

**Internal Revenue Service
Tax-Exempt & Government Entities Division
Office of Exempt Organizations
Draft Form 990 Redesign- Schedule E
June 14, 2007**

Overview

Schedule E is the Form 990, Schedule A, Part V, Private School Questionnaire.

There are no changes to the questions or instructions or to the type organizations required to complete the schedule.

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20XX Instructions for Schedule E

Who Must File

All organizations that answered "Yes" to Form 990, Part VII, question 10 and all organizations that checked box 2 on Schedule A, Part I must complete and attach Schedule E to Form 990.

If the organization is not required to file Form 990, it is not required to file Schedule E.

Period Covered

The filing organization's Schedule E covers the same period as the Form 990 with which it is filed.

General Instructions

Revenue Procedure 75-50, 1975-2 C.B. 587, provides guidelines and recordkeeping requirements for ensuring that private schools recognized as exempt from tax have racially nondiscriminatory policies as to their students. Relevant parts are paraphrased below.

4.01 Organizational requirements. A school must include a statement in its charter, bylaws, or other governing instrument, or in a resolution of its governing body, that it has a racially nondiscriminatory policy as to students, and therefore does not discriminate against applicants and students on the basis of race, color, and national or ethnic origin.

4.02 Statement of policy. Every school must include a statement of its racially nondiscriminatory policy as to students in all its brochures and catalogues dealing with student admissions, programs, and scholarships.

A statement substantially similar to the Notice described in paragraph (a) of subsection 1 of section 4.03, *infra*, will be acceptable for this purpose. Further, every school must include a reference to its racially nondiscriminatory policy in other written advertising that it uses as a means of informing prospective students of its programs. The following references will be acceptable:

The (name) school admits students of any race, color, and national or ethnic origin.

4.03 Publicity. The school must make its racially nondiscriminatory policy known to all segments of the general community served by the school.

1. The school must use one of the following two methods to satisfy this requirement:

(a) The school may publish a notice of its racially nondiscriminatory policy in a newspaper of general circulation that serves all racial segments of the community. This publication must be repeated at least once annually during the period of the school's solicitation for students or, in the absence of a solicitation program, during the school's registration period. Where more than one community is served by a school, the school may publish its notice in those newspapers that are reasonably likely to be read by all racial segments of the communities that it serves. The notice must appear in a section of the newspaper likely to be read by prospective students and their families, and it must occupy at least three column inches. It must be captioned in at least 12 point boldface type as a notice of nondiscriminatory policy as to students, and its text must be printed in at least 8 point type. The following notice is acceptable:

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Notice Of Nondiscriminatory Policy As To Students

The (name) school admits students of any race, color, national and ethnic origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.

(b) The school may use the broadcast media to publicize its racially nondiscriminatory policy if this use makes the policy known to all segments of the general community the school serves. If this method is chosen, the school must provide documentation that the means by which this policy was communicated to all segments of the general community was reasonably expected to be effective. In this case, appropriate documentation would include copies of the tapes or scripts used and records showing that there was an adequate number of announcements, that they were made during hours when the announcements were likely to be communicated to all segments of the general community, that they were of sufficient duration to convey the message clearly, and that they were broadcast on radio or television stations likely to be listened to by substantial numbers of all racial segments of the general community. Announcements must be made during the period of the school's solicitation for students or, in the absence of a solicitation program, during the school's registration period.

Communication of a racially nondiscriminatory policy as to students by a school to leaders of racial groups as the sole means of publicity will not be considered effective to make the policy known to all segments of the community.

2. The requirements of subsection 1 of this section will not apply when one of the following paragraphs applies:

(a) If for the preceding 3 years the enrollment of a parochial or other church-related school consists of students at least 75% of whom are members of the sponsoring religious denomination or unit, the school may make known its racially nondiscriminatory policy in whatever newspapers or circulars the religious denomination or unit utilizes in the communities from which the students are drawn. These newspapers and circulars may be those distributed by a particular religious denomination or unit, or by an association that represents a number of religious organizations of the same denomination. If, however, the school advertises in newspapers of general circulation in the community or communities from which the students are drawn and paragraphs (b) and (c) below are not applicable to it, then it must comply with the publication rules in subsection 1 of this section.

(b) If a school customarily draws a substantial percentage of its students nationwide or worldwide or from a large geographic section or sections of the United States and follows a racially nondiscriminatory policy as to students, the publicity requirement may be satisfied by complying with section 4.02, *supra*.

Such a school may demonstrate that it follows a racially nondiscriminatory policy within the meaning of the preceding sentence either by showing that it currently enrolls students of racial minority groups in meaningful numbers or, when minority students are not enrolled in meaningful numbers, that its promotional activities and recruiting efforts in each geographic area were reasonably designed to inform students of all racial segments in the general communities within

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the area of the availability of the school. The question of whether a school satisfies the preceding sentence will be determined on the basis of the facts and circumstances of each case.

