Form **13909**
(November 2023)

Department of the Treasury - Internal Revenue Service

# Tax-Exempt Organization Complaint (Referral)

OMB Number
1545-2314

## Referred Organization Information

1. Name of referred organization
Black Men Heal

2. Street address
244 W. Schoolhouse Ln

| 3. City | 4. State | 5. ZIP code | 6. Date of referral |
|---|---|---|---|
| Philadelphia | PA | 19144 | 11-25-2026 |

7. Organization's Employer Identification Number (EIN)
83-1751589

## Details of Alleged Violation

8. Name(s) of person(s) involved
Tasnim Sulaiman; Zakia Williams

9. Organizational title(s)
Founder/CEO; Co-Founder and Chief Operating Officer

| 10. Date(s) | 11. Dollar amount(s) *(if known)* |
|---|---|
| 2020 - Present | |

12. Description of alleged activities *(briefly describe the facts of the alleged violation – Who/What/Where/When/How you learned about and obtained the information in this report. Attach another sheet if needed)*

See attached letter.

## Submitter Information

13. Name
Do No Harm

14. Occupation or business
501(c)(3) nonprofit dedicated to challenging protecting healthcare from radical, divisive, and discriminatory ideologies and practices.

15. Street address
2825 E. Cottonwood Parkway, Suite 500

| 16. City | 17. State | 18. ZIP code | 19. Telephone number |
|---|---|---|---|
| Salt Lake City | UT | 84121 | 312-980-1197 |

☐ 20. I am concerned that I might face retaliation or retribution if my identity is disclosed

## Submission and Documentation

The completed form, along with any supporting documentation, may be mailed to IRS TEGE Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1027 or emailed to eoclass@irs.gov. **Disclaimer Notice:** Your email submission of Form 13909 and attachments are not encrypted for security.

# Instructions for Form 13909, Tax-Exempt Organization Complaint (Referral)

## General Information

The information provided on this form will help the Internal Revenue Service (IRS) determine if there has been a violation of federal tax law. The Tax Exempt and Government Entities (TEGE) division is responsible for exempt organizations, employee plans, Indian tribal governments, tax exempt bonds, and federal, state and local governments. Submission of this form is voluntary.

Upon receipt of this form, the IRS will send you a letter acknowledging receipt of the information you submitted. If at a later date you wish to submit additional information regarding the organization, please attach a copy of the form initially submitted, and send it to the address shown above.

## Specific Instructions

**1 - 5. Organization name and address:** Provide the current name and address of the organization. If the organization has used prior or multiple name(s) or address(es), also provide that information.

**6. Date of referral:** Enter the date you submit the completed form

**7. Employer identification number:** Provide the organization's EIN.

The EIN is a nine-digit number, issued by the IRS, that the organization uses for tax purposes (like a Social Security Number (SSN) for an individual). If the EIN is unavailable, include a state nonprofit corporation registration number, if available.

**8 - 12. Details of alleged violation:** Provide specific details of the alleged violation including names, actions, places, amounts, dates, and the nature of any evidence or documentation (who, what, where, when, how). Include the names of other organizations, entities or persons that may be involved with the organization, providing EINs or SSNs, if available.

**13 - 20. Submitter information:** Provide your name, address, and business or occupation. Include your daytime telephone number, in case we wish to contact you. The acknowledgement letter will be sent to the address you provide.

If you are concerned that you may face retribution if your identity is disclosed, check the box. You may enter "Anonymous" for Submitter's name if you do not want to be identified.

**Submission and Documentation:** Mail the completed form, including any supporting documentation that you would like for us to review, to the address provided on the form. You may also email the completed form and any supporting documentation to the email address provided on the form. Include a cover letter describing the documentation or evidence you are providing. If you have already received an acknowledgment letter, include a copy of that letter. If possible, please try to submit all documentation at the same time.

If your referral relates to a church please be aware that Congress has imposed special limitations, found in IRC section 7611, on how and when the IRS may conduct civil tax inquiries and examinations of churches. You can find out more about these special limitations in Publication 1828, *Tax Guide for Churches and Religious Organizations*, in the section on Special Rules Limiting IRS Authority to Audit a Church.

**Claim for reward:** To claim a reward for providing this information to the IRS, file Form 211, *Application for Award for Original Information*.

**Note:** Federal law prohibits the IRS from providing you with status updates or information about specific actions taken in response to the information you submit.

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Use of this form is completely voluntary.

Form 13909 is used to submit a complaint about tax-exempt organizations. The IRS uses the information that is provided to determine if there has been a violation of federal tax law. From IRS.gov, you can fill out the mobile friendly version of the form and submit it, or download the fillable PDF version to complete, print, and mail, or email it for submission to IRS.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form, or its instructions must be retained if their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . . 6 min.
**Learning** . . . . . 1 min.
**Preparing, copying, and sending the form to the IRS** . . . . . 39 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Do No Harm

2825 E. Cottonwood Parkway, Suite 500
Salt Lake City, UT 84121

November 25, 2026

Mr. Robert Malone
Exempt Organizations and Government Entities
Internal Revenue Service
TEGE Referrals Group – MC 4910 DAL
1100 Commerce Street
Dallas, TX 75242

**VIA EMAIL**

**Re: Request for Investigation into the Activities of Black Men Heal (EIN: 83-1751589).**

Dear Mr. Malone:

Do No Harm is a nationwide membership organization dedicated to protecting healthcare from radical, divisive, and discriminatory ideologies and policies. We write to respectfully request that the Internal Revenue Service open an investigation into Black Men Heal, EIN 83-1751589.[*]

An investigation is warranted because Black Men Heal is engaged in racial discrimination that violates established public policy and thus renders it ineligible for tax-exempt status. *See Bob Jones University v. United States*, 461 U.S. 574, 590-96 (1983). Black Men Heal funds and facilitates free mental health therapy and support groups that are solely for "men of color." *See* Black Men Heal, *About Us*, perma.cc/J5U6-HS7V (archived Oct. 2, 2026). Such discrimination is sufficient grounds for the IRS to revoke Black Men Heal's tax-exempt status under 26 U.S.C. §501(c)(3). *See Bob Jones*, 461 U.S. at 595-96 ("Racially discriminatory" institutions "cannot be viewed as conferring a public benefit within the 'charitable' concept" of the common law "or within the Congressional intent underlying §170 and §501(c)(3).").

## I. Factual Background

Black Men Heal is a nonprofit that contends it "was created as a solution to a broken inequitable mental health care system that does not center the needs of marginalized black and brown communities." *See* Black Men Heal, *About Us*. It claims tax-exempt status under section 501(c)(3) of the Internal Revenue Code. *See, e.g.*, Black Men Heal, Form 990 (2024), perma.cc/H566-UMHJ (archived Oct. 2, 2026).

[*] In addition to submitting IRS Form 13909, *Tax-Exempt Organization Complaint (Referral)*, Do No Harm is providing the basis for the complaint "in letter format," for convenience. Internal Revenue Service, *IRS Complaint Process – Tax-Exempt Organizations*, perma.cc/7ZLT-4MJ8.

