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CERTIFIED PUBLIC ACCOUNTANTS®

Racial Nondiscrimination Requirements for Tax-Exempt Private Schools under Federal Tax Law

In order to qualify for and retain federal income tax exemption as a 501(c)(3) organization, a nonprofit private school (including a school operated or controlled by a church) must have a racial nondiscrimination policy in place, the policy must be properly publicized, and the school must operate in a racially nondiscriminatory manner. Additionally, the school must maintain certain records supporting its compliance with the policy, including records of the racial composition of its student body, faculty, and staff. Other related documentation requirements also apply. Federal guidance for compliance with these requirements are set forth in **Revenue Ruling 71-447** (RR 71-447), originally issued by the IRS in 1971; and **Revenue Procedure 75-50** (RP 75-50), originally issued by the IRS in 1975, as modified by **Revenue Procedure 2019-22** (RP 2019-22), issued in May of 2019 (collectively referred to hereinafter as “federal guidance”).

Following are key elements of federal guidance for compliance with the racial nondiscrimination requirements for private, tax-exempt schools.

Applicability

The federal guidance applies to all private, tax-exempt schools, whether stand-alone or operated as part of a larger entity. A “school” for this purpose is defined as an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term includes preschools, K-12 schools (or schools operating any grades within K-12), and institutions of higher education (colleges and universities).

Policy

1. Federal guidance states that “a school that does not have a racially nondiscriminatory policy as to students does not qualify as an organization exempt from federal income tax.” [Emphasis added.]
2. A school must affirmatively show both that it has:
 - a. adopted a racial nondiscrimination policy that it has made known to the public and
 - b. operated in accordance with the policy.

3. A racially nondiscriminatory policy as to student means:

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

4. A statement that the school has a racial nondiscrimination policy **must be in the school’s charter, bylaws, other governing instrument, or in a resolution of its governing body.**

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Statement of Policy in Informational and Promotional Materials and Communications

The school must include a statement of its racial nondiscrimination policy in **all its brochures and catalogs** dealing with student admissions, programs, and scholarships. If such information is provided on the school's website, we (BMWV) consider it prudent to post the statement in the relevant areas of the website, even though federal guidance does not explicitly address having the equivalent of brochures and catalogs on a school's website, and even if the school uses Method #3 described below to publicize its racial nondiscrimination policy.

Federal guidance states that the following notice is acceptable for purposes of meeting the requirement described in the preceding paragraph:

NOTICE OF NONDISCRIMINATORY POLICY AS TO STUDENTS

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

[Federal guidance indicates that that the notice must occupy the equivalent of at least a newspaper's "three column inches," that the caption (header) must be bold and at least 12-point type, and that the text must be in at least 8-point type.]

The school must include a reference to its racial nondiscrimination policy in other "**written advertising**" that it uses as a means of informing prospective students of its programs. Federal guidance states that the following notice is acceptable for purposes of meeting the requirement for a reference in written advertising:

The ___ School admits students of any race, color, and national or ethnic origin.

Publicity of Policy

Federal guidance requires a school to publicize its racial nondiscrimination policy in one of three ways^a:

1. Publish a notice, at least once annually, of its policy in a newspaper of general circulation that serves all racial segments of the community. The notice should be published during the period in which the school solicits or registers students. The notice must appear in a section of the newspaper "likely to be read by prospective students and their families." Federal guidance states that the following notice is acceptable:

NOTICE OF NONDISCRIMINATORY POLICY AS TO STUDENTS

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

[Federal guidance indicates that that the notice must occupy the at least "three column inches" in the newspaper, that the caption (header) must be bold and at least 12-point type, and that the text must be in at least 8-point type.]

