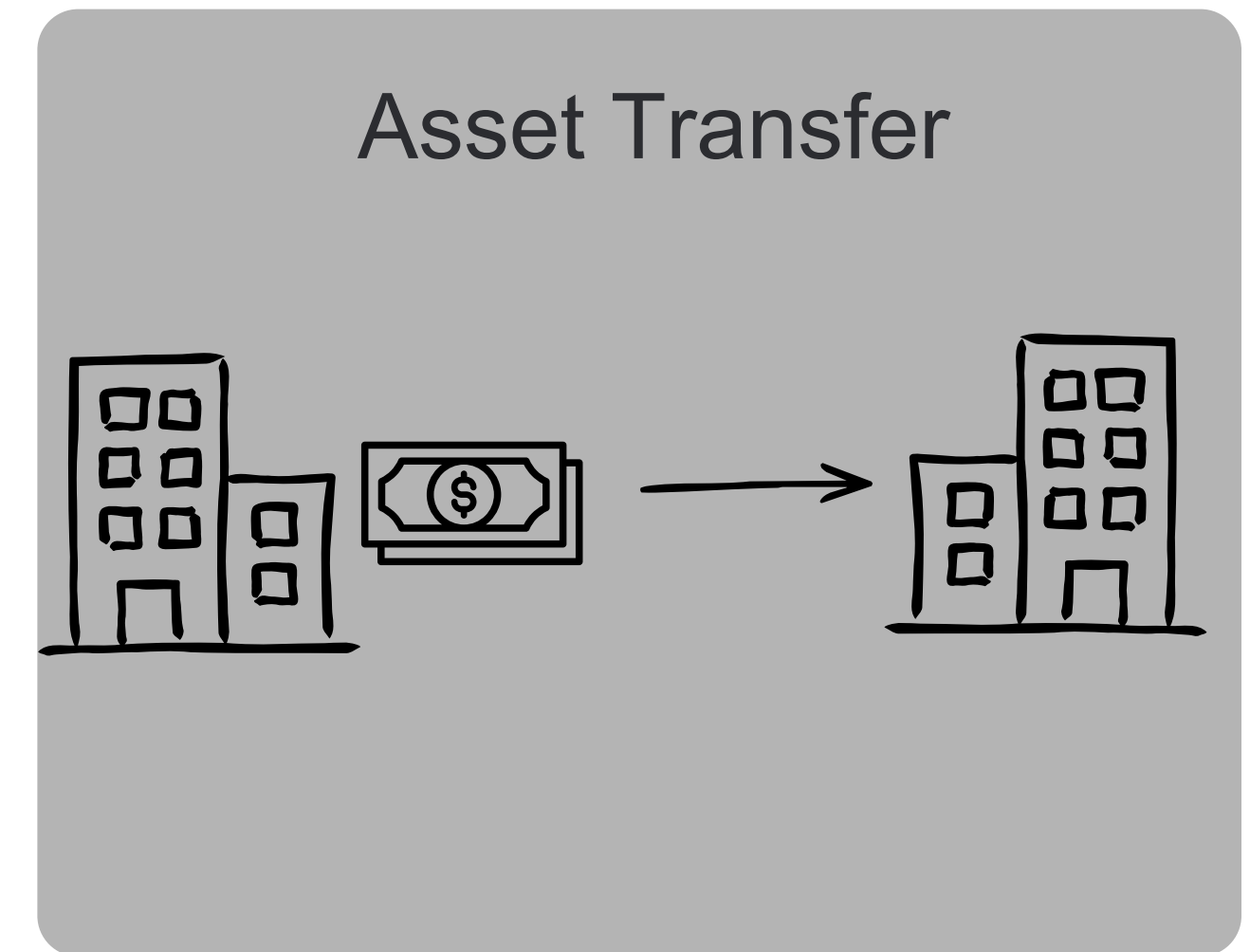
- Surgical precision: transfer only what makes sense (programs, property, staff, contracts, etc.)
- Transferring nonprofit can dissolve clearly or retain a narrowed mission going forward
- Fewer governance complications than a merger or ongoing affiliation structure
- Can be faster and simpler to execute in straightforward situations
- Opportunity to preserve restricted gift intent through careful structuring
- Useful when only a portion of a nonprofit's work is being combined