According to Black Men Heal's 2024 IRS filings and website, its primary purpose and mission is "[t]o provide access to mental health treatment, psycho-education, and community resources to men of color." *See* Form 990; *Black Men Heal (Homepage)*, perma.cc/2L2L-3M5Y (archived Nov. 1, 2026). As the organization repeatedly makes clear, "[its] focus centers on the mental health needs of *Black Men*." *See, e.g., About Us* (emphasis added). Other races must look elsewhere.

Among its initiatives, Black Men Heal offers two main programs: one-on-one mental health therapy and virtual group support. *Id.* The individual therapy program is "designed to eliminate" "major barriers that prevent black men from seeking therapy" and starts by providing eight free therapy sessions to "men of color." *See* Black Men Heal, *Healed Men, Heal Men!*, perma.cc/MVH9-J2A5 (archived Sept. 22, 2026). With "[t]he average therapy session … rang[ing] from $75-200 per session," this substantial financial assistance—valued at up to $1600—has the potential to change lives. *See id.* Moreover, as the organization points out, the free sessions help clients to realize "the long term value of committing to their mental health and working with a therapist" such that "75% of our men continue on … after the free sessions." *Id.*

Black Men Heal also explains its approach to employment boasting of a "unique proprietary client-therapist pairing system," in which the organization "recruit[s] and hire[s] minority clinicians of color" and pairs them with its clients to "ensur[e] … the best therapeutic alliances." *Id. See also* Black Men Heal, *Individual Therapy Program (ITP)*, perma.cc/4F73-78D9 (archived Nov. 10, 2026).

Similarly, Black Men Heal's free virtual support group, "Kings Corner," features topics "applicable to men's mental health issues or struggles" and a "host specialized in the topic." *See* Black Men Heal, *King's Corner Virtual Space*, perma.cc/BT2C-567G (archived Sept. 22, 2026). Like the one-on-one therapy program, the Kings Corner program is open only to attendees and hosts who are "Black m[e]n." *Id.* For example, attendees who "[a]re … Black m[e]n seeking connection and support from a global community of like-minded individuals" are "invite[d] … to join Kings Around the Globe for our weekly virtual Kings Corner sessions." *Id.* And, "Black m[e]n who [are] passionate about mental health and supporting other men of color" and "have experience leading group discussions" are "invite[d] … to consider becoming a host for Kings Corner." *Id.*

Ultimately, the organization's programs are not open to all because it perpetuates the pernicious ideology of racial concordance—the stereotypical belief that patients do worse when their provider is a different race and better if their provider is the same race. *See* Black Men Heal, *Healed Men, Heal Men!* ("Men of color want a therapist who can identify with [them].")

Black Men Heal is a large organization. It has provided over 3,500 free therapy sessions to more than 400 men. *See Black Men Heal (Homepage)*. Its virtual support group, King's Corner, has served nearly 3,000 men globally, to say nothing of the organization's other programs. *Id.* But however broad its reach in addressing mental health, Black Men Heal's race-based exclusions remain repugnant to our civil rights laws and "the Congressional intent underlying … §501(c)(3)." *Bob Jones*, 461 U.S. at 595-96. The IRS should investigate Black Men Heal and whether the organization should continue enjoying the significant tax advantages that taxpayers ultimately fund.

## II. Legal Analysis

Supreme Court precedent teaches that the existence of a single unlawful policy or purpose under §501(c)(3) disqualifies the entire organization from tax-exempt status. The law emphasizes tax-exempt organizations must be "operated *exclusively* for religious, charitable, scientific, testing for public safety, literary, or educational purposes." §501(c)(3) (emphasis added). Thus, "[t]he presence of a single substantial purpose that is not described in section 501(c)(3) precludes exemption from tax under section

501(a) regardless of the number or the importance" of the organization's other purposes. *Better Bus. Bureau v. United States*, 326 U.S. 279, 283 (1945); *see also* Treasury Regulation §1.501(c)(3)-1(d)(1)(ii).

In addition, the IRS in 1970 publicly affirmed that an organization seeking exemption under §501(c)(3) must satisfy the common-law definition of "charitable." *See* Statement of Randolph W. Thrower, Commissioner of Internal Revenue, before the Senate Select Committee on Equal Educational Opportunity, 91st Cong., 2d Sess., August 12, 1970; *see also* Revised Rule 71-447, 1971-2 C.B. 230 ("All charitable trusts are subject to the requirement that the purpose of the trust may not be illegal or contrary to public policy."). That "common-law concept of 'charity'" underpins the reason why tax exemptions exist in the first place. So while section 501(c)(3) lists other tax-exempt purposes alongside "charitable purposes," the common-law doctrine of charitable trusts applies equally to all of them. *Id.* (cleaned up).

***Bob Jones University v. United States.*** In *Bob Jones*, the Supreme Court considered whether the IRS properly denied tax-exempt status "under §501(c)(3) of the Internal Revenue Code" to a private school that refused to admit students engaged in interracial marriages. 461 U.S. at 577. Examining the text and history of section 501(c)(3), its implementing regulations, and related IRS guidance, the Court held that the IRS acted lawfully in denying tax-exempt status because the school pursued purposes at odds with the fundamental objectives of the tax laws. *Id.* at 585-96. In doing so, the Court reaffirmed the IRS's longstanding view that Congress used the term "charitable" in section 501(c)(3) with its established common-law meaning. *Id.*

The Court discussed at length the history of the Nation's tax-exempt system for charitable organizations and its purposes. "When the Government grants exemptions or allows deductions all taxpayers are affected; the very fact of the exemption or deduction for the donor means that other taxpayers can be said to be indirect and vicarious 'donors.'" *Id.* at 591-92. "Charitable exemptions are justified on the basis that the exempt entity confers a public benefit—a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues." *Id.* at 592. "History buttresses logic to make clear that, to warrant exemption under §501(c)(3), an institution must fall within a category specified in that section and must demonstrably serve and be in harmony with the public interest." *Id.* Thus, an organization that acts contrary to public policy cannot qualify for tax-exempt status. *Id.* Applying that principle, the Court turned to whether public policy prohibited racial discrimination. In holding that it did, the Court drew from federal civil-rights statutes and executive measures aimed at eliminating race-based discrimination. *See id.* at 592-95.

Some commentators have argued that *Bob Jones* confined its holding to racial discrimination in higher education. But the Court's opinion in *Bob Jones* itself rebuts that claim. Because the petitioner in *Bob Jones* operated a school the Court necessarily addressed "racial discrimination in education." Yet the Court immediately explained that discrimination in education violates public policy because *all* racial discrimination violates public policy. To demonstrate that principle, the Court cited Titles IV and VI of the Civil Rights Act of 1964 as evidence that Congress "clearly expressed its agreement that racial discrimination in education violates a fundamental public policy." *Id.* at 594. It then broadened the frame, pointing to "[o]ther sections of [the Civil Rights] Act, and numerous enactments since then," which "testif[ied] to the public policy against racial discrimination." *Id.* The Court did not limit that statement to the educational context, and it cited the Voting Rights Act of 1965 and the Fair Housing Act to support its sweeping statement.