2. Use the broadcast media to publicize the policy if doing so makes the policy known to all segments of the general community served by the school. If this method of publicizing the policy is chosen, the school must maintain documentation of its communications as described in RP 75-50.
3. The school may display a notice of its racially nondiscriminatory policy on its primary publicly accessible Internet homepage at all times during its taxable year (excluding temporary outages due to website maintenance or technical problems) in a manner reasonably expected to be noticed by visitors to the homepage. The following notice, the text of which is identical to the notice that may be used to satisfy the publicity requirement using a newspaper of general circulation that serves all racial segments of the community, is acceptable:

NOTICE OF NONDISCRIMINATORY POLICY AS TO STUDENTS

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

A publicly accessible homepage is one that does not require a visitor to input information, such as an email address or a username and password, to access the homepage. Factors to be considered in determining whether a notice is reasonably expected to be noticed by visitors to the homepage include the size, color, and graphic treatment of the notice in relation to other parts of the homepage, whether the notice is unavoidable, whether other parts of the homepage distract attention from the notice, and whether the notice is visible without a visitor having to do anything other than simple scrolling on the homepage. A link on the homepage to another page where the notice appears, or a notice that appears in a carousel or only by selecting a dropdown or by hover (mouseover) is not acceptable. If a school does not have its own website, but it has webpages contained in a website, the school must display a notice of its racially nondiscriminatory policy on its primary landing page within the website in a manner that satisfies all other requirements.

Annual Certification of Compliance

An appropriate school official must certify annually that the school is in compliance with the requirements of federal guidance regarding its racial nondiscrimination policy. For an organization (any part of which is a school) that files Form 990 with the IRS, the certification is made on Schedule E of Form 990. For an organization (including a church or church-related organization) that is not required to file Form 990, the certification is made on Form 5578, which is due on the 15th day of the 5th month after the organization's year-end.

Recordkeeping Requirements

Federal guidance requires schools to maintain specific records supporting their compliance with the requirements described herein. Required records include:

1. Records indicating the racial composition of the student body, faculty, and administrative staff for each academic year. (Estimates are permitted in certain circumstances.)
2. Records sufficient to document that scholarships and other financial assistance are awarded on a racially nondiscriminatory basis.
3. Copies of **all** brochures, catalogs, and advertising dealing with student admissions, programs, and scholarships. (Schools with national advertising are permitted to maintain records of their advertisements sufficient to indicate when and in what publications the advertisements were placed.)
4. Copies of **all** materials used by or on behalf of the school to solicit contributions.

The information contained in this summary should be read in conjunction with, and is not a substitute for, the actual federal guidance. Accordingly, copies of the documents comprising the federal guidance described herein are included with this summary:

- **Revenue Ruling 71-447**
- **Revenue Procedure 75-50**
- **Revenue Procedure 2019-22**

^a If a school meets certain criteria set forth in RP 75-50 regarding the area(s) from which it draws students, RP 75-50 allows the school to publicize its racial nondiscrimination policy in certain other ways. However, the three generally allowable methods described in the main text of this document are also permissible for such schools.

This sample document is provided for general information purposes. It does not constitute professional advice. It is a generic document that is not specifically designed for your organization. We have provided it as a matter of professional courtesy for you to consider, together with your legal counsel, as you determine policies and/or provisions of your governing documents that are appropriate for your organization. In establishing your organization's policies or provisions of your governing documents, you should consider, together with your legal counsel, your unique operational, financial, and legal circumstances.

A private school that does not have a racially nondiscriminatory policy as to students does not qualify for exemption.

The Internal Revenue Service has been asked whether a private school that otherwise meets the requirements of section 501(c)(3) of the Internal Revenue Code of 1954 will qualify for exemption from Federal income tax if it does not have a racially nondiscriminatory policy as to students.

A 'racially nondiscriminatory policy as to students' is defined as meaning that the school admits the students of any race to all the rights, privileges, programs, and activities generally accorded or made available to students at that school and that the school does not discriminate on the basis of race in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.

Section 501(c)(3) of the Code provides, among other things, for the exemption from Federal income tax of organizations 'organized and operated exclusively for religious, charitable, * * * or educational purposes.'

