

Date: June 12, 2009

Item No. 5
File No. 09029

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Complaint by: Paul Weston vs Human Services
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

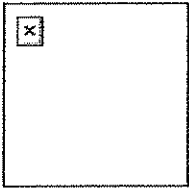
Completed by: Frank Darby

Date: June 17, 2009

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

MEMORANDUM

June 15, 2009:

PAUL WESTON v. THE ST. VINCENT De PAUL SOCIETY (09029)

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

On 5/2/2009, Paul Weston made a Sunshine Public Records Request for "All notes and/or minutes of all community meetings held at MSC South between 12/26/08 to 5/2/2009 with the St. Vincent De Paul Society ("Society") which is a non-profit community organization and is under contract with the City's Department of Human Services to run Multi Service Center South. In response to the request, the Society responded that the documents did not exist. Paul Weston requested the same documents from DHS which oversees the contract with the Society. Paul Weston claims that DHS stated that the documents are confidential and not releasable.

COMPLAINANT FILES COMPLAINT:

On 5/18/2009, Paul Weston filed a Sunshine Complaint against the Society for its violation of Section 67.25 of the Ordinance.

JURISDICTION

The Society is a non-profit corporation under contract with DHS to provide services at the Multi Service Center South. The Society is not a City entity and it is not clear if the Society is covered by the Sunshine Ordinance. Section 67.4 of the Ordinance provides that if a City Policy Body contracts with a non-profit corporation to manage the Policy Body's property in a government function in the furtherance of the health, safety or welfare then the non-profit corporation board of directors meetings may be passive meetings. In addition, if the Society receives \$250,000.00 or more in grants from the City, it is governed by Section 12L of the Administrative Code.

Memorandum**APPLICABLE STATUTORY SECTION:**

Statutory Sections from Section 67 of the San Francisco Administrative Code:
Section 67.4 of the Ordinance deals with Passive Meeting Bodies.

Statutory Sections from Section 12L of the San Francisco Administrative Code:

1. Section 12L.1 addresses intent of this section.
2. Section 12L.3(e) deals with definitions.
3. Section 12L .5(a) deals with public access to records.

APPLICABLE CASE LAW:

none

ISSUES TO BE DETERMINED**1. FACTUAL ISSUES**

A. **Uncontested Facts:** Paul Weston made a request for all notes and/or minutes of all community meetings held at MSC South between 12/26/2008 to 5/2/2009.

B. **Contested facts/ Facts in dispute:**

The Task Force must determine what facts are true.

- Whether the Society is governed by the Sunshine Ordinance?
- Whether the Society's Board Meetings are Passive Meetings?
- Whether the Society is governed by Section 12L of the Administrative Code?
- Whether the Society is required to produce minutes or notes of its meetings?

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- Did the Society enter into a contract with a policy body for the management of a City property in the furtherance of the health, safety or welfare of the City?
- Did the contract provide for meetings as provided by section 67.4 of the Ordinance?

LEGAL ISSUES/LEGAL DETERMINATIONS;

- Were sections of the Sunshine Ordinance (Section 67.21), Brown Act, Public Records Act, and/or California Constitution Article I, Section three violated?
- Was there an exception to the Sunshine Ordinance, under State, Federal, or case law?
- Were section 12L of the Administrative Code violated.

Memorandum

SUGGESTED ANALYSIS

Under Section 67.4 of the Ordinance:

- Determine if the Society contracted with a City Policy Body.
- If so, did the contract involve the Society managing City Property in a government function in the furtherance of the health, safety or welfare of the City.
- Did the contract provide that the Society's Board of Directors would be governed by 67.4 of the Ordinance as it relates to Passive Meeting Bodies.
- Were the community meetings, the meetings of the board of directors?
- If not, then 67.4 may not apply.
- If so, does the passive meeting body need to keep minutes of its meeting under 67.4?
- Currently, 67.4(b) does not require the keeping of minutes.

Under Section 12L analysis:

- Determine if the Society is governed by 12L of the Administrative Code.
- Section 12L requires two public meetings of its Board and requires two public meetings and at one of the meetings, the public shall have the opportunity to address the Board of Directors on membership on the Board of Directors and to propose candidates for membership on the Board of Directors as provided in Section 12L.6(b).
- Section 12L does not require the taking of minutes and notes.
- Section 12L.5 states that the public has limited access to financial information and performance evaluations but not to minutes taken at community meetings.
- Under 12L, a member of the public has limited access to records.

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THAT THE ALLEGED VIOLATIONS TO BE TRUE OR NOT TRUE.

Memorandum

ATTACHED STATUTORY SECTION FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE UNLESS OTHERWISE SPECIFIED

Section 67.4 of the Administrative Code (Sunshine Ordinance) deals with passive meetings as follows:

a. All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur.

....

b. To the extent not inconsistent with state or federal law, a policy body shall include in any contract with an entity that owns, operates or manages any property in which the City has or will have an ownership interest, including a mortgage, and on which the entity performs a government function related to the furtherance of health, safety or welfare, a requirement that any meeting of the governing board of the entity to address any matter relating to the property or its government related activities on the property, or performance under the contract or grant, be conducted as provided in subdivision 9a) of this section. Records made available to the governing board relating to such matters shall be likewise available to the public, at a cost not to exceed the actual cost up to 10 cents per page, or at a higher actual cost as demonstrated in writing to such governing board.

ATTACHED STATUTORY SECTIONS FROM CHAPTER 12 OF THE SAN FRANCISCO ADMINISTRATIVE CODE UNLESS OTHERWISE SPECIFIED

Section 12L.1 of the Administrative Code (The San Francisco Non-Profit Public Access Ordinance) provides:

INTENT

a.) The intent of this Chapter is to establish a policy wherein the City ensures that non-profit organizations with which the City chooses to do business operate with the greatest possible openness and maintain the closest possible ties to communities they intend to serve.

Section 12L.3(e) of the Administrative Code provides:

DEFINITIONS

e.) "Non-profit Organization" shall mean any corporation formed pursuant to California Corporations Code sections 500 et seq. for any public or charitable purpose, and/or any organization described with 26 USC section 501(c), which receives a cumulative total per year of at least \$250,000 in City-provided or City-administered funds.

Section 12L.5(a) of the Administrative Code (The San Francisco Non-Profit Public Access Ordinance) provides:

PUBLIC ACCESS TO RECORDS

Memorandum

a) Disclosure of Financial Information. Subject to Section 12L.5(c) each nonprofit organization shall maintain and make available for public inspection and copying a packet of financial information concerning the nonprofit organization. The packet shall include, at a minimum, (1) the nonprofit organization's most recent budget as already provided to the City in connection with the nonprofit organization's application for , in or in connection with the review and/or renewal of, the nonprofit organization's contract, 2.) it most recently filed state and federal tax returns except to the extent those returns are privileged and 3.) any financial audits of such organization performed by or for the City and any performance evaluations of such organization by or for the City pursuant to a contract between the City and the nonprofit organization to the extent that such financial audits and performance evaluation i.) are in the nonprofit organization's possession, ii.) may be publicly disclosed under the terms of the contract between the City and the nonprofit organization, and iii.) relate the nonprofit corporation's performance under its contract with the City within the last two years.

PUBLIC ACCESS TO MEETINGS

Section 12L.4(a)(1) provides that each nonprofit organization shall designate and hold at least two designated public meetings per year. Issues addressed by the Board of Directors at designated public meetings shall be of approximately the same general nature and significance to the nonprofit organization as issues typically addressed by the Board of Directors at its other regular or special meetings.

THE CALIFORNIA CONSTITUTION AS AMENDED BY PROPOSITION 59 IN 2004 PROVIDES FOR OPENNESS IN GOVERNMENT.

Article I Section 3 provides:

- a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.
- b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
- 2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protect by the limitation and the need for protecting that interest.
- 3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.
- 4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property

Memorandum

without due process of law, or denied equal protection of the laws, as provided by Section 7.

5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.



"Chris Cody"
<ccody@svdp-sf.org>
06/16/2009 12:15 PM

To "SOTF" <sotf@sfgov.org>
cc
bcc

Subject RE: Sunshine Complaint Received: #09029_Paul Weston v
St. Vincent de Paul Society

Dear Mr. Rustom,

Attached is a written response on behalf of The Saint Vincent de Paul Society in the above referenced matter.

Please let me know if you have any questions.

Chris Cody

-----Original Message-----

From: SOTF [mailto:sotf@sfgov.org]
Sent: Tuesday, June 09, 2009 8:08 AM
To: paulweston79@gmail.com; ccody@svdp-sf.org; Trent Rhorer; Pamela Tebo
Subject: Sunshine Complaint Received: #09029_Paul Weston v St. Vincent de Paul Society

This e-mail is to confirm that the attached complaint has been received. The Department is required to submit a response to the charges to the Task Force within five business days of receipt of this notice. Please refer to complaint number #09029 when submitting any new information and/or supporting documents pertaining to this complaint.

If the Department contests jurisdiction or if the parties request a prehearing conference a hearing will be scheduled with the Complaint Committee of the Sunshine Ordinance Task Force who will determine whether the Task Force has jurisdiction over this matter, and/or to focus the complaint or to otherwise assist the parties to the complaint.

Date: Tuesday, July 7, 2009
Location: City Hall, Room 406
Time: 3:30 P.M.

Any support documents to be considered by committee members, prior to the meeting, must be submitted by 4:00 P.M. Tuesday, June 30, 2009.

If the Department does not contest jurisdiction or if the parties don't request a prehearing conference a hearing will be scheduled with the full Sunshine Ordinance Task Force who will hear the merits of the complaint and issue a determination.

Date: Tuesday, June 23, 2009
Location: City Hall, Room 408
Time: 4:00 P.M.

Complainants: Your attendance is required at this hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, attendance by the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

(

(

(

June 16, 2009

Dear Mr. Rustom,

This document is submitted on behalf of Saint Vincent de Paul in response to the subject Sunshine Ordinance Complaint.

As the complainant has been advised, we have no documents responsive to his request. The subject community meetings are not recorded nor are minutes of the meetings ever taken by anyone.

The Program Director does occasionally take notes during the meetings but only to remind herself of a particular issue. These hand written notes are not retained.

We have no written documents related to or reflective of the subject community meetings.

Thank you for your consideration,

Chris Cody
Executive Director, SVdP



SOTF/SOTF/SFGOV
06/16/2009 10:50 AM

To paulweston79@gmail.com, David Curto/DHS/CCSF@CCSF,
Pamela Tebo/DHS/CCSF@CCSF
cc
bcc Ernest.llorente@sfgov.org; Kristin@Chu.com
Subject Hearing Scheduled: Complaint #09024 & 09029_Paul
Weston vs DHS

Dear Mr. Weston and Mr. Curto,

Since both parties do not agree to a continuance, as per the SOTF procedures, the above titled complaint is being scheduled for the June 23, 2009, meeting of the SOTF.

Should the Department still wishes to continue the matter a request can be made before the full Task Force at the hearing. The Task Force will then decide whether to grant the continuance or to hear the matter.

Frank Darby
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
SOTF@SFGov.org
OFC: (415) 554-7724
FAX: (415) 554-7854

Complete a SOTF Customer Satisfaction Survey by clicking the link below.
http://www.sfgov.org/site/sunshine_form.asp?id=34307

— Forwarded by SOTF/SOTF/SFGOV on 06/16/2009 10:39 AM —



Paul Weston
<paulweston79@gmail.com>
06/16/2009 10:34 AM

To SOTF <sotf@sfgov.org>
cc
Subject Re: Continuance Requested: #09024 & 09029_Paul Weston
vs DHS

I do NOT agree to a continuance. I believe that this is a deliberate attempt by HSA to evade the SOTF.

On Tue, Jun 16, 2009 at 9:16 AM, SOTF <sotf@sfgov.org> wrote:

Dear Mr. Weston

The Department of Human Services has requested a continuance of the above titled complaints to the July 28, 2009, meeting of the full Task Force.

Do you agree to a continuance?

Frank Darby
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place

City Hall, Room 244
San Francisco, CA 94102-4689
SOTF@SFGov.org
OFC: (415) 554-7724
FAX: (415) 554-7854

Complete a SOTF Customer Satisfaction Survey by clicking the link below.
http://www.sfgov.org/site/sunshine_form.asp?id=34307

----- Forwarded by SOTF/SOTF/SFGOV on 06/16/2009 08:54 AM -----

David
Curto/DHS/CCSF@CC
SF
06/16/2009 08:33 AM
To
Frank Darby/BOS/SFGOV@SFGOV
cc
pamela.tebo@sfgov.org
Subject
Sunshine Task force meeting June
23rd

Hi Frank,

I am requesting a continuance of items # 09024 Paul Westin
09026 Hanna Leung
Continuing Charles Pitts

I am out of the state on that week and I am the most appropriate person to appear on these items from the Human Services Agency. We could sent someone to the meeting but without first hand knowledge of the complaints and remedies implemented to date. A continuance is the most effective way to resolve these complaints. when I can appear personally.

Thank-you

Dave Curto
Director of Contracts
Human Services Agency
415-557-5581



<complaints@sfgov.org>
05/18/2009 04:45 PM

To <soff@sfgov.org>
cc
bcc

Subject: Sunshine Complaint

History: This message has been forwarded

Submitted on: 5/18/2009 4:45:16 PM

Department: The Saint Vincent de Paul Society

Contacted: Chris Cody

Public_Records_Violation: Yes

Public_Meeting_Violation: No

Meeting_Date:

Section(s)_Violated: Section 67.25

Description: On 5/2/2009, I made a Sunshine Request for "ALL notes and/or minutes of ALL community meetings held at MSC South between 12/26/2009 to 5/2/2009." Initially, Chris Cody responded by saying that he would look for them. However, on 5/14/2009, I received an email from Chris Cody claiming that the documents did not exist. I have attended 6 community meetings during my stay at MSC South and have personally witnessed Lessy Benedith, Wayne Garnett and other staff taking meticulous notes during those meetings. So, I know that these documents exist.

Hearing: Yes

Pre-Hearing: Yes

Date: 5/18/2009

Name: Paul Weston

Address: General Delivery

City: San Francisco

Zip: 94142

Phone:

Email: paulweston79@gmail.com

Anonymous:

Confidentiality_Requested: No



Paul Weston
<paulweston79@gmail.com>

05/24/2009 05:08 PM

To SOTF <sotf@sfgov.org>

cc

bcc

Subject Re: Fw: Sunshine Complaint

I have already made the same request to Human Services Agency and they are in complete agreement with Chris Cody that these documents are confidential. So, I have already exhausted the first step. Please proceed with filing my complaint.

On Wed, May 20, 2009 at 9:08 AM, SOTF <sotf@sfgov.org> wrote:

Ms. Eileen Shields,

Chapter 12L of the San Francisco Administration Code provides for a three stage dispute resolution process if a complaint is filed by a member of the public (review and recommendation by the contracting City department, review by the Sunshine Ordinance Task Force and review and recommended resolution by the Board of Supervisors). If there are material breaches in compliance by the nonprofit, the contracting department is authorized, but not required to terminate or decline to renew the contract.