The executive-branch measures the Court cited likewise covered a wide range of contexts, including "prohibiting racial discrimination in federal employment decisions and in classifications for the Selective Service." *Id.* (cleaned up); *see also id.* ("The Executive Branch has consistently placed its support behind eradication of racial discrimination."). The Court, for instance, pointed to executive orders that

created the President's Council on Equal Opportunity, required nondiscrimination in federally assisted programs, and directed "clear and consistent government-wide implementation by federal agencies of the nondiscrimination provisions" of federal law. *Id.* at 595; *see also* U.S. Dep't of Justice, *Executive Order 12250 Clearance Requirements and Coordination for Nondiscrimination Regulations and Policy Guidance Documents and Related Executive Orders* (Oct. 12, 2021), perma.cc/WGR7-8YSN (discussing continued implementation of Exec. Order No. 12250 authorized in 1980). The Court emphasized that these measures represented "but a few of numerous Executive Orders over the past three decades demonstrating the commitment of the Executive Branch to the fundamental policy of eliminating racial discrimination." *Bob Jones*, 461 U.S. at 595.

It bears emphasis that the Supreme Court did not announce a new rule in *Bob Jones*. Instead, the Court ratified longstanding IRS practice. The Court pointed out that the IRS had "referred consistently to principles of charitable trust law" for "more than 60 years" when interpreting §501(c)(3) and "comparable provisions." *Id.* at 597. Most relevant here, the *Bob Jones* Court stressed that "[s]ome years before the issuance of the [IRS] rulings challenged in these cases, the IRS also ruled that contributions to community recreational facilities would not be deductible and that the facilities themselves would not be entitled to tax-exempt status, unless those facilities were open to all on a racially nondiscriminatory basis." *Id.* (citing Rev. Rul. 67-325, 1967-2 Cum. Bull. 113.).

In sum, any claim that the rule in *Bob Jones* is limited in scope conflicts not only with the reasoning of the Court's opinion but also with the historical context in which the case was decided.

***Federal Courts' and the IRS's Application of Bob Jones.*** Decades of practice establish that the public-policy requirement the Court affirmed in *Bob Jones* governs broadly and reaches Black Men Heal's discriminatory programs. *See, e.g.*, *United States v. Mubayyid*, 476 F. Supp. 2d 46, 50 (D. Mass. 2007) (explaining that the IRS denied tax-exempt status because the organization's activities promoting jihad and holy war "were against public policy").

In 1987—just four years after *Bob Jones*—the Service denied tax-exempt status to a white supremacist organization known as the Nationalist Movement, concluding that its "membership policies [were] invidiously discriminatory and thus contrary to public policy." *Nationalist Movement v. Comm'r*, 102 T.C. 558, 571 (1994), *aff'd*, 37 F.3d 216 (5th Cir. 1994). Similarly, an organization that encourages others to contravene public policy can also fail the public-policy requirement. The IRS denied tax-exempt status on this basis where it determined that the "petitioner did not satisfy [section 501(c)(3)'s] public policy requirement because" the petitioner encouraged other taxpayers to refuse to pay taxes. *Church of Scientology of California v. Comm'r of Internal Revenue*, 83 T.C. 381, 503 n.4 (1984), *aff'd sub nom. Church of Scientology of California v. Comm'r*, 823 F.2d 1310 (9th Cir. 1987).

Moreover, the IRS's own guidance makes clear that racially discriminatory conduct directly conflicts with the charitable purposes §501(c)(3) exists to promote. The IRS Technical Guide for tax-exempt organizations states that "[t]he pursuit of *eliminating* [racial] prejudice and discrimination is a charitable exempt activity under section 501(c)(3)." Internal Revenue Service, *Exempt Organizations Technical Guide 3-3: Exempt Purposes – Charitable*, 41 (emphasis added). If one of the goals of the Internal Revenue Code's tax-exempt provisions is to facilitate the end of racial prejudice, then overtly discriminatory policies are plainly incompatible with those goals and cannot be a "public benefit" that tax exemptions were created to promote. *Bob Jones*, 461 U.S. at 592.

***Students for Fair Admissions, Inc. v. President & Fellows of Harvard College.*** In "situations involving the [Internal Revenue] Service's determinations about particular public policies, the Service has relied almost exclusively on the Supreme Court's position regarding certain constitutional issues that relate directly to the public policy at issue." D. Brennan, *Charities and the Constitution: Evaluating*

*the Role of Constitutional Principles in Determining the Scope of the Tax Law's Public Policy Limitation for Charities*, 5 Fla. Tax. Rev. 779, 796 (2002). For example, in pre-*Rice v. Cayetano* IRS guidance:

> In a Technical Advice Memoranda ("TAM") regarding the Kamehameha Schools, whose admissions policy generally required that the applicant be of Hawaiian ancestry, the IRS national office opined that the policy did not run afoul of public policy. However, in a concluding message, the TAM noted that the Supreme Court had granted certiorari in *Rice v. Cayetano*, a case involving the right to vote for nine trustees of the Office of Hawaiian Affairs, which was at the time limited to voters of Hawaiian descent.

*Id.* at 803 (cleaned up).

The IRS informed the schools that, if the Court expanded or clarified its affirmative action jurisprudence in a future case, then the agency would reconsider its analysis of the schools' tax-exempt status under the Court's refined approach. Indeed, the Court *did* conclude that racially discriminatory voter qualification in *Rice* was unconstitutional. *Rice v. Cayetano*, 528 U.S. 495, 524 (2000). And, *Rice* does not stand alone. A long line of cases has set forth the same equal-protection principles articulating the law of the land.

Without doubt, programs like Black Men Heal's race-based programs already ran afoul of federal law and public policy well before the Supreme Court decided *SFFA v. Harvard*. 600 U.S. 181 (2023). *See, e.g.*, *Wygant v. Jackson Bd. of Ed.*, 476 U.S. 267, 283-84 (1986) (plurality op.); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 508 (1989); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 235-36 (1995); *NFCAGC v. Jacksonville*, 508 U.S. 656, 666 (1993); *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701, 748 (2007).

But the Court has now eliminated any conceivable doubt. "Racial discrimination is invidious in all contexts." *SFFA*, 600 U.S. at 214 (cleaned up). The Court's rule is categorical: "race may never be used as a 'negative,'" and in zero-sum settings, such as admissions policies or other competitive opportunities, any "benefit provided to some applicants" on the basis of race "but not to others necessarily advantages the former group at the expense of the latter." *Id.* at 218-19. Simply put, the Court's sweeping decision in *Harvard* makes crystal clear that racial discrimination in *all* its forms is contrary to established public policy, to say nothing of federal law and the Constitution. After all, "[e]liminating racial discrimination means eliminating all of it." *Id.* at 206. In light of that unequivocal holding, the IRS cannot credibly treat race-based scholarship programs as consistent with public policy. Even if prior IRS leadership may have taken a narrower view of the public-policy doctrine, the Service must now conform its enforcement position to the Court's clear command.

