

Is Your Tuition Assistance Program Legal?

It is estimated that 50% of Christian schools in the US are out of compliance with their 501(c)3 requirements.

Why do we say this? After surveying hundreds of Christian schools across the US, we have learned that while most schools (96%) give out some sort of financial aid, only about half use a formal application.

Schools that have acquired tax-exempt status as a 501(c)3 are required to follow certain guidelines prescribing how a non-profit gives out money. Two important requirements are that they have written policies guiding how recipients qualify for a gift, and if the gift is tuition assistance, that they follow the same criteria and utilize the same formulas for each applicant.

What does this mean? That probably about half of the Christian schools in the US are out of compliance with their 501 (c)3 charter. Fortunately, the IRS is not in the habit of checking – but someday they may.

WHEN DOES THE IRS CARE?

#1 - When you give tax receipts. When you give out tax receipts you must have complete say over where and how the money is spent. Most gifts are undesignated. For those that are designated, the designation can only be to a board-authorized fund, like a building fund, or a tuition aid fund.

In other words, once the money is given to the school's fund, whether it be a building fund or a tuition aid fund, it is to be used as the school sees fit.

When gifts are designated, under most circumstances, the board, not the donor, must decide if they want a particular designation. If a family gives a contribution designated for a particular family or a particular student, then **that gift is not tax-deductible.**

If a gift is designated for special use, such as "to build a new gym," it is the board that must decide if a Gym Fund is in order. If the board hasn't decided to build a new gym, and doesn't want to build a gym, then the gift should be returned.

If the board is planning to build a gym, and the gift is designated for a new gym, then the money must be used for a gym. To use the money otherwise constitutes a misappropriation of funds.

There are very few exceptions to this rule. If the board decides to borrow this money for, say, general expenses, this is permissible – if it is truly a loan that is to be repaid and not

a permanent transfer. In this case it is advisable to execute a written and signed loan agreement that states how the money is to be used, the loan period, and even an interest rate. This borrowed money must be paid back within a reasonable period of time.

If the school actually builds the gym and has funds left over, then the board can redirect the remaining funds, after declaring that the Gym Fund was used as planned and that this designation is no longer valid.

#2 - When you give away money. When you give away money, even if it is a tuition "discount," all recipients must be treated consistently. What does this mean for tuition assistance? Just a few implications:

All families must have the same opportunity to apply for aid. This does not mean that every applicant qualifies. It just means that you cannot be selective in who gets an application handed to them and who doesn't. Our recommended guideline is to tell families that if their tuition exceeds 7-10% of their net monthly income, they may want to consider applying. This does not guarantee that they will receive anything.

Additionally, your tuition assistance brochure or written guideline should have a statement similar to this:

This school does not discriminate on the basis of gender, race, color, national or ethnic origin in the award of any tuition assistance. Tuition assistance or tuition payments given to the school that are designated for a specific family or recipient are not considered to be tax-deductible.

All applicants must be evaluated using the same criteria. Within each fund every applicant must use the same application. Every award must be based on the same formulas or calculations or criteria. Every family that has the same profile must receive the same aid.

This does not mean that there is no room for exceptions. It is definitely best for the school if requests for an exception are presented to a tuition assistance committee in writing, and that the committee meet, discuss the request, and state their reasons for exception in a written statement placed in the applicant's file.

Notice we said "within each fund." In other words, you can have more than one fund, and each fund can be treated differently. You may have a general Tuition Aid Fund where every applicant must demonstrate a financial need. Then you can also have a First Baptist Church Tuition Aid Fund where every applicant must demonstrate a financial need, AND be a member of the First Baptist Church.

All awards must treat applicants consistently (but not equally). The same data must be collected and evaluated. The same formula must be used for each application's calculation. The same guidelines and opportunities for exception must be available to all applicants. And finally, the same criteria for award must apply to all.

This does not mean that every applicant is treated equally. For instance, you may want to have a Pastor's Scholarship because you want to encourage local pastors to enroll

their children in your school. All pastors must be treated equally, but obviously, not all applicants qualify for the Pastor's Scholarship. You could even prescribe that pastors who qualify for the Pastor's Scholarship must live within 10 miles of the school, or any other such stipulation. Just remember, consistent, but not necessarily equal.

Bartering volunteer work in exchange for tuition aid. Some schools require that aid recipients "volunteer" for so many hours a semester. This is their way of offsetting or recovering some of the school's tuition aid budget. All "barter" or "work scholarships" must be either required of everyone, or treated as income subject to withholding.

RECORDS MUST BE KEPT AND KEPT CONFIDENTIALLY

It is important that your school keeps records of each family's award, minutes from meetings, copies of board / administration / business office correspondence and copies of board and business office reports.

Access to these files should be restricted to the tuition assistance committee, the administrator and the board treasurer.

We would suggest that the individual family records contain the following information:

- Report from the family's Confidential Financial Analysis
- IRS form 1040
- Other documentation (such as written explanation of special circumstances / exceptions)
- Authorization to Pay
- Correspondence with or about the family

To learn more about our CFA – Confidential Financial Analysis for tuition aid, or to experience a 10-15 minute guided tour through our application/reporting process, contact us.