Section 1.501(c)(3)-1(d)(3)(ii) of the Income Tax Regulations provides that a primary or secondary school that has a regularly enrolled body of students in attendance at a place where the educational activities are regularly carried on may qualify for exemption as an educational organization of the character contemplated by Code section 501(c)(3) if it otherwise meets the requirements of that section.

Under common law, the term 'charity' encompasses all three of the major categories identified separately under section 501(c)(3) of the Code as religious, educational, and charitable. Both the courts and the Internal Revenue Service have long recognized that the statutory requirement of being 'organized and operated exclusively for religious, charitable, * * * or educational purposes' was intended to express the basic common law concept. Thus, a school asserting a right to the benefits provided for in section 501(c)(3) of the Code as being organized and operated exclusively for educational purposes must be a common law charity in order to be exempt under that section. That Congress had such an intent is clearly borne out by its description in section 170(c) of the Code of a deductible gift to 'a corporation, trust, fund, or foundation * * * organized and operated exclusively for educational purposes' as a 'charitable contribution.' The Service has followed this concept, as is reflected in Rev. Rul. 67-325, C.B. 1967-2, 113, 116-117, which reads:

* * * (S)ections 170, 2055, 2106, and 2522 of the Code, to the extent they provide deductions for contributions or other

transfers to or for the use of organizations organized and operated exclusively for charitable purposes, or to be used for charitable purposes, do not apply to contributions or transfers to any organization whose purposes are not charitable in the generally accepted legal sense or to any contribution for any purpose that is not charitable in the generally accepted legal sense. For the same reasons, section 501(c)(3) of the Code does not apply to any such organization.

Also see section 1.501(c)(3)-1(d)(2) and (3) of the regulations; *Amy Hutchinson Crellin v. Commissioner*, 46 B.T.A. 1152 (1942), and authorities cited therein.

All charitable trusts, educational or otherwise, are subject to the requirement that the purpose of the trust may not be illegal or contrary to public policy. This principle has been stated as follows in the Restatement (Second), Trusts (1959) Sec. 377, Comment c:

A trust for a purpose the accomplishment of which is contrary to public policy, although not forbidden by law, is invalid.

Although the operation of private schools on a discriminatory basis is not prohibited by Federal statutory law, the policy of the United States is to discourage discrimination in such schools.

The Federal policy against racial discrimination is well-settled in many areas of wide public interest as, for example, in transportation, housing, employment, hotels, restaurants and theaters. A recognition of a public interest in eliminating racial discrimination is shown in section 1.501(c)(3)-1(d)(2) of the regulations providing that the 'promotion of social welfare' includes activities 'to eliminate prejudice and discrimination.'

Developments of recent decades and recent years reflect a Federal policy against racial discrimination which extends to racial discrimination in education. Titles IV and VI, The Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241, 42 U.S.C. 2000c, 2000c-6 and 2000d and *Brown v. Board of Education*, 347 U.S. 483, 500 (1954), and many subsequent Federal court cases, demonstrate a national policy to discourage racial discrimination in education, whether public or private.

The issue here is whether a private school that does not have a racially nondiscriminatory policy as to students is 'charitable' within the common law concepts found in section 501(c)(3). The foregoing discussion demonstrates that racial discrimination in education is contrary to Federal public policy. Therefore, a school not having a racially nondiscriminatory policy as to students is not 'charitable' within the common law concepts reflected in sections 170 and 501(c)(3) of the Code and in other relevant Federal statutes and accordingly does not qualify as an organization exempt from Federal income tax.

SECTION 1. PURPOSE

.01 This Revenue Procedure sets forth guidelines and recordkeeping requirements for determining whether private schools that are applying for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, or are presently recognized as exempt from tax, have racially nondiscriminatory policies as to students.

SEC. 2. BACKGROUND.

.01 A school that does not have a racially nondiscriminatory policy as to students does not qualify as an organization exempt from Federal income tax. Rev. Rul. 71-447, 1971-2 C.B. 230.

.02 A school must show affirmatively both that it has adopted a racially nondiscriminatory policy as to students that is made known to the general public and that since the adoption of that policy it has operated in a bona fide manner in accordance therewith.

