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SIN:4945.00-00

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number

Refer Reply to:

Date:

OCT 13 1998

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Dear Sir or Madam:

This is in reference to your letter of July 2, 1998, 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).

In furtherance of your purposes, you have established B. B's purpose is to provide financial support on a sliding-fee scale to individuals with special learning needs. This financial support will be offered for assessment of learning needs and/or individualized instruction on working with identified learning disabilities. Assessment of learning needs will be performed by an approved provider from a list furnished to the scholarship grant recipients. The grants will be awarded to the extent that donations are made available to B.

Grant applicants are solicited through referral from community members and self-selection. Applicants are required to complete a application form and attach a copy of IRS Form 1040 (pages 1 and 2) from the person claiming the applicant as a dependent. If there are unusual financial circumstances that the applicant wishes considered, a written statement may be made on the application. An applicant's financial need will be the primary criteria you will use in selecting recipients.

Your selection committee will consist of individuals who are not employed by you. The committee will meet at regular intervals to review the applications and award grants. Neither your employees nor "disqualified persons" are eligible for grants.

Grantees are required to use an approved provider for the services. You reserve the right to approve or disapprove providers. The approved providers will bill you for the

services. Payment will be made directly to the provider.

Providers will notified as to the amount of the grant. A verified report containing pre and post data on the individual receiving the grant will be furnished to you.

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)(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 includes 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 grants, we rule that your procedures for the awarding of grants comply with the requirements of section 4945(g)(3) 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.

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 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