SCHEDULE E (Form 990)

Department of the Treasury
Internal Revenue Service

Schools

▶ Complete if the organization answered "Yes" on Form 990, Part IV, line 13, or Form 990-EZ, Part VI, line 48.
▶ Attach to Form 990 or Form 990-EZ.
▶ Go to *www.irs.gov/Form990* for the latest information.

OMB No. 1545-0047

2021

Open to Public Inspection

Name of the organization: Enemy Swim Day School

Employer identification number: 46-0375463

Part I

			YES	NO
1	Does the organization have a racially nondiscriminatory policy toward students by statement in its charter, bylaws, other governing instrument, or in a resolution of its governing body?	1	✔	
2	Does the organization include a statement of its racially nondiscriminatory policy toward students in all its brochures, catalogues, and other written communications with the public dealing with student admissions, programs, and scholarships?	2	✔	
3	Has the organization publicized its racially nondiscriminatory policy on its primary publicly accessible Internet homepage at all times during its taxable year in a manner reasonably expected to be noticed by visitors to the homepage, or through newspaper or broadcast media during the period of solicitation for students, or during the registration period if it has no solicitation program, in a way that makes the policy known to all parts of the general community it serves? If "Yes," please describe. If "No," please explain. If you need more space, use Part II	3	✔	
	See Part II			
4	Does the organization maintain the following?			
a	Records indicating the racial composition of the student body, faculty, and administrative staff?	4a	✔	
b	Records documenting that scholarships and other financial assistance are awarded on a racially nondiscriminatory basis?	4b		✔
c	Copies of all catalogues, brochures, announcements, and other written communications to the public dealing with student admissions, programs, and scholarships?	4c	✔	
d	Copies of all material used by the organization or on its behalf to solicit contributions?	4d		✔
	If you answered "No" to any of the above, please explain. If you need more space, use Part II.			
	Enemy Swim Day School (ESDS) does not offer scholarships or provide financial assistance to attend our school. ESDS is open to all students, free of charge. ESDS does not solicit contributions.			
5	Does the organization discriminate by race in any way with respect to:			
a	Students' rights or privileges?	5a		✔
b	Admissions policies?	5b		✔
c	Employment of faculty or administrative staff?	5c	✔	
d	Scholarships or other financial assistance?	5d		✔
e	Educational policies?	5e		✔
f	Use of facilities?	5f		✔
g	Athletic programs?	5g		✔
h	Other extracurricular activities?	5h		✔
	If you answered "Yes" to any of the above, please explain. If you need more space, use Part II.			
	See Part II			
6a	Does the organization receive any financial aid or assistance from a governmental agency?	6a	✔	
b	Has the organization's right to such aid ever been revoked or suspended?	6b		✔
	If you answered "Yes" on either line 6a or line 6b, explain on Part II.			
7	Does the organization certify that it has complied with the applicable requirements of sections 4.01 through 4.05 of Rev. Proc. 75-50, 1975-2 C.B. 587, covering racial nondiscrimination? If "No," explain on Part II	7		✔

Part II **Supplemental Information.** Provide the explanations required by Part I, lines 3, 4d, 5h, 6b, and 7, as applicable. Also provide any other additional information. See instructions.

Line 3 - Eplanation of Non-discrimination Policy:

Enemy Swim Day School is funded by the Bureau of Indian Education for the sole purpose of educating Native American children.

The non-discriminatory policies are published a minimum of one time per year. The non-discriminatory notices are published in the

local newspaper, posted to the website and/or published in the beginning of the year school notices that are sent to each students home.

Line 5 - Explanation of Racial Discrimination:

(c) The Tribal Employment Rights Act (TERO) federally legislated preference for Native Americans when hiring in Tribal

organizations.

(d) The School Board has established an open enrollment policy. No fees are charged to any student wishing to attend

Enemy Swim Day School.

Line 6 - Explanation of Government Financial Aid:

Enemy Swim Day School is funded by the Bureau of Indian Education through the Office of the Interior and pass-through funding

from the State of South Dakota.

Line 7 - Explanation of Racial Non-Discrimination Compliance:

The School follows the Tribal Employment Rights Act which federally legislated preference in hiring to Native Americans in

Tribal organizations.

General Instructions

Future developments. For the latest information about developments related to Schedule E (Form 990), such as legislation enacted after the schedule and its instructions were published, go to *www.irs.gov/Form990.*

Reminder

Rev. Proc. 2019-22, 2019-22 I.R.B. 1260, modified Rev. Proc. 75-50 to provide a third method for a private school to satisfy the publicity requirement in section 4.03. Accordingly, also answer "Yes" to line 3 if the organization has publicized its racially nondiscriminatory policy on its primary publicly accessible Internet homepage at all times during its tax year in a manner reasonably expected to be noticed by visitors to the homepage.