Chris Rustom, Administrator
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
SOTF@SFGov.org
OFC: (415) 554-7724
FAX: (415) 554-7854

Complete a SOTF Customer Satisfaction Survey by clicking the link below.

http://www.sfgov.org/site/sunshine_form.asp?id=34307

----- Forwarded by SOTF/SOTF/SFGOV on 05/20/2009 09:08 AM -----



Paul Weston
<paulweston79@gmail.com>
>

06/02/2009 02:11 PM

To SOTF <sotf@sfgov.org>

cc

bcc

Subject Re: Sunshine Complaint Received: #09024_Paul Weston v
Human Services

At the hearing, I will also address the refusal of HSA to provide the application and/or resumes of specific employees of the Saint Vincent de Paul Society.

The following support documents for complaint number #09024 are attached:

- the complete email correspondence between myself and Pamela Tebo
- Braun v Taft court case which proves that personnel exemption was developed to "protect intimate details of personal and family life, not business judgments and relationships." I am particularly interested in the education and work history of the specified employees. Such information is not private. It is professional information and is therefore of direct concern to the public for public employees.
- IRS Form 1023. According to the IRS, this form is a public document that must be made available to the public upon request. This form details information such as employees' mailing address. If the IRS does not consider this type of information to be confidential then why does Human Services Agency? Surely, not everything on an employee's application is confidential.

Search Mail Search the Web Show search options Create a filter

Compose Mail

- Inbox
- Starred
- Chats
- Sent Mail
- Drafts
- All Mail
- Spam (466)
- Trash
- Contacts
- Chat

Search, add, or invite

Paul Weston Connecting to 238... Try now

Unable to reach Gmail. Please check your internet connection.



Talk face to face Try video chat

- Bob Newsome
- Bobby Newsome
- Boyd Newsome
- Joel Petrie
- Bernice Casey
- CHARLES PITTS
- Chris Cody
- Lindsay Parkinson
- Pamela Tebo
- tomas picarello

Labels

Edit labels

Invite a friend

Give Gmail to:

Send invite 50 left

Preview invite

CNN.com Recently Published/Updated - Former royal Riverdance star among plane's missing - 1 hour ago

Back to Inbox Archive Report spam Delete Move to Labels More actions

Web Clip

Newer 34 of 670 Older

IMMEDIATE DISCLOSURE REQUEST Inbox X

Paul Weston to Pamela show details May 10 Reply |

Pursuant to Administration Code SEC. 67.25, I hereby make an immediate disclosure request for the following:

- the most recent Statement of Service and Invoice for 150 Otis
- the most recent Statement of Service and Invoice for the 150 Otis Winter Shelter
- the most recent Statement of Service and Invoice of the St. Anthony Foundation for their Dining Hall
- the application and/or resume of Alonso Bowlegs (St. Vincent de Paul Employee)
- the application and/or resume of Wayne Garnett (St. Vincent de Paul Employee)
- the application and/or resume of Lessy Benedict (St. Vincent de Paul Employee)

I expect these documents no later than May 12, 2009. Please give me a time that I may pick them up at HSA and the total price. I will pay cash.

Thank you for doing your job.

Reply Forward

Pamela Tebo to me show details May 11 Reply |

This email is in response to your public records request.

Please clarify what you mean by: "most recent Statement of Service".

Regarding the recent invoices for 150 Otis (Drop In, I assume) and 150 Otis shelter, I have requested those invoices and I will forward to you as soon as I get them.

The Human Services Agency does not fund St. Anthony's dining room.

The Human Services Agency does not have access to our non-profit partners' personnel files. Also, I am certain that anything in the personnel files of St. Vincent de Paul employees is most likely confidential, but you may want to check with them directly.

Thank you,

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120
(415) 557-6540 - Phone
(415) 431-9270 - Fax

Paul Weston <paui.weston79@gmail.com>
05/10/2009 06:11 PM

To Pamela Tebo <Pamela.Tebo@sfhsv.org>
cc
Subject IMMEDIATE DISCLOSURE REQUEST

- Show quoted text -

Reply Forward

Paul Weston to Pamela show details May 11 Reply |

"Statement of Service and Invoice" was the title on several documents that I previously received from you about MSC South detailing expenditures for a given month at that shelter. I am hereby requesting the same for 150 Otis and 150 Otis Winter Shelter.

- Show quoted text -

Reply Forward

Pamela Tebo to me show details May 12 Reply |

The document is ready for pick up from 170 Otis Street. Due to the insignificant fee we would charge for this document, we will waive the fee for this particular request.

Please note, St. Vincent de Paul submits one invoice for 150 Otis shelter and 150 Otis drop in services.

Thank you.

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120
(415) 557-6540 - Phone
(415) 431-9270 - Fax

Paul Weston <paui.weston79@gmail.com>

To Pamela Tebo <Pamela.Tebo@sfhsv.org>

New window

Print all

Collapse all

Forward all

Sponsored Links

Oakland Security Services
Armed/Unarmed, Event and Patrol
Bay Area Security 888-471-1128
www.AdmiralSecurityServices.com

Security Guard Jobs
Security Guard Jobs Paying \$14-76
Per Hour That You Can Train For
Now
www.careermatching.org

The Free Public Records
This is The Public Records Site!
Free Public Records in 2 Secs.
OnlinePublicRecordsSearch.com

Security Guard Jobs
Apply now.
Positions available immediately.
www.hotcareermatch.org/JobSearch

Defamation of Character
68p. guide to fighting defamation,
slander and libel. (in PDF)
www.dancingwithlawyers.com

Salaries
Search 1000's of Salaries and Find
Out What Your Coworkers Are
Making!
www.CBSalary.com

About these links

05/11/2009 12:44 PM

cc
Subject Re: IMMEDIATE DISCLOSURE REQUEST

- Show quoted text -

[Reply](#) [Forward](#)

Paul Weston to Pamela

[show details](#) May 13 Reply |

Thank you, but I also asked for the invoice for the St. Anthony's Foundation dining hall. Please have that document ready as well.
- Show quoted text -

[Reply](#) [Forward](#)

Pamela Tebo to me

[show details](#) May 13 Reply |

What invoice for St. Anthony's Foundation? As I stated in my response to you on May 11, the Human Services Agency does not fund St. Anthony's dining hall, so what invoice are you referring to?

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120
(415) 557-6540 - Phone
(415) 431-9270 - Fax

Paul Weston <ppaulweston79@gmail.com>

To Pamela Tebo <pamela.tebo@sfgov.org>

05/13/2009 09:41 AM

cc

Subject Re: IMMEDIATE DISCLOSURE REQUEST

- Show quoted text -

- Show quoted text -

[Reply](#) [Forward](#)

Paul Weston to Pamela

[show details](#) May 13 Reply |

I missed that part of your response. Thanks for the clarification. I will pick up the document today.
- Show quoted text -

[Reply](#) [Forward](#)

Pamela Tebo to me

[show details](#) May 13 Reply |

As you requested, I provided the recent invoice submitted to HSA from St. Vincent de Paul for 150 Otis drop in services and shelter. This email will confirm that you requested additional information to the public records request (below). Along with the recent invoice from St. Vincent de Paul for 150 Otis drop in and shelter that I already provided to you, you would like a list of employees at 150 Otis and their pay. Please be advised, I have requested additional documents from our contracts division which is located at a different building. I will contact you tomorrow to let you know if these documents exists and if they are releasable.

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120
(415) 557-6540 - Phone
(415) 431-9270 - Fax

Paul Weston <ppaulweston79@gmail.com>

To Pamela Tebo <pamela.tebo@sfgov.org>

05/13/2009 10:28 AM

cc

Subject Re: IMMEDIATE DISCLOSURE REQUEST

- Show quoted text -

- Show quoted text -

[Reply](#) [Forward](#)

Paul Weston to Pamela

[show details](#) May 13 Reply |

I have filed a complaint with the Sunshine Ordinance Task Force and have requested a hearing. There was no ambiguity whatsoever in my initial request. You had given this kind of document to me before which always contained multiple pages stapled together. You knew exactly what I was referring to in my initial request and you deliberately omitted Page B.

Furthermore, your secretary accused me of threatening her when I merely requested that she obey the law and do her job. This behavior by your secretary was childish and slanderous and was also reported to the Sunshine Ordinance Task Force.

I hereby request that you cease and desist from using these childish tactics to withhold information from the public. In the future, you may find that it is a more efficient use of your time to simply obey the law and do your job.

Please inform me when the remaining portions of the requested document will be ready. However, since your secretary has demonstrated the propensity to fabricate slanderous allegations, I no longer feel safe accepting documents from her. From now on, please have someone other than your secretary deliver documents to me.

- Show quoted text -

[Reply](#) [Forward](#)

Pamela Tebo to soff, me

[show details](#) May 14 [Reply](#) |

Since you filed a complaint with the Task Force I am copying them on this email. I do not believe you are rescinding your request for additional documents and I do not believe you are anticipating I will not respond, so it is unclear why you would file a complaint.

In any event, please be advised, I can only pass on documents that are given to me by our staff. I do not have control of the contract files. And, the office where the contracts and contract staff are located are at a different building than my office. When I received your request for 150 Otis Shelter & Drop In Center's recent invoice, I tried to contact the staff who monitors the St. Vincent de Paul's contract. She was out of the office for a few days, and since you submitted an Immediate Disclosure Request, I asked her co-worker to pull the recent invoice and fax it to me. She did just that. And I passed that document on to you.

No one is playing childish games with you and no one is holding back documents. We are far too busy. Also, keep in mind, I receive numerous public records requests and I do not remember what documents I gave you in response to a previous request. I simply do not have time to go through my files to see what I gave you before.

Please note, we have no way to leave anything with our first floor guards for pick up. I will not allow my secretary to hand deliver documents to you any longer. She was very upset about your phone call. However, nothing got out of control since our security guard warned you to calm down or he would escort you out of our building.

I have to find a way to get these remaining document to you. Do you have a fax number of a mailing address I can use?

Thank you,

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120

Paul Weston <paulweston79@gmail.com>

To Pamela Tebo <Pamela.Tebo@sfsocv.org>

05/13/2009 05:31 PM

cc

Subject Re: IMMEDIATE DISCLOSURE REQUEST

- Show quoted text -

- Show quoted text -

[Reply](#) [Reply to all](#) [Forward](#)

Paul Weston to Pamela

[show details](#) May 14 [Reply](#) |

Please read Administration Code SEC. 67.25. I have not rescinded my request. I would prefer that you scan the document into a pdf file which I am sure is standard office procedure by now, and then email the pdf file to me as an attachment. This is what I recommended when I requested the Grant Agreement for the Saint Vincent de Paul Society. However, your secretary denied that request. If you are unwilling to scan the document into a pdf file and email it to me as an attachment, then please provide me with a time that I may be able to pick up these documents IN PERSON.

- Show quoted text -

[Reply](#) [Forward](#)

Pamela Tebo to me

[show details](#) May 14 [Reply](#) |

I do not have a scanner. Please send me a mailing address or a fax number. Also, my secretary does not accept Sunshine Request. All Sunshine Requests are to be sent to me.

As soon as I can get the remaining document to you, your request will be complete.

Thank you,

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120
(415) 557-6540 - Phone
(415) 431-9270 - Fax

Paul Weston <paulweston79@gmail.com>

To Pamela Tebo <Pamela.Tebo@sfsocv.org>

05/14/2009 12:29 PM

cc

Subject Re: IMMEDIATE DISCLOSURE REQUEST

- Show quoted text -

- Show quoted text -

[Reply](#) [Forward](#)

Paul Weston to Pamela

[show details](#) May 14 [Reply](#) |

I do not have a fax machine. To clarify my previous email, I made the Sunshine Request to you. However, your secretary was the one who responded pursuant to your request. If you can not email the documents to me, then I will pick them up in person. When is a good time for me to do that?

- Show quoted text -

[Reply](#) [Forward](#)

Pamela Tebo to me

[show details](#), May 14 [Reply](#) |

Your document will be ready for pick-up today, 5/14, between 4:30 and 5:00 pm from the security guard at 170 Ollis St, 1st floor.
Thank you.

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120
(415) 557-6540 - Phone
(415) 431-9270 - Fax

Paul Weston <paulweston79@gmail.com>

To Pamela Tebo <Pamela.Tebo@sfgov.org>

05/14/2009 12:53 PM

cc
Subject Re: IMMEDIATE DISCLOSURE REQUEST

- Show quoted text -

- Show quoted text -

[Reply](#) [Forward](#)

Paul Weston to Pamela

[show details](#) May 15 [Reply](#) |

I did not read your email in time to pick up the document yesterday because I was at a town hall meeting with Chris Daly. What time can I stop my today?

- Show quoted text -

[Reply](#) [Forward](#)

Pamela Tebo to me

[show details](#) May 15 [Reply](#) |

I was wondering what happened. When can you get here? Shall we say - pick up between 11 - 12 noon? We usually cannot leave things at our Security Guard Desk for pick up, but I got special approval to do it this time. Please let me know if this time frame works, or if not when?

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120
(415) 557-6540 - Phone
(415) 431-9270 - Fax

Paul Weston <paulweston79@gmail.com>

To Pamela Tebo <Pamela.Tebo@sfgov.org>

05/15/2009 09:28 AM

cc
Subject Re: IMMEDIATE DISCLOSURE REQUEST

- Show quoted text -

- Show quoted text -

[Reply](#) [Forward](#)

Paul Weston to Pamela

[show details](#) May 15 [Reply](#) |

The time frame is perfect. I will be there between 11 - 12 noon today. Thank you.

- Show quoted text -

[Reply](#) [Forward](#)

Pamela Tebo to me

[show details](#) May 15 [Reply](#) |

The guard will have it. By the way, it's just one page. That's all our contracts division gave me. It lists the breakdown of salaries. That was what you wanted - right?

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120
(415) 557-6540 - Phone
(415) 431-9270 - Fax

Paul Weston <paulweston79@gmail.com>

To Pamela Tebo <Pamela.Tebo@sfgov.org>

05/15/2009 09:41 AM

cc
Subject Re: IMMEDIATE DISCLOSURE REQUEST

- Show quoted text -

- Show quoted text -

[Reply](#) [Forward](#)

Paul Weston to Pamela

[show details](#) May 15 [Reply](#) |

I picked the document from the security guard. It appears to be Page B, the missing portion of the document that I requested via

email on 5/10/2009 at 6:11 pm.
- Show quoted text -

[Reply](#) [Forward](#)

Paul Weston to Pamela

[show details](#) May 21 (13 days ago) [Reply](#)

I have NOT rescinded my request for the application and/or resume of Alonso Bowlegs, Wayne Garnett, and Lessy Benedith. Based on consultation that I have received concerning the issue, this information is not confidential, particularly their education and work history.

- Show quoted text -

[Reply](#) [Forward](#)

Pamela Tebo to Diana, me

[show details](#) May 21 (12 days ago) [Reply](#)

Mr. Weston, Please be advised, my co-worker, Diana Christensen, Custodian of Records will be handing your public records requests from now on. I have copied her on this email and she will reply to you no later than close of business tomorrow.

Thank you,

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120

Paul Weston <paulweston73@gmail.com>

05/21/2009 09:27 AM

- Show quoted text -

- Show quoted text -

To: Pamela Tebo <Pamela.Tebo@sfgov.org>
Cc:
Subject: Re: IMMEDIATE DISCLOSURE REQUEST

[Reply](#) [Reply to all](#) [Forward](#)



[Back to inbox](#) [Archive](#) [Report spam](#) [Delete](#) [Move to](#) [Labels](#) [More actions](#)

[Newer 34 of 670 Older](#)

Add a personalized [signature](#) to all your outgoing messages. [Learn more](#)

You are currently using 167 MB (2%) of your 7335 MB.

