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Internal Revenue Service

Department of the Treasury

Washington, DC 20224

199917080

Contact Person:

Telephone Number:

In Reference to: OP:E:EO:T:4

Date: FEB 2 1999

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Dear Sir or Madam:

This is in reference to your letter of October 30, 1998, requesting advance approval of your new scholarship guidelines and procedures, which were adopted October 8, 1998.

We originally approved your grant procedures in a ruling letter dated March 15, 1978.

Under your new procedures you have provisions for both undergraduate and graduate scholarships. The purpose of your undergraduate scholarships is to assist the recipient in defraying the cost of an undergraduate or associate degree in a recognized field of study. These awards will be called B honoring C and D. Each scholarship will have an annual cash value of $4,000 or such other amount as determined by your Board of Trustees. It is anticipated that two new scholarships will be awarded each year, with a total of eight scholarships in force in any given year. The total annual appropriation would be an amount sufficient to fund such scholarships as awarded.

You will have a three member scholarship screening committee to select the students who will receive the awards. This committee will be independent from your Board of Trustees in order to insulate trustees from pressure and conflict of interests. In order to properly evaluate the qualifications and academic potential of candidates the scholarship committee will include two professional educators and a reputable member of the community-at-large. Committee members will elect a chairman from among its membership.

Your method of payment will be by bank draft directly to the institution. The financial aid office of the receiving institution assumes the responsibility for disbursement.

Your selection procedure will be an objective and non-discriminatory selection process. Without prescribing priority, criteria include, but are not limited to: prior performance; performance on tests designed to measure ability and aptitude for college work; recommendation from instructors; financial need; and, conclusions drawn by the selection committee during a personal interview as to the individual's motivation, character, ability and potential.

All participating institutions will be requested in writing at time of payment to cease disbursement and notify the trustee administering the scholarship program if academic progress is not satisfactory: (a) the student is placed on academic probation; or (b) the student fails to meet minimum enrollment requirements.

Scholarship recipients will be notified in writing at the beginning of each academic year that they must agree to and meet the following standards: (a) the funds will be disbursed only for the purpose of defraying educational expenses during the academic period at the institution indicated; (b) the recipient will make arrangements with the institution to have an "official" transcript of his/her courses and grades sent to you as soon as it is available for each quarter or semester attended; (c) the recipient will make the necessary arrangements with the institution to have a report sent to you in the event the institution obtains any information indicating the recipient is engaging in any activities which would jeopardize the recipient's position and standing in the institution's academic community; (d) the recipient will notify you immediately in the event the recipient fails to maintain a grade point average sufficient to be classified as a student in good standing; ceases to be enrolled as a full-time student; or, takes any steps to initiate a change in his/her academic career. For your purposes, 2.5 on a grading scale of 4.0 is considered the minimum acceptable grade point average; (e) the recipient agrees to have restored to you all funds not expended for educational expenses in conformity with the terms and conditions of this grant. Any such restoration will become due and payable upon demand by any of your elected officers; and, (f) the recipient will furnish you with a current address and telephone number, and any subsequent changes in same, during the life of the grant. In the event of any notification of a violation of the aforementioned rules by a scholarship recipient, a designated trustee, following

consultation with the scholarship recipient will determine what action to take with any remaining funds.

A scholarship recipient must be a graduate of E, a public high school located in F. Exceptions may be granted at the discretion of your Board of Trustees. Recipients cannot be related to any of your trustees or members of your scholarship screening committee or any other disqualified person in relation to you.

The purpose of your graduate scholarships is to assist the recipient in defraying the cost of a graduate or advanced degree in a recognized field of study. These awards will be called B honoring C and G. Each scholarship will have a cash value determined on an individual basis by your Board of Trustees. The trustees will determine on a yearly basis the number of graduate scholarships to be awarded, if any.

Applications for graduate scholarships will be submitted to the scholarship screening committee to be evaluated in the same manner prescribed for undergraduate scholarships. All procedures outlined in the undergraduate scholarship program, excluding the restriction pertaining to graduates of E, will apply.

You will receive periodic reports concerning the progress of scholarship recipients. You will investigate any possible misuse of funds and seek recovery of any misused funds.

Section 4945 of the Code provides for the imposition of taxes on each taxable expenditure of a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of section 4945(g).

Section 4945(g)(1) of the Code provides that section 4945(d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary, if it is demonstrated to the satisfaction of the Secretary that the grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational institution described in section 170(b)(1)(A)(ii) of the Code.

The information provided indicates that your newly adopted scholarship program and the procedures under which it is

conducted will not differ materially from your original program, approved in the letter dated March 15, 1978.

Therefore, based upon the information submitted, and assuming your revised program will be conducted as proposed, with a view to providing objectivity and nondiscrimination in the awarding of scholarship grants, we rule that your procedures for the awarding of scholarship grants comply with the requirements of section 4945(g)(1) of the Code. Thus, expenditures made in accordance with these procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3) of the Code, and as such are eligible for the exclusion from income provided for in section 117(a) of the Code to the extent that such grants are actually used for qualified tuition and related expenses within the meaning of section 117(b)(2) of the Code.

This ruling is conditioned on the understanding that there will be no material changes in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to creators, officers, directors, trustees, or members of the selection committee, or for a purpose inconsistent with the purposes described in section 170(c)(2)(B) of the Code.

Please note that this ruling is only applicable to grants awarded under your program as outlined above. Before you enter into any other scholarship programs you should submit a request for advance approval of that program.

We are informing your key District Director of this action. Please keep a copy of this ruling with your organization's permanent records.

This ruling is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely yours,

Gerald V. Sack

Gerald V. Sack
Chief, Exempt Organizations
Technical Branch 4