

Adopted: July 12, 2016

Revised: _____

LAFAYETTE CHARTER SCHOOL POLICY No. 8.1 DISSOLUTION AND CLOSURE

Notes to user:

- *This process is a general one based on nonprofit law and processes outlined by several different authorizers. You should refer to the process specifically outlined in the contract with your authorizer to make certain that you are complying with any additional requirements that authorizer may have.*

- *This process also assumes that you have been advised by your authorizer that the school will need to be closed and the board dissolved.*

I. PURPOSE

The purpose of this policy is to establish the processes that will be followed in the event the school must be closed and the Board dissolved.

II. POLICY STATEMENT

It is the policy of Lafayette Charter School to comply with state law and the school's contract with its authorizer in the event that the school must be closed and the Board dissolved.

III. NOTICE OF INTENT TO DISSOLVE AND DESIGNATION OF WIND UP COMMITTEE

A. Meeting to declare Notice of Intent to Dissolve and Designating Wind Up Committee.

1. **Resolution of Notice of Intent to Dissolve.** As soon as practical after the Board has been notified that the dissolution and closure process must be commenced, the Board will meet to consider and vote on a motion to dissolve. The Motion must pass by a majority of the board members. That resolution will reference and include the plan of distribution of assets.

2. **Agenda.** When the Board is ready to approve this resolution, the board agenda will specifically indicate that the purpose of the meeting is to approve of the dissolution.
3. **Wind Up Committee to be Designated.**
 - a. At the meeting the Board will also designate a wind-up committee to handle the details of the closure.
 - b. The Board will delegate authority to a non-officer (such as the Lead Teacher or legal counsel) to act as legal representative in signing the documents for filing required notices and any other documents necessary to wind up the affairs of the corporation.
4. **Filing Notice.** The legal representative will file the appropriate “Notice of Intent to Dissolve” with the Secretary of State and the Attorney General’s office after the resolution has been passed.

IV. GENERAL PROCESSES TO ENSURE ORDERLY CLOSURE.

To ensure orderly closure, the legal representative will also ensure the following:

- A. **Authorizer involvement.** That the authorizer is kept apprised throughout the process.
- B. **Notification of parents, employees and benefit providers.** The legal representative will notify parents, employees and benefit providers of the closure as soon as possible.
- C. **Employee termination date.** The legal representative will determine final termination dates for employees.
- D. **MDE notification.** The Minnesota Department of Education will be notified of the closure as soon as possible.
- E. **Insurance.** The legal representative will ensure that insurance coverage is maintained to protect the assets of the school.
- F. **Records.** The legal representative will have a plan to ensure maintenance and security of all records that is consistent with the school’s records retention policy.

- G. Segregated fund.** The legal representative will consult with the authorizer to determine how much money should be deposited into a segregated checking account into which funds can be deposited to assist in the closure.

V. DEVELOPMENT OF THE SCHOOL'S WIND UP PLAN.

- A. Formulation of the wind-up plan.** In order to formulate an appropriate wind-up plan (see III.A.1 above) the following steps will be taken:

1. A review will be made of all the assets currently available;
2. An inventory of all assets with item numbers and quantities will be prepared;
3. All assets encumbered by the terms of a contingent grant, gift or security interest will be identified;
4. A review will be made of all the school's debts;
5. A plan will be drafted that establishes how the school's debts should be paid and in what order of priority.

B. Considerations for determining priority of creditor payments.

1. **Wages.** Minnesota law contains significant penalties when public service employers do not make timely wage payments. Thus the wind-up committee will ensure that all outstanding wages are paid.
2. **Special purpose.** Minnesota Non-Profit law also requires the school to determine whether it has assets that were provided for a "special purpose". The wind up committee must ensure that those assets are used only to pay for the specific purpose.
3. **Federal funds.** The wind up committee will review the Federal Official Grant Award Notification to determine which federal funds the school may have received. (Federally-purchased property may not be sold to pay creditors, and must either be returned to the Department of Education or distributed for similar use to another eligible entity, depending on the type of program under which funds were received).