Last account activity: 40 minutes ago on this computer. [Details](#)

Gmail view: [standard](#) | [turn on chat](#) | [basic HTML](#) | [Learn more](#)

©2009 Google - [Terms](#) - [Privacy Policy](#) - [Google Home](#)

**Braun v. City of Taft (1984) 154 Cal.App.3d 332 , 201
Cal.Rptr. 654**

[Civ. No. 7273. Court of Appeals of California, Fifth Appellate District. April 10, 1984.]

DONALD BRAUN, Plaintiff and Appellant, v. CITY OF TAFT et al., Defendants and Appellants; GEORGE POLSTON, Real Party in Interest and Respondent.

(Opinion by Andreen, J., with Franson, Acting P. J., and Woolpert, J., concurring.)

COUNSEL

Silver & Kreisler, Silver, Kreisler, Goldwasser & Shaeffer and George W. Shaeffer, Jr., for Plaintiff and Appellant.

Rex R. Mull, Edwin W. Wilson and Andrew R. Haut for Defendants and Appellants.

No appearance for Real Party in Interest and Respondent.

OPINION

ANDREEN, J.

Plaintiff Donald Braun (Braun) appealed from a judgment denying him attorney fees. Defendant City of Taft (City) cross-appealed. We affirm.

I. Factual Background

Braun was a duly elected councilman for City. As such, he investigated a perceived irregularity in the appointment of real party in interest George Polston (Polston) as transit administrator. The city manager would neither admit nor deny the appointment, so Braun requested from a city employee [154 Cal.App.3d 339] a copy of Polston's salary card, which showed that Polston had been so appointed on June 25, 1979. Later, Braun requested copies of a letter dated June 25, 1979, which appointed Polston to the position of transit administrator, and a letter dated June 29, 1979, rescinding the appointment and reinstating Polston as a firefighter. Although he was permitted to review the Polston personnel file, which contained the two letters, Braun was denied copies of the letters. (He had, on his own, previously made a copy of the face side of the salary card.) He also, once again, saw the salary card, which had been modified by whitening out the appointment as transit administrator and the word "firefighter" was printed over the whitened out portion. The mentioned documents are set forth in the appendix.

Braun displayed the face side of the salary card and the two letters to a member of the press. He did not reveal the remainder of Polston's personnel file.

Deeming himself aggrieved, Polston filed a grievance against Braun charging "unwarranted invasion of the privacy of my personnel file." Pursuant to personnel procedures, this was heard before the city council. During the city council proceeding, Braun requested copies of the letters and salary card. The request was denied. He also requested a ruling as to whether his disclosure of the documents constituted an unwarranted invasion of Polston's privacy. The council refused to consider this matter.

After the close of the hearing, the city council enacted a resolution which censured Braun for disclosing the letters and salary card.

II. Pleadings and Procedure

Braun filed the instant action in superior court. In the first cause of action, he alleged his censure and requested a review of whether the documents are exempt from disclosure under the California Public Records Act (Gov. Code, § 6250 et seq.). fn. 1 He sought a writ of mandate pursuant to Code of Civil Procedure section 1094.5 commanding City to set aside its censure action.

The second cause of action is not before us, as a demurrer was sustained and Braun did not amend; no party makes an issue of that ruling on appeal.

The third cause of action was for declaratory relief, and requested a declaration that the documents are public records open to inspection and available for copying. [154 Cal.App.3d 340]

As to both the first and third causes of action, he requested reasonable attorney fees pursuant to the provisions of section 6259.

The matter came before the court on an order to show cause, evidence was taken and the court ruled that the letters and the face side of the salary card were public records and were not confidential personnel records. The court also ruled that Braun was entitled to copies of same. The matter was remanded to the city council to reconsider its decision. The request for attorney fees was denied.

III. Public Records

Section 6252, subdivision (d) defines public records within the meaning of the California Public Records Act: "'Public records' includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics."

[1] The mere custody of a writing by a public agency does not make it a public record, but if a record is kept by an officer because it is necessary or convenient to the discharge of his official duty, it is a public record. (*San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 774 [192 Cal.Rptr. 415].) The court in *San Gabriel Tribune* included in its discussion of what is a public record the following: ""This definition is

intended to cover every conceivable kind of record that is involved in the governmental process and will pertain to any new form of record-keeping instrument as it is developed. Only purely personal information unrelated to 'the conduct of the public's business' could be considered exempt from this definition, i.e., the shopping list phoned from home, the letter to a public officer from a friend which is totally void of reference to governmental activities." Assembly Committee on Statewide Information Policy California Public Records Act of 1968. 1 Appendix to Journal of Assembly 7, Reg. Sess. (1970), see also 53 Ops.Cal.Atty.Gen. 136, 140-143 (1970). (58 Ops.Cal.Atty.Gen. 629, 633-634 (1975).)" (Ibid)

[2] The two letters and the personnel card are public records. They clearly related to the conduct of the City's business.

Unless the letters and the card were exempt (§ 6254), or the City can show justification for not disclosing them (§ 6255), then the City must make these records accessible to the public. (§ 6253.)

IV. Polston Criminality

The court took judicial notice of a criminal complaint and disposition regarding Polston. The complaint charged Polston with embezzlement (Pen. [154 Cal.App.3d 341] Code, § 504) and grand theft (Pen. Code, § 487, subd. 1) from the Taft Area Transit District. It was alleged that these acts occurred between October 1, 1979, and August 31, 1980. (This was two months after Braun's censure hearing.) Polston pleaded guilty to the grand theft (Pen. Code, § 487, subd. 1) and the embezzlement count (Pen. Code, § 504) was dismissed.

[3] City contends that it was error for the court to take judicial notice of the criminal complaint and disposition regarding Polston. Citing Trust v. Arden Farms Co. (1958) 50 Cal.2d 217, 224 [324 P.2d 583, 81 A.L.R.2d 332], City analogizes the rule set forth in Trust with the present case. In Trust the court said "It is the general rule that evidence of subsequent accidents has no probative tendency to show that a defendant might reasonably have anticipated the previous accident, and therefore such evidence is inadmissible." City says "the subsequent crime and conviction of real party in interest [Polston] has no probative tendency to show that the City Manager might reasonably have concluded that the appointment was premature, and therefore such evidence should be inadmissible."

Whether or not the analogy to Trust is appropriate, we can find no legitimate purpose for this evidence. However, this was a court, not jury, trial and the issue of whether the disclosure of the records was warranted could not have been affected by events occurring several months after the operative facts of this case. A trial judge would certainly understand this. Therefore, the error is harmless.

V. Section 6254, Subdivision (c) Exemption

Section 6254 exempts several types of records from disclosure. Subdivision (c) exempts "Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy."

[4a, 5a] City contends that section 6254, subdivision (c) applies to the three documents and exempts them from disclosure. [6] City contends that since this exemption says "files," the Legislature intended to exempt the entire file. Thus, selective disclosure of certain documents would not be allowed, i.e., it is all or nothing. In view of section 6250 which states that "In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state" and the policy favoring disclosure of public records (*Cook v. Craig* (1976) 55 Cal.App.3d 773, 781 [127 Cal.Rptr. 712]), it is unlikely that the Legislature intended an all or nothing approach. [7] Statutes should be interpreted so as to be consistent with the legislative [154 Cal.App.3d 342] purpose. (*Select Base Materials v. Board of Equal*. (1959) 51 Cal.2d 640, 645 [335 P.2d 672].)

[8] Whether a disclosure of records is warranted or unwarranted was a question of fact for the trial court to determine by looking at the attendant circumstances. In order to find an abuse of discretion, it would be necessary to find that the decision was not supported by substantial evidence.

[4b, 5b] Implicit in the trial court's decision that the records were public and that Braun was entitled to copies of them is a finding that the documents were not exempt under section 6254, subdivision (c) because their disclosure did not constitute an unwarranted invasion of privacy.

City contends that disclosure of the letters appointing then rescinding the appointment of Polston to the post of transit administrator would cause him embarrassment. City also contends that disclosure of the information on the front page of the salary card (name, address, home phone number, age, credit union number, leave of absence, salary, etc.) would expose Polston to harassment at home and over the phone.

[9] The California Public Records Act (§ 6250 et seq.) was modeled after the 1967 federal Freedom of Information Act. Since the acts are so similar, California courts have used federal law to construe the California act. (*San Gabriel Tribune v. Superior Court*, supra, 143 Cal.App.3d 762, 777.) Both the federal and California courts have construed the statutory exemptions narrowly in order to accomplish the general policy of disclosure. (*Id.*, at pp. 772-773.) 5 United States Code section 552(b)(6) is the federal counterpart to section 6254, subdivision (c). It exempts "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." (*Italics added.*) Section 6254, subdivision (c) exempts "[p]ersonnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy."

City contends that the federal act tilts more in favor of disclosure than the California act because California omitted the word "clearly" from section 6254, subdivision (c). Thus, City contends that the federal cases that do not allow disclosure are even more persuasive when analyzing the cases in California because California's statute is more restrictive in allowing disclosure. This distinction does not carry much weight, because California has adhered to the federal courts' policy of narrowly construing the disclosure exemptions. (San Gabriel Tribune v. Superior Court, supra, 143 Cal.App.3d at p. 778.) [154 Cal.App.3d 343]

City contends that the federal case *Campbell v. United States Civil Service Commission* (10th Cir. 1976) 539 F.2d 58 squarely supports its position and poses precisely the same question. In *Campbell*, the appellants sought disclosure of a routine report prepared by the United States Civil Service Commission which contained analysis of personnel management at the Environmental Research Laboratory in Boulder, Colorado. Appendix 1 to the report contained a list of employees who were classified too high for the duties they were performing. Appendix 2 named an employee who had been promoted contrary to regulations. The agency released all portions of the report save appendixes 1 and 2. The court held that the lower court had not abused its discretion in holding that the appendixes should not be disclosed. The court said at page 62: "The disclosure of the personnel records in the instant case would be a serious invasion of privacy. Matters such as an individual's job classification, his salary and information as to overclassification are also personal and capable of causing embarrassment. The same is true of a promotion contrary to regulations. Also, the public interest in efficient and lawful personnel management by government agencies is better served by disclosure of general agency performance rather than by specific revelation of individual problems such as overclassification. Practically no public interest is advanced by disclosure of the latter."

Although the *Campbell* case is similar to the instant case, there are three dissimilarities. In finding that nondisclosure was proper, the court was reviewing the lower court's decision, which held that the documents should not be disclosed, on an abuse of discretion standard.

Second, *Campbell* is distinguishable on its facts, for the federal agency had publicized copies of the report which evaluated its performance. The only thing withheld was the identity of those who were overclassified and the name of the person promoted contrary to regulations. The appellate panel found that the public interest was best served by disclosure of general agency performance rather than disclosure of specific names of the involved employees. In the instant case, there was a refusal of the city manager to admit or deny the unlawful appointment. Access to records proving it then became in the public interest.

Third, as we will establish below, California has a statutory provision relating to employment contracts.

In *Sims v. Central Intelligence Agency* (D.C. Cir. 1980) 642 F.2d 562, the court found that 5 United States Code section 552(b)(6) did not apply to the disclosure of names of

people entering into contracts with the federal government. In reaching this decision the court said, "Exemption 6 was [154 Cal.App.3d 344] developed to protect intimate details of personal and family life, not business judgments and relationships." (Id, at p. 575.)

[4c] The letters of June 25 and June 29 contain no personal information. Although reclassification may be embarrassing to an individual (Campbell), in California, employment contracts are public records and may not be considered exempt. (§ 6254.8.) The letters were memoranda of Polston's appointment to a position and the rescission thereof; they therefore manifested his employment contract. Because the letters regarded business transactions and contained no personal information, the court properly ordered disclosure of the letters.

[5c] The disclosure of the front portion of the salary card poses more difficulty. The salary card contains Polston's address, birth date, social security number, his job classifications, his salary and credit union number. There is a telephone number which may be a home phone.

Since the information on the salary card is of a more personal nature, the chance of an unwarranted invasion of privacy is greater. In its tentative ruling, following the in camera inspection, the court held that the salary card should not be disclosed. But, after hearing argument, the court ruled that the face side of the salary card should be revealed. The court thought it relevant that the salary card had been altered and the transit administrator position had been whited out. The court stated "the Court will now declare Page 1 of the fireman's record as public and relevant, because in chambers I did not know what the relevance was. But whether it's altered or not, when it's altered to put someone into an office that wasn't properly followed is a matter that is relevant, should be made public."

In order to show that the card had been altered, it was not necessary to expose the entire front portion of the card. The only relevant part of the front of the card was the portion which had been altered. The phone number, birth date, address, social security and credit union numbers, and salary of Polston were not relevant to Braun's concerns. [10]

"[W]here nonexempt materials are not inextricably intertwined with exempt materials and are otherwise reasonably segregable therefrom, segregation is required to serve the objective of the PRA to make public records available for public inspection and copying unless a particular statute makes them exempt." (Northern Cal. Police Practices Project v. Craig (1979) 90 Cal.App.3d 116, 124 [153 Cal.Rptr. 173].)

[5d] Since some of the information on the salary card was personal and not relevant to the inquiry, the trial court could have ordered the irrelevant personal items taken out before the card was made public. If this had been [154 Cal.App.3d 345] done the invasion of privacy was warranted for the same reasons the disclosure of the letters was.

We are reluctant to reverse on the limited ground that some personal data was on the face side of the salary card. The data listed on the card was not in any way embarrassing. One's telephone number and address, although personal, are seldom secret. There is nothing in the record to show that such information was not available through a city

directory or telephone book. Few persons would find interest in Polston's social security and credit union numbers, or birth date. A salary classification is public information. (§ 6254.8.)

The court was within its discretion in finding that the disclosure of the face sheet of the salary card would not constitute an unwarranted invasion of personal privacy.

VI. Public Interest Served by Withholding the Records

Section 6255 provides: "The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record." Section 6255 has no counterpart in the federal Freedom of Information Act. (*American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 452 [186 Cal.Rptr. 235, 651 P.2d 822].) [11a] If a record is found to be nonexempt under section 6254, then it can still be withheld under section 6255.

[12] The weighing process under section 6254, subdivision (c) to determine whether the disclosure would constitute an unwarranted invasion of privacy requires a consideration of almost exactly the same elements that should be considered under section 6255. [11b] The burden of demonstrating a need for nondisclosure is upon the agency claiming the right to withhold the information. (*San Gabriel Tribune v. Superior Court*, supra, 143 Cal.App.3d 762, 780.)

The public interest served by nondisclosure has been upheld under section 6255, where the plaintiff sought to disclose audit manuals which contained the "game plan" for audits regarding Medi-Cal regulations (*Eskaton Monterey Hospital v. Myers* (1982) 134 Cal.App.3d 788 [184 Cal.Rptr. 840]), where the burden of segregating exempt from nonexempt information would be substantial (*American Civil Liberties Union Foundation v. Deukmejian*, supra, 32 Cal.3d 440, 453), and where information was obtained with the [154 Cal.App.3d 346] understanding that it would be kept confidential (*Johnson v. Winter* (1982) 127 Cal.App.3d 435, 439 [179 Cal.Rptr. 585]).

