

**Internal Revenue Service**  
P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Number: **202041013**  
Release Date: 10/9/2020

**Date: July 16, 2020**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND**

v dollars = Amount

W = Program

X = Initiative

Y = Theatre

Z = City

UIL: 4945.04-04

Dear :

You asked for advance approval of your educational grant procedures under Internal Revenue Code Section 4945(g)(3). This approval is required because you are a private foundation that is exempt from federal income tax.

**Our determination**

We approved your procedures for awarding educational grants. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding educational grants meet the requirements of Code Section 4945(g)(3). As a result, expenditures you make under these procedures won't be taxable.

**Description of your request**

Your letter indicates that you will operate an educational grant program called X.

Your purpose is to support, encourage and further the theatrical arts and stimulate public interest drama as an art; to provide opportunities for playwrights, directors, actors and designers to exhibit and develop their talents pertaining to the theatre; to instruct, establish and maintain an institution of learning in the art and technique of theatre; to present high quality theatrical artistic productions and support the development of theatre technique; and to operate a theatrical facility in furtherance of the foregoing.

The purpose of X is to support the development and creative abilities of young playwrights and to provide them with mentoring opportunities with a professional playwright and director (or other member of the theater profession) as well as experience

performing their creative works for an audience through a professional staged reading of their plays at the Y in Z and perhaps other venues. Such grants will provide Z youth with an exceptional educational and artistic opportunity to be exposed to the theatre world at a high level, to refine their creative talents, to learn from seasoned professionals, and to supplement and expand their educational and artistic experiences and development.

Information about X will be publicized via your website and public announcements, direct outreach, and networking/word of mouth. You will work with Z area high schools as well as English and drama teacher affinity groups, and will conduct outreach to reach a broad and diverse array of student applicants including those at Z area high schools that offer training in or exposure to playwriting (e.g., through classes or clubs).

Grantee application and selection may be a multiple-step process depending on the purpose of the grant, with all grants subject to approval by your Board of Directors. In all cases, eligible applicants will be required to submit information (such as an application form, a questionnaire, a full proposal, or such other information as may be requested by you and a copy of the applicant's original one-act play) directly to you. Individuals who pass the initial review process may be interviewed or asked to submit additional information.

For the X specifically, which is aimed at encouraging appreciation and talent in the theatre arts for Z's youth in public high schools, eligible recipients will include Z public high school students who have created an original one-act play and submitted such play to you for selection. The play submissions may be required to focus on a theme.

The number of recipients of X is intended to be     young playwrights per award cycle, though this number could be increased or decreased at the discretion of the program's selection committee or the Board. Each recipient is expected to receive v dollars, along with the opportunity for individual mentoring from a professional playwright and director (or other professionals in theater) as well as a professional staged reading of their winning play at the Y in Z (or another venue). It is anticipated that     finalists per award cycle will be invited to become W Ambassadors of the Y. The grantees will enjoy complimentary tickets to shows at the Y for a season.

Renewal grants are contingent upon the grantee meeting the objective and nondiscriminatory criteria and adequately reporting to you on the use of grant funds and progress toward grant goals. Renewal grants will only be made if you have no information indicating that the original grant is being used for any purpose other than that for which it was made, and if all reports due at the time of the renewal decision pursuant to the terms of the original grant have been furnished.

It is currently anticipated that you will appoint a selection committee composed of theater professionals including artistic directors, program directors, dramaturgs and playwrights. The grantee selection may be a multiple-step process depending on the specific grants program or purpose of a specific grant, but all grants will be subject to the authority of the

Board. In some cases, the Board may directly review applications or candidates and select the grantees based on its review.

Grant recipients may not be "disqualified persons" with respect to you, within the meaning of Code Section 4946. Grant recipients furthermore may not be related to any officer, director, substantial contributor, or member of a grants selection committee, nor may they be persons whose selection would result in private benefit to any officer, director, substantial contributor, or member of a grants selection committee.

For the X Program (which does not require a specific use of the m dollars award), grantees will submit an annual report describing the student's experience in the X, what he or she has learned, and goals accomplished, as well as a description of whether and how the award was used to further his or her theater education or experience.

You represent that you will complete the following: (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversion of funds from their intended purposes, (3) take all reasonable and appropriate steps to recover the diverted funds, ensure other grant funds held by the grantee are used for their intended purposes, and withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring.

You represent that you will maintain all records related to the following: (1) individual grants including information to evaluate grantees, (2) grantees which are identified as a disqualified person, (3) how the amount and purpose of each grant was established, and (4) how you established supervision and investigation of the grants described above.

### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code Section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code Section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is:
  - A scholarship or fellowship subject to Section 117(a) and is to be used for study at an educational organization described in Section 170(b)(1)(A)(ii); or
  - A prize or award subject to the provisions of Section 74(b), if the recipient of the prize or award is selected from the general public; or
  - To achieve a specific objective; produce a report or similar product; or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar skill or talent of the recipient.

To receive approval of its educational grant procedures, Treasury Regulations Section 53.4945-4(c)(1) requires that a private foundation show:

- The grant procedure includes an objective and nondiscriminatory selection process.
- The grant procedure results in the recipients performing the activities the grants were intended to finance.
- The foundation plans to obtain reports to determine whether the recipients have performed the activities that the grants were intended to finance.

**Other conditions that apply to this determination**

- This determination covers only the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination applies only to you. It may not be cited as precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes in your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service  
Exempt Organizations Determinations  
P.O. Box 2508  
Cincinnati, OH 45201

- You cannot make grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and must further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code Section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

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

Please keep a copy of this letter in your records.

If you have any questions, please contact the person listed at the top of this letter.

Sincerely,

Stephen A. Martin

Director, Exempt Organizations  
Rulings and Agreements