President Trump's recent executive orders likewise leave the Service with no discretion. Consistent with the Court's decree and well-established civil-rights laws, the President has revoked prior executive orders that agencies had invoked to justify race-based classifications in the name of "equity." *See* Exec. Order No. 14148, 90 Fed. Reg. 8237 (Jan. 20, 2025). He has also directed all federal agencies to terminate "all discriminatory programs, including illegal DEI and 'diversity, equity, inclusion, and accessibility' (DEIA)" policies, as well as policies "allowing or encouraging" third parties "to engage in workforce balancing based on race." Exec. Order No. 14151, 90 Fed. Reg. 8337 (Jan. 20, 2025). Most significantly, he has "order[ed] all agencies to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities." Exec. Order No. 14173, 90 Fed. Reg. 8633 (Jan. 21, 2025). Executive Order 14173 leaves no ambiguity: "race- and sex-based preferences" are "dangerous, demeaning, and immoral" and "violate the civil-rights laws of this Nation." *Id.* Taken together, these directives reflect the Executive Branch's duty to enforce the Nation's longstanding civil-rights laws, including the laws that embody the fundamental public policy against racial discrimination. *See* Exec. Order No. 14173, 90 Fed. Reg. 8633; *see also* Memorandum Opinion for the

Acting General Counsel, Department of Education, *Constitutionality of Race-Based Department of Education Programs* (Off. of Legal Counsel Dec. 2, 2025).

***Application of the Public-Policy Principle to Black Men Heal.*** Here, there can be no question that Black Men Heal's programs are racially discriminatory. The nonprofit identifies which races and ethnicities are eligible to receive free therapy sessions. Nor can it defend this discrimination as merely a "benefit" conferred on certain races with no penalty on other applicants. Applications for services and employment, as well as the finite amount of money nonprofits have to award free services—like the college admissions applications in *Harvard*—"are zero-sum." *SFFA*, 600 U.S. at 218. Black Men Heal's use of race as an eligibility requirement necessarily treats the race of some applicants as a negative. And underlying the organization's goals and actions are "pernicious" "stereotypes that treat individuals as the product of their race." *Id.* at 220-21. That is textbook racial discrimination, and it is unlawful and contrary to public policy for the reasons explained above. Those reasons are fatal since even a single unlawful purpose defeats an organization's claim to tax-exempt status. *Supra* at 2. Because Black Men Heal's discrimination is "contrary to settled public policy" against racial discrimination, the organization does not "qualify for a tax exemption pursuant to §501(c)(3)." *See Bob Jones*, 461 U.S. at 585.

In sum, an investigation is warranted. If Black Men Heal wishes to avoid such an investigation and maintain its tax-exempt status, it need only reconsider its commitment to invidious discrimination and open its doors to all races. Indeed, Bob Jones University eliminated its racially discriminatory policies to regain its tax-exempt status. Black Men Heal can surely do the same—at least if it wants to maintain this valuable subsidy, courtesy of the federal government and the American taxpayer. *See Bob Jones*, 461 U.S. at 591-92; Paul Fain, *Bob Jones U to Become Nonprofit Again*, Inside Higher Ed, (Feb. 16, 2017), perma.cc/UBY2-RU7F.

* * *

For these reasons, Do No Harm respectfully asks the IRS to open an investigation into the activities and tax-exempt status of Black Men Heal.

Sincerely,

Do No Harm

Form **13909**
(November 2023)

Department of the Treasury - Internal Revenue Service

# Tax-Exempt Organization Complaint (Referral)

OMB Number
1545-2314

## Referred Organization Information

1. Name of referred organization
Boris Lawrence Henson Foundation

2. Street address
8383 Wilshire Blvd. Ste. 800

| 3. City | 4. State | 5. ZIP code | 6. Date of referral |
|---|---|---|---|
| Beverly Hills | CA | 90211 | 11-25-2026 |

7. Organization's Employer Identification Number (EIN)
82-3814846

## Details of Alleged Violation

8. Name(s) of person(s) involved
Taraji P. Henson; Tracie Jade Jenkins

9. Organizational title(s)
President & Founder; Executive Director

| 10. Date(s) | 11. Dollar amount(s) *(if known)* |
|---|---|
| 2019 - Present | |

12. Description of alleged activities *(briefly describe the facts of the alleged violation – Who/What/Where/When/How you learned about and obtained the information in this report. Attach another sheet if needed)*

See attached letter.

## Submitter Information

13. Name
Do No Harm

14. Occupation or business
501(c)(3) nonprofit dedicated to challenging protecting healthcare from radical, divisive, and discriminatory ideologies and practices.

15. Street address
2825 E. Cottonwood Parkway, Suite 500

| 16. City | 17. State | 18. ZIP code | 19. Telephone number |
|---|---|---|---|
| Salt Lake City | UT | 84121 | 312-980-1197 |

☐ 20. I am concerned that I might face retaliation or retribution if my identity is disclosed

## Submission and Documentation

The completed form, along with any supporting documentation, may be mailed to IRS TEGE Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1027 or emailed to eoclass@irs.gov. **Disclaimer Notice:** Your email submission of Form 13909 and attachments are not encrypted for security.

# Instructions for Form 13909, Tax-Exempt Organization Complaint (Referral)

## General Information

The information provided on this form will help the Internal Revenue Service (IRS) determine if there has been a violation of federal tax law. The Tax Exempt and Government Entities (TEGE) division is responsible for exempt organizations, employee plans, Indian tribal governments, tax exempt bonds, and federal, state and local governments. Submission of this form is voluntary.

Upon receipt of this form, the IRS will send you a letter acknowledging receipt of the information you submitted. If at a later date you wish to submit additional information regarding the organization, please attach a copy of the form initially submitted, and send it to the address shown above.

## Specific Instructions

**1 - 5. Organization name and address:** Provide the current name and address of the organization. If the organization has used prior or multiple name(s) or address(es), also provide that information.

**6. Date of referral:** Enter the date you submit the completed form

**7. Employer identification number:** Provide the organization's EIN.

The EIN is a nine-digit number, issued by the IRS, that the organization uses for tax purposes (like a Social Security Number (SSN) for an individual). If the EIN is unavailable, include a state nonprofit corporation registration number, if available.

**8 - 12. Details of alleged violation:** Provide specific details of the alleged violation including names, actions, places, amounts, dates, and the nature of any evidence or documentation (who, what, where, when, how). Include the names of other organizations, entities or persons that may be involved with the organization, providing EINs or SSNs, if available.

**13 - 20. Submitter information:** Provide your name, address, and business or occupation. Include your daytime telephone number, in case we wish to contact you. The acknowledgement letter will be sent to the address you provide.

If you are concerned that you may face retribution if your identity is disclosed, check the box. You may enter "Anonymous" for Submitter's name if you do not want to be identified.