The public interest in disclosure outweighs that of nondisclosure and allows disclosure of pesticide applicator spray reports (*Uribe v. Howie* (1971) 19 Cal.App.3d 194, 213 [96 Cal.Rptr. 493]), and allows disclosure of the provisions of governmental contracts made on behalf of residents of a town. (*San Gabriel Tribune v. Superior Court*, supra, 143 Cal.App.3d 762, 780.)

[13] City asserts several reasons for justifying nondisclosure. City claims it would be "difficult to secure good public employees if every mistake or error in judgment were disseminated for public consumption. It would be difficult to obtain candid information from personnel applicants if they knew the information provided would be public knowledge." These contentions carry no weight. Just because disclosure is allowed in this case does not mean that disclosure will be allowed in others. Each case must undergo an

individual weighing process. The weighing process involves what public interest is served in this particular instance in not disclosing the information versus the public interest served in disclosing the information.

We doubt that the quality of the employees obtained by City would deteriorate because in this particular case limited documents were ordered disclosed. Every error or mistake would not be disclosed, only those errors or mistakes in which the public interest in disclosure outweighs the interest in nondisclosure. Also, information provided by employees would not automatically be public knowledge; again it would depend on the weighing process. Furthermore, section 6254, subdivision (c) adds an additional weighing process and extra protection when information is contained in personnel, medical or similar files.

Since we find that the records are not exempt under section 6254, subdivision (c) because they do not constitute an unwarranted invasion of privacy, it follows that the public interest asserted by City under section 6255 would not clearly outweigh the public interest served by disclosure of the records.

Finally, the clear provisions of section 6254.8 govern, for it provides, in part, "Every employment contract ... is not subject to ... Section[] ... 6255."

VII. Constitutional Right to Privacy

[14] The final public interest which City asserts is the individual's constitutional right to privacy. City contends that disclosure is prohibited by [154 Cal.App.3d 347] law because the right to privacy is now of constitutional dimension (Cal. Const., art. I, § 1) and that this right to privacy prohibits disclosure of documents held by a public agency if they relate to the personnel file of an individual.

We believe that the constitutional right to privacy must be balanced against the public's interest in its business in much the same way that the courts have sought accommodation of the reputational interests of the individual and the United States Constitution's First Amendment's protection of press freedoms. (See, e.g., *New York Times Co. v. Sullivan* (1964) 376 U.S. 254 [11 L.Ed.2d 686, 84 S.Ct. 710, 95 A.L.R.2d 1412].) Although one does not lose his right to privacy upon accepting public employment, the very fact that he is engaged in the public's business strips him of some anonymity.

The balancing test employed by the trial court in its determination that the records were not exempt under section 6254, subdivision (c) because they do not constitute an unwarranted invasion of privacy is the same one which should be utilized in weighing the right to privacy against the right of the public to oversee the actions of governmental employees. The trial court carefully considered the clash between the need for public disclosure of its business and the need of the individual to privacy when making its determination under section 6254, subdivision (c); no more is required under article I, section 1, of the California Constitution.

VIII. Remand

[15] City contends that the censure of Braun was proper regardless of whether the records were subject to disclosure because his "breach of duty consisted not only of his disclosure of confidential records but of his unilateral decision regarding their suitability for disclosure." In its resolution censuring Braun, the council found that "Braun did reveal confidential personnel records of employee George Polston to a representative of the press without the consent of Mr. Polston, and without the approval of the City Council, the City Manager or the City Attorney." The council further found that this disclosure "should have been presented in a manner not requiring public disclosure of confidential personnel documents without the consent of the parties concerned." Thus, it is clear that the council based its determination to censure Braun, at least in part, on the fact that the papers Braun disclosed were confidential. Therefore, the council should redetermine its position in light of this opinion. This does not mean that the council may [154 Cal.App.3d 348] not consider the acts of Braun and censure him, fn. 2 it only means that it cannot base its findings on the fact that the papers were confidential.

IX. Attorney Fees

[16a] The trial court denied attorney fees to Braun, and he appeals on that issue.

[17] As a general rule attorney fees are not allowed unless they are specifically authorized by agreement or statute. (Smith v. Krueger (1983) 150 Cal.App.3d 752, 756 [198 Cal.Rptr. 174].) Section 6259 specifically allows the recovery of attorney fees. It provides:

"Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

"If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Section 6254 or 6255, he shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court. The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. Such costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency." (Italics added.)

At the time of trial, section 6252, subdivision (f), which defines a member of the public, had not been enacted. fn. 3 We are able to discuss the issue of [154 Cal.App.3d 349] attorney fees without reference to whether we should declare section 6252, subdivision (f) retroactive.

[18] Section 6259 was enacted to carry out the purposes of the California Public Records Act. Through the device of awarding attorney fees, citizens can enforce its salutary objectives.

[16b] In the instant case, Braun was given access to the public records by virtue of his capacity as a member of the city council. Although his request for copies of the documents was not honored, he was in no way injured or hampered in his attempts to publicize what had transpired.

Braun's defense of his activities at the grievance hearing before the city council and the instant action are not the type of litigation envisioned in section 6259. Braun may be seen as acting with the primary purpose of protecting his reputation as a member of the city council, rather than as a member of the public seeking withheld public information.

The refusal to award attorney fees was proper.

X. Conclusion

The judgment is affirmed.

Franson, Acting P. J., and Woolpert, J., concurred.

[Graphic Material Omitted]

FN 1. All statutory references are to the Government Code unless otherwise indicated.

FN 2. Braun was one of several coequals on the council. Upon being advised that he could not obtain copies of the records, he could have asked for an executive session of the council so that a determination could be made whether the records were exempt. (§§ 6254, subd. (c), 6255.)

FN 3. Section 6252, subdivision (f) provides: "(f) 'Member of the public' means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment."



Department of the Treasury
Internal Revenue Service

Notice 1382

(January 2009)

Changes for Form 1023:

- Mailing address
- Parts IX and X

Changes for Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code

Change of Mailing Address

The mailing address shown on Form 1023 Checklist, page 28, the first address under the last checkbox; and in the Instructions for Form 1023, page 4 under *Where to File*, has been changed to:

Internal Revenue Service
P.O. Box 12192
Covington, KY 41012-0192

Changes for Parts IX and X

Changes to Parts IX and X are necessary to comply with new regulations that eliminated the advance ruling process. Until Form 1023 is revised to reflect this change, please follow the directions on this notice when completing Part IX and Part X of Form 1023. For more information about the elimination of the advance ruling process, visit us at www.irs.gov and click on *CHARITIES & NON-PROFITS*.

Part IX. Financial Data

The instructions at the top of Part IX on page 9 of Form 1023 are now as follows. For purposes of this schedule, years in existence refer to completed tax years.

1. If in existence less than 5 years, complete the statement for each year in existence and provide projections of your likely revenues and expenses based on a reasonable and good faith estimate of your future finances for a total of:
 - a. Three years of financial information if you have not completed one tax year, or
 - b. Four years of financial information if you have completed one tax year.
2. If in existence 5 or more years, complete the schedule for the most recent 5 tax years. You will need to provide a separate statement that includes information about the most recent 5 tax years because the data table in Part IX, has not been updated to provide for a 5th year.

Part X. Public Charity Status

Do not complete line 6a on page 11 of Form 1023, and do not sign the form under the heading "Consent Fixing Period of Limitations Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code."

Only complete line 6b and line 7 on page 11 of Form 1023, if in existence 5 or more tax years.

Notice 1382 (1-2009)

Cat. No. 52336F

**Application for Recognition of Exemption
 Under Section 501(c)(3) of the Internal Revenue Code**

OMB No. 1545-0056

Note: If exempt status is approved, this application will be open for public inspection.

Use the instructions to complete this application and for a definition of all bold items. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500. Visit our website at www.irs.gov for forms and publications. If the required information and documents are not submitted with payment of the appropriate user fee, the application may be returned to you.

Attach additional sheets to this application if you need more space to answer fully. Put your name and EIN on each sheet and identify each answer by Part and line number. Complete Parts I - XI of Form 1023 and submit only those Schedules (A through H) that apply to you.

Part I Identification of Applicant

1 Full name of organization (exactly as it appears in your organizing document)		2 c/o Name (if applicable)
3 Mailing address (Number and street) (see instructions)	Room/Suite	4 Employer Identification Number (EIN)
City or town, state or country, and ZIP + 4		5 Month the annual accounting period ends (01 - 12)
6 Primary contact (officer, director, trustee, or authorized representative) a Name:		b Phone:
		c Fax: (optional)
7 Are you represented by an authorized representative, such as an attorney or accountant? If "Yes," provide the authorized representative's name, and the name and address of the authorized representative's firm. Include a completed Form 2848, <i>Power of Attorney and Declaration of Representative</i> , with your application if you would like us to communicate with your representative. <input type="checkbox"/> Yes <input type="checkbox"/> No		
8 Was a person who is not one of your officers, directors, trustees, employees, or an authorized representative listed in line 7, paid, or promised payment, to help plan, manage, or advise you about the structure or activities of your organization, or about your financial or tax matters? If "Yes," provide the person's name, the name and address of the person's firm, the amounts paid or promised to be paid, and describe that person's role. <input type="checkbox"/> Yes <input type="checkbox"/> No		
9a Organization's website:		
b Organization's email: (optional)		
10 Certain organizations are not required to file an information return (Form 990 or Form 990-EZ). If you are granted tax-exemption, are you claiming to be excused from filing Form 990 or Form 990-EZ? If "Yes," explain. See the instructions for a description of organizations not required to file Form 990 or Form 990-EZ. <input type="checkbox"/> Yes <input type="checkbox"/> No		
11 Date incorporated if a corporation, or formed, if other than a corporation. (MM/DD/YYYY) / /		
12 Were you formed under the laws of a foreign country? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," state the country.		

Part II Organizational Structure

You must be a corporation (including a limited liability company), an unincorporated association, or a trust to be tax exempt. (See instructions.) **DO NOT** file this form unless you can check "Yes" on lines 1, 2, 3, or 4.

- 1 Are you a corporation? If "Yes," attach a copy of your articles of incorporation showing certification of filing with the appropriate state agency. Include copies of any amendments to your articles and be sure they also show state filing certification. Yes No
- 2 Are you a limited liability company (LLC)? If "Yes," attach a copy of your articles of organization showing certification of filing with the appropriate state agency. Also, if you adopted an operating agreement, attach a copy. Include copies of any amendments to your articles and be sure they show state filing certification. Refer to the instructions for circumstances when an LLC should not file its own exemption application. Yes No
- 3 Are you an unincorporated association? If "Yes," attach a copy of your articles of association, constitution, or other similar organizing document that is dated and includes at least two signatures. Include signed and dated copies of any amendments. Yes No
- 4a Are you a trust? If "Yes," attach a signed and dated copy of your trust agreement. Include signed and dated copies of any amendments. Yes No
- b Have you been funded? If "No," explain how you are formed without anything of value placed in trust. Yes No
- 5 Have you adopted bylaws? If "Yes," attach a current copy showing date of adoption. If "No," explain how your officers, directors, or trustees are selected. Yes No

Part III Required Provisions in Your Organizing Document

The following questions are designed to ensure that when you file this application, your organizing document contains the required provisions to meet the organizational test under section 501(c)(3). Unless you can check the boxes in both lines 1 and 2, your organizing document does not meet the organizational test. **DO NOT** file this application until you have amended your organizing document. Submit your original and amended organizing documents (showing state filing certification if you are a corporation or an LLC) with your application.

- 1 Section 501(c)(3) requires that your organizing document state your exempt purpose(s), such as charitable, religious, educational, and/or scientific purposes. Check the box to confirm that your organizing document meets this requirement. Describe specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document. Refer to the instructions for exempt purpose language. Location of Purpose Clause (Page, Article, and Paragraph): _____
- 2a Section 501(c)(3) requires that upon dissolution of your organization, your remaining assets must be used exclusively for exempt purposes, such as charitable, religious, educational, and/or scientific purposes. Check the box on line 2a to confirm that your organizing document meets this requirement by express provision for the distribution of assets upon dissolution. If you rely on state law for your dissolution provision, do not check the box on line 2a and go to line 2c.
- 2b If you checked the box on line 2a, specify the location of your dissolution clause (Page, Article, and Paragraph). Do not complete line 2c if you checked box 2a. _____
- 2c See the instructions for information about the operation of state law in your particular state. Check this box if you rely on operation of state law for your dissolution provision and indicate the state: _____

Part IV Narrative Description of Your Activities

Using an attachment, describe your *past*, *present*, and *planned* activities in a narrative. If you believe that you have already provided some of this information in response to other parts of this application, you may summarize that information here and refer to the specific parts of the application for supporting details. You may also attach representative copies of newsletters, brochures, or similar documents for supporting details to this narrative. Remember that if this application is approved, it will be open for public inspection. Therefore, your narrative description of activities should be thorough and accurate. Refer to the instructions for information that must be included in your description.

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors

1a List the names, titles, and mailing addresses of all of your officers, directors, and trustees. For each person listed, state their total annual compensation, or proposed compensation, for all services to the organization, whether as an officer, employee, or other position. Use actual figures, if available. Enter "none" if no compensation is or will be paid. If additional space is needed, attach a separate sheet. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)

b List the names, titles, and mailing addresses of each of your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation. Do not include officers, directors, or trustees listed in line 1a.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)

c List the names, names of businesses, and mailing addresses of your five highest compensated independent contractors that receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)

The following "Yes" or "No" questions relate to *past, present, or planned* relationships, transactions, or agreements with your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, and 1c.

2a Are any of your officers, directors, or trustees related to each other through family or business relationships? If "Yes," identify the individuals and explain the relationship. Yes No

b Do you have a business relationship with any of your officers, directors, or trustees other than through their position as an officer, director, or trustee? If "Yes," identify the individuals and describe the business relationship with each of your officers, directors, or trustees. Yes No

c Are any of your officers, directors, or trustees related to your highest compensated employees or highest compensated independent contractors listed on lines 1b or 1c through family or business relationships? If "Yes," identify the individuals and explain the relationship. Yes No

3a For each of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c, attach a list showing their name, qualifications, average hours worked, and duties.

b Do any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c receive compensation from any other organizations, whether tax exempt or taxable, that are related to you through common control? If "Yes," identify the individuals, explain the relationship between you and the other organization, and describe the compensation arrangement. Yes No

4 In establishing the compensation for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, and 1c, the following practices are recommended, although they are not required to obtain exemption. Answer "Yes" to all the practices you use.

a Do you or will the individuals that approve compensation arrangements follow a conflict of interest policy? Yes No

b Do you or will you approve compensation arrangements in advance of paying compensation? Yes No

c Do you or will you document in writing the date and terms of approved compensation arrangements? Yes No

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)

- d Do you or will you record in writing the decision made by each individual who decided or voted on compensation arrangements? Yes No
- e Do you or will you approve compensation arrangements based on information about compensation paid by similarly situated taxable or tax-exempt organizations for similar services, current compensation surveys compiled by independent firms, or actual written offers from similarly situated organizations? Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation. Yes No
- f Do you or will you record in writing both the information on which you relied to base your decision and its source? Yes No
- g If you answered "No" to any item on lines 4a through 4f, describe how you set compensation that is reasonable for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c.

- 5a Have you adopted a conflict of interest policy consistent with the sample conflict of interest policy in Appendix A to the instructions? If "Yes," provide a copy of the policy and explain how the policy has been adopted, such as by resolution of your governing board. If "No," answer lines 5b and 5c. Yes No
- b What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you for setting their own compensation?
- c What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you regarding business deals with themselves?

