

Creating a Comprehensive Plan to Dissolve a Nonprofit Organization

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Abstract

The decision to close down a nonprofit organization is not an easy one. It involves many people, countless discussions of possible alternatives, and tough choices that must be made at a time when emotions are at an all time high. Once the final decision has been made to dissolve the organization, then what? This guide serves to walk you through creating a comprehensive plan to dissolve your nonprofit organization while preserving its legacy. Included are best practices and suggestions in working with key groups of people to make the dissolution process run smoothly, as well as the legal steps that must be taken to close the organization properly.

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Why is your nonprofit dissolving?

There are two scenarios to consider when a nonprofit organization is shutting its doors, is this a planned sunset or a forced closure? The answer has far reaching effects on how the situation is to be handled.

Planned Sunset

A sunset is the previously planned and deliberate closing of a nonprofit organization. It is most often seen with family foundations who wish to grant out all of their funds in a certain time period, rather than have the foundation carry on in perpetuity after the founding family members are deceased. There are many reasons that an organization may choose to sunset, but there is typically ample time to prepare and all parties involved are aware of the coming closure. (Ostrower)

Forced Closure

The other way that a nonprofit might dissolve is in the event of a forced closure. A forced closure could be caused by a number of situations including financial crisis, mismanagement by either the Board or the staff, lack of a clear mission or even an organization achieving its mission. Forced closures typically do not have the generous lead-time that a planned sunset does, but that does not mean that proper planning should not be carried out. All organizations are made up of people, and with a nonprofit those people often care deeply about the organization and its mission and have put in countless hours of both paid and volunteer time to achieve a common goal. Here we will consider the implications and best practices in the event of a forced closure with both the human and the legal elements in mind.

Information Sharing & Budgeting

The first thing to realize is that this process will be hard. Some key stakeholders will be helpful, some will be angry and disruptive, others may quietly disappear. In the beginning stages of dissolving the organization it will be helpful to identify champions in each of the constituent groups we will discuss who can help to determine the biggest concerns coming from their group, and help you to lead that group through the changes that will occur as a result of the organization closing. You could bring this group of champions together as a team so that they can share the thoughts and concerns of their peers, and to take some of the pressure off of the Board and Executive Director who will have legal obligations to attend to in addition to working with all of these groups. (Pascale & Sternin)

Identify Key Stakeholders

When dissolving a nonprofit organization, it is best to be open and honest with all parties involved, while at the same time managing the flow of information to prevent people from being blindsided or unnecessary rumors that could damage relationships and the legacy of the organization. Your nonprofit organization has touched many lives during the course of its lifetime and all of those lives should be considered when creating a comprehensive plan to dissolve the organization. The obvious groups to consider include:

- Board of Directors
- Staff
- Volunteers
- Donors
- Clients

The not so obvious groups that should also be addressed in the plan include other similar organizations who might pick up the clients you will no longer serve, and the general public since by definition they own a stake in your nonprofit. The general public also holds the key to creating a legacy for your organization by carrying on its memory and positive reputation.

Timeline & Information-Sharing Plan

It is vital that you create a timeline and information-sharing plan so that all parties are aware of how the process will work moving forward. This also allows you a level of control over what information is released when and to whom. This is important in both your internal communications so that no one is blindsided by the closure, and externally to prevent unnecessary rumors from tarnishing your organization's legacy.

In setting a timeline it is helpful to first decide on the official closing date, and then work backwards from that date to assign tasks. Setting a closing date can seem very final to some people, but it is also incredibly helpful in organizational planning and for the well being of the constituents involved. Knowing the end date will allow them time to process and complete their own planning.

Your information-sharing plan will coincide with your timeline, and should always begin with sharing information with those most intimately involved in the organization. Staff and Board, along with key volunteers and major donors should be among the first to know about the closure.