**Submission and Documentation:** Mail the completed form, including any supporting documentation that you would like for us to review, to the address provided on the form. You may also email the completed form and any supporting documentation to the email address provided on the form. Include a cover letter describing the documentation or evidence you are providing. If you have already received an acknowledgment letter, include a copy of that letter. If possible, please try to submit all documentation at the same time.

If your referral relates to a church please be aware that Congress has imposed special limitations, found in IRC section 7611, on how and when the IRS may conduct civil tax inquiries and examinations of churches. You can find out more about these special limitations in Publication 1828, *Tax Guide for Churches and Religious Organizations*, in the section on Special Rules Limiting IRS Authority to Audit a Church.

**Claim for reward:** To claim a reward for providing this information to the IRS, file Form 211, *Application for Award for Original Information*.

**Note:** Federal law prohibits the IRS from providing you with status updates or information about specific actions taken in response to the information you submit.

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Use of this form is completely voluntary.

Form 13909 is used to submit a complaint about tax-exempt organizations. The IRS uses the information that is provided to determine if there has been a violation of federal tax law. From IRS.gov, you can fill out the mobile friendly version of the form and submit it, or download the fillable PDF version to complete, print, and mail, or email it for submission to IRS.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form, or its instructions must be retained if their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . . 6 min.
**Learning** . . . . . 1 min.
**Preparing, copying, and sending the form to the IRS** . . . . . 39 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Do No Harm

2825 E. Cottonwood Parkway, Suite 500
Salt Lake City, UT 84121

November 25, 2026

Mr. Robert Malone
Exempt Organizations and Government Entities
Internal Revenue Service
TEGE Referrals Group – MC 4910 DAL
1100 Commerce Street
Dallas, TX 75242

**VIA EMAIL**

**Re: Request for Investigation into the Activities of the Boris Lawrence Henson Foundation (EIN: 82-3814846).**

Dear Mr. Malone:

Do No Harm is a nationwide membership organization dedicated to protecting healthcare from radical, divisive, and discriminatory ideologies and policies. We write to respectfully request that the Internal Revenue Service open an investigation into the Boris Lawrence Henson Foundation (the "Foundation"), EIN 82-3814846.[*]

An investigation is warranted because the Foundation is engaged in racial discrimination that violates established public policy and thus renders it ineligible for tax-exempt status. *See Bob Jones University v. United States*, 461 U.S. 574, 590-96 (1983). The Foundation funds and oversees a network of programs for "BIPOC"—Black, Indigenous, and People of Color—students, professionals, and community members. Among its programs are lucrative and prestigious scholarships for aspiring mental health professionals, including the "Foundation Scholarship" and the "Legacy Scholarship." *See* BLHF, *Scholarship Fund*, perma.cc/9X78-TKQ2 (archived Sept. 25, 2026). Both scholarships explicitly discriminate on the basis of race. That discrimination is sufficient grounds for the IRS to revoke the Foundation's tax-exempt status under 26 U.S.C. §501(c)(3). *See Bob Jones*, 461 U.S. at 595-96 ("Racially discriminatory" institutions "cannot be viewed as conferring a public benefit within the 'charitable' concept" of the common law "or within the Congressional intent underlying §170 and §501(c)(3).").

[*] In addition to submitting IRS Form 13909, *Tax-Exempt Organization Complaint (Referral)*, Do No Harm is providing the basis for the complaint "in letter format," for convenience. Internal Revenue Service, *IRS Complaint Process – Tax-Exempt Organizations*, perma.cc/7ZLT-4MJ8.

## I. Factual Background

The Foundation is a nonprofit purposed to "normalize and improve access to mental health and wellness services in BIPOC and underrepresented communities." *See* BLHF, *Home*, perma.cc/BA9T-NLTY (archived Sept. 25, 2026). It claims tax-exempt status under section 501(c)(3) of the Internal Revenue Code. *See, e.g.*, The Boris Lawrence Henson Foundation, Form 990 (2024), Sched. A, perma.cc/SQ8K-VUZW (archived Sept. 26, 2026).

The Foundation "serve[s] BIPOC and underrepresented communities," claiming that it strives to "create a new tradition of care for … people of color" by providing "culturally competent resources, programs, and education nationwide." *See* BLHF, *Home*; BLHF, *About BLHF*, perma.cc/7SAQ-WCKU (archived Sept. 25, 2026); *see also* BLHF, *Impact Report 2018-2023, What We Do*, at 2, perma.cc/AQ29-VKBZ (archived Sept. 25, 2026).

"The African-American community" is the central focus of the organization. *See, e.g.*, Form 990. To further its mission, the Foundation leads a "network of Black clinicians and service providers" and offers "free mental wellness support" as well as "scholarships for African American students in mental health care fields, programs to reduce the recidivism rate, and African American cultural competency training." *See Impact Report*, at 5.

Notably, the benefits to those selected for the Foundation's scholarships are considerable. For example, Foundation and Legacy Scholarship recipients receive $10,000. *See Scholarship Fund*. These scholarships "serve as a vital resource to empower African American students pursuing careers in the mental health field" by helping to cover their educational expenses. *See* BLHF, *BLHF SCHOLARSHIP FUND!*, (Oct. 18. 2023), at 1:23 bit.ly/4doJ2aj. Similarly, the Foundation's $500,000 Heritage Scholarship endowment invites aspiring mental health practitioners to apply for a share of this fund—but only if they are "African American." *See Scholarship Fund*. And, post-graduate professionals and clinicians who want to participate in the Foundation's "curated network" also must be "Black." *See Impact Report* at 5.

The Foundation's repeated public declarations on its "mission … to offer the African American community … tools and resources" leave no question about the organization's purposes or who it serves. *See, e.g.*, *Impact Report* at 2; BLHF, *Home*. Indeed, Foundation executives admit that their "top priority" is to "inves[t] in *our* community and nurtur[e] *our* young adults." *See BLHF SCHOLARSHIP FUND!*, at 1:18 (emphasis added).

Ultimately, the Foundation's "pioneering mental health" resources are not open to all because it perpetuates the pernicious ideology of racial concordance—the belief that patients do worse when their doctor is a different race and better if their doctor is the same race. *See* BLHF, *Home*; *BLHF SCHOLARSHIP FUND!*, at 0:20-0:54 (explaining that the Foundation's race-based scholarships are intended to address a "lack of representation" and "to enhance the diversity of our mental health workforce" for the black community so that "black people" are not "deter[red]" from seeking care).

The Foundation excludes whites, Hispanics, Asians, and anyone who is not black from participating in its scholarships and professional networks. Those race-based exclusions are repugnant to our civil rights laws and "the Congressional intent underlying … §501(c)(3)." *Bob Jones*, 461 U.S. at 595-96. Do No Harm urges the IRS to investigate the Foundation's racial discrimination and whether the organization should continue enjoying the significant tax advantages that taxpayers ultimately fund.