Note: A conflict of interest policy is recommended though it is not required to obtain exemption. Hospitals, see Schedule C, Section I, line 14.

- 6a Do you or will you compensate any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, or 1c through non-fixed payments, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are determined, who is eligible for such arrangements, whether you place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation. Yes No
- b Do you or will you compensate any of your employees, other than your officers, directors, trustees, or your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year, through non-fixed payments, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are or will be determined, who is or will be eligible for such arrangements, whether you place or will place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation. Yes No

- 7a Do you or will you purchase any goods, services, or assets from any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such purchase that you made or intend to make, from whom you make or will make such purchases, how the terms are or will be negotiated at arm's length, and explain how you determine or will determine that you pay no more than fair market value. Attach copies of any written contracts or other agreements relating to such purchases. Yes No
- b Do you or will you sell any goods, services, or assets to any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such sales that you made or intend to make, to whom you make or will make such sales, how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you are or will be paid at least fair market value. Attach copies of any written contracts or other agreements relating to such sales. Yes No

- 8a Do you or will you have any leases, contracts, loans, or other agreements with your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," provide the information requested in lines 8b through 8f. Yes No
- b Describe any written or oral arrangements that you made or intend to make.
- c Identify with whom you have or will have such arrangements.
- d Explain how the terms are or will be negotiated at arm's length.
- e Explain how you determine you pay no more than fair market value or you are paid at least fair market value.
- f Attach copies of any signed leases, contracts, loans, or other agreements relating to such arrangements.

- 9a Do you or will you have any leases, contracts, loans, or other agreements with any organization in which any of your officers, directors, or trustees are also officers, directors, or trustees, or in which any individual officer, director, or trustee owns more than a 35% interest? If "Yes," provide the information requested in lines 9b through 9f. Yes No

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)

- b Describe any written or oral arrangements you made or intend to make.
- c Identify with whom you have or will have such arrangements.
- d Explain how the terms are or will be negotiated at arm's length.
- e Explain how you determine or will determine you pay no more than fair market value or that you are paid at least fair market value.
- f Attach a copy of any signed leases, contracts, loans, or other agreements relating to such arrangements.

Part VI Your Members and Other Individuals and Organizations That Receive Benefits From You

The following "Yes" or "No" questions relate to goods, services, and funds you provide to individuals and organizations as part of your activities. Your answers should pertain to *past*, *present*, and *planned* activities. (See instructions.)

- 1a In carrying out your exempt purposes, do you provide goods, services, or funds to individuals? If "Yes," describe each program that provides goods, services, or funds to individuals. Yes No
- b In carrying out your exempt purposes, do you provide goods, services, or funds to organizations? If "Yes," describe each program that provides goods, services, or funds to organizations. Yes No
- 2 Do any of your programs limit the provision of goods, services, or funds to a specific individual or group of specific individuals? For example, answer "Yes," if goods, services, or funds are provided only for a particular individual, your members, individuals who work for a particular employer, or graduates of a particular school. If "Yes," explain the limitation and how recipients are selected for each program. Yes No
- 3 Do any individuals who receive goods, services, or funds through your programs have a family or business relationship with any officer, director, trustee, or with any of your highest compensated employees or highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c? If "Yes," explain how these related individuals are eligible for goods, services, or funds. Yes No

Part VII Your History

The following "Yes" or "No" questions relate to your history. (See instructions.)

- 1 Are you a successor to another organization? Answer "Yes," if you have taken or will take over the activities of another organization; you took over 25% or more of the fair market value of the net assets of another organization; or you were established upon the conversion of an organization from for-profit to non-profit status. If "Yes," complete Schedule G. Yes No
- 2 Are you submitting this application more than 27 months after the end of the month in which you were legally formed? If "Yes," complete Schedule E. Yes No

Part VIII Your Specific Activities

The following "Yes" or "No" questions relate to specific activities that you may conduct. Check the appropriate box. Your answers should pertain to *past*, *present*, and *planned* activities. (See instructions.)

- 1 Do you support or oppose candidates in political campaigns in any way? If "Yes," explain. Yes No
- 2a Do you attempt to influence legislation? If "Yes," explain how you attempt to influence legislation and complete line 2b. If "No," go to line 3a. Yes No
- b Have you made or are you making an election to have your legislative activities measured by expenditures by filing Form 5768? If "Yes," attach a copy of the Form 5768 that was already filed or attach a completed Form 5768 that you are filing with this application. If "No," describe whether your attempts to influence legislation are a substantial part of your activities. Include the time and money spent on your attempts to influence legislation as compared to your total activities. Yes No
- 3a Do you or will you operate bingo or gaming activities? If "Yes," describe who conducts them, and list all revenue received or expected to be received and expenses paid or expected to be paid in operating these activities. Revenue and expenses should be provided for the time periods specified in Part IX, Financial Data. Yes No
- b Do you or will you enter into contracts or other agreements with individuals or organizations to conduct bingo or gaming for you? If "Yes," describe any written or oral arrangements that you made or intend to make, identify with whom you have or will have such arrangements, explain how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you pay no more than fair market value or you will be paid at least fair market value. Attach copies or any written contracts or other agreements relating to such arrangements. Yes No
- c List the states and local jurisdictions, including Indian Reservations, in which you conduct or will conduct gaming or bingo.

Part VII Your Specific Activities (Continued)

- 4a Do you or will you undertake fundraising? If "Yes," check all the fundraising programs you do or will conduct. (See instructions.) Yes No
- mail solicitations
 - phone solicitations
 - email solicitations
 - accept donations on your website
 - personal solicitations
 - receive donations from another organization's website
 - vehicle, boat, plane, or similar donations
 - government grant solicitations
 - foundation grant solicitations
 - Other

Attach a description of each fundraising program.

- b Do you or will you have written or oral contracts with any individuals or organizations to raise funds for you? If "Yes," describe these activities. Include all revenue and expenses from these activities and state who conducts them. Revenue and expenses should be provided for the time periods specified in Part IX, Financial Data. Also, attach a copy of any contracts or agreements. Yes No
- c Do you or will you engage in fundraising activities for other organizations? If "Yes," describe these arrangements. Include a description of the organizations for which you raise funds and attach copies of all contracts or agreements. Yes No
- d List all states and local jurisdictions in which you conduct fundraising. For each state or local jurisdiction listed, specify whether you fundraise for your own organization, you fundraise for another organization, or another organization fundraises for you.
- e Do you or will you maintain separate accounts for any contributor under which the contributor has the right to advise on the use or distribution of funds? Answer "Yes" if the donor may provide advice on the types of investments, distributions from the types of investments, or the distribution from the donor's contribution account. If "Yes," describe this program, including the type of advice that may be provided and submit copies of any written materials provided to donors. Yes No

5 Are you affiliated with a governmental unit? If "Yes," explain. Yes No

6a Do you or will you engage in economic development? If "Yes," describe your program. Yes No

b Describe in full who benefits from your economic development activities and how the activities promote exempt purposes.

7a Do or will persons other than your employees or volunteers develop your facilities? If "Yes," describe each facility, the role of the developer, and any business or family relationship(s) between the developer and your officers, directors, or trustees. Yes No

- b Do or will persons other than your employees or volunteers manage your activities or facilities? If "Yes," describe each activity and facility, the role of the manager, and any business or family relationship(s) between the manager and your officers, directors, or trustees. Yes No
- c If there is a business or family relationship between any manager or developer and your officers, directors, or trustees, identify the individuals, explain the relationship, describe how contracts are negotiated at arm's length so that you pay no more than fair market value, and submit a copy of any contracts or other agreements.

8 Do you or will you enter into joint ventures, including partnerships or limited liability companies treated as partnerships, in which you share profits and losses with partners other than section 501(c)(3) organizations? If "Yes," describe the activities of these joint ventures in which you participate. Yes No

9a Are you applying for exemption as a childcare organization under section 501(k)? If "Yes," answer lines 9b through 9d. If "No," go to line 10. Yes No

- b Do you provide child care so that parents or caretakers of children you care for can be gainfully employed (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k). Yes No
- c Of the children for whom you provide child care, are 85% or more of them cared for by you to enable their parents or caretakers to be gainfully employed (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k). Yes No
- d Are your services available to the general public? If "No," describe the specific group of people for whom your activities are available. Also, see the instructions and explain how you qualify as a childcare organization described in section 501(k). Yes No

10 Do you or will you publish, own, or have rights in music, literature, tapes, artworks, choreography, scientific discoveries, or other intellectual property? If "Yes," explain. Describe who owns or will own any copyrights, patents, or trademarks, whether fees are or will be charged, how the fees are determined, and how any items are or will be produced, distributed, and marketed. Yes No

Part VIII Your Specific Activities (Continued)

- 11 Do you or will you accept contributions of: real property; conservation easements; closely held securities; intellectual property such as patents, trademarks, and copyrights; works of music or art; licenses; royalties; automobiles, boats, planes, or other vehicles; or collectibles of any type? If "Yes," describe each type of contribution, any conditions imposed by the donor on the contribution, and any agreements with the donor regarding the contribution. Yes No
-
- 12a Do you or will you operate in a foreign country or countries? If "Yes," answer lines 12b through 12d. If "No," go to line 13a. Yes No
- b Name the foreign countries and regions within the countries in which you operate.
- c Describe your operations in each country and region in which you operate.
- d Describe how your operations in each country and region further your exempt purposes.
-
- 13a Do you or will you make grants, loans, or other distributions to organization(s)? If "Yes," answer lines 13b through 13g. If "No," go to line 14a. Yes No
- b Describe how your grants, loans, or other distributions to organizations further your exempt purposes.
- c Do you have written contracts with each of these organizations? If "Yes," attach a copy of each contract. Yes No
- d Identify each recipient organization and any relationship between you and the recipient organization.
- e Describe the records you keep with respect to the grants, loans, or other distributions you make.
- f Describe your selection process, including whether you do any of the following:
- (i) Do you require an application form? If "Yes," attach a copy of the form. Yes No
- (ii) Do you require a grant proposal? If "Yes," describe whether the grant proposal specifies your responsibilities and those of the grantee, obligates the grantee to use the grant funds only for the purposes for which the grant was made, provides for periodic written reports concerning the use of grant funds, requires a final written report and an accounting of how grant funds were used, and acknowledges your authority to withhold and/or recover grant funds in case such funds are, or appear to be, misused. Yes No
- g Describe your procedures for oversight of distributions that assure you the resources are used to further your exempt purposes, including whether you require periodic and final reports on the use of resources.
-
- 14a Do you or will you make grants, loans, or other distributions to foreign organizations? If "Yes," answer lines 14b through 14f. If "No," go to line 15. Yes No
- b Provide the name of each foreign organization, the country and regions within a country in which each foreign organization operates, and describe any relationship you have with each foreign organization.
- c Does any foreign organization listed in line 14b accept contributions earmarked for a specific country or specific organization? If "Yes," list all earmarked organizations or countries. Yes No
- d Do your contributors know that you have ultimate authority to use contributions made to you at your discretion for purposes consistent with your exempt purposes? If "Yes," describe how you relay this information to contributors. Yes No
- e Do you or will you make pre-grant inquiries about the recipient organization? If "Yes," describe these inquiries, including whether you inquire about the recipient's financial status, its tax-exempt status under the Internal Revenue Code, its ability to accomplish the purpose for which the resources are provided, and other relevant information. Yes No
- f Do you or will you use any additional procedures to ensure that your distributions to foreign organizations are used in furtherance of your exempt purposes? If "Yes," describe these procedures, including site visits by your employees or compliance checks by impartial experts, to verify that grant funds are being used appropriately. Yes No

Part VIII Your Specific Activities (Continued)

- 15 Do you have a close connection with any organizations? If "Yes," explain. Yes No
- 16 Are you applying for exemption as a cooperative hospital service organization under section 501(e)? If "Yes," explain. Yes No
- 17 Are you applying for exemption as a cooperative service organization of operating educational organizations under section 501(f)? If "Yes," explain. Yes No
- 18 Are you applying for exemption as a charitable risk pool under section 501(n)? If "Yes," explain. Yes No
- 19 Do you or will you operate a school? If "Yes," complete Schedule B. Answer "Yes," whether you operate a school as your main function or as a secondary activity. Yes No
- 20 Is your main function to provide hospital or medical care? If "Yes," complete Schedule C. Yes No
- 21 Do you or will you provide low-income housing or housing for the elderly or handicapped? If "Yes," complete Schedule F. Yes No
- 22 Do you or will you provide scholarships, fellowships, educational loans, or other educational grants to individuals, including grants for travel, study, or other similar purposes? If "Yes," complete Schedule H. Yes No

Note: Private foundations may use Schedule H to request advance approval of individual grant procedures.

Part IX Financial Data

For purposes of this schedule, years in existence refer to completed tax years. If in existence 4 or more years, complete the schedule for the most recent 4 tax years. If in existence more than 1 year but less than 4 years, complete the statements for each year in existence and provide projections of your likely revenues and expenses based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. If in existence less than 1 year, provide projections of your likely revenues and expenses for the current year and the 2 following years, based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. (See instructions.)

A. Statement of Revenues and Expenses

	Type of revenue or expense	3 prior tax years or 2 succeeding tax years				(e) Provide Total for (a) through (d)
		(a) From..... To	(b) From..... To	(c) From..... To	(d) From..... To	
Revenues	1 Gifts, grants, and contributions received (do not include unusual grants)					
	2 Membership fees received					
	3 Gross investment income					
	4 Net unrelated business income					
	5 Taxes levied for your benefit					
	6 Value of services or facilities furnished by a governmental unit without charge (not including the value of services generally furnished to the public without charge)					
	7 Any revenue not otherwise listed above or in lines 9-12 below (attach an itemized list)					
	8 Total of lines 1 through 7					
	9 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to your exempt purposes (attach itemized list)					
10 Total of lines 8 and 9						
11 Net gain or loss on sale of capital assets (attach schedule and see instructions)						
12 Unusual grants						
13 Total Revenue Add lines 10 through 12						
Expenses	14 Fundraising expenses					
	15 Contributions, gifts, grants, and similar amounts paid out (attach an itemized list)					
	16 Disbursements to or for the benefit of members (attach an itemized list)					
	17 Compensation of officers, directors, and trustees					
	18 Other salaries and wages					
	19 Interest expense					
	20 Occupancy (rent, utilities, etc.)					
	21 Depreciation and depletion					
	22 Professional fees					
	23 Any expense not otherwise classified, such as program services (attach itemized list)					
	24 Total Expenses Add lines 14 through 23					

Part X Financial Data (Continued)

B. Balance Sheet (for your most recently completed tax year)

Year End:

Table with columns for line numbers (1-18), descriptions of assets and liabilities, and a column for 'Year End' with '(Whole dollars)'.

19 Have there been any substantial changes in your assets or liabilities since the end of the period shown above? If "Yes," explain. [] Yes [] No

Part X Public Charity Status

Part X is designed to classify you as an organization that is either a private foundation or a public charity. Public charity status is a more favorable tax status than private foundation status. If you are a private foundation, Part X is designed to further determine whether you are a private operating foundation. (See instructions.)