# ASSET TRANSFER: DISADVANTAGES

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- Does not transfer liabilities by default
  - Hidden liabilities require thorough due diligence (e.g., employment claims, contractual obligations, lease obligations)
- Restricted asset transfers may require court approval or Attorney General involvement
- Dissolution of the transferring nonprofit may cause disruption for key stakeholders
- Government grants and contracts may have change-of-control or assignability restrictions
- No ongoing structural relationship (i.e., post-transfer integration support may be limited)



# WHAT IS A MERGER OR CONSOLIDATION?

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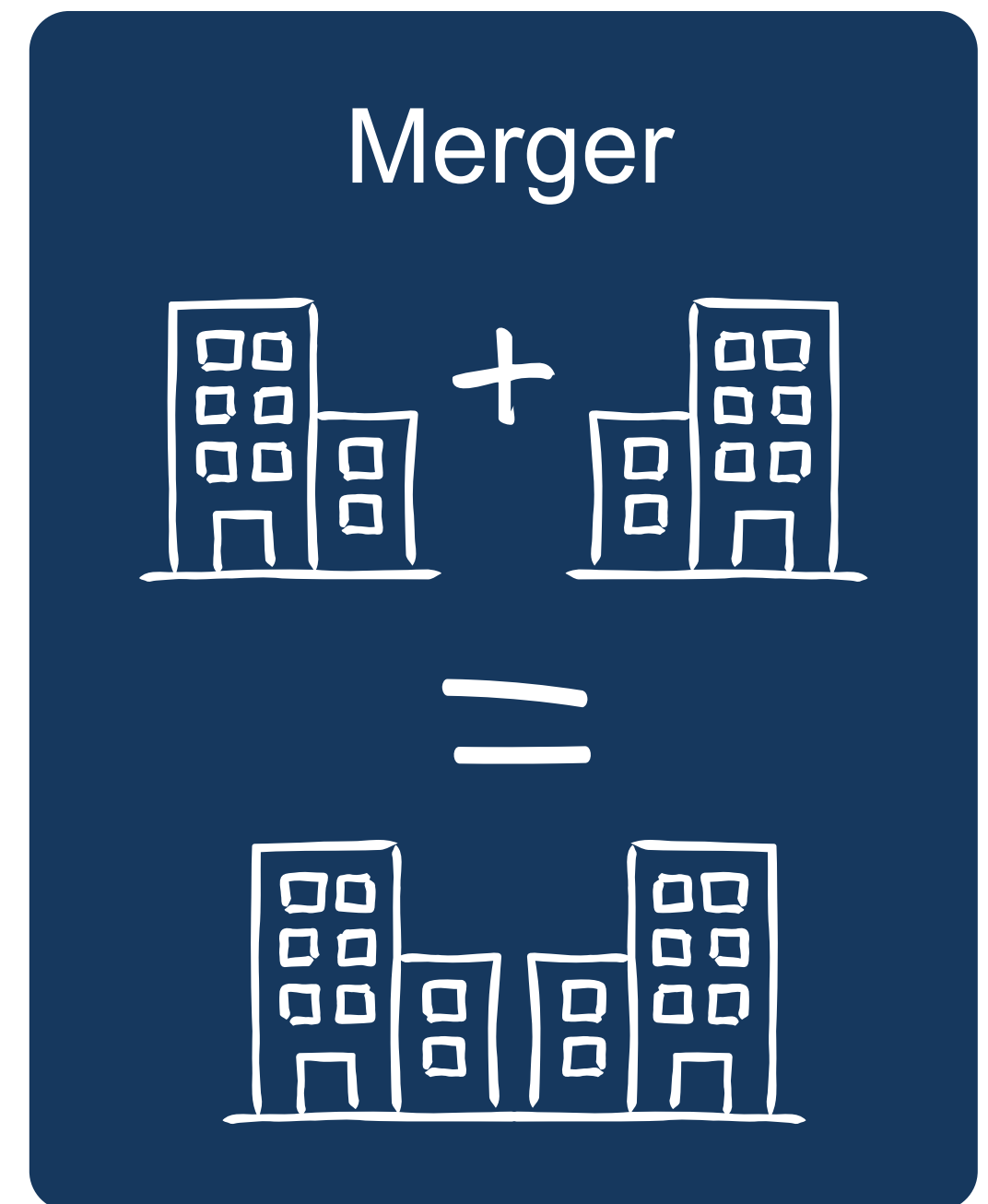
**Definition** : two nonprofits combine into one organization

**How it works** :

- In a merger, one nonprofit continues and the other closes.
- In a consolidation, both nonprofits close and form a new entity.