## II. Legal Analysis

Under Supreme Court precedent, the presence of a single unlawful policy or purpose under §501(c)(3) renders the entire organization ineligible for tax-exempt status. The law emphasizes tax-exempt organizations must be "operated *exclusively* for religious, charitable, scientific, testing for public

safety, literary, or educational purposes." §501(c)(3) (emphasis added). Thus, "[t]he presence of a single substantial purpose that is not described in section 501(c)(3) precludes exemption from tax under section 501(a) regardless of the number or the importance" of the organization's other purposes. *Better Bus. Bureau v. United States*, 326 U.S. 279, 283 (1945); *see also* Treasury Regulation §1.501(c)(3)-1(d)(1)(ii).

Moreover, the IRS in 1970 publicly confirmed that an organization seeking exemption under §501(c)(3) must satisfy the common-law definition of "charitable," though it had quietly adhered to that understanding for years. *See* Statement of Randolph W. Thrower, Commissioner of Internal Revenue, before the Senate Select Committee on Equal Educational Opportunity, 91st Cong., 2d Sess., August 12, 1970; *see also* Revised Rule 71-447, 1971-2 C.B. 230 ("All charitable trusts are subject to the requirement that the purpose of the trust may not be illegal or contrary to public policy."). That "common-law concept of 'charity'" underpins the reason why tax exemptions exist in the first place. So while section 501(c)(3) lists other tax-exempt purposes alongside "charitable purposes," the common-law doctrine of charitable trusts applies equally to all of them. *Id.* (cleaned up).

***Bob Jones University v. United States.*** In *Bob Jones*, the Supreme Court addressed whether the IRS properly denied tax-exempt status "under §501(c)(3) of the Internal Revenue Code" to a private school that refused to admit students engaged in interracial marriages. 461 U.S. at 577. Examining the text and history of section 501(c)(3), its implementing regulations, and related IRS guidance, the Court concluded the IRS acted lawfully in denying tax-exempt status because the school pursued purposes that conflicted with the fundamental objectives of the tax laws. *Id.* at 585-96. In doing so, the Court reaffirmed the IRS's longstanding view that Congress used the term "charitable" in section 501(c)(3) with its established common-law meaning. *Id.*

The Court extensively discussed the history of the Nation's tax-exempt system for charitable organizations and its purposes. "When the Government grants exemptions or allows deductions all taxpayers are affected; the very fact of the exemption or deduction for the donor means that other taxpayers can be said to be indirect and vicarious 'donors.'" *Id.* at 591-92. "Charitable exemptions are justified on the basis that the exempt entity confers a public benefit—a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues." *Id.* at 592. "History buttresses logic to make clear that, to warrant exemption under §501(c)(3), an institution must fall within a category specified in that section and must demonstrably serve and be in harmony with the public interest." *Id.* Thus, an organization that acts contrary to public policy cannot qualify for tax-exempt status. *Id.* Applying that governing principle, the Court turned to whether public policy prohibited racial discrimination. In holding that it did, the Court drew from federal civil-rights statutes and executive measures designed to eliminate race-based discrimination. *See id.* at 592-95.

Some commentators have suggested that *Bob Jones* confined its holding to racial discrimination in higher education. But the Court's opinion in *Bob Jones* itself refutes that claim. Because the petitioner in *Bob Jones* operated a school the Court necessarily addressed "racial discrimination in education." Yet the Court immediately explained that discrimination in education violates public policy because *all* racial discrimination violates public policy. To illustrate that principle, the Court cited Titles IV and VI of the Civil Rights Act of 1964 as evidence that Congress "clearly expressed its agreement that racial discrimination in education violates a fundamental public policy." *Id.* at 594. It then broadened the frame, pointing to "[o]ther sections of [the Civil Rights] Act, and numerous enactments since then," which "testif[ied] to the public policy against racial discrimination." *Id.* The Court did not cabin that statement to the educational context, and it cited the Voting Rights Act of 1965 and the Fair Housing Act to support its sweeping statement.

The executive-branch measures the Court cited likewise spanned a wide range of contexts, including "prohibiting racial discrimination in federal employment decisions and in classifications for the Selective Service." *Id.* (cleaned up); *see also id.* ("The Executive Branch has consistently placed its support behind eradication of racial discrimination."). The Court, for example, pointed to executive orders that created the President's Council on Equal Opportunity, required nondiscrimination in federally assisted programs, and directed "clear and consistent government-wide implementation by federal agencies of the nondiscrimination provisions" of federal law. *Id.* at 595; *see also* U.S. Dep't of Justice, *Executive Order 12250 Clearance Requirements and Coordination for Nondiscrimination Regulations and Policy Guidance Documents and Related Executive Orders* (Oct. 12, 2021), perma.cc/WGR7-8YSN (discussing continued implementation of Exec. Order No. 12250 authorized in 1980). The Court emphasized that these measures represented "but a few of numerous Executive Orders over the past three decades demonstrating the commitment of the Executive Branch to the fundamental policy of eliminating racial discrimination." *Bob Jones*, 461 U.S. at 595.

It's important to stress that the Supreme Court did not announce a new rule in *Bob Jones*. Rather, the Court ratified longstanding IRS practice. The Court pointed out that the IRS had "referred consistently to principles of charitable trust law" for "more than 60 years" when interpreting §501(c)(3) and "comparable provisions." *Id.* at 597. Most relevant here, the *Bob Jones* Court stressed that "[s]ome years before the issuance of the [IRS] rulings challenged in these cases, the IRS also ruled that contributions to community recreational facilities would not be deductible and that the facilities themselves would not be entitled to tax-exempt status, unless those facilities were open to all on a racially nondiscriminatory basis." *Id.* (citing Rev. Rul. 67-325, 1967-2 Cum. Bull. 113.).

In short, any claim that the rule in *Bob Jones* is limited in scope is inconsistent not only with the reasoning of the Court's opinion but also with the historical context in which the case was decided.

***Federal Courts' and the IRS's Application of Bob Jones.*** Decades of practice confirm that the public-policy requirement the Court affirmed in *Bob Jones* governs broadly and covers the BLHF's discriminatory programs. *See, e.g.*, *United States v. Mubayyid*, 476 F. Supp. 2d 46, 50 (D. Mass. 2007) (explaining that the IRS denied tax-exempt status because the organization's activities promoting jihad and holy war "were against public policy").

In 1987—just four years after *Bob Jones*—the Service denied tax-exempt status to a white supremacist organization known as the Nationalist Movement, concluding that its "membership policies [were] invidiously discriminatory and thus contrary to public policy." *Nationalist Movement v. Comm'r*, 102 T.C. 558, 571 (1994), *aff'd*, 37 F.3d 216 (5th Cir. 1994). Similarly, an organization that encourages others to contravene public policy can also fail the public-policy requirement. The IRS denied tax-exempt status on this basis where it determined that the "petitioner did not satisfy [section 501(c)(3)'s] public policy requirement because" the petitioner encouraged other taxpayers to refuse to pay taxes. *Church of Scientology of California v. Comm'r of Internal Revenue*, 83 T.C. 381, 503 n.4 (1984), *aff'd sub nom. Church of Scientology of California v. Comm'r*, 823 F.2d 1310 (9th Cir. 1987).