.03 Internal Revenue Service experience with private schools has shown a need for more specific guidelines to insure a uniform approach to the determination of whether a private school has a racially nondiscriminatory policy as to students.

.04 This Revenue Procedure does not apply to public schools.

SEC. 3. DEFINITIONS.

.01 Rev. Rul. 71-447 states that a racially nondiscriminatory policy as to students means:

the school admits the students of any race to all the rights, privileges, programs, and activities generally accorded or made available to students at that school and that the school does not discriminate on the basis of race in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.

.02 The Service considers discrimination on the basis of race to include discrimination on the basis of color and national or ethnic origin. A policy of a school that favors racial minority groups with respect to admissions, facilities and programs, and financial assistance will not constitute discrimination on the basis of race when the purpose and effect is to promote the establishment and maintenance of that school's racially nondiscriminatory policy as to students.

.03 A school that selects students on the basis of membership in a religious

denomination or unit thereof will not be deemed to have a discriminatory policy if membership in the denomination or unit is open to all on a racially nondiscriminatory basis.

.04 For purposes of this revenue procedure, the term 'school' has the same meaning it has in section 170(b)(1)(A)(ii) of the Code.

SEC. 4. GUIDELINES.

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

.02 Statement of Policy. Every school must include a statement of its racially nondiscriminatory policy as to students in all its brochures and catalogues dealing with student admissions, programs, and scholarships. A statement substantially similar to the Notice described in subsection (a) of section 4.03, *infra*, will be acceptable for this purpose. Further, every school must include a reference to its racially nondiscriminatory policy in other written advertising that it uses as a means of informing prospective students of its programs. The following references will be acceptable:

The M school admits students of any race, color, and national or ethnic origin.

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

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

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

NOTICE OF NONDISCRIMINATORY POLICY AS TO STUDENTS

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

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

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

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

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

(b) If a school customarily draws a substantial percentage of its students nationwide or worldwide or from a large geographic section or sections of the

United States and follows a racially nondiscriminatory policy as to students, the publicity requirement may be satisfied by complying with section 4.02, supra. Such a school may demonstrate that it follows a racially nondiscriminatory policy within the meaning of the preceding sentence either by showing that it currently enrolls students of racial minority groups in meaningful numbers or, when minority students are not enrolled in meaningful numbers, that its promotional activities and recruiting efforts in each geographic area were reasonably designed to inform students of all racial segments in the general communities within the area of the availability of the school. The question whether a school satisfies the preceding sentence will be determined on the basis of the facts and circumstances of each case.

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

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

such statements .

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

.05 Scholarship and loan programs. As a general rule, all scholarship or other comparable benefits procurable for use at any given school must be offered on a racially nondiscriminatory basis. Their availability on this basis must be known throughout the general community being served by the school and should be referred to in the publicity required by this section in order for that school to be considered racially nondiscriminatory as to students. Consistent with section 3.02, supra, scholarships and loans that are made pursuant to financial assistance programs favoring members of one or more racial minority groups that are designed to promote a school's racially nondiscriminatory policy will not adversely affect the school's exempt status. Financial assistance programs favoring members of one or more racial groups that do not significantly derogate from the school's racially nondiscriminatory policy similarly will not adversely affect the school's exempt status.

.06 Certification. An individual authorized to take official action on behalf of a school that claims to be racially nondiscriminatory as to students must certify annually, under penalties of perjury, on an Internal Revenue form to be issued, that to best of his knowledge and belief the school has satisfied the applicable requirements of sections 4.01 through 4.05 of this Revenue Procedure.

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

.08 Failure to comply. Failure to comply with the guidelines will ordinarily result in the proposed revocation of the exempt status of a school in accordance with the procedures set forth in Rev. Proc. 72-4, 1972-1 C.B. 706.

SEC. 5. APPLICATIONS FOR TAX EXEMPT STATUS.

.01 Information required to be submitted. Every school filing an application for recognition of a tax exempt status must supply the Service with the following information: current academic year and projected current academic year and projected so far as may be feasible for the subsequent academic year, of--

(a) Student body, and

(b) Faculty and administrative staff.

