

An organization that provides an elementary education for children may meet the requirements for an 'educational organization' even though it has no formal course program or formal classroom instruction, and, therefore, is not considered a private foundation.

Advice has been requested whether the organization described below is an educational organization of the type described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1954 and, therefore, is not a private foundation by reason of section 509(a)(1).

The organization's only activity is the operation of a program providing full-time elementary education to children at a facility maintained exclusively for that purpose. The program has a faculty consisting of a director and a regular staff of instructors. A regularly enrolled student body attends the program five days a week. The program operates continuously throughout the year. Although the program is designed to provide children with basic educational knowledge, it does not offer a formal course program. Each child is given an individualized course of study based upon his interests and aptitudes. The basic educational subjects are taught by the teacher relating them to the child's area of interest. The organization's income is from contributions and tuition payments and its expenditures are for the operation of the program.

There are no restrictions against admissions based on race and the organization has a racially nondiscriminatory policy as to students within the meaning of Revenue Ruling 71-447, C.B. 1971-2, 230.

The organization has previously been recognized as exempt from Federal income tax under section 501(c)(3) of the Code.

Section 509(a)(1) of the Code provides that the term private foundation means a domestic or foreign organization described in section 501(c)(3) other than an organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)).

Section 170(b)(1)(A)(ii) of the Code describes an educational organization as one which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on.

Although the organization in the instant case has no formal course program or formal classroom instruction, it is considered to maintain a regular curriculum within the meaning of section 170(b)(1)(A)(ii) of the Code, since it develops an individualized course of study for each child based on his needs and aptitudes. Therefore, since it also maintains a regular faculty and has a

regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on, it is held that the organization is an educational organization within the meaning of section 170(b)(1)(A)(ii) of the Code.

Since this organization meets the requirements of section 170(b)(1)(A)(ii) of the Code, it is also held that it is not a private foundation by reason of section 509(a)(1).