Key elements of your information-sharing plan might include:

- Talking points for staff, Board, and key volunteers
- Press release(s) outlining the closure to the public
- A message from the Board President or Founder that could be used on your website, and in e-mail communications to stakeholder

Creating a Final Budget

Along with a timeline, outlining a budget for the closing is incredibly important, especially if your organization is closing for financial reasons and those funds will run out at a specific time. There are many costs to consider in the final budget:

- Payroll and vacation payout for staff
 - Staffing plan: Will your staff go to half-time? When is the last day you can pay them?
- Costs to cancel contracts & leases – there are typically penalty fees for canceling early or getting out of a lease. Given the situation you may be able to negotiate with these partners to lower these costs, but they still need to be accounted for.
- Outstanding debts
- Continuation of programs – if you provide services regularly, will you be able to continue through the end of your timeline, or do you need to begin now to transition clients to another service provider?

Finding Transition Funding

If your organization is closing due to financial reasons, you can explore securing transition funding from a donor or potential partner to assist with making sure you can close gracefully. Creating your budget is vital here, as you will want to go to a potential funder with an exact ask amount and thorough documentation as to why that amount is needed. A donor may decide to assist in funding the continuation of your programs through your final closing date, or a partner organization who is interested in adopting your programs may provide funding so that there is no lapse in service prior to them fully taking over. There are no guarantees that you will find transition funding, but it is worth exploring the option.

Working with Key Stakeholders

Role and Management of the Board of Directors

Ultimately, the Board of Directors must make the final decision to close a nonprofit organization. It is their legal obligation and this process should be outlined in the organization's Articles of Incorporation. For most organizations, this decision will involve an official vote from the Board. Given this important task, it is vital that the Board be given all of the information necessary to evaluate possible alternatives before making such a drastic decision. Some of the alternatives to closing a nonprofit organization might be to find new sources of funding, establish or redefine a new mission, or even merge with another nonprofit organization. (Fieldstone Alliance, pg. 4) If the organization took the proper steps in preparing its bylaws, this process should be outlined there specifying the conditions the Board must meet to make this decision. If it is not outlined in the bylaws, the Board should decide on its process first before moving forward with the rest of the plan.

Possible concerns from the Board of Directors:

Am I going to be held financially liable for any of this?

As a member of the Board of Directors, you are not personally liable for the debts of your nonprofit organization, but you are legally required to act as a good steward of the organization's assets. There are three legal standards that nonprofit Board members must adhere to, the duties of care, loyalty and obedience. In short, these duties require Board members to act in the best interest of the organization, not of themselves, and to comply with applicable laws and the organization's bylaws. (Keith, pg. 30) If you are the Executive Director, it may be helpful to review these duties, and review the organization's bylaws, with the Board at the beginning of this process.

What are the legal implications we have to consider?

As stated before, it is helpful to involve either an attorney who is on your Board if there is one, or to hire a lawyer to help you through this process. This guide outlines the basic legal considerations but the author is not a lawyer so legal expertise would be helpful. Foundation Center has a list of resources listed in their [FAQ section](#). You may also contact local law firms in your area who are typically obligated to provide a certain number of pro bono hours each year.

Does this mean I'm a bad Board member? Will this negatively affect my reputation?

Emotions will be high during this process and it is natural for people to want to place blame on others for the dissolution. As the leaders of this organization, whether you are the Board President or the Executive Director, it will be helpful to guide the conversations to look to the future and the tasks at hand, rather than harping on the past. Once the decision to close has been made it will be counter productive to waste time placing blame and will make an unpleasant situation even more so.

Supporting the Staff

As the Board faces this tough decision, it should also be considered that the staff now face unemployment and should be supported through the process with career counseling and job search assistance if possible. Decide early what support you will be able to provide them and involve them in the process of creating the timeline that specifies when layoffs will occur so they have as much advanced notice as possible. This will help to make them feel like they are still an important part of the mission and preserve their positive memories of working there.

Possible concerns of the staff:

How will I find another job quickly?