2 Amount of scholarship and loan funds, if any, awarded to students

enrolled and racial composition of students who have received such awards.

3 A listing of incorporators, founders, board members, and donors of land or buildings, whether individuals or organizations.

4 A statement whether any of the organizations described in subsection .01--3 of this section have at the time the application is filed an objective of maintaining segregated public or private school education and, if so, a statement whether any of the individuals described in subsection .01--3 of this section are officers or active members of such organizations at the time the application is filed.

5 Year of organization.

.02 Limitations.

1 For purposes of section 5.01, the racial composition of the student body, faculty, and administrative staff may be an estimate based on the best information readily available to the school, without requiring student applicants, students, faculty, or administrative staff to submit information to the school that the school otherwise does not require. However, a statement of the method by which the racial composition was determined must be supplied.

2 The information required to be submitted under section 5.01 should not identify individual students or members of the faculty and administrative staff.

SEC. 6. PUBLIC COMPLAINTS OF RACIAL DISCRIMINATION.

The Service is interested in receiving any information that an exempt private school is not operating under a racially nondiscriminatory policy as to students, including any judicial or administrative determinations to this effect. This information may be sent to the local District Director of Internal Revenue or to the Commissioner of Internal Revenue, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention E:EO.

SEC. 7. RECORDKEEPING REQUIREMENTS.

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

1 Records indicating the racial composition of the student body, faculty, and administrative staff for each academic year.

2 Records sufficient to document that scholarship and other financial assistance is awarded on a racially nondiscriminatory basis.

3 Copies of all brochures, catalogues, and advertising dealing with student admissions, programs, and scholarships. Schools advertising nationally or in a large geographic segment or segments of the United States need only maintain a record sufficient to indicate when and in what publications their advertisements were placed.

4 Copies of all materials used by or on behalf of the school to solicit contributions.

.02 Limitation.

1 For purposes of section 7.01, the racial composition of the student body, faculty, and administrative staff may be an estimate based on the best information readily available to the school, without requiring student applicants, students, faculty, or administrative staff to submit information to the school that the school otherwise does not require. For each academic year, however, a record of the method by which racial composition is determined must be maintained. A school may not discontinue maintaining a system of records that reflects racial composition of students, faculty, and administrative staff used on November 6, 1975, unless it substitutes a different system that compiles substantially the same information, without the advance approval of the Internal Revenue Service.

2 The service does not require that a school release personally identifiable records or personal information contained therein except in accordance with the requirements of the 'Family Educational Rights and Privacy Act of 1974,' 20 U.S.C. Sec. 1232g (1974). Similarly, the Service does not require a school to keep records the maintenance of which is prohibited under state or federal law.

.03 Exceptions. The records described in section 7.01 need not be independently maintained for Internal Revenue Service use if

1 Substantially the same information that each of these records would provide has been included in a report or reports filed in accordance with law with an agency or agencies of Federal, state, or local government, and this information is current within one year, and

2 The school maintains copies of these reports from which this information is readily obtainable. Records described in section 7.01 providing information not included in reports filed with an agency or agencies must be maintained by the school for Service use.

.04 Failure to maintain records. Failure to maintain or to produce upon the proper request the required records and information will create a presumption that the

organization has failed to comply with these guidelines.

SEC. 8. MISSISSIPPI SCHOOLS.

The United States District Court for the District of Columbia has ordered specific guidelines and recordkeeping requirements for Mississippi private schools. *Green v. Connally*, 330 F. Supp. 1150, *aff'd. sub nom. Coit. v. Green*, 404 U.S. 997 (1971). To the extent that the requirements of the Court's Order vary from the guidelines and recordkeeping requirements set fourth in this Revenue Procedure, the Court's Order is controlling for Mississippi schools.

SEC. 9. EFFECTIVE DATE.

.01 Section 4.02 is not applicable until February 4, 1976.