**Key Considerations** :

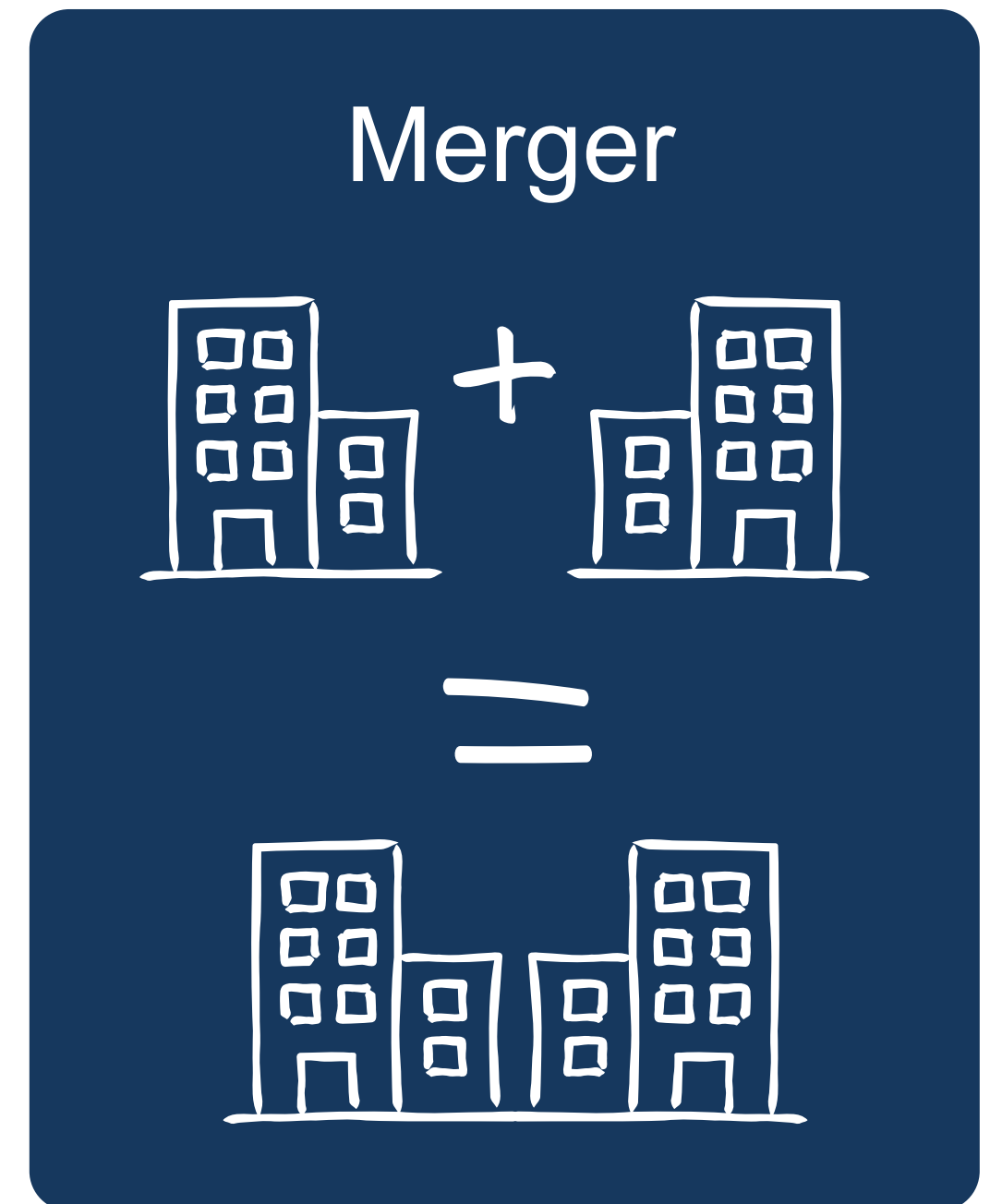
- Each nonprofit must approve the transaction
- Member approval may be required (depending on nonprofit structure)
- Notice to the Attorney General may be required
- Final paperwork is filed with the Secretary of State
- All assets, liabilities, and contracts transfer automatically



