SIP: 4945.00-00

Internal Revenue Service

OP:E:EO:T:4

200009053

Department of the Treasury

Washington, DC 20224

Contact Person

Telephone Number

In Reference to:

Date

NOV 30 1999

Dear Sir or Madam:

This is in reference to your letter of August 4, 1999, requesting advance approval of your grant-making procedures under section 4945(g) of the Internal Revenue Code.

You are exempt under section 501(c)(3) of the Code and have been classified as a private foundation within the meaning of section 509(a).

Your purpose is to foster human development(spiritual, intellectual, physical, and psychological)and to enhance the work of people and organizations devoted to exemplary service in the community.

In furtherance of your purposes, you propose to make grants to individuals (1) to enable such recipients to complete an undergraduate or graduate education at the college, graduate school or other educational institution of his or her choice; (2) as a prize or award subject to the provisions of section 4945(g)(2) of the Code for having devoted a substantial part of such individual's time carrying on a purpose which is described in section 170(c)(2)(B); or (3) to achieve a specific objective, produce a report or similar product, improve or enhance a literary, artistic, musical, scientific, teaching or other similar capacity, skill or talent of the grantee.

Your scholarship grants will be made to students desiring to attend certain named universities. In future years, you may expand your program to include other colleges and universities.

A scholarship grant recipient must be a student of high academic ability as determined by past performance and admission standards established by the recipient's educational institution. You rely primarily on the colleges and universities to make recommendations regarding eligible students for scholarships. You will nevertheless consider any applicant with a G.P.A of 2.0 and above. The recipient must have shown adequate potential for

276

meeting the demands of the institution's curriculum with competence and with reasonable assurance of successful completion.

You will make your scholarship program known to students at various high schools or equivalent schools and post-secondary schools through the principals or other proper representatives of such schools and will make available to such students written applications to be completed by students eligible for scholarships. Your Board will review the applications received and will make its determinations regarding the granting of scholarships.

In selecting individuals for non-scholarship grants, you will rely heavily on the various charities with which you are involved to make recommendations regarding individuals who have devoted their lives to carrying out activities as described in section 501(c)(3) of the Internal Revenue Code. You will focus your grantmaking to individuals who are involved in your major areas of interest which include integrated healing, education opportunity, youth development and overcoming societal barriers.

After individual charitable organizations, (all of which are qualified under section 501(c)(3) of the Internal Revenue Code) make recommendations regarding individuals who are qualified to receive grants, your Board of Directors will review those recommendations and determine whether or not the individuals recommended by the charitable organizations are qualified and are agreeable to following your grantmaking policies and procedures.

To the extent reasonably possible, you will pay all scholarship funds directly to the recipient's educational institution and such educational institution will agree in writing to use the scholarship funds to defray the recipient's expenses or to pay the funds (or a portion thereof) to the recipient only if the recipient is enrolled at such educational institution and his or her standing at such educational institution is consistent with the purposes and conditions of the scholarship. In the event the foregoing conditions cannot be reasonably met, you will require the recipient to furnish you a report of the recipient's courses taken and grades received in each academic period. The report must be verified by the educational institution attended by the recipient and must be obtained at least once a year. In the case a recipient whose study at an educational institution does not involve the taking of courses but only the preparation of research papers or projects, such as the writing of doctoral thesis, you will require a brief report on the progress of the paper or project at least once a year. Such report must be approved by the faculty

277

member supervising the recipient or by another appropriate official of the educational institution. Upon completion of a recipient's study at an educational institution, a final report will also be obtained.

In the event the reports required to be submitted indicate that all or any part of a scholarship is not being used in furtherance of the purposes of such scholarship, you will investigate the facts. While conducting your investigation, you will withhold further payments to the extent possible until any delinquent reports have been submitted. In the event you determine that any part of the scholarship has been used for improper purposes, you will take all reasonable and appropriate steps to recover the scholarship funds and will withhold any further payments to the recipients.

You will retain records pertaining to all grants to individuals. Such records will include: all information secured to evaluate the qualification of grantees; the identification of grantees, including any relationship of any grantee to you sufficient to make such grantee a disqualified person, with respect to you, within the meaning of section 4946 ; specification of the amount and purpose of each grant; and any follow-up information you may obtain.

Under your grantmaking policies and procedures you will emphasize grantmaking in areas involving programs and initiatives which promote an integrated approach to healing mind, body, heart and spirit; scholarship programs for talented individuals leading to personal growth, societal impact, and a deeper understanding of the world and its diverse cultures; programs focused on human development, leadership and mentoring; programs which help women and people of color overcome societal barriers and realize their full potential; programs characterized by the synergy which results when people and organizations cooperate to address community needs; grants to individuals to assist such individuals in carrying on any purpose which is described in section 170(c)(2)(B) of the Internal Revenue Code.

You will use the following factors in your review of applications for grants: (1) The potential benefit of the proposed activities of the particular population to be served and to the community as a whole; (2) The capacity of the organization or individual to achieve the desired results; (3) The adequacy of the projected budget and time period for achieving the desired results; (4) Evidence of appropriate cooperation or coordination with other organizations and individuals working in the same field; (5) The likelihood of future support for ongoing operating costs from other sources; (6) Other factors which are deemed

relevant by you and are reasonably related to your charitable purposes.

Recipients of grants are required to submit complete program and financial reports at least annually. You may occasionally require more frequent interim reports. Upon completion of the undertaking for which the grant was made, a final report must be made describing the grantee's accomplishment with respect to the grant and accounting for the funds received under the grant.

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.

Section 4945(g)(3) of the Code provides, in part, that the provisions of section 4945(d)(3) will not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if the purpose of the grant is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Foundation and Similar Excise Taxes Regulations provides that, in order to secure the advance approval required by section 4945(g), a private foundation must demonstrate to the satisfaction of the Commissioner that (1) its grant procedures include an objective and non-discriminatory selection process; (2) these procedures are reasonably calculated to result in performance by grantees of the activities that the grants were intended to finance; and (3) the foundation plans to obtain reports to determine whether the grantees have performed the activities that the grants are intended to finance. No single procedure or set of procedures is required.

Section 53.4945-4(c)(3) of the regulations provides that a private foundation shall require reports on the use of funds and the progress made by the grantee toward achieving the purpose for which the grant was made.

Rev. Rul. 77-380, 1977-2 C.B. 419, holds that grants made by a private foundation in recognition of past achievement, with the funds being unrestricted, and not earmarked for subsequent travel or study are not taxable expenditures within the meaning of section 4945.

Based upon the information submitted, and assuming your 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.

Your procedures for selecting non-scholarship grant recipients, as described above, satisfy the requirements of section 4945(g)(3) of the Code and the accompanying regulations. The grants will be made to achieve a specific objective, produce a report or similar product, improve or enhance a literary, artistic, musical, scientific, teaching or similar capacity, skill or talent or the grantee. Thus, these grants are not taxable expenditures described in section 4945(d)(3)

Your awards for past achievement, unlike your grants made to achieve specific objectives, are not intended to finance any future activity of the recipient. As in Rev. Rul. 77-380, there are no conditions or requirements to be met subsequent to receiving the awards. Thus, the awards are not grants to individuals for travel, study or similar purposes by such individuals. Accordingly, your awards for past achievement are made for purposes other than stated in section 4945(d)(3), thus are not subject to advance approval.

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 the Ohio EP/EO key district office of this action. Please keep a copy of this ruling with your permanent records.

This ruling is directed only to the organization that requested it. Section 6110(k)(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