1a Are you a private foundation? If "Yes," go to line 1b. If "No," go to line 5 and proceed as instructed. If you are unsure, see the instructions. [] Yes [] No

b As a private foundation, section 508(e) requires special provisions in your organizing document in addition to those that apply to all organizations described in section 501(c)(3). Check the box to confirm that your organizing document meets this requirement, whether by express provision or by reliance on operation of state law. Attach a statement that describes specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document or by operation of state law. See the instructions, including Appendix B, for information about the special provisions that need to be contained in your organizing document. Go to line 2. []

2 Are you a private operating foundation? To be a private operating foundation you must engage directly in the active conduct of charitable, religious, educational, and similar activities, as opposed to indirectly carrying out these activities by providing grants to individuals or other organizations. If "Yes," go to line 3. If "No," go to the signature section of Part XI. [] Yes [] No

3 Have you existed for one or more years? If "Yes," attach financial information showing that you are a private operating foundation; go to the signature section of Part XI. If "No," continue to line 4. [] Yes [] No

4 Have you attached either (1) an affidavit or opinion of counsel, (including a written affidavit or opinion from a certified public accountant or accounting firm with expertise regarding this tax law matter), that sets forth facts concerning your operations and support to demonstrate that you are likely to satisfy the requirements to be classified as a private operating foundation; or (2) a statement describing your proposed operations as a private operating foundation? [] Yes [] No

5 If you answered "No" to line 1a, indicate the type of public charity status you are requesting by checking one of the choices below. You may check only one box.

The organization is not a private foundation because it is:

- a 509(a)(1) and 170(b)(1)(A)(i)—a church or a convention or association of churches. Complete and attach Schedule A. []
b 509(a)(1) and 170(b)(1)(A)(ii)—a school. Complete and attach Schedule B. []
c 509(a)(1) and 170(b)(1)(A)(iii)—a hospital, a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital. Complete and attach Schedule C. []
d 509(a)(3)—an organization supporting either one or more organizations described in line 5a through c, f, g, or h or a publicly supported section 501(c)(4), (5), or (6) organization. Complete and attach Schedule D. []

Part X Public Charity Status (Continued)

- e 509(a)(4)—an organization organized and operated exclusively for testing for public safety.
- f 509(a)(1) and 170(b)(1)(A)(iv)—an organization operated for the benefit of a college or university that is owned or operated by a governmental unit.
- g 509(a)(1) and 170(b)(1)(A)(vi)—an organization that receives a substantial part of its financial support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public.
- h 509(a)(2)—an organization that normally receives not more than one-third of its financial support from gross investment income and receives more than one-third of its financial support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions).
- i A publicly supported organization, but unsure if it is described in 5g or 5h. The organization would like the IRS to decide the correct status.

6 If you checked box g, h, or i in question 5 above, you must request either an advance or a definitive ruling by selecting one of the boxes below. Refer to the instructions to determine which type of ruling you are eligible to receive.

- a **Request for Advance Ruling:** By checking this box and signing the consent, pursuant to section 6501(c)(4) of the Code you request an advance ruling and agree to extend the statute of limitations on the assessment of excise tax under section 4940 of the Code. The tax will apply only if you do not establish public support status at the end of the 5-year advance ruling period. The assessment period will be extended for the 5 advance ruling years to 8 years, 4 months, and 15 days beyond the end of the first year. You have the right to refuse or limit the extension to a mutually agreed-upon period of time or issue(s). Publication 1035, *Extending the Tax Assessment Period*, provides a more detailed explanation of your rights and the consequences of the choices you make. You may obtain Publication 1035 free of charge from the IRS web site at www.irs.gov or by calling toll-free 1-800-829-3676. Signing this consent will not deprive you of any appeal rights to which you would otherwise be entitled. If you decide not to extend the statute of limitations, you are not eligible for an advance ruling.

Consent Fixing Period of Limitations Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code

For Organization

(Signature of Officer, Director, Trustee, or other authorized official)

(Type or print name of signer)

(Date)

(Type or print title or authority of signer)

For IRS Use Only

IRS Director, Exempt Organizations

(Date)

- b **Request for Definitive Ruling:** Check this box if you have completed one tax year of at least 8 full months and you are requesting a definitive ruling. To confirm your public support status, answer line 6b(i) if you checked box g in line 5 above. Answer line 6b(ii) if you checked box h in line 5 above. If you checked box i in line 5 above, answer both lines 6b(i) and (ii).
- (i) (a) Enter 2% of line 8, column (e) on Part IX-A. Statement of Revenues and Expenses. _____
- (b) Attach a list showing the name and amount contributed by each person, company, or organization whose gifts totaled more than the 2% amount. If the answer is "None," check this box.
- (ii) (a) For each year amounts are included on lines 1, 2, and 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each disqualified person. If the answer is "None," check this box.
- (b) For each year amounts are included on line 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each payer, other than a disqualified person, whose payments were more than the larger of (1) 1% of line 10, Part IX-A. Statement of Revenues and Expenses, or (2) \$5,000. If the answer is "None," check this box.

7 Did you receive any unusual grants during any of the years shown on Part IX-A. Statement of Revenues and Expenses? If "Yes," attach a list including the name of the contributor, the date and amount of the grant, a brief description of the grant, and explain why it is unusual. Yes No

Part XI **User Fee Information**

You must include a user fee payment with this application. It will not be processed without your paid user fee. If your average annual gross receipts have exceeded or will exceed \$10,000 annually over a 4-year period, you must submit payment of \$750. If your gross receipts have not exceeded or will not exceed \$10,000 annually over a 4-year period, the required user fee payment is \$300. See instructions for Part XI, for a definition of gross receipts over a 4-year period. Your check or money order must be made payable to the United States Treasury. *User fees are subject to change. Check our website at www.irs.gov and type "User Fee" in the keyword box, or call Customer Account Services at 1-877-829-5500 for current information.*

- 1 Have your annual gross receipts averaged or are they expected to average not more than \$10,000? Yes No
 If "Yes," check the box on line 2 and enclose a user fee payment of \$300 (Subject to change—see above).
 If "No," check the box on line 3 and enclose a user fee payment of \$750 (Subject to change—see above).
- 2 Check the box if you have enclosed the reduced user fee payment of \$300 (Subject to change).
- 3 Check the box if you have enclosed the user fee payment of \$750 (Subject to change).

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

Please
Sign
Here



 (Signature of Officer, Director, Trustee, or other authorized official)

 (Type or print name of signer)

 (Date)

 (Type or print title or authority of signer)

Reminder: Send the completed Form 1023 Checklist with your filled-in-application.

Schedule A. Churches

- 1a Do you have a written creed, statement of faith, or summary of beliefs? If "Yes," attach copies of relevant documents. Yes No
- b Do you have a form of worship? If "Yes," describe your form of worship. Yes No
- 2a Do you have a formal code of doctrine and discipline? If "Yes," describe your code of doctrine and discipline. Yes No
- b Do you have a distinct religious history? If "Yes," describe your religious history. Yes No
- c Do you have a literature of your own? If "Yes," describe your literature. Yes No
- 3 Describe the organization's religious hierarchy or ecclesiastical government. _____
- 4a Do you have regularly scheduled religious services? If "Yes," describe the nature of the services and provide representative copies of relevant literature such as church bulletins. Yes No
- b What is the average attendance at your regularly scheduled religious services? _____
- 5a Do you have an established place of worship? If "Yes," refer to the instructions for the information required. Yes No
- b Do you own the property where you have an established place of worship? Yes No
- 6 Do you have an established congregation or other regular membership group? If "No," refer to the instructions. Yes No
- 7 How many members do you have? _____
- 8a Do you have a process by which an individual becomes a member? If "Yes," describe the process and complete lines 8b-8d, below. Yes No
- b If you have members, do your members have voting rights, rights to participate in religious functions, or other rights? If "Yes," describe the rights your members have. Yes No
- c May your members be associated with another denomination or church? Yes No
- d Are all of your members part of the same family? Yes No
- 9 Do you conduct baptisms, weddings, funerals, etc.? Yes No
- 10 Do you have a school for the religious instruction of the young? Yes No
- 11a Do you have a minister or religious leader? If "Yes," describe this person's role and explain whether the minister or religious leader was ordained, commissioned, or licensed after a prescribed course of study. Yes No
- b Do you have schools for the preparation of your ordained ministers or religious leaders? Yes No
- 12 Is your minister or religious leader also one of your officers, directors, or trustees? Yes No
- 13 Do you ordain, commission, or license ministers or religious leaders? If "Yes," describe the requirements for ordination, commission, or licensure. Yes No
- 14 Are you part of a group of churches with similar beliefs and structures? If "Yes," explain. Include the name of the group of churches. Yes No
- 15 Do you issue church charters? If "Yes," describe the requirements for issuing a charter. Yes No
- 16 Did you pay a fee for a church charter? If "Yes," attach a copy of the charter. Yes No
- 17 Do you have other information you believe should be considered regarding your status as a church? If "Yes," explain. Yes No

Schedule B. Schools, Colleges, and Universities

If you operate a school as an activity, complete Schedule B

Section I Operational Information

- 1a Do you normally have a regularly scheduled curriculum, a regular faculty of qualified teachers, a regularly enrolled student body, and facilities where your educational activities are regularly carried on? If "No," do not complete the remainder of Schedule B. Yes No
- b Is the primary function of your school the presentation of formal instruction? If "Yes," describe your school in terms of whether it is an elementary, secondary, college, technical, or other type of school. If "No," do not complete the remainder of Schedule B. Yes No
- 2a Are you a public school because you are operated by a state or subdivision of a state? If "Yes," explain how you are operated by a state or subdivision of a state. Do not complete the remainder of Schedule B. Yes No
- b Are you a public school because you are operated wholly or predominantly from government funds or property? If "Yes," explain how you are operated wholly or predominantly from government funds or property. Submit a copy of your funding agreement regarding government funding. Do not complete the remainder of Schedule B. Yes No
- 3 In what public school district, county, and state are you located?
- 4 Were you formed or substantially expanded at the time of public school desegregation in the above school district or county? Yes No
- 5 Has a state or federal administrative agency or judicial body ever determined that you are racially discriminatory? If "Yes," explain. Yes No
- 6 Has your right to receive financial aid or assistance from a governmental agency ever been revoked or suspended? If "Yes," explain. Yes No
- 7 Do you or will you contract with another organization to develop, build, market, or finance your facilities? If "Yes," explain how that entity is selected, explain how the terms of any contracts or other agreements are negotiated at arm's length, and explain how you determine that you will pay no more than fair market value for services. Yes No

Note. Make sure your answer is consistent with the information provided in Part VIII, line 7a.

- 8 Do you or will you manage your activities or facilities through your own employees or volunteers? If "No," attach a statement describing the activities that will be managed by others, the names of the persons or organizations that manage or will manage your activities or facilities, and how these managers were or will be selected. Also, submit copies of any contracts, proposed contracts, or other agreements regarding the provision of management services for your activities or facilities. Explain how the terms of any contracts or other agreements were or will be negotiated, and explain how you determine you will pay no more than fair market value for services. Yes No

Note. Answer "Yes" if you manage or intend to manage your programs through your own employees or by using volunteers. Answer "No" if you engage or intend to engage a separate organization or independent contractor. Make sure your answer is consistent with the information provided in Part VIII, line 7b.**Section II** Establishment of Racially Nondiscriminatory Policy

Information required by Revenue Procedure 75-50.

- 1 Have you adopted a racially nondiscriminatory policy as to students in your organizing document, bylaws, or by resolution of your governing body? If "Yes," state where the policy can be found or supply a copy of the policy. If "No," you must adopt a nondiscriminatory policy as to students before submitting this application. See Publication 557. Yes No
- 2 Do your brochures, application forms, advertisements, and catalogues dealing with student admissions, programs, and scholarships contain a statement of your racially nondiscriminatory policy? Yes No
- a If "Yes," attach a representative sample of each document.
- b If "No," by checking the box to the right you agree that all future printed materials, including website content, will contain the required nondiscriminatory policy statement.
- 3 Have you published a notice of your nondiscriminatory policy in a newspaper of general circulation that serves all racial segments of the community? (See the instructions for specific requirements.) If "No," explain. Yes No
- 4 Does or will the organization (or any department or division within it) discriminate in any way on the basis of race with respect to admissions; use of facilities or exercise of student privileges; faculty or administrative staff; or scholarship or loan programs? If "Yes," for any of the above, explain fully. Yes No

Schedule B. Schools, Colleges, and Universities (Continued)

5 Complete the table below to show the racial composition for the current academic year and projected for the next academic year, of: (a) the student body, (b) the faculty, and (c) the administrative staff. Provide actual numbers rather than percentages for each racial category.

If you are not operational, submit an estimate based on the best information available (such as the racial composition of the community served).

Racial Category	(a) Student Body		(b) Faculty		(c) Administrative Staff	
	Current Year	Next Year	Current Year	Next Year	Current Year	Next Year
Total						

6 In the table below, provide the number and amount of loans and scholarships awarded to students enrolled by racial categories.

Racial Category	Number of Loans		Amount of Loans		Number of Scholarships		Amount of Scholarships	
	Current Year	Next Year	Current Year	Next Year	Current Year	Next Year	Current Year	Next Year
Total								

7a Attach a list of your incorporators, founders, board members, and donors of land or buildings, whether individuals or organizations.

b Do any of these individuals or organizations have an objective to maintain segregated public or private school education? If "Yes," explain. Yes No

8 Will you maintain records according to the non-discrimination provisions contained in Revenue Procedure 75-50? If "No," explain. (See instructions.) Yes No

Schedule C. Hospitals and Medical Research Organizations

Check the box if you are a hospital. See the instructions for a definition of the term "hospital," which includes an organization whose principal purpose or function is providing hospital or medical care. Complete Section I below.

Check the box if you are a medical research organization operated in conjunction with a hospital. See the instructions for a definition of the term "medical research organization," which refers to an organization whose principal purpose or function is medical research and which is directly engaged in the continuous active conduct of medical research in conjunction with a hospital. Complete Section II.

Section I Hospitals

- | | | | |
|----|--|------------------------------|-----------------------------|
| 1a | Are all the doctors in the community eligible for staff privileges? If "No," give the reasons why and explain how the medical staff is selected. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2a | Do you or will you provide medical services to all individuals in your community who can pay for themselves or have private health insurance? If "No," explain. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b | Do you or will you provide medical services to all individuals in your community who participate in Medicare? If "No," explain. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c | Do you or will you provide medical services to all individuals in your community who participate in Medicaid? If "No," explain. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3a | Do you or will you require persons covered by Medicare or Medicaid to pay a deposit before receiving services? If "Yes," explain. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b | Does the same deposit requirement, if any, apply to all other patients? If "No," explain. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4a | Do you or will you maintain a full-time emergency room? If "No," explain why you do not maintain a full-time emergency room. Also, describe any emergency services that you provide. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b | Do you have a policy on providing emergency services to persons without apparent means to pay? If "Yes," provide a copy of the policy. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c | Do you have any arrangements with police, fire, and voluntary ambulance services for the delivery or admission of emergency cases? If "Yes," describe the arrangements, including whether they are written or oral agreements. If written, submit copies of all such agreements. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 5a | Do you provide for a portion of your services and facilities to be used for charity patients? If "Yes," answer 5b through 5e. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b | Explain your policy regarding charity cases, including how you distinguish between charity care and bad debts. Submit a copy of your written policy. | | |
| c | Provide data on your past experience in admitting charity patients, including amounts you expend for treating charity care patients and types of services you provide to charity care patients. | | |
| d | Describe any arrangements you have with federal, state, or local governments or government agencies for paying for the cost of treating charity care patients. Submit copies of any written agreements. | | |
| e | Do you provide services on a sliding fee schedule depending on financial ability to pay? If "Yes," submit your sliding fee schedule. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 6a | Do you or will you carry on a formal program of medical training or medical research? If "Yes," describe such programs, including the type of programs offered, the scope of such programs, and affiliations with other hospitals or medical care providers with which you carry on the medical training or research programs. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b | Do you or will you carry on a formal program of community education? If "Yes," describe such programs, including the type of programs offered, the scope of such programs, and affiliation with other hospitals or medical care providers with which you offer community education programs. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 7 | Do you or will you provide office space to physicians carrying on their own medical practices? If "Yes," describe the criteria for who may use the space, explain the means used to determine that you are paid at least fair market value, and submit representative lease agreements. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 8 | Is your board of directors comprised of a majority of individuals who are representative of the community you serve? Include a list of each board member's name and business, financial, or professional relationship with the hospital. Also, identify each board member who is representative of the community and describe how that individual is a community representative. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 9 | Do you participate in any joint ventures? If "Yes," state your ownership percentage in each joint venture, list your investment in each joint venture, describe the tax status of other participants in each joint venture (including whether they are section 501(c)(3) organizations), describe the activities of each joint venture, describe how you exercise control over the activities of each joint venture, and describe how each joint venture furthers your exempt purposes. Also, submit copies of all agreements. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Note. Make sure your answer is consistent with the information provided in Part VIII, line 8.