# MERGER/CONSOLIDATION: ADVANTAGES

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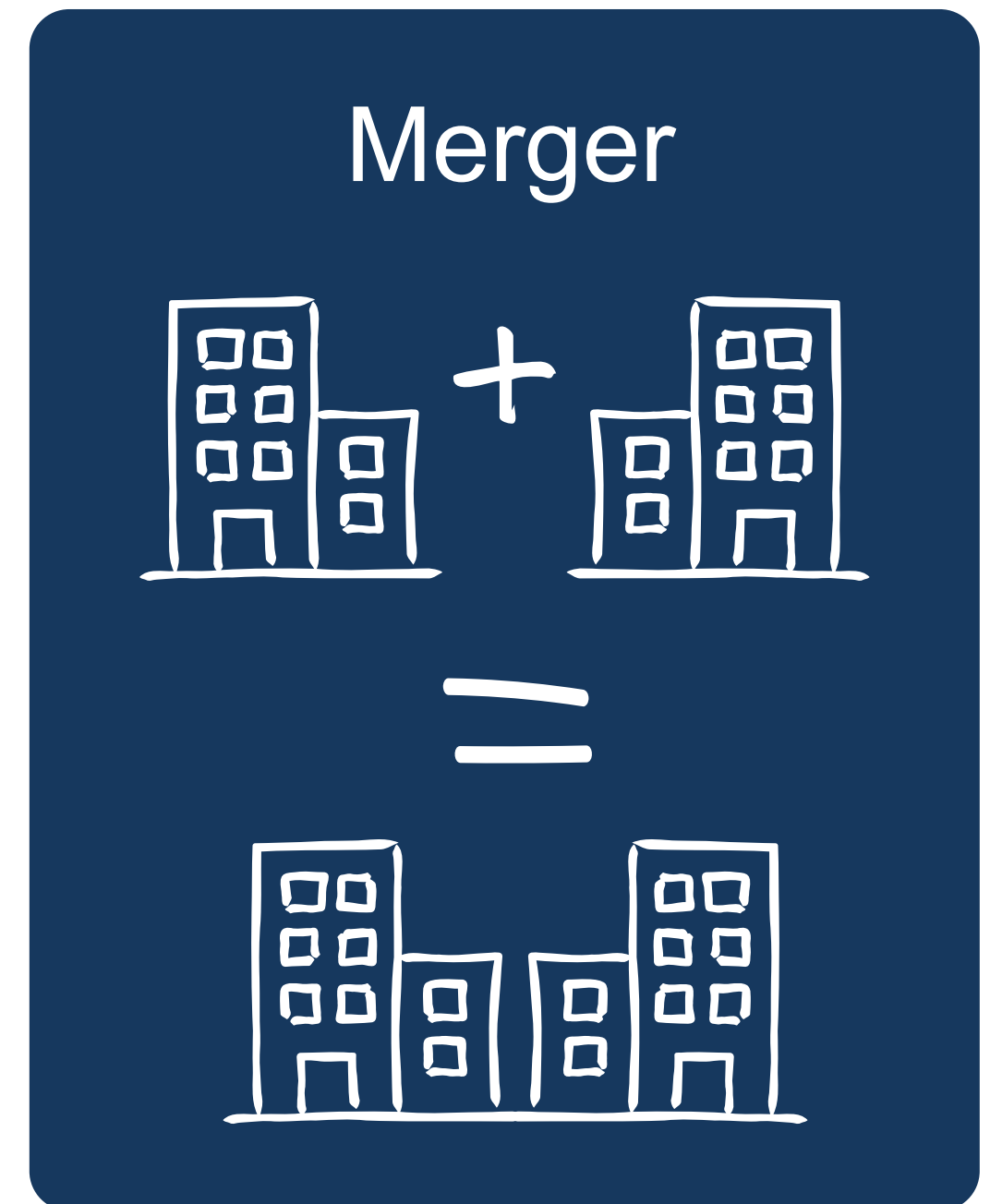
- Full consolidation of resources, staff, programs, and mission into one unified entity
- Eliminates duplicate administrative overhead and operational inefficiency
- Single, unified governance structure with one board and one leadership team
- Strongest signal to funders of organizational commitment and strategic efficiency
- Liabilities and contracts transfer automatically (no separate assignment required, though assignment approval may be required prior to merging)
- Potential for greater fundraising capacity and community profile