(c) If a school customarily draws its students from local communities and follows a racially nondiscriminatory policy as to students, the publicity requirement may be satisfied by complying with section 4.02, *supra*. Such a school may demonstrate that it follows a racially nondiscriminatory policy within the meaning of the preceding sentence by showing that it currently enrolls students of racial minority groups in meaningful numbers. The question of whether a school satisfies this standard will be determined on the basis of the facts and circumstances of each case. One of the facts and circumstances that the Service will consider is whether the school's promotional activities and recruiting efforts in each area were reasonably designed to inform students of all racial segments in the general communities within the area of availability of the school. The Service recognizes that failure by a school to enroll racial minority group students may not necessarily indicate the absence of a racially nondiscriminatory policy as to students when there are relatively few or no such students in its service area. Actual enrollment is, however, a meaningful indication of a racially nondiscriminatory policy in a community in which a public school or schools became subject to a Federal court order or otherwise expressly became obligated to implement a desegregation plan under the terms of any written contract or other commitment to which a Federal agency was a party.

The Service encourages schools to satisfy the publicity requirement by the methods described in subsection 1 of this section, regardless of whether a school considers itself within subsection 2, because it believes these methods to be the most effective to make known a school's nondiscriminatory policy. In this regard it is each school's responsibility to determine whether paragraph (a), (b), or (c) of section 2 applies to it. On audit, a school must be prepared to demonstrate that failure to publish its racially nondiscriminatory policy was justified by the application to it of paragraph (a), (b), or (c) of subsection 2. Further, a school must be prepared to demonstrate that it has publicly disavowed or repudiated statements purported to have been made on its behalf (after November 6, 1975) that are contrary to its publicity of a racially nondiscriminatory policy as to students, to the extent that the school or its principal official were aware of such statements.

4.04 Facilities and programs. A school must be able to show that all of its programs and facilities are operated in a racially nondiscriminatory manner.

4.05 Scholarship and loan programs. As a general rule, all scholarship or other comparable benefits procurable for the use at any given school must be offered on a racially nondiscriminatory basis. Their availability on this basis must be known throughout the general community being served by the school, and should be referred to in the publicity required by this section in order for that school to be considered racially nondiscriminatory as to students..

..[S]cholarships and loans that are made pursuant to financial assistance programs favoring members of one or more racial minority groups designed to promote a school's racially nondiscriminatory policy, will not adversely affect the school's exempt status. Financial assistance programs favoring members of one or more racial groups that do not significantly derogate from the school's racially nondiscriminatory policy similarly will not adversely affect the schools exempt status

4.06 Certification. An individual authorized to take official action on behalf of a school that claims to be racially nondiscriminatory as to students is required to certify annually, under penalties of perjury, that to the best of his or her knowledge and belief, the school has satisfied the applicable requirements of sections 4.01 through 4.05 of the Rev. Proc.

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4.07 Faculty and staff. The existence of a racially discriminatory policy with respect to employment of faculty and administrative staff is indicative of a racially discriminatory policy as to students. Conversely, the absence of racial discrimination in employment of faculty and administrative staff is indicative of a racially nondiscriminatory policy as to students.

7.01 Specific records. Except as provided in section 7.03, each exempt private school must maintain for a minimum of three years, beginning with the year after the year of compilation or acquisition, the following records for the use of the Service on proper request:

1. Records indicating the racial composition of the student body, faculty, and administrative staff for each academic year;
2. Records sufficient to document scholarship and other financial assistance is awarded on a racially nondiscriminatory basis;
3. Copies of all brochures, catalogues, and advertising dealing with student admissions, programs, and scholarships. Schools advertising nationally or in a large geographic segment or segments of the United States need only maintain a record sufficient to show when and in what publications their advertisements were placed, and;
4. Copies of all materials used to solicit funds for the school.

The school must provide copies of these records to the Service on proper request.

7.02 Limitation.

1. For purposes of section 7.01, racial composition of the student body, faculty, and administrative staff may be estimated based on the best information readily available to the school, without requiring student applicants, students, faculty, or administrative staff to submit information that the school otherwise does not require. For each academic year, however, a record of the method by which racial composition is determined must be maintained....
2. The Service does not require a school to release personally identifiable records or personal information contained therein except in accordance with the requirements of the "Family Educational Rights and Privacy Act of 1974," 20 U.S.C. section 1232g (1974). Similarly, the Service does not require a school to keep records, the maintenance of which is prohibited under state or federal law.

7.03 Exceptions. The records described in section 7.01 need not be independently maintained for the Service use if:

1. Substantially the same information has been included in a report or reports filed with a Federal, state, or local government agency or agencies and this information is current within one year, and;
2. The school maintains copies of these reports from which this information is readily obtainable. Records described in 7.01 providing information not included in reports filed with an agency or agencies must be maintained by the school for Service use.

7.04 Failure to maintain records. Failure to maintain or to produce upon the proper request the required records and information will create a presumption that the school has failed to comply with these guidelines.