



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities  
P.O. Box 2508  
Cincinnati, OH 45201

Date:  
11/02/2022  
Taxpayer ID number:  
  
Person to contact:

Number: **202304018**  
Release Date: 1/27/2023

UIL: 4945.04-04

**LEGEND**

B = State  
C = City  
D = City  
E = Scholarship Program  
F = Scholarship Program  
G = Scholarship Program  
H = Scholarship Program  
p dollars = Amount  
q dollars = Amount  
r dollars = Amount  
s dollars = Amount  
t dollars = Amount

Dear \_\_\_\_\_ :

You asked for advance approval of your scholarship procedures under Internal Revenue Code (IRC) Section 4945(g)(1). You requested approval of your scholarship program to fund the education of certain qualifying students.

This approval is required because IRC Section 4945 provides for the imposition of taxes on each taxable expenditure of a private foundation. IRC Section 4945(d)(3) provides that the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or similar purposes by the individual, unless the grant satisfies the advance approval requirement of IRC Section 4945(g).

**Our determination**

We approved your procedures for awarding scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding scholarships meet the requirements of IRC Section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Additionally, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in IRC Section 117(b)).

**Description of your request**

Your letter indicates you will operate scholarship programs for graduating high school students to pursue post-secondary education at colleges in the state of B. The purpose of the grants is to assist at-risk and/or disadvantaged youth with aspirations of graduating from high school and going on to obtain a trade degree, associate degree, bachelor's degree, or higher, at a B college.

The following are representative examples of some of your scholarship programs:

- The E program awards scholarships of p dollars to high school seniors graduating from the greater C area. The students must demonstrate a financial need and how they have overcome a significant life challenge or obstacle. The students must also be committed to attending college in B and returning to a rural community to work, upon graduation.
- The F program allows high school seniors to participate in a five-week leadership program, with the option of receiving a scholarship award following the workshops. This program is offered one to two times annually, with a maximum of seven girls, each eligible for up to q dollars in scholarship funds.
- The G program awards up to r dollars in scholarship awards to seniors graduating from C public schools, with priority given to youth who have demonstrated how they have overcome life obstacles and who intend to work within a trade-based career in B.
- The H program supports the collective community efforts related to developing and sustaining career pathways for disadvantaged youth. This year, you plan to offer up to r dollars in supporting scholarships to students seeking out a career in a trade.

The number of scholarships awarded will vary depending on the fund availability. Scholarships awarded under the programs are not renewable.

Your scholarship/individual grant programs are open to any student meeting the stated criteria of the individual program. You publicize the programs directly through the school counselors at the schools that fall within the target geographic location, as well as on the following social media outlets: Facebook, Instagram, and LinkedIn. You also ask board members and friends of the foundation to share information about the scholarship opportunities.

In order to obtain an individual grant (scholarship), the applicants are required, in general, to thoroughly complete the associated scholarship application along with verification of their acceptance/enrollment in college, as well as a letter of recommendation from someone not directly related to the applicant and that can attest to the educational performance and character of the applicant. In addition, there are specific eligibility requirements under each of the programs, such as providing copies of transcripts.

For example, the E scholarship program requires that students must meet the following requirements at the time of application:

- Citizen/permanent resident of the state of B
- Motivated to successfully complete a college degree
- Planning to attend a B college within the next year
- Enrolled in C or D high school
- Nominated by C or D public school designee
- Preference is given to applicants who have a FAFSA expected family contribution between s dollars and t

dollars

The criteria used to determine who is eligible for each of the scholarship programs is determined in partnership with the funder and approved by the grant committee and the board of directors. Though there are minor differences in eligibility between scholarship programs, the main difference is the specific location in the state of B and the preferences regarding educational aspirations of the students. All of your grant-making programs, however, are specifically aimed at kids that may need help realizing their potential, with preference given to vulnerable and at-risk populations. This includes children and youth ages 0-18 years that are most vulnerable or at risk of disparities in access, service use, and outcomes.