Moreover, the IRS's own guidance confirms that racially discriminatory conduct is in direct opposition to the charitable purposes §501(c)(3) exists to promote. The IRS Technical Guide for tax-exempt organizations states that "[t]he pursuit of *eliminating* [racial] prejudice and discrimination is a charitable exempt activity under section 501(c)(3)." Internal Revenue Service, *Exempt Organizations Technical Guide 3-3: Exempt Purposes – Charitable*, 41 (emphasis added). If one of the goals of the Internal Revenue Code's tax-exempt provisions is to facilitate the end of racial prejudice, then overtly discriminatory policies are surely incompatible with those goals and cannot be a "public benefit" that tax exemptions were created to promote. *Bob Jones*, 461 U.S. at 592.

***Students for Fair Admissions, Inc. v. President & Fellows of Harvard College.*** In "situations involving the [Internal Revenue] Service's determinations about particular public policies, the Service has relied almost exclusively on the Supreme Court's position regarding certain constitutional issues that relate directly to the public policy at issue." D. Brennan, *Charities and the Constitution: Evaluating the Role of Constitutional Principles in Determining the Scope of the Tax Law's Public Policy Limitation for Charities*, 5 Fla. Tax. Rev. 779, 796 (2002). For example, in pre-*Rice v. Cayetano* IRS guidance:

> In a Technical Advice Memoranda ("TAM") regarding the Kamehameha Schools, whose admissions policy generally required that the applicant be of Hawaiian ancestry, the IRS national office opined that the policy did not run afoul of public policy. However, in a concluding message, the TAM noted that the Supreme Court had granted certiorari in *Rice v. Cayetano*, a case involving the right to vote for nine trustees of the Office of Hawaiian Affairs, which was at the time limited to voters of Hawaiian descent.

*Id.* at 803 (cleaned up).

The IRS advised the schools that, if the Court expanded or clarified its affirmative action jurisprudence in a future case, then the agency would revisit its analysis of the schools' tax-exempt status under the Court's refined approach. Indeed, the Court *did* conclude that racially discriminatory voter qualification in *Rice* was unconstitutional. *Rice v. Cayetano*, 528 U.S. 495, 524 (2000). And, *Rice* does not stand alone. A long line of cases has set forth the same equal-protection principles articulating the law of the land.

Unquestionably, programs like the Foundation's already violated federal law and public policy well before the Supreme Court decided *SFFA v. Harvard*. 600 U.S. 181 (2023). *See, e.g.*, *Wygant v. Jackson Bd. of Ed.*, 476 U.S. 267, 283-84 (1986) (plurality op.); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 508 (1989); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 235-36 (1995); *NFCAGC v. Jacksonville*, 508 U.S. 656, 666 (1993); *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701, 748 (2007).

But the Court has now removed any conceivable doubt. "Racial discrimination is invidious in all contexts." *SFFA*, 600 U.S. at 214 (cleaned up). The Court's rule is categorical: "race may never be used as a 'negative,'" and in zero-sum settings, such as admissions policies or competitive scholarships, any "benefit provided to some applicants" on the basis of race "but not to others necessarily advantages the former group at the expense of the latter." *Id.* at 218-19. Put simply, the Court's sweeping decision in *Harvard* makes crystal clear that racial discrimination in *all* its forms is contrary to established public policy, to say nothing of federal law and the Constitution. After all, "[e]liminating racial discrimination means eliminating all of it." *Id.* at 206. In light of that unequivocal holding, the IRS cannot plausibly treat race-based scholarship programs as consistent with public policy. Even if prior IRS leadership may have taken a narrower view of the public-policy doctrine, the Service must now conform its enforcement position to the Court's clear command.

President Trump's recent executive orders also leave the Service with no discretion. Consistent with the Court's decree and well-established civil-rights laws, the President has rescinded prior executive orders that agencies had invoked to justify race-based classifications in the name of "equity." *See* Exec. Order No. 14148, 90 Fed. Reg. 8237 (Jan. 20, 2025). He has also directed all federal agencies to terminate "all discriminatory programs, including illegal DEI and 'diversity, equity, inclusion, and accessibility' (DEIA)" policies, as well as policies "allowing or encouraging" third parties "to engage in workforce balancing based on race." Exec. Order No. 14151, 90 Fed. Reg. 8337 (Jan. 20, 2025). Most significantly, he has "order[ed] all agencies to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities." Exec. Order No. 14173, 90 Fed. Reg. 8633 (Jan. 21, 2025). Executive Order 14173 leaves no ambiguity: "race- and sex-based preferences" are "dangerous, demeaning, and immoral" and "violate the civil-rights laws of this Nation." *Id.* Taken

together, these directives reflect the Executive Branch's duty to enforce the Nation's longstanding civil-rights laws, including the laws that embody the fundamental public policy against racial discrimination. *See* Exec. Order No. 14173, 90 Fed. Reg. 8633; *see also* Memorandum Opinion for the Acting General Counsel, Department of Education, *Constitutionality of Race-Based Department of Education Programs* (Off. of Legal Counsel Dec. 2, 2025).

***Application of the Public-Policy Principle to the Boris Lawrence Henson Foundation.*** Here, there is no question that the Foundation's scholarships are racially discriminatory. The Foundation specifies which races are eligible to receive certain benefits and, by omission, which races are not. Nor can the Foundation defend this discrimination as merely a "benefit" conferred on certain races with no penalty on other applicants. The Foundation's use of race as a threshold eligibility requirement necessarily treats the race of some applicants as a negative. And underlying the organization's goals and actions are "pernicious" "stereotypes that treat individuals as the product of their race." *Id.* at 220-21. That is textbook racial discrimination, and it is unlawful and contrary to public policy for the reasons explained above. Those reasons are fatal since even a single unlawful purpose defeats an organization's claim to tax-exempt status. *Supra* at 2. Because the Foundation's scholarships run "contrary to settled public policy" against racial discrimination, the organization does not "qualify for a tax exemption pursuant to §501(c)(3)." *See Bob Jones*, 461 U.S. at 585.

In sum, the Foundation's discriminatory actions warrant an investigation. If the Foundation wishes to avoid such an investigation and maintain its tax-exempt status, it can reconsider its commitment to invidious discrimination and open each of its scholarships and other programming to all races. Indeed, Bob Jones University eliminated its racially discriminatory policies to regain its tax-exempt status. Surely the Foundation can do the same—at least if it wants to maintain this valuable subsidy, courtesy of the federal government and the American taxpayer. *See Bob Jones*, 461 U.S. at 591-92; Paul Fain, *Bob Jones U to Become Nonprofit Again*, Inside Higher Ed, (Feb. 16, 2017), perma.cc/UBY2-RU7F.

* * *

For these reasons, Do No Harm respectfully asks the IRS to open an investigation into the activities and tax-exempt status of the Boris Lawrence Henson Foundation.