Schedule C. Hospitals and Medical Research Organizations (Continued)**Section I Hospitals (Continued)**

- 10 Do you or will you manage your activities or facilities through your own employees or volunteers? If "No," attach a statement describing the activities that will be managed by others, the names of the persons or organizations that manage or will manage your activities or facilities, and how these managers were or will be selected. Also, submit copies of any contracts, proposed contracts, or other agreements regarding the provision of management services for your activities or facilities. Explain how the terms of any contracts or other agreements were or will be negotiated, and explain how you determine you will pay no more than fair market value for services. Yes No
- Note.** Answer "Yes" if you do manage or intend to manage your programs through your own employees or by using volunteers. Answer "No" if you engage or intend to engage a separate organization or independent contractor. Make sure your answer is consistent with the information provided in Part VIII, line 7b.
- 11 Do you or will you offer recruitment incentives to physicians? If "Yes," describe your recruitment incentives and attach copies of all written recruitment incentive policies. Yes No
- 12 Do you or will you lease equipment, assets, or office space from physicians who have a financial or professional relationship with you? If "Yes," explain how you establish a fair market value for the lease. Yes No
- 13 Have you purchased medical practices, ambulatory surgery centers, or other business assets from physicians or other persons with whom you have a business relationship, aside from the purchase? If "Yes," submit a copy of each purchase and sales contract and describe how you arrived at fair market value, including copies of appraisals. Yes No
- 14 Have you adopted a conflict of interest policy consistent with the sample health care organization conflict of interest policy in Appendix A of the instructions? If "Yes," submit a copy of the policy and explain how the policy has been adopted, such as by resolution of your governing board. If "No," explain how you will avoid any conflicts of interest in your business dealings. Yes No

Section II Medical Research Organizations

- 1 Name the hospitals with which you have a relationship and describe the relationship. Attach copies of written agreements with each hospital that demonstrate continuing relationships between you and the hospital(s).
- 2 Attach a schedule describing your present and proposed activities for the direct conduct of medical research; describe the nature of the activities, and the amount of money that has been or will be spent in carrying them out.
- 3 Attach a schedule of assets showing their fair market value and the portion of your assets directly devoted to medical research.

Schedule D. Section 509(a)(3) Supporting Organizations

Section I Identifying Information About the Supported Organization(s)

1 State the names, addresses, and EINs of the supported organizations. If additional space is needed, attach a separate sheet.

Name	Address	EIN
	-----	-
	-----	-

2 Are all supported organizations listed in line 1 public charities under section 509(a)(1) or (2)? If "Yes," Yes No go to Section II. If "No," go to line 3.

3 Do the supported organizations have tax-exempt status under section 501(c)(4), 501(c)(5), or 501(c)(6)? Yes No

If "Yes," for each 501(c)(4), (5), or (6) organization supported, provide the following financial information:

- Part IX-A. Statement of Revenues and Expenses, lines 1-13 and
- Part X, lines 6b(ii)(a), 6b(ii)(b), and 7.

If "No," attach a statement describing how each organization you support is a public charity under section 509(a)(1) or (2).

Section II Relationship with Supported Organization(s)—Three Tests

To be classified as a supporting organization, an organization must meet one of three relationship tests:

- Test 1: "Operated, supervised, or controlled by" one or more publicly supported organizations, or
- Test 2: "Supervised or controlled in connection with" one or more publicly supported organizations, or
- Test 3: "Operated in connection with" one or more publicly supported organizations.

1 Information to establish the "operated, supervised, or controlled by" relationship (Test 1)
Is a majority of your governing board or officers elected or appointed by the supported organization(s)? If "Yes," describe the process by which your governing board is appointed and elected; go to Section III. If "No," continue to line 2. Yes No

2 Information to establish the "supervised or controlled in connection with" relationship (Test 2)
Does a majority of your governing board consist of individuals who also serve on the governing board of the supported organization(s)? If "Yes," describe the process by which your governing board is appointed and elected; go to Section III. If "No," go to line 3. Yes No

3 Information to establish the "operated in connection with" responsiveness test (Test 3)
Are you a trust from which the named supported organization(s) can enforce and compel an accounting under state law? If "Yes," explain whether you advised the supported organization(s) in writing of these rights and provide a copy of the written communication documenting this; go to Section II, line 5. If "No," go to line 4a. Yes No

4 Information to establish the alternative "operated in connection with" responsiveness test (Test 3)

a Do the officers, directors, trustees, or members of the supported organization(s) elect or appoint one or more of your officers, directors, or trustees? If "Yes," explain and provide documentation; go to line 4d, below. If "No," go to line 4b. Yes No

b Do one or more members of the governing body of the supported organization(s) also serve as your officers, directors, or trustees or hold other important offices with respect to you? If "Yes," explain and provide documentation; go to line 4d, below. If "No," go to line 4c. Yes No

c Do your officers, directors, or trustees maintain a close and continuous working relationship with the officers, directors, or trustees of the supported organization(s)? If "Yes," explain and provide documentation. Yes No

d Do the supported organization(s) have a significant voice in your investment policies, in the making and timing of grants, and in otherwise directing the use of your income or assets? If "Yes," explain and provide documentation. Yes No

e Describe and provide copies of written communications documenting how you made the supported organization(s) aware of your supporting activities.

Schedule D. Section 509(a)(3) Supporting Organizations (Continued)

Section II Relationship with Supported Organization(s)—Three Tests (Continued)

- 5 Information to establish the "operated in connection with" integral part test (Test 3)
 Do you conduct activities that would otherwise be carried out by the supported organization(s)? If "Yes," explain and go to Section III. If "No," continue to line 6a. Yes No
-
- 6 Information to establish the alternative "operated in connection with" integral part test (Test 3)
- a Do you distribute at least 85% of your annual net income to the supported organization(s)? If "Yes," go to line 6b. (See instructions.) Yes No
 If "No," state the percentage of your income that you distribute to each supported organization. Also explain how you ensure that the supported organization(s) are attentive to your operations.
- b How much do you contribute annually to each supported organization? Attach a schedule.
- c What is the total annual revenue of each supported organization? If you need additional space, attach a list.
- d Do you or the supported organization(s) earmark your funds for support of a particular program or activity? If "Yes," explain. Yes No
-
- 7a Does your organizing document specify the supported organization(s) by name? If "Yes," state the article and paragraph number and go to Section III. If "No," answer line 7b. Yes No
- b Attach a statement describing whether there has been an historic and continuing relationship between you and the supported organization(s).

Section III Organizational Test

- 1a If you met relationship Test 1 or Test 2 in Section II, your organizing document must specify the supported organization(s) by name, or by naming a similar purpose or charitable class of beneficiaries. If your organizing document complies with this requirement, answer "Yes." If your organizing document does not comply with this requirement, answer "No," and see the instructions. Yes No
- b If you met relationship Test 3 in Section II, your organizing document must generally specify the supported organization(s) by name. If your organizing document complies with this requirement, answer "Yes," and go to Section IV. If your organizing document does not comply with this requirement, answer "No," and see the instructions. Yes No

Section IV Disqualified Person Test

You do not qualify as a supporting organization if you are controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers or one or more organizations that you support. Foundation managers who are also disqualified persons for another reason are disqualified persons with respect to you.

- 1a Do any persons who are disqualified persons with respect to you, (except individuals who are disqualified persons only because they are foundation managers), appoint any of your foundation managers? If "Yes," (1) describe the process by which disqualified persons appoint any of your foundation managers, (2) provide the names of these disqualified persons and the foundation managers they appoint, and (3) explain how control is vested over your operations (including assets and activities) by persons other than disqualified persons. Yes No
- b Do any persons who have a family or business relationship with any disqualified persons with respect to you, (except individuals who are disqualified persons only because they are foundation managers), appoint any of your foundation managers? If "Yes," (1) describe the process by which individuals with a family or business relationship with disqualified persons appoint any of your foundation managers, (2) provide the names of these disqualified persons, the individuals with a family or business relationship with disqualified persons, and the foundation managers appointed, and (3) explain how control is vested over your operations (including assets and activities) in individuals other than disqualified persons. Yes No
- c Do any persons who are disqualified persons, (except individuals who are disqualified persons only because they are foundation managers), have any influence regarding your operations, including your assets or activities? If "Yes," (1) provide the names of these disqualified persons, (2) explain how influence is exerted over your operations (including assets and activities), and (3) explain how control is vested over your operations (including assets and activities) by individuals other than disqualified persons. Yes No

Schedule E. Organizations Not Filing Form 1023 Within 27 Months of Formation

Schedule E is intended to determine whether you are eligible for tax exemption under section 501(c)(3) from the postmark date of your application or from your date of incorporation or formation, whichever is earlier. If you are not eligible for tax exemption under section 501(c)(3) from your date of incorporation or formation, Schedule E is also intended to determine whether you are eligible for tax exemption under section 501(c)(4) for the period between your date of incorporation or formation and the postmark date of your application.

- 1 Are you a church, association of churches, or integrated auxiliary of a church? If "Yes," complete Schedule A and stop here. Do not complete the remainder of Schedule E. Yes No
-
- 2a Are you a public charity with annual gross receipts that are normally \$5,000 or less? If "Yes," stop here. Answer "No" if you are a private foundation, regardless of your gross receipts. Yes No
- b If your gross receipts were normally more than \$5,000, are you filing this application within 90 days from the end of the tax year in which your gross receipts were normally more than \$5,000? If "Yes," stop here. Yes No
-
- 3a Were you included as a subordinate in a group exemption application or letter? If "No," go to line 4. Yes No
- b If you were included as a subordinate in a group exemption letter, are you filing this application within 27 months from the date you were notified by the organization holding the group exemption letter or the Internal Revenue Service that you cease to be covered by the group exemption letter? If "Yes," stop here. Yes No
- c If you were included as a subordinate in a timely filed group exemption request that was denied, are you filing this application within 27 months from the postmark date of the Internal Revenue Service final adverse ruling letter? If "Yes," stop here. Yes No
-
- 4 Were you created on or before October 9, 1969? If "Yes," stop here. Do not complete the remainder of this schedule. Yes No
-
- 5 If you answered "No" to lines 1 through 4, we cannot recognize you as tax exempt from your date of formation unless you qualify for an extension of time to apply for exemption. Do you wish to request an extension of time to apply to be recognized as exempt from the date you were formed? If "Yes," attach a statement explaining why you did not file this application within the 27-month period. Do not answer lines 6, 7, or 8. If "No," go to line 6a. Yes No
-
- 6a If you answered "No" to line 5, you can only be exempt under section 501(c)(3) from the postmark date of this application. Therefore, do you want us to treat this application as a request for tax exemption from the postmark date? If "Yes," you are eligible for an advance ruling. Complete Part X, line 6a. If "No," you will be treated as a private foundation. Yes No
- Note.** Be sure your ruling eligibility agrees with your answer to Part X, line 6.
- b Do you anticipate significant changes in your sources of support in the future? If "Yes," complete line 7 below. Yes No

Schedule E. Organizations Not Filing Form 1023 Within 27 Months of Formation (Continued)

7 Complete this item only if you answered "Yes" to line 6b. Include projected revenue for the first two full years following the current tax year.

Type of Revenue	Projected revenue for 2 years following current tax year		
	(a) From To	(b) From To	(c) Total
1 Gifts, grants, and contributions received (do not include unusual grants)			
2 Membership fees received			
3 Gross investment income			
4 Net unrelated business income			
5 Taxes levied for your benefit			
6 Value of services or facilities furnished by a governmental unit without charge (not including the value of services generally furnished to the public without charge)			
7 Any revenue not otherwise listed above or in lines 9-12 below (attach an itemized list)			
8 Total of lines 1 through 7			
9 Gross receipts from admissions, merchandise sold, or services performed, or furnishing of facilities in any activity that is related to your exempt purposes (attach itemized list)			
10 Total of lines 8 and 9			
11 Net gain or loss on sale of capital assets (attach an itemized list)			
12 Unusual grants			
13 Total revenue. Add lines 10 through 12			

8 According to your answers, you are only eligible for tax exemption under section 501(c)(3) from the postmark date of your application. However, you may be eligible for tax exemption under section 501(c)(4) from your date of formation to the postmark date of the Form 1023. Tax exemption under section 501(c)(4) allows exemption from federal income tax, but generally not deductibility of contributions under Code section 170. Check the box at right if you want us to treat this as a request for exemption under 501(c)(4) from your date of formation to the postmark date. ▶

Attach a completed Page 1 of Form 1024, Application for Recognition of Exemption Under Section 501(a), to this application.