.02 To the extent that the publicity requirements set forth in section 4.03, *supra*, differ from those set forth in Rev. Proc. 72-54, 1972-2 C.B. 834, they shall not be effective until a school's first period of solicitation for students or, in the absence of a solicitation program, during the school's first registration period beginning after November 6, 1975.

.03 The recordkeeping requirements set forth in section 7, *supra*, shall not be effective until January 1, 1976.

SEC. 10. EFFECTIVE ON OTHER DOCUMENTS.

Rev. Proc. 72-54 is superseded.

26 CFR 601.201: Rulings and determination letters.
(Also: Part I, § 501; 1.501(c)(3)-1.)

Rev. Proc. 2019-22

SECTION 1. PURPOSE

This revenue procedure modifies Revenue Procedure 75-50, 1975-2 C.B. 587, to reflect technological advances since its publication and provides a third method for a private school to satisfy the requirement contained in section 4.03 of the revenue procedure by using its Internet website to publicize the school's racially nondiscriminatory policy as to students.

SECTION 2. BACKGROUND

.01 Revenue Procedure 75-50 sets forth guidelines and recordkeeping requirements for determining whether a private school, which is applying to be or currently recognized as exempt from federal income tax under section 501(a) and described in section 501(c)(3) of the Internal Revenue Code, has adopted a racially nondiscriminatory policy regarding students and operates in a bona fide manner in accordance with that policy. Section 4.03 of Revenue Procedure 75-50 requires a private school to make its racially

nondiscriminatory policy known to all segments of the general community served by the school in one of two ways. Subsection 1(a) of section 4.03 permits a school to satisfy this publicity requirement by publishing, at least once annually, a notice of its racially nondiscriminatory policy in a newspaper of general circulation that serves all racial segments of the community. Subsection 1(b) of section 4.03 permits a school to use the broadcast media to publicize its racially nondiscriminatory policy, provided that the means by which the policy is communicated is reasonably expected to be effective.

.02 The purpose of the publicity requirement in section 4.03 of Revenue Procedure 75-50 is for a private school to make its racially nondiscriminatory policy as to students known to all segments of the general community served by the school. Because of technological advances since the publication of Revenue Procedure 75-50, including the advent and widespread use of the Internet, in many cases a school can accomplish the purpose of the publicity requirement by using its Internet website.

SECTION 3. MODIFICATIONS TO REVENUE PROCEDURE 75-50

.01 Subsection 1 of section 4.03 is modified to read as follows:

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

.02 Section 4.03 is modified by adding new subsection 1(c) to read as follows:

(c) The school may display a notice of its racially nondiscriminatory policy on its primary publicly accessible Internet homepage at all times during its taxable year (excluding temporary outages due to website maintenance or technical problems) in a manner reasonably expected to be noticed by visitors to the

homepage. The following notice, which is identical to the notice that may be used to satisfy the publicity requirement using a newspaper of general circulation that serves all racial segments of the community, is acceptable:

NOTICE OF NONDISCRIMINATORY POLICY AS TO STUDENTS

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

A publicly accessible homepage is one that does not require a visitor to input information, such as an email address or a username and password, to access the homepage. Factors to be considered in determining whether a notice is reasonably expected to be noticed by visitors to the homepage include the size, color, and graphic treatment of the notice in relation to other parts of the homepage, whether the notice is unavoidable, whether other parts of the homepage distract attention from the notice, and whether the notice is visible without a visitor having to do anything other than simple scrolling on the homepage. A link on the homepage to another page where the notice appears, or a notice that appears in a carousel or only by selecting a dropdown or by hover (mouseover) is not acceptable. If a school does not have its own website, but it has webpages contained in a website, the school must display a notice of its racially nondiscriminatory policy on its primary landing page within the website

in a manner that satisfies all other requirements of this subsection 1(c) to use this publication method.

SECTION 4. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 75-50 is modified.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective May 28, 2019.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Matthew Giuliano of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this revenue procedure contact Mr. Giuliano at (202) 317-4086 (not a toll free call).