Sincerely,

Do No Harm

Form **13909**
(November 2023)

Department of the Treasury - Internal Revenue Service

# Tax-Exempt Organization Complaint (Referral)

OMB Number
1545-2314

## Referred Organization Information

1. Name of referred organization
Holding Space Foundation Inc.

2. Street address
2107 N Decatur Rd, PO Box 209

| 3. City | 4. State | 5. ZIP code | 6. Date of referral |
|---|---|---|---|
| Decatur | GA | 30033 | 11-25-2026 |

7. Organization's Employer Identification Number (EIN)
85-2403383

## Details of Alleged Violation

8. Name(s) of person(s) involved
Joy Harden Bradford; Kia Kelly-Felty

9. Organizational title(s)
Executive Director; Associate Director

| 10. Date(s) | 11. Dollar amount(s) *(if known)* |
|---|---|
| 2021 - Present | |

12. Description of alleged activities *(briefly describe the facts of the alleged violation – Who/What/Where/When/How you learned about and obtained the information in this report. Attach another sheet if needed)*

See attached letter.

## Submitter Information

13. Name
Do No Harm

14. Occupation or business
501(c)(3) nonprofit dedicated to challenging protecting healthcare from radical, divisive, and discriminatory ideologies and practices.

15. Street address
2825 E. Cottonwood Parkway, Suite 500

| 16. City | 17. State | 18. ZIP code | 19. Telephone number |
|---|---|---|---|
| Salt Lake City | UT | 84121 | 312-980-1197 |

☐ 20. I am concerned that I might face retaliation or retribution if my identity is disclosed

## Submission and Documentation

The completed form, along with any supporting documentation, may be mailed to IRS TEGE Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1027 or emailed to eoclass@irs.gov. **Disclaimer Notice:** Your email submission of Form 13909 and attachments are not encrypted for security.

# Instructions for Form 13909, Tax-Exempt Organization Complaint (Referral)

## General Information

The information provided on this form will help the Internal Revenue Service (IRS) determine if there has been a violation of federal tax law. The Tax Exempt and Government Entities (TEGE) division is responsible for exempt organizations, employee plans, Indian tribal governments, tax exempt bonds, and federal, state and local governments. Submission of this form is voluntary.

Upon receipt of this form, the IRS will send you a letter acknowledging receipt of the information you submitted. If at a later date you wish to submit additional information regarding the organization, please attach a copy of the form initially submitted, and send it to the address shown above.

## Specific Instructions

**1 - 5. Organization name and address:** Provide the current name and address of the organization. If the organization has used prior or multiple name(s) or address(es), also provide that information.

**6. Date of referral:** Enter the date you submit the completed form

**7. Employer identification number:** Provide the organization's EIN.

The EIN is a nine-digit number, issued by the IRS, that the organization uses for tax purposes (like a Social Security Number (SSN) for an individual). If the EIN is unavailable, include a state nonprofit corporation registration number, if available.

**8 - 12. Details of alleged violation:** Provide specific details of the alleged violation including names, actions, places, amounts, dates, and the nature of any evidence or documentation (who, what, where, when, how). Include the names of other organizations, entities or persons that may be involved with the organization, providing EINs or SSNs, if available.

**13 - 20. Submitter information:** Provide your name, address, and business or occupation. Include your daytime telephone number, in case we wish to contact you. The acknowledgement letter will be sent to the address you provide.

If you are concerned that you may face retribution if your identity is disclosed, check the box. You may enter "Anonymous" for Submitter's name if you do not want to be identified.

**Submission and Documentation:** Mail the completed form, including any supporting documentation that you would like for us to review, to the address provided on the form. You may also email the completed form and any supporting documentation to the email address provided on the form. Include a cover letter describing the documentation or evidence you are providing. If you have already received an acknowledgment letter, include a copy of that letter. If possible, please try to submit all documentation at the same time.

If your referral relates to a church please be aware that Congress has imposed special limitations, found in IRC section 7611, on how and when the IRS may conduct civil tax inquiries and examinations of churches. You can find out more about these special limitations in Publication 1828, *Tax Guide for Churches and Religious Organizations*, in the section on Special Rules Limiting IRS Authority to Audit a Church.

**Claim for reward:** To claim a reward for providing this information to the IRS, file Form 211, *Application for Award for Original Information*.

**Note:** Federal law prohibits the IRS from providing you with status updates or information about specific actions taken in response to the information you submit.

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Use of this form is completely voluntary.

Form 13909 is used to submit a complaint about tax-exempt organizations. The IRS uses the information that is provided to determine if there has been a violation of federal tax law. From IRS.gov, you can fill out the mobile friendly version of the form and submit it, or download the fillable PDF version to complete, print, and mail, or email it for submission to IRS.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form, or its instructions must be retained if their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . . 6 min.
**Learning** . . . . . 1 min.
**Preparing, copying, and sending the form to the IRS** . . . . . 39 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Do No Harm

2825 E. Cottonwood Parkway, Suite 500
Salt Lake City, UT 84121

November 25, 2026

Mr. Robert Malone
Exempt Organizations and Government Entities
Internal Revenue Service
TEGE Referrals Group – MC 4910 DAL
1100 Commerce Street
Dallas, TX 75242

**VIA EMAIL**

**Re: Request for Investigation into the Activities of Holding Space Foundation, Inc. (EIN: 85-2403383).**

Dear Mr. Malone:

Do No Harm is a nationwide membership organization dedicated to protecting healthcare from radical, divisive, and discriminatory ideologies and policies. We write to respectfully request that the Internal Revenue Service open an investigation into the Holding Space Foundation, EIN 85-2403383.[*]

An investigation is warranted because the Holding Space Foundation is engaged in racial discrimination that violates established public policy and thus renders it ineligible for tax-exempt status. *See Bob Jones University v. United States*, 461 U.S. 574, 590-96 (1983). Holding Space Foundation was founded "as a response to the growing need for mental health services for Black women and girls" and "as a response to … race-based violence, sexism, and misogynoir." *See* Holding Space Foundation (Homepage), perma.cc/DAX7-HNZK (archived Sept. 24, 2026). Its initiatives are openly discriminatory on the basis of race. Indeed, the organization openly advertises that it is only interested in "provid[ing] resources and therapeutic spaces to aid Black women and girls in tending to their mental health." *Id.* Such discrimination is sufficient grounds for the IRS to revoke Holding Space Foundation's tax-exempt status under 26 U.S.C. §501(c)(3). *See Bob Jones*, 461 U.S. at 595-96 ("Racially discriminatory" institutions "cannot be viewed as conferring a public benefit within the 'charitable' concept" of the common law "or within the Congressional intent underlying §170 and §501(c)(3).").

[*] In addition to submitting IRS Form 13909, *Tax-Exempt Organization Complaint (Referral)*, Do No Harm is providing the basis for the complaint "in letter format," for convenience. Internal Revenue Service, *IRS Complaint Process – Tax-