# MERGER/CONSOLIDATION: DISADVANTAGES

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- Most complex, time -intensive, and resource -demanding process of all three forms
- Cultural integration challenges: staff, boards, and donors may resist change
- Loss of one or both nonprofits' brand, identity, and institutional history
- Risk of losing restricted gifts that were tied specifically to the dissolving entity
- Difficult to unwind if the merger fails to achieve expected outcomes
- Requires robust due diligence to avoid inheriting unknown or undisclosed liabilities



# Pre-Merger Considerations

# THE STRATEGIC ASSESSMENT

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- ? **Mission Alignment** : Are the nonprofits' missions compatible or complementary?
- ? **Financial Health** : Are you combining strength with strength, or absorbing a struggling nonprofit?
- ? **Cultural Compatibility** : Leadership styles, staff cultures, and board dynamics
- ? **Stakeholder Impact** : Donors, clients/beneficiaries, employees, and key funders
- ? **Strategic Fit** : Does this merger advance your mission better than going it alone?

# LEGAL DUE DILIGENCE CHECKLIST

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- Corporate Records Review** : Articles of Incorporation, Bylaws, Board Meeting Minutes
- Restricted Asset Inventory and Gift Agreement Review**
- Government and Private Grant Compliance** : Assignability and change -of-control provisions
- Employment Liabilities** : contracts, PTO accruals, severance obligations, L&I claims
- Real Property and Lease Review**
- Pending or Threatened Litigation and Contingent Liabilities**
- Tax-Exempt Status** : 501(c)(3) in good standing, state charity registration current
- Intellectual Property** : Trademarks, program names, proprietary materials

# WASHINGTON SPECIFIC LEGAL REQUIREMENTS

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- The Washington Nonprofit Act (RCW 24.03A) is the primary governing framework
- **Attorney General notice requirements** for certain asset transfers and mergers
- **Secretary of State filings** : Articles of Merger, amended articles post -merger
- **Restricted Assets** : Restricted asset transfers may require court approval or Attorney General involvement
- **IRS considerations** :
  - New EIN vs Retention of existing EIN
  - Form 990 filing obligations for the year of merger
  - Impact on public support test and charitable status
- **State charity registration** updates following the merger

# GOVERNANCE CONSIDERATIONS

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- Who sits on the combined board and how is sized/structured?
- **Leadership Succession** : which CEO or Executive Director continues?
- **Secretary of State filings** : Articles of Merger, amended articles post-merger
- **Reserved Powers vs Full Consolidation of Authority** (mergers)
- **Transition Period Governance** :
  - Joint transition committees
  - Interim governance structures
  - Timeline for full governance structures

# FINANCIAL CONSIDERATIONS

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- Audited financial statement review and normalization across both nonprofits
- Pension and retirement plan obligations
- Restricted fund accounting and carryforward treatment
- Post-merger budget modeling and financial projections
- Funder communication strategy - timing, messaging, and sequence
- Endowment and investment account transfer mechanics

# THE HUMAN ELEMENT

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- Staff retention strategy and severance planning for displaced positions
- Communicating change to employees early and transparently
- Harmonizing HR policies, benefits, and compensation structures
- Volunteer and community relationship management

