SIN: 4945.00-00

199943043

Internal Revenue Service

Employer Identification Number:

Person to Contact:

Telephone Number:

In Reference to:
OP:E:EO:T:2

Date: JUL 26 1999

Dear Sir or Madam:

This is in reference to your letter of June 14, 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 founder is public school teacher. He observed that former students who had enrolled in institutions of higher learning were unable to complete their studies for financial reasons.

You propose to institute a scholarship and fellowship program which is designed to assist students pursuing a post-secondary or an advanced degree, who are enrolled at educational institutions described in section 170(b)(1)(A)(ii), and who demonstrate financial need and either (1)a record of academic achievement in the chosen field of study or (2)the potential and desire for academic achievement in the chosen field of study. You may make gifts or loans, depending on your financial resources and the applicant's and on the ability of the applicant to repay a loan. The amount of financial aid to be provided will be determined by the amount of funds allocated by your Board of Directors to this program and by the qualifications and needs of the applicants from time to time. The employment status of the recipient or the recipient's parents is not a factor in the selection process.

When you are ready to implement this program, you intend to notify selected educational institutions that interested and qualified students may apply for aid. Scholarship and fellowship recipients will be selected on an objective and nondiscriminatory basis. Applicants will be expected to provide transcripts of prior academic work and to document their financial need. Applicants may be asked to submit an essay on a topic assigned by

you. One or more of your Board members may interview applicants in order to assess a particular applicant's motivation, character, ability, and potential. Your Board will select recipients. The Board may appoint an advisory committee comprised of educators to assist in evaluating and selecting scholarship recipients. The Board may also seek recommendations from educational institutions as to possible candidates.

The number of individual grants which you intend to award will depend on the number of eligible candidates, the philanthropic priorities of your Board, and the funds allotted to the proposed individual grant programs. You have stated that because the program has not yet been implemented, it is impossible to estimate how many individual grants will be awarded in any particular year.

With regard to scholarship and fellowship grants to individuals, there will be no limitations or restrictions in the selection procedures based upon race, religion, national, or ethnic origin, or other illegally discriminatory criteria. The persons who select grant recipients will not be in a position to derive a private benefit, directly or indirectly, if certain potential grantees are selected over others.

Each individual grantee will be required to sign a grant agreement agreeing to use the funds only for the purpose of the grant, to return any funds not so expended, and submit periodic reports to you. Scholarship and fellowship recipients will be required to provide reports at the conclusion of each academic period during which he or she receives funds from you that include a statement of courses the grantee has taken and a copy of academic transcripts verified by the educational institution attended. In the case of a grantee 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 or completion of a doctoral thesis or project, you will require the submission of a brief report on the progress of the paper or project, approved by a supervising faculty member or appropriate university official, at least once a year. A final report must be submitted upon the grantee's completion of study.

You may choose not to require a report from an individual grantee if the following conditions are met: (a)the grant is a scholarship or fellowship grant subject to the provisions of section 117(a) which will be used for study at an educational institution described in section 170(b)(1)(A)(ii); (b)you pay the scholarship or fellowship directly to the educational

institution; and (c)the educational institution signs an agreement to use the funds to defray the recipient's expenses or pay funds to the recipient only if he or she is enrolled at the educational institution and his or her standing at such institution is consistent with the purposes and conditions of the grant.

You will review the grantees' reports in order to monitor and evaluate the expenditure of funds and the progress made by each recipient. This review will be conducted regularly in order to determine the progress made by the grantee toward achieving the purposes of the grant and to discover whether any matters should be investigated more closely. Any apparent misuse of grant funds will be promptly investigated, as will any failure to provide required reports. While the matter is being investigated, you will withhold further payments to the extent possible until it has been determined that no part of the grant has been misused and until any missing reports have been submitted.

If you discover that funds have, in fact, been misused, you will take all reasonable and appropriate steps to recover the diverted funds or to insure the restoration of the diverted funds and the dedication of other grant funds held by the grantee to the purposes being financed by the grant.

You will maintain adequate records and case histories to show the name and address of each recipient of aid; the amount distributed to each; the purpose for which the aid was given; the manner in which the recipient was selected and the relationship, if any, between the recipient and (1)members, officers, or trustees of the organization, (2)a grantor or substantial contributor to the organization or a member of the family of either, and (3)a corporation controlled by a grantor or substantial contributor, in order that any or all distributions made to individuals can be substantiated upon request by the Internal Revenue Service.

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).

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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) this procedure is 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.

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 and fellowship 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.

Moreover, we rule that your loans will be awarded on an objective and nondiscriminatory basis. Therefore, your selection procedures in making loans to individuals satisfy the

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requirements of section 4945(g)(3) and, thus, are not taxable expenditures described in section 4945(d).

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 programs 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