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DEPARMENT OF TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUN 14 2000

Date:

Contact Person:

ID Number:

Telephone Number:

OP:E:EO:T3

SIN: 4945-01.00 4945-02.00

Employer Identification Number:

Dear Sir or Madam:

This is in reply to a ruling request dated January 21, 2000, with respect to advance approval of your grant making procedures under section 4945(g) of the Internal Revenue Code.

Your organization is recognized as exempt under section 501(c)(3) of the Code and is classified as a private operating foundation. You currently administer a previously approved scholarship program that grants scholarships for higher education to those individuals who have passed through your foster child program. You are proposing to expand the existing scholarship program to include grants to individuals who have passed through other foster child programs.

Your organization proposes that the expanded scholarship program will further your educational and charitable purpose by enabling deserving foster children to complete their postsecondary educational. Youth emancipating from foster care are significantly underrepresented among high school graduates. Access to financial resources for these youth is severely limited due to their independent status, lack of family and state financial support, and the scarcity of public and private targeted scholarships and grants. The lack of access to minimal postsecondary scholarships to fund education, living, and health related expenses remains a significant barrier to advanced educational and vocational training for foster youth. The availability of postsecondary scholarship support

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may also provide an important incentive to youth in foster care that frequently fail to complete high school.

Your organization proposes to work with other established scholarship organizations with expertise in assisting underprivileged youth as well as working with other organizations to reach a broader class of foster children. The expanded scholarship program will further your educational and charitable purposes by enabling deserving foster children to complete their postsecondary education and to normalize your grant making procedures.

The scholarship grants will be awarded on an objective and nondiscriminatory basis and the recipients will be selected by of members of your board of directors and your employees. Members of the selection committee will not be in a position to receive private benefit, directly or indirectly, if certain recipients are selected over others.

The grantee class will include youth who participate in your foster program or any other foster program sponsored by a private or governmental agency who are seeking advanced education or vocational training. The selection criteria for the scholarship will include, but not be limited to, the student's demonstrated academic or vocational ability and desire, character, ability to complete the educational program to be sponsored, and economic need. A recipient cannot be related to, or the foster child of, a member of the selection committee or any other disqualified person related to you.

Your scholarships will vary depending upon the post secondary educational institution selected, will be reviewed annually, and can be renewed for a maximum of six years for undergraduate and vocational programs and six years for advanced degree programs, provided that the student is not on academic or disciplinary probation and is making satisfactory progress toward the completion of his or her educational program. There is no requirement that a student need to have a particular grade point average but his or her performance should indicate an ability to benefit from and participate in the educational program. Progress reports will be obtained and verified with the educational institution at the end of each academic year. When the grantee's study is completed, a final report will be collected from the grantee outlining how the student spent his or her scholarship funds and how the student gained from the particular educational program he or she attended.

If it is discovered through these reports that the funds were not used for their intended purpose, a member of your board of directors will conduct an investigation. Once the investigation begins, your organizaiton will withhold further payments from the grantee or educational institution, as well as taking reasonable steps to recover grants funds.

Your organization will retain all records submitted by the grantees and their educational institutions. Your organization will take adequate measures to protect the confidentiality of a student's record. Your organization will also maintain in its files adequate information to establish that no recipient is related to either a member of the selection committee or a disqualified person in relation to your organization.

Section 4945(a) of the Code provides for the imposition of taxes on each taxable expenditures 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) of the Code provides that section 4945(d)(3) shall not apply to certain individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary or his delegate.

Section 4945(g)(1) of the Code provides that one type of grant so excluded is a grant constituting a scholarship or fellowship grant that is subject to the provisions of section 117(a) and that is to be used for study at an educational organization described in section 170(b)(1)(a)(ii).

Section 53.4945-4(c)(1) of the Foundation and Other Similar Excise Taxes regulations provides that in general section 4945(g) requires that grants to individuals must be made pursuant to a procedure approved in advance. To secure such approval, a private foundation must demonstrate to the satisfaction of the Commissioner that-

(i) Its grant procedure includes an objective and nondiscriminatory selection process (as described in paragraph (b) of this section:
(ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
(iii) The foundation plans to obtain reports to determine whether the grantees have performed the activities that the grants are intended to finance.

Section 117(a) of the Code provides that gross income does not include any amount received as a qualified scholarship by an individual who is a candidate for a degree at an educational organization.

Since recipients of the expanded scholarship program will be selected on an objective and nondiscriminatory basis; provide an incentive to those who normally fail to complete high school and you will obtain the necessary reports to determine if the recipients are participating in post secondary education, your

organization meets the requirements in section 53.4945-4(c)(1) of the regulations.

Accordingly, based on the information presented above, and assuming the scholarship program, as amended will be conducted as proposed, with a view of providing objectivity and nondiscrimination in awarding scholarship grants, your scholarship program meets the requirements of section 4945(g)(1) and expenditures made in accordance with these procedures will not constitute taxable expenditures within the meaning of section 4945(d)(3) because they will be used to expand the already existing scholarship program to include individuals that have passed through other foster child programs.

Because scholarships are made to candidates for a degree at an educational organization, they are eligible for the exclusion from income within the meaning of section 117(a) of the Code.

This ruling is based on the understanding that there will be no material changes in the facts upon which it is based and that no grants will be awarded to foundation managers, trustees, members of the selection committee, or for purposes inconsistent with section 170(c)(2)(B) of the Code. Any change in the procedure must be reported to your Area Manager for exempt organiztion matters.

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

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.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(signed) Robert C Harper, Jr.

Robert C. Harper, Jr.
Chief, Exempt Organizations
Technical Branch 3