Purpose of Schedule

Schedule E (Form 990) is used by an organization that files Form 990 or 990-EZ to report information on private schools.

Who Must File

An organization that answered "Yes" on Form 990, Part IV, line 13, or Form 990-EZ, Part VI, line 48, must complete and attach Schedule E to Form 990 or 990-EZ, as applicable. This means the organization checked the box on Schedule A (Form 990), Public Charity Status and Public Support, Part I, line 2, because it's a school.

If an organization isn't required to file Form 990 or 990-EZ but chooses to do so, it must file a complete return and provide all of the information requested, including the required schedules.

For Forms 990 and 990-EZ filers, use Part II if additional space is needed for explanations.

Specific Instructions

Part I

Relevant parts of Rev. Proc. 75-50, 1975-2 C.B. 587, are given below. The revenue procedure gives guidelines and recordkeeping requirements for determining whether private schools that are recognized as exempt from tax have racially nondiscriminatory policies toward their students.

Rev. Proc. 2019-22, 2019-22 I.R.B. 1260, modified Rev. Proc. 75-50 to provide a third method for a private school to satisfy the requirement in section 4.03.

4.01 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 doesn't discriminate against applicants and students on the basis of race, color, and national or ethnic origin.

4.02 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 paragraph (a), subsection 1, section 4.03, below, 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 (name) school admits students of any race, color, and national or ethnic origin.

4.03 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 three 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 boldface 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 (name) 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.

c. The school may display a notice of its racially nondiscriminatory policy on its primary publicly accessible Internet homepage at all times during its tax 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 notice used to satisfy the publicity requirement under 1(a), above, is acceptable. 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.

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

2. The requirements of subsection 1, section 4.03, won't apply when one of the following paragraphs applies.

a. If, for the preceding 3 years, the enrollment of a parochial or other church-related school consists of students at least 75% 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 aren't applicable to it, then it must comply with paragraph (a), subsection 1, section 4.03.

b. If a school customarily draws a substantial percentage of its students nationwide, 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, earlier. 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, earlier. 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 IRS 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 IRS 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 IRS encourages schools to satisfy the publicity requirement by the methods described in subsection 1, section 4.03, 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. It's each school's responsibility to determine whether paragraph (a), (b), or (c), 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, section 4.03, was justified by the application to it of paragraph (a), (b), or (c), 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.

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

4.05 Scholarship and loan programs. As a general rule, all scholarship or other comparable benefits available for use at any 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. 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 won't adversely affect the school's exempt status.

Financial assistance programs favoring members of one or more racial groups that don't significantly derogate from the school's racially nondiscriminatory policy similarly won't adversely affect the school's exempt status.

4.06 Certification. An individual authorized to take official action on behalf of a school that claims to be racially nondiscriminatory as to students is required to certify annually, under penalties of perjury, that to the best of his or her knowledge and belief the school has satisfied the applicable requirements of sections 4.01 through 4.05, Rev. Proc. 75-50, as modified by Rev. Proc. 2019-22, 2019-22 I.R.B. 1260. This certification is line 7, Schedule E.

4.07 Faculty and staff. The existence of a racially discriminatory policy for employment of faculty and administrative staff is indicative of a racially discriminatory policy as to students. On the other hand, the absence of racial discrimination in employment of faculty and administrative staff is indicative of a racially nondiscriminatory policy as to students.

7.01 Specific records. Except as provided in section 7.03, each exempt private school must maintain for a minimum period of 3 years, beginning with the year after the year of compilation or acquisition, the following records for the use of the IRS 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 which publications their advertisements were placed.

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

7.02 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 doesn't require. For each academic year, however, a record of the method by which racial composition is determined must be maintained.

2. The IRS doesn't 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. section 1232g (1974). Similarly, the IRS doesn't require a school to keep records the maintenance of which is prohibited under state or federal law.

7.03 Exceptions. The records described in section 7.01 need not be independently maintained for IRS 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 1 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 IRS use.

7.04 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.

Part II. Supplemental Information

Use Part II to provide the narrative explanations required, if applicable, to supplement responses to Part I, lines 3, 4d, 5h, 6b, and 7. Part II may also be used to supplement other responses to questions on Schedule E (Form 990). In Part II, identify the specific line number that each response supports, in the order in which those lines appear on Schedule E (Form 990). Part II can be duplicated if more space is needed.