This will most likely be one of the biggest concerns for your staff as the threat of unemployment looms. Providing them with local job resources and referrals can help to ease this. You may also want to provide resume writing or editing services, whether from an outside source or from someone inside your organization.

Will I still be able to give references from this job?

You'll want to assure your staff that you will provide references for them as they start to apply for other jobs, and you may even consider writing the letters of recommendation early to boost their confidence that you are there to support them. Since the preferred way of recommending is by phone, you will want to provide contact personal contact information to your staff, and you may want to either speak directly to the dissolution in the letter or have someone listed to whom a potential employer can speak.

What about my last paycheck and tax forms for next year?

Even after your organization closes, you are still responsible for any employee compensation that is due and to provide employees with W-2 forms for tax filing purposes. You will file a final 990 and can handle this piece at the same time. Make sure to calculate these costs in your closing budget.

Volunteers and Donors

Once the Board and staff have been notified, be sure to include your key stakeholders in your information-sharing plan. Decide what information you are able to share with them, how you would like to message that information, and prepare the Board and staff to field questions that will inevitably be asked. Again, it is advantageous to keep major donors and key volunteers who have invested in your organization in the loop as much as possible. This may include having one on one telephone, or in person, conversations with them so that they understand this decision was not taken lightly. Chances are that some of them will want to jump in to help, and others will quietly move on. Either way you want it to be a pleasant experience for them to again preserve the legacy that your organization has created.

Possible concerns from volunteers and donors:

I still want to support this cause, what are my options?

Since you are most likely familiar with organizations in your area who provide similar services, and should be talking to those organizations anyway about transitioning your clients, it would show good faith to recommend those other organizations to both your volunteers and donors. If there isn't an organization that serves a similar cause, you may consider offering a list of volunteer matching services in your area.

What will happen to the money I donated?

For donors, this is likely the first question that will come to mind. It is possible that they will be angry and feel like you have mismanaged their donations so be prepared for that response. You can assure them that legally, any assets that are leftover once the organization closes must be given to another nonprofit organization, preferably one that serves a similar purpose, so that those funds that were given for charitable purposes are still used in that manner. For major donors, it may also be helpful to show them your carefully considered closing budget to reassure them that you are considering all aspects of the organization's financial resources.

I want my money back!

The rules for refunding donations are very vague and differ from state to state. In most cases that have gone to court regarding refunding of donations to nonprofit organizations it has been widely accepted that once a donor gives a donation, the donation no longer belongs to the donor and in effect belongs to the public interest. (Rosen) To combat this issue, many nonprofits have created gift or donation refund policies. A good example from the Special Olympics can be seen [here](#).

Transitioning Your Clients

Depending on the services you provide, you will want to include in your plan how to best help clients transition to find new services with minimal disruption. This may involve working with other similar organizations (both nonprofit and for profit) to see if they can take on your clients, or possibly even if they are interested in absorbing one or more of your programs into their organization. If your clients rely heavily on your services for their general well being, you again want to consider giving them as much advanced notice as possible so that they can make alternate arrangements on their own if necessary.

Possible concerns of clients:

Where am I going to get my services now?

Creating a resource list for your clients is very important, especially if there is not another organization, which provides all or the same services that your organization did. If there is another organization who can provide them with similar services, work with that organization first to decide on the best way to transition clients and then walk your clients through that process, even making introductions to the staff of the new organization if necessary.

Announcing Your Closure to the Public

Keep in mind that all of the information you share with the above parties will most likely make its way to the public at some point. You want to have as much control over the way that information is messaged as possible to make sure that your organization's reputation stays positive. Choose your words wisely, but don't wait until the last minute to make the public announcement. By that time, rumors will have already started to spread and you may end up dealing with damage control when you already have enough on your plate.

It is not necessary to disclose the full details of the reasons behind your closure, especially if it is due to mismanagement or other wrong doing in which case you most likely can't make information public because of legal implications, but you do want to show the public that you've considered all of the alternatives and will be supporting everyone who will be affected by the closure. For your timeline it is helpful to note that once you file the Certificate of Dissolution (which will be explained later), they become part of public record and it is possible for the media or other public parties to catch wind of your closure before you've adequately prepared to respond to inquiries.

