

**Internal Revenue Service  
Director, Exempt Organizations  
Rulings and Agreements**

**Department of the Treasury  
P.O. Box 2508  
Cincinnati, Ohio 45201**

Release Number: **200926031**

Release Date: 6/26/09

Date: 3/31/09

**Employer Identification Number:**

**Person to Contact – ID #**

**Contact Telephone Numbers:**

**LEGEND**

UIL 4945.04-04

B= Foundation  
C= Metropolitan Area  
D= Athletic Association

Dear

We have considered your request for advance approval of your grant-making programs under section 4945 (g)(1) of the Internal Revenue Code, dated, December 23, 2008.

Our records indicate that B was recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that it is classified as a private foundation as defined in section 509(a).

Your letter indicates that B will be awarding scholarships of varying amounts to one or more high school student(s) per year to enable the recipient to complete an undergraduate education at the college or other educational institution of his or her choice. The eligibility of applicants each year will be based on the following criteria:

1. The recipient must not be a recruited prospective student-athlete of a D collegiate institution, as defined by D By-law 13.02.10.1.
2. The applicant must have participated in a youth baseball or softball program.
3. The applicant must live in C.
4. The applicant must graduate from a public or private secondary school by a certain date.
5. The applicant must provide evidence of admission to a post-secondary college or university, including, but not limited to, a junior or community college, in the United States or a United States territory.
6. The applicant must complete and submit the application along with two adult recommendations by the set deadline.

7. If selected as a semifinalist, the applicant must complete a personal interview with the college scholarship award selection committee. Academic performance, performance on tests, recommendations, financial need, and conclusions drawn from personal interviews by members of the selection committee as to motivation and character.

There shall be no discrimination based upon race, color, creed, religion, or sex.

Each year, the Foundation will advertise the availability of the scholarship grants on-line, on television and by word of mouth through B high school coaches and teachers.

The selection committee will consist of members of the general public. No scholarship may be awarded to any of the Foundation's members, members of the board of directors, officers, substantial contributors, members of the selection committee or their family members.

The selection committee will consider the following factors outlined in the Scholarship Application in recommending applicants for scholarship awards:

1. Applicant's successful completion of high school diploma requirements.
2. Applicant's acceptance to an undergraduate program in a regionally accredited college or university or a regionally accredited vocational training program, all as defined in IRC 170(b) (1)(A)(ii).
3. Applicant's demonstrated financial need based on all pertinent factors with respect to the student's ability to complete his or her higher education without assistance.
4. Applicant's personal experiences, goals and aspirations as reflected in an essay submitted with the application.
5. Applicant's participation in extracurricular activities, awards, and recognition, special talents, and other noteworthy activities, specifically involvement in baseball or softball.
6. Applicant's involvement in community service.
7. Letter of recommendation and completion of recommendation form by two adults.

Renewal of scholarships in years 2-4, as applicable, will be contingent upon the following: (a) maintaining at least a 2.5 GPA while enrolled; (b) maintaining appropriate personal conduct as determined by the Scholarship Committee; and (c) continuing financial need.

The funds will be paid directly to the educational institutions with direction that such amount be applied toward the tuition and expenses of the recipient. The student is required to provide reports at the end of each year during which scholarship funds are used describing the use of the funds and his or her academic progress, including courses taken and grades received. In those instances where the reports submitted or other information (including the failure to submit reports) indicate that all or any part of a scholarship is not being used for intended purposes, or if the Foundation learns that all or any part of a scholarship is being diverted from the intended purposes, the Foundation will take all reasonable and appropriate steps to recover the scholarship funds and/or to ensure restoration of the diverted funds to the purposes of the scholarship. The phrase "all reasonable and appropriate steps," as

used above includes legal action where appropriate, but need not include legal action if such action would in all probability not result in satisfaction of execution on a judgment.

The organization agrees to maintain records which include the following:

- a. Information used to evaluate the qualification of potential grantees;
- b. Identification of the grantees (including any relationship of any scholarship recipient to the Foundation or to any of the Foundation's members, directors or officers);
- c. the amount and purpose of each grant;
- d. The completed application of each scholarship recipient,
- e. Evaluation reports from scholarship recipients, and any additional information that the Foundation may secure in the course of the scholarship administration process.. All grantee reports and other follow-up data obtained in administering the private foundation's grant program.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by 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 subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) 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 organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (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 performed activities that the grants are intended to finance.

Based on the information submitted and assuming your scholarship program will be conducted as proposed with objectivity and nondiscrimination in awarding grants, we determined that effective December 23, 2008, your procedures in awarding scholarship grants comply with the requirements of section 4945(g)(1) of the Code and that scholarships granted according to these procedures will not be "taxable expenditures" within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures as of December 23, are excludable from the gross income of the recipients subject to the limitations provided by section 117 of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your grant-making procedures herein, effective December 23, constitutes a one-time approval of your system standards and procedures that will result in grants which meet the requirements of section 4945(g)(1) of the Code. **This determination only covers the grant programs described above.** Thus, approval shall apply to succeeding grant programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all grant distributions can be substantiated upon request by the Internal Revenue Service.

This determination 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 a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Robert Choi  
Director of Exempt Organizations  
Rulings and Agreements