

Internal Revenue Service

Department of the Treasury

District
Director

P.O.Box 2350 Los Angeles, CA 90053



Person to Contact:

Telephone Number:

Refer Reply to:

Case Number:

Date:

Dear Applicant:

We have reviewed your application for tax exemption under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated under the nonprofit laws of the State of [REDACTED] on [REDACTED].

Article Two of your articles of incorporation states that your specific purpose is to "raise funds to support the training of [REDACTED] amateur athletes and to foster local and national amateur Rhythmic Gymnastics exhibitions and competitions for the public education and enjoyment of the sport".

[REDACTED] is a for-profit gymnastics school which is the sole proprietorship of [REDACTED]. [REDACTED] is not a member of your organization's Board of Directors, but your organization's mailing address is "In Care Of" her.

[REDACTED], the Treasurer of [REDACTED] Booster Club, has indicated the organization will assist the rhythmic gymnasts training at [REDACTED] by organizing and promoting exhibitions for the general public to increase awareness of the sport, assist in the specialized training of [REDACTED] athletes by hosting guest instructors whose skills are not available in the local area, raise funds for [REDACTED] athletes by funding some of the cost of competition travel and uniforms, and secure sponsorships from the general public specifically to support the [REDACTED] competition team.

[REDACTED] Booster Club's application for exemption indicates the organization has four persons on the Board of Directors. All of these persons have children who attend the [REDACTED] for-profit school.

Section 1.501(a)-1(c) of the Income Tax Regulations provides that the words "private shareholder or individual" in Section 501 refer to persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creators, shareholders of the organization or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 69-175, 1969-1 C.B. 149, describes an organization formed by the parents of pupils attending a private school exempt under Section 501(c)(3) of the Code. All control over the organization rests with the parents. The organization provides bus transportation to and from the school for those children whose parents belong to the organization. The ruling states that when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest. By providing bus transportation for school children, under the circumstances described, the organization enables the participating parents to fulfill their individual responsibility of transporting their children to school. Thus, the organization serves private rather than public interest. Accordingly, the organization does not qualify for exemption under Section 501(c)(3).

In *Better Business Bureau of Washington, D.C., Inc., v. United States*, 326 U.S. 279 (1945), the Supreme Court of the United States interpreted the requirement in Section 501(c)(3) that an organization be "operated exclusively" by indicating that in order to fall within the claimed exemption, an organization must be devoted to exempt purposes exclusively. This plainly means that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

Although your organization's activities are open to athletes who do not attend [REDACTED], it is apparent that your activities are geared toward their benefit. Your organization's name is "[REDACTED]" and all of your Board of Directors have children attending this school. By raising funds for these athletes who themselves or their parents would have otherwise had to have paid for these items the funds are used for (competition, travel, uniforms and coaching fees), you are serving the private interests of the board members.

In addition, although the booster club is run separately from the for-profit school, the benefits to the for-profit school are substantial. If the team is good, the school's reputation is enhanced. The goodwill thus created induces more people

██████████

to enroll their children in the for-profit school. Therefore, the booster club contributes to the for-profit's business interests by enhancing its reputation.

By serving primarily (or at least substantially) the interests of the private individuals, you are not operated exclusively for an exempt purpose. This is precluded by Sections 1.501(c)(3)-1(c)(1) and 1.501(c)(3)-1(d)(1)(ii) of the Regulations. See also Better Business Bureau, *supra*.

You are analogous to a great extent to the organization described in Revenue Ruling 69-175 held to be primarily engaged in activities designed to fulfill the parental responsibilities of its parent members. Note also that the school these children were attending was one exempt under Section 501(c)(3) of the Code. Thus, it would not make a difference if ██████████ was an exempt school.

██████████ is required to file Federal income tax returns annually with the appropriate Service Center.


Contributions to ██████████ are not deductible under Internal Revenue Code Section 170.

As provided by Section 6104(c) of the Internal Revenue Code of 1986 and the applicable regulations, the appropriate State officials are being notified of our determination.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement, Form 6018. Please note the instructions for signing Form 6018 are on the reverse side of that form.

If ██████████ is not in agreement with this proposed determination, we recommend that you request a hearing with our Office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the Office of Regional Director of Appeals, or if you request, at a mutually convenient District Office. A self addressed envelop is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgement or decree under this Section shall not be issued in any proceedings unless the Tax Court, the Court of Claims, or the District Court of the United States or


the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Sincerely yours,

District Director
Los Angeles District

Enclosures: Publication 892
Form 6018
Self Addressed Envelope

Form **6018**
(Rev. August 1983)

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization



I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- Denial of exemption under section 501(c)(3).
- Revocation of exemption, effective
- Modification of exempt status from section 501(c)() to 501(c)(), effective
- Classification as a private foundation (section 509(a)), effective
- Classification as a non-operating foundation (section 4942(j)(3)), effective
- Classification as an organization described in section 509(a)(), effective
- Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date