The Grant and Scholarship Committee, including appointed board members, is responsible for reviewing all applications received. The criteria for committee membership are based upon the related experience, expertise, and interest of the board members. Additionally, when possible, committee members are selected to also include representation of various demographics that may align with the population being served through the scholarship program. The Executive Director collects all scholarship applications received by the prescribed due date and distributes them to the scholarship review committee. The committee meets face to face to review each applicant, determining fund availability and reviewing eligibility criteria using the criteria provided in the grant-making policy and within the guidelines set forth in the application to select grant recipients. The process is objective and non-discriminatory, and the decisions are based directly on the purpose of the scholarship program. The reviewers are required to remove themselves from the process if there are personal relationships to the applicants or if they might, in any way, benefit (directly or indirectly) if certain applicants were selected over others.

The committee selects the top applicants meeting criteria and preferences, and the committee chairperson makes a recommendation to the full committee. The committee is required to vote on the final applicants. Once the committee has made this decision, the committee chairperson makes a motion to the full board of directors for the acceptance of their decision of which applicants should receive scholarships. Only upon a passing vote does a recipient receive the award.

Additionally, your grant-making policy identifies the criteria for individual scholarship grants as follows:

- The selection of grantees and the grants awarded to individuals will be awarded on an objective and nondiscriminatory basis. This includes selecting grantees based on criteria directly related to the purpose of the grant program.
- Individual grants will be awarded in accordance with a program consistent with the foundation's exempt status and the allowance of deductions to individuals.
- The grant selection group will be sufficiently large enough to constitute a charitable class and the criteria used to select recipients will be related to the purpose of the grant program.
- The grant selection committee will not be placed in a position to derive a private benefit, directly or indirectly, if certain potential grantees are selected over others.
- Performance of said activities by grant recipients will be monitored by the foundation through obtaining reports which demonstrate gained skills, improvement, or enhancement of capacity.

Upon decisions being made by the Grant and Scholarship Committee and the full board of directors, the Executive Director is responsible for notifying applicants through mailing and emailing award letters to the student and their parent/guardian. The Executive Assistant is responsible for getting the scholarship checks signed by board members and mailing them to the recipient or delivering them to the Board President for the awards ceremony. In the near future, the award will be made directly to educational institutions that agree to use the funds for intended purposes if the recipient is in good standing.

Your Executive Director communicates with the recipients before and after awards, including further follow-up contact a year later. The Executive Director also maintains the confidential files that contain all applications, including award information.

Records maintained for scholarship applicants and recipients include information obtained to evaluate the individual grantees, identify recipients in terms of whether the individual is a disqualified person, and specify the amount and purpose of each scholarship. The records also include information required to obtain annual reports and information regarding investigations and recovery or restoration of misused scholarships.

### **Basis for our determination**

IRC Section 4945 imposes excise taxes on the taxable expenditures of private foundations. 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 the following requirements of IRC 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 the provisions of IRC Section 117(a).
- The grant is to be used for study at an educational organization described in IRC Section 170(b)(1)(A)(ii).

### **Other conditions that apply to this determination**

- This determination only covers the scholarship 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.
- The effective date of our approval is October 12, 2021, which is the date your request was submitted.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the IRS at:

Internal Revenue Service  
Exempt Organizations Determinations  
TE/GE Stop 31A Team 105  
P.O. Box 12192  
Covington, KY 41012-0192

- You can't award 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 further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with IRC Section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grants distributions with the IRS if necessary.

We'll make this determination letter available for public inspection after deleting personally identifiable information, as required by IRC Section 6110. We've enclosed Letter 437, Notice of Intention to Disclose - Rulings, and a copy of the letter that shows our proposed deletions.

- If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us.
- If you agree with our deletions, you don't need to take any further action.

Please keep a copy of this letter in your records.

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:  
Letter 437