Schedule F. Homes for the Elderly or Handicapped and Low-Income Housing

Section 1 General Information About Your Housing

- 1 Describe the type of housing you provide.
-
- 2 Provide copies of any application forms you use for admission.
-
- 3 Explain how the public is made aware of your facility.
-
- 4a Provide a description of each facility.
- b What is the total number of residents each facility can accommodate?
- c What is your current number of residents in each facility?
- d Describe each facility in terms of whether residents rent or purchase housing from you.
-
- 5 Attach a sample copy of your residency or homeownership contract or agreement.
-
- 6 Do you participate in any joint ventures? If "Yes," state your ownership percentage in each joint venture, list your investment in each joint venture, describe the tax status of other participants in each joint venture (including whether they are section 501(c)(3) organizations), describe the activities of each joint venture, describe how you exercise control over the activities of each joint venture, and describe how each joint venture furthers your exempt purposes. Also, submit copies of all joint venture agreements. Yes No
- Note.** Make sure your answer is consistent with the information provided in Part VIII, line 8.
-
- 7 Do you or will you contract with another organization to develop, build, market, or finance your housing? If "Yes," explain how that entity is selected, explain how the terms of any contract(s) are negotiated at arm's length, and explain how you determine you will pay no more than fair market value for services. Yes No
- Note.** Make sure your answer is consistent with the information provided in Part VIII, line 7a.
-
- 8 Do you or will you manage your activities or facilities through your own employees or volunteers? If "No," attach a statement describing the activities that will be managed by others, the names of the persons or organizations that manage or will manage your activities or facilities, and how these managers were or will be selected. Also, submit copies of any contracts, proposed contracts, or other agreements regarding the provision of management services for your activities or facilities. Explain how the terms of any contracts or other agreements were or will be negotiated, and explain how you determine you will pay no more than fair market value for services. Yes No
- Note.** Answer "Yes" if you do manage or intend to manage your programs through your own employees or by using volunteers. Answer "No" if you engage or intend to engage a separate organization or independent contractor. Make sure your answer is consistent with the information provided in Part VIII, line 7b.
-
- 9 Do you participate in any government housing programs? If "Yes," describe these programs. Yes No
-
- 10a Do you own the facility? If "No," describe any enforceable rights you possess to purchase the facility in the future; go to line 10c. If "Yes," answer line 10b. Yes No
- b How did you acquire the facility? For example, did you develop it yourself, purchase a project, etc. Attach all contracts, transfer agreements, or other documents connected with the acquisition of the facility.
- c Do you lease the facility or the land on which it is located? If "Yes," describe the parties to the lease(s) and provide copies of all leases. Yes No

Schedule F. Homes for the Elderly or Handicapped and Low-Income Housing (Continued)

Section II Homes for the Elderly or Handicapped

- 1a Do you provide housing for the elderly? If "Yes," describe who qualifies for your housing in terms of age, infirmity, or other criteria and explain how you select persons for your housing. Yes No
- b Do you provide housing for the handicapped? If "Yes," describe who qualifies for your housing in terms of disability, income levels, or other criteria and explain how you select persons for your housing. Yes No

- 2a Do you charge an entrance or founder's fee? If "Yes," describe what this charge covers, whether it is a one-time fee, how the fee is determined, whether it is payable in a lump sum or on an installment basis, whether it is refundable, and the circumstances, if any, under which it may be waived. Yes No
- b Do you charge periodic fees or maintenance charges? If "Yes," describe what these charges cover and how they are determined. Yes No
- c Is your housing affordable to a significant segment of the elderly or handicapped persons in the community? Identify your community. Also, if "Yes," explain how you determine your housing is affordable. Yes No

- 3a Do you have an established policy concerning residents who become unable to pay their regular charges? If "Yes," describe your established policy. Yes No
- b Do you have any arrangements with government welfare agencies or others to absorb all or part of the cost of maintaining residents who become unable to pay their regular charges? If "Yes," describe these arrangements. Yes No

- 4 Do you have arrangements for the healthcare needs of your residents? If "Yes," describe these arrangements. Yes No

- 5 Are your facilities designed to meet the physical, emotional, recreational, social, religious, and/or other similar needs of the elderly or handicapped? If "Yes," describe these design features. Yes No

Section III Low-Income Housing

- 1 Do you provide low-income housing? If "Yes," describe who qualifies for your housing in terms of income levels or other criteria, and describe how you select persons for your housing. Yes No

- 2 In addition to rent or mortgage payments, do residents pay periodic fees or maintenance charges? If "Yes," describe what these charges cover and how they are determined. Yes No

- 3a Is your housing affordable to low income residents? If "Yes," describe how your housing is made affordable to low-income residents. Yes No

Note. Revenue Procedure 96-32, 1996-1 C.B. 717, provides guidelines for providing low-income housing that will be treated as charitable. (At least 75% of the units are occupied by low-income tenants or 40% are occupied by tenants earning not more than 120% of the very low-income levels for the area.)
- b Do you impose any restrictions to make sure that your housing remains affordable to low-income residents? If "Yes," describe these restrictions. Yes No

- 4 Do you provide social services to residents? If "Yes," describe these services. Yes No

Schedule G. Successors to Other Organizations

- 1a Are you a successor to a for-profit organization? If "Yes," explain the relationship with the predecessor organization that resulted in your creation and complete line 1b. Yes No
- b Explain why you took over the activities or assets of a for-profit organization or converted from for-profit to nonprofit status.
-
- 2a Are you a successor to an organization other than a for-profit organization? Answer "Yes" if you have taken or will take over the activities of another organization; or you have taken or will take over 25% or more of the fair market value of the net assets of another organization. If "Yes," explain the relationship with the other organization that resulted in your creation. Yes No
- b Provide the tax status of the predecessor organization.
- c Did you or did an organization to which you are a successor previously apply for tax exemption under section 501(c)(3) or any other section of the Code? If "Yes," explain how the application was resolved. Yes No
- d Was your prior tax exemption or the tax exemption of an organization to which you are a successor revoked or suspended? If "Yes," explain. Include a description of the corrections you made to re-establish tax exemption. Yes No
- e Explain why you took over the activities or assets of another organization.

3 Provide the name, last address, and EIN of the predecessor organization and describe its activities.

Name: _____ EIN: _____

Address: _____

4 List the owners, partners, principal stockholders, officers, and governing board members of the predecessor organization. Attach a separate sheet if additional space is needed.

Name	Address	Share/Interest (if a for-profit)

- 5 Do or will any of the persons listed in line 4, maintain a working relationship with you? If "Yes," describe the relationship in detail and include copies of any agreements with any of these persons or with any for-profit organizations in which these persons own more than a 35% interest. Yes No
-
- 6a Were any assets transferred, whether by gift or sale, from the predecessor organization to you? If "Yes," provide a list of assets, indicate the value of each asset, explain how the value was determined, and attach an appraisal, if available. For each asset listed, also explain if the transfer was by gift, sale, or combination thereof. Yes No
- b Were any restrictions placed on the use or sale of the assets? If "Yes," explain the restrictions. Yes No
- c Provide a copy of the agreement(s) of sale or transfer.

7 Were any debts or liabilities transferred from the predecessor for-profit organization to you? If "Yes," provide a list of the debts or liabilities that were transferred to you, indicating the amount of each, how the amount was determined, and the name of the person to whom the debt or liability is owed. Yes No

8 Will you lease or rent any property or equipment previously owned or used by the predecessor for-profit organization, or from persons listed in line 4, or from for-profit organizations in which these persons own more than a 35% interest? If "Yes," submit a copy of the lease or rental agreement(s). Indicate how the lease or rental value of the property or equipment was determined. Yes No

9 Will you lease or rent property or equipment to persons listed in line 4, or to for-profit organizations in which these persons own more than a 35% interest? If "Yes," attach a list of the property or equipment, provide a copy of the lease or rental agreement(s), and indicate how the lease or rental value of the property or equipment was determined. Yes No

Schedule H. Organizations Providing Scholarships, Fellowships, Educational Loans, or Other Educational Grants to Individuals and Private Foundations Requesting Advance Approval of Individual Grant Procedures

Section I *Names of individual recipients are not required to be listed in Schedule H.*
 Public charities and private foundations complete lines 1a through 7 of this section. See the instructions to Part X if you are not sure whether you are a public charity or a private foundation.

- 1a Describe the types of educational grants you provide to individuals, such as scholarships, fellowships, loans, etc.
 - b Describe the purpose and amount of your scholarships, fellowships, and other educational grants and loans that you award.
 - c If you award educational loans, explain the terms of the loans (interest rate, length, forgiveness, etc.).
 - d Specify how your program is publicized.
 - e Provide copies of any solicitation or announcement materials.
 - f Provide a sample copy of the application used.
- 2 Do you maintain case histories showing recipients of your scholarships, fellowships, educational loans, or other educational grants, including names, addresses, purposes of awards, amount of each grant, manner of selection, and relationship (if any) to officers, trustees, or donors of funds to you? If "No," refer to the instructions. Yes No
- 3 Describe the specific criteria you use to determine who is eligible for your program. (For example, eligibility selection criteria could consist of graduating high school students from a particular high school who will attend college, writers of scholarly works about American history, etc.)
- 4a Describe the specific criteria you use to select recipients. (For example, specific selection criteria could consist of prior academic performance, financial need, etc.)
- b Describe how you determine the number of grants that will be made annually.
- c Describe how you determine the amount of each of your grants.
- d Describe any requirement or condition that you impose on recipients to obtain, maintain, or qualify for renewal of a grant. (For example, specific requirements or conditions could consist of attendance at a four-year college, maintaining a certain grade point average, teaching in public school after graduation from college, etc.)
- 5 Describe your procedures for supervising the scholarships, fellowships, educational loans, or other educational grants. Describe whether you obtain reports and grade transcripts from recipients, or you pay grants directly to a school under an arrangement whereby the school will apply the grant funds only for enrolled students who are in good standing. Also, describe your procedures for taking action if the terms of the award are violated.
- 6 Who is on the selection committee for the awards made under your program, including names of current committee members, criteria for committee membership, and the method of replacing committee members?
- 7 Are relatives of members of the selection committee, or of your officers, directors, or substantial contributors eligible for awards made under your program? If "Yes," what measures are taken to ensure unbiased selections? Yes No
- Note.** If you are a private foundation, you are not permitted to provide educational grants to disqualified persons. Disqualified persons include your substantial contributors and foundation managers and certain family members of disqualified persons.

Section II **Private foundations complete lines 1a through 4f of this section. Public charities do not complete this section.**

- 1a If we determine that you are a private foundation, do you want this application to be considered as a request for advance approval of grant making procedures? Yes No N/A
- b For which section(s) do you wish to be considered?
- 4945(g)(1)—Scholarship or fellowship grant to an individual for study at an educational institution
 - 4945(g)(3)—Other grants, including loans, to an individual for travel, study, or other similar purposes, to enhance a particular skill of the grantee or to produce a specific product
- 2 Do you represent that you will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversions of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover diverted funds, ensure other grant funds held by a 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? Yes No
- 3 Do you represent that you will maintain all records relating to individual grants, including information obtained to evaluate grantees, identify whether a grantee is a disqualified person, establish the amount and purpose of each grant, and establish that you undertook the supervision and investigation of grants described in line 2? Yes No

Schedule H. Organizations Providing Scholarships, Fellowships, Educational Loans, or Other Educational Grants to Individuals and Private Foundations Requesting Advance Approval of Individual Grant Procedures (Continued)

Section II Private foundations complete lines 1a through 4f of this section. Public charities do not complete this section. (Continued)

- 4a Do you or will you award scholarships, fellowships, and educational loans to attend an educational institution based on the status of an individual being an *employee of a particular employer*? If "Yes," complete lines 4b through 4f. Yes No
- b Will you comply with the seven conditions and either the percentage tests or facts and circumstances test for scholarships, fellowships, and educational loans to attend an educational institution as set forth in Revenue Procedures 76-47, 1976-2 C.B. 670, and 80-39, 1980-2 C.B. 772, which apply to inducement, selection committee, eligibility requirements, objective basis of selection, employment, course of study, and other objectives? (See lines 4c, 4d, and 4e, regarding the percentage tests.) Yes No
- c Do you or will you provide scholarships, fellowships, or educational loans to attend an educational institution to employees of a particular employer? Yes No N/A
- If "Yes," will you award grants to 10% or fewer of the eligible applicants who were actually considered by the selection committee in selecting recipients of grants in that year as provided by Revenue Procedures 76-47 and 80-39? Yes No
- d Do you provide scholarships, fellowships, or educational loans to attend an educational institution to children of employees of a particular employer? Yes No N/A
- If "Yes," will you award grants to 25% or fewer of the eligible applicants who were actually considered by the selection committee in selecting recipients of grants in that year as provided by Revenue Procedures 76-47 and 80-39? If "No," go to line 4e. Yes No
- e If you provide scholarships, fellowships, or educational loans to attend an educational institution to children of employees of a particular employer, will you award grants to 10% or fewer of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year, as provided by Revenue Procedures 76-47 and 80-39? Yes No N/A
- If "Yes," describe how you will determine who can be shown to be eligible for grants without submitting an application, such as by obtaining written statements or other information about the expectations of employees' children to attend an educational institution. If "No," go to line 4f.
- Note.** Statistical or sampling techniques are not acceptable. See Revenue Procedure 85-51, 1985-2 C.B. 717, for additional information.
- f If you provide scholarships, fellowships, or educational loans to attend an educational institution to *children of employees of a particular employer* without regard to either the 25% limitation described in line 4d, or the 10% limitation described in line 4e, will you award grants based on facts and circumstances that demonstrate that the grants will not be considered compensation for past, present, or future services or otherwise provide a significant benefit to the particular employer? If "Yes," describe the facts and circumstances that you believe will demonstrate that the grants are neither compensatory nor a significant benefit to the particular employer. In your explanation, describe why you cannot satisfy either the 25% test described in line 4d or the 10% test described in line 4e. Yes No

Form 1023 Checklist

(Revised June 2006)

Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code

Note. Retain a copy of the completed Form 1023 in your permanent records. Refer to the General Instructions regarding Public Inspection of approved applications.

Check each box to finish your application (Form 1023). Send this completed Checklist with your filled-in application. If you have not answered all the items below, your application may be returned to you as incomplete.

- Assemble the application and materials in this order:
 - Form 1023 Checklist
 - Form 2848, *Power of Attorney and Declaration of Representative* (if filing)
 - Form 8821, *Tax Information Authorization* (if filing)
 - Expedite request (if requesting)
 - Application (Form 1023 and Schedules A through H, as required)
 - Articles of organization
 - Amendments to articles of organization in chronological order
 - Bylaws or other rules of operation and amendments
 - Documentation of nondiscriminatory policy for schools, as required by Schedule B
 - Form 5768, *Election/Revocation of Election by an Eligible Section 501(c)(3) Organization To Make Expenditures To Influence Legislation* (if filing)
 - All other attachments, including explanations, financial data, and printed materials or publications. Label each page with name and EIN.

- User fee payment placed in envelope on top of checklist. DO NOT STAPLE or otherwise attach your check or money order to your application. Instead, just place it in the envelope.

- Employer Identification Number (EIN)

- Completed Parts I through XI of the application, including any requested information and any required Schedules A through H.
 - You must provide specific details about your past, present, and planned activities.
 - Generalizations or failure to answer questions in the Form 1023 application will prevent us from recognizing you as tax exempt.
 - Describe your purposes and proposed activities in specific easily understood terms.
 - Financial information should correspond with proposed activities.

- Schedules. Submit only those schedules that apply to you and check either "Yes" or "No" below.

Schedule A	Yes ___ No ___	Schedule E	Yes ___ No ___
Schedule B	Yes ___ No ___	Schedule F	Yes ___ No ___
Schedule C	Yes ___ No ___	Schedule G	Yes ___ No ___
Schedule D	Yes ___ No ___	Schedule H	Yes ___ No ___

- An exact copy of your complete articles of organization (creating document). Absence of the proper purpose and dissolution clauses is the number one reason for delays in the issuance of determination letters.
 - Location of Purpose Clause from Part III, line 1 (Page, Article and Paragraph Number) _____
 - Location of Dissolution Clause from Part III, line 2b or 2c (Page, Article and Paragraph Number) or by operation of state law _____
- Signature of an officer, director, trustee, or other official who is authorized to sign the application.
 - Signature at Part XI of Form 1023.
- Your name on the application must be the same as your legal name as it appears in your articles of organization.

Send completed Form 1023, user fee payment, and all other required information, to:

Internal Revenue Service
P.O. Box 192
Covington, KY 41012-0192

If you are using express mail or a delivery service, send Form 1023, user fee payment, and attachments to:

Internal Revenue Service
201 West Rivercenter Blvd.
Attn: Extracting Stop 312
Covington, KY 41011

(

(

(