# Embracing Collaboration in the Nonprofit Sector

# THE SECTOR - WIDE IMPERATIVE

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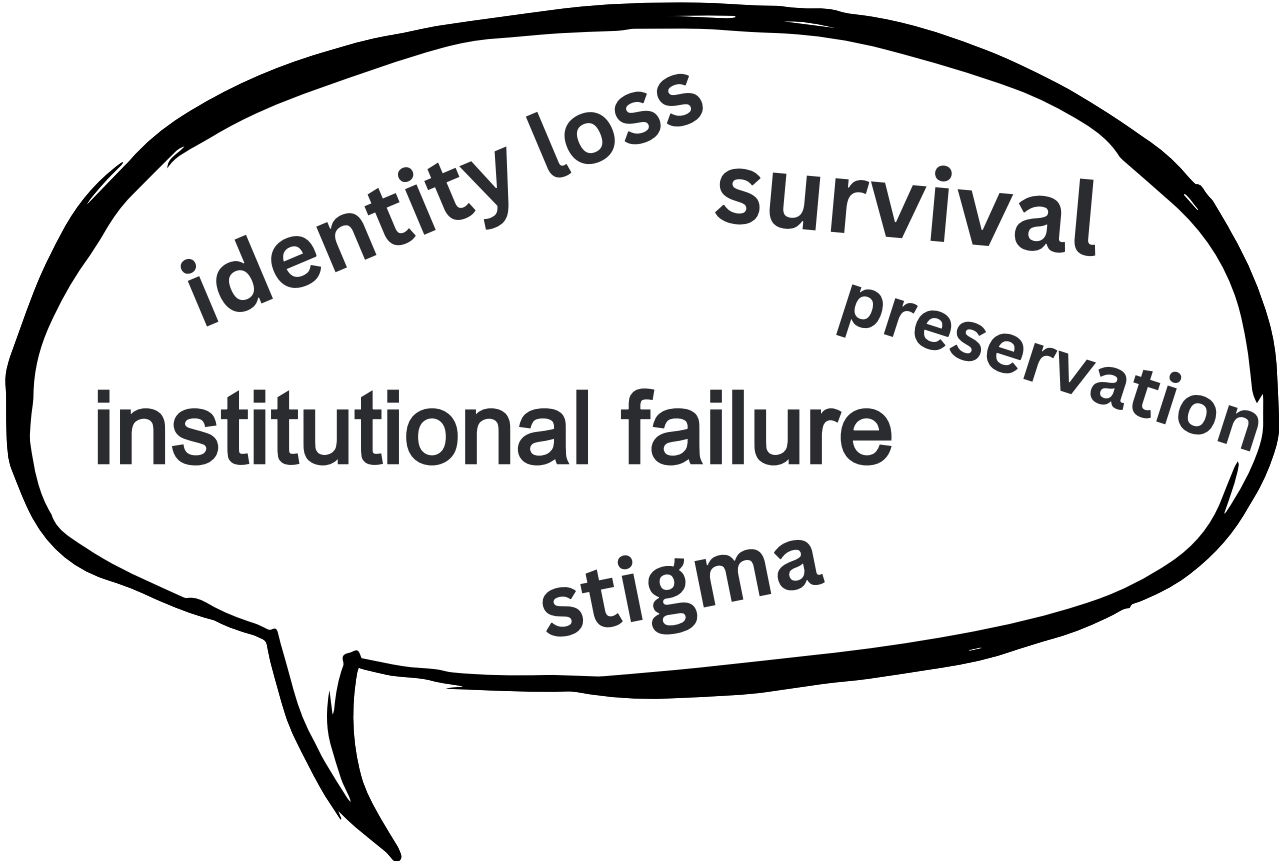
- **Funding landscape** : government cutbacks, foundation consolidation, and donor fatigue
- **Overhead pressure** : funders demanding efficiency ratios and measurable impact
- **Impact demands** : communities need more services delivered with greater efficiency
- **Sustainability** : smaller organizations increasingly unable to weather financial disruption
- The status quo is not neutral; fragmentation has real costs to mission delivery

# THE FOR - PROFIT PARALLEL


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For-Profit



Nonprofit

 Reframe: a merger that saves two struggling organizations and doubles impact is a success

# PROACTIVE COLLABORATION

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- Organizations can serve more beneficiaries with fewer administrative dollars
- Stronger unified platforms for fundraising, advocacy, and community presence
- Greater organizational capacity to attract and retain mission -driven talent
- More resilient entities that can absorb economic shocks and weather funding gaps
- Funders increasingly incentivizing collaboration through specific grant programs and priorities