Honoring Your Accomplishments

As previously mentioned, many people invested their time and money into your organization over the years. To honor their hard work and the accomplishments you all achieved, you may consider planning a celebration or small get together to memorialize and give closure to all of those associated with the organization. Consider inviting key members of all of the groups we have discussed so that they can show their appreciation as well.

Legal Implications

It is highly recommended that you hire a lawyer to help guide you through the process of closing your nonprofit properly with the IRS and your state government. Regulations for closing or dissolving a nonprofit corporation differ state to state. The following apply specifically to the state of California, but most states require a similar process. Please check with your state's Attorney General or Secretary of State for their specific requirements.

The California Attorney General specifies the following steps must occur to properly dissolve a nonprofit organization:

1. Documented vote by the nonprofit Board of Directors or the majority of the organization's membership to dissolve the organization
2. Preparation of a certificate of election to wind up and dissolve and/or a certificate of dissolution submitted to the Secretary of State.
3. Filing of final state tax return and verify current status with Franchise Tax Board.
4. Obtain Dissolution Waiver from the Attorney General's Office before disposing of any remaining assets. This needs to include a letter signed by a Director of the organization or the organization's attorney that details the groups who will be receiving the remaining assets.
5. Submit final notice of submission to the Secretary of State's office.
6. Submit final notice of submission to the Attorney General's office.

More information and resources to accompany these steps are available [here](#).

Paying off outstanding debts and closing out contracts

If the organization is closing due to financial reasons, this step may include selling off assets to produce cash for payments and negotiating with those to whom you owe money to reduce and eliminate your debts. It is important to understand that while your Board is not personally financially responsible for this step, it is their legal duty to ensure the organization's debts are finalized and assets distributed before it can be dissolved. If you have government or other contracts that have not been completed you will also need to discuss with those parties how to close out those contracts and if there are penalties to not completing your obligations.

Distributing remaining assets

If after paying off all debts there are funds or equipment left over, it is required by law that they be distributed to another nonprofit organization, preferably who serves a similar purpose to

yours. This ensures that a nonprofit's assets are used in the way they were originally intended, meaning that they must be used for charitable purposes and not for personal gain. If you are transitioning clients to another nonprofit organization, they would be a prime candidate to also distribute these assets to. This can include both financial assets (money) and tangible assets (computers, equipment, etc.). When you file your Certificate of Dissolution and your final 990 you will be required to give the details of your asset disbursement plan, including what amounts are going to be given and to whom.

Document Retention Policy

There is not a specific law or regulation that governs document retention for all nonprofits, specifically those who have closed. There may be state specific laws relating to document retention in the case of employment or payroll documents that you will want to research. When considering how long to store documents after the organization has closed, retention of certain documents might be governed by the time period that a potential claimant has to bring a claim in that state, which can differ from state to state. It is a good rule of thumb is to adhere to the Sarbanes-Oxley Act document retention policy guidelines until all documents exceed those year limits. For example, most financial records should be kept for 10 years. If your nonprofit closes in 2013, by 2023 it would be reasonable to properly destroy those records. (Blue Avocado) The Sarbanes-Oxley Act's prohibition of the destruction of documents that are subject to review in litigation provides an additional rationale for every nonprofit adopting a document retention policy. (National Council of Nonprofits).

Filing your final 990 and notifying the IRS of your closure

As your organization winds down in the final days, you are still required to file a final 990. The IRS requires you to do so within four months and 15 days of the official date of the organization's closure. In the special schedule section of the 990 form you will be required to disclose if there were any remaining assets once the organization's debts were paid off and to whom you distributed those assets. More information is available online at www.irs.gov/charities. Also as previously stated, you will be required to provide final W-2 forms to your employees for their tax purposes.

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