4. **TRA.** The Board must ensure that the Teachers' Retirement Association obligations are met pursuant to Minnesota Statutes, chapter 354 and the Board will cover staff payroll and benefits as outlined in the school's employee contracts.

C. Determination of priority of creditor payments and distribution plan.

The school's plan will, at a minimum provide for the following priorities:

1. Distribution of assets received and held for a special use or purpose as defined by Minnesota Statutes section 317A.735 subd.2;
2. Payment of costs and expenses of the dissolution proceedings, including attorney fees and disbursements;
3. Payment of debts, obligations, and liabilities of the school;
4. Distribution of assets pursuant to articles or bylaws of the school.

D. 45 Day waiting period. Filing the Notice of Intent to Dissolve triggers a 45 day waiting period. During that time the school will not transfer or convey any assets.

E. Notice to creditors. After the Notice of Intent to Dissolve has been filed with the Secretary of State, the legal representative should give notice of this filing to each creditor of and claimant against the school, known or unknown, present or future, and contingent or non-contingent.

1. **Publication of notice.** If notice to creditors and claimants is given, it must be given by publishing the notice once each week for four successive weeks in a legal newspaper in the county where the registered office of the corporation is located and by giving written notice to known creditors and claimants under Minnesota Statutes section 317A.011, subdivision 14.

2. **Contents of notice.** The notice to creditors and claimants must contain:

- a. a statement that the corporation is in the process of dissolving;
- b. a statement that the corporation has filed a notice of intent to dissolve with the secretary of state;
- c. the date of filing the notice of intent to dissolve;

- d. the address of the office to which written claims against the corporation must be presented; and
- e. the date by which the claims must be received, which is the later of 90 days after published notice or, with respect to a particular known creditor or claimant, 90 days after the date on which written notice is given to that creditor or claimant. Published notice is considered given on the date of first publication for determining this date.

VI. DISTRIBUTION OF ASSETS.

- A. Collecting and paying debts.** After the waiting period has expired and after creditors have been notified the wind up committee shall, as soon as is reasonably possible, begin to make provision for the collection of debts due or owing to the school and to pay or make provision for the payment of debts, obligations, and liabilities of the corporation according to their priorities under V.B.
- B. Consideration of creditors' claims.**
 - 1. The Board has 30 days from the receipt of each claim filed according to the procedures set forth by the Board on or before the date set forth in the notice to accept or reject the claim by giving written notice to the person submitting it, a claim not expressly rejected in this manner is considered accepted; and
 - 2. If the Board rejects a claim from a creditor that creditor has 60 days from the date of rejection, or 180 days from the date the corporation filed the notice of intent to dissolve with the secretary of state, or 90 days after the date on which notice was given to the creditor or claimant, whichever is longer, to pursue other remedies with respect to the claim”.
- C. Closeout of State and Federal Grants.** The wind-up committee will ensure that all state and federal grants have been closed out in accordance with guidance
- D. Final Distribution of Assets.** The wind-up committee will ensure that any remaining assets are distributed in accordance with the wind-up plan and shall further ensure that any remaining bank accounts are closed and that all credit cards are cancelled.

VII. FILING ARTICLES OF DISSOLUTION AND REMAINING WRAP UP.

- A. **Articles of Dissolution.** After funds have been distributed according to the Board's plan, the Board will approve Articles of Dissolution for filing with the Office of the Secretary of State.
- B. **Reports to Authorizer.** The wind up committee will ensure that any final statements required by the authorizer are provided.
- C. **Audit.** The wind-up committee will ensure that a final financial statement audit prepared and filed.
- D. **Tax documents.** The legal representative will ensure that tax documents are filed as advised by the school's accountant or CPA.

Legal References: Minn. Stat. §124D.10, subd. 16 (Charter school law)

Minn. Stat. § 317A.711; 723; 725; 727; 729; 733; 735; 811 (Non-profit law dissolution provisions)