# A CALL TO THE FIELD

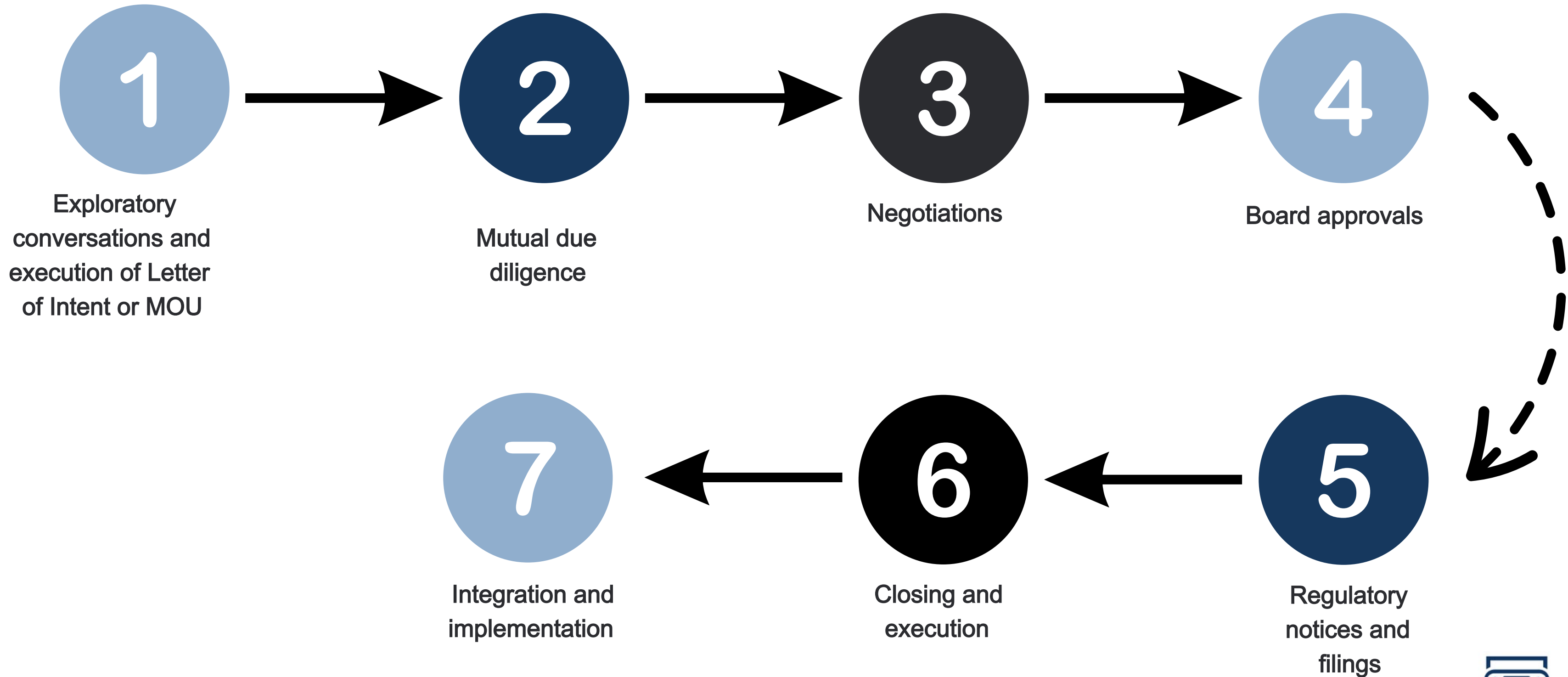
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- Boards have a fiduciary duty to organizational viability - mergers must be on the table
- Legal counsel, funders, and infrastructure organizations should normalize these conversations
- Encourage evaluations before a crisis forces rushed and poorly structured decisions
- Funders: consider providing capacity -building grants for merger feasibility and transaction costs
- WA provides a statutory merger model - use it!

# Practical Process Overview

# MERGER ROADMAP

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# THE ROLE OF LEGAL COUNSEL

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- **Managing legal risk** : unknown liabilities, restricted asset issues, employment obligations
- **Shepherding the process** : keeping boards informed, timelines on track, stakeholders aligned
- **Advocacy** : representing organizational interests in negotiations with the merging entity
- **Post-merger** : ensuring regulatory compliance and integration of legal obligations

# Conclusion and Q&A

# KEY TAKEAWAYS

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- **Three strategic tools** : affiliation, asset transfer, and merger - each with distinct tradeoffs
- **No single process is right for every situation** : the facts and goals drive the choice
- **Robust due diligence is non-negotiable** regardless of the form of combination
- **WA law provides a workable and relatively clear statutory framework** - know it before you need it
- **Organizational combinations are strategic opportunities** , not signs of mission failure
- **The sector should embrace these tools** proactively before crisis forces the decision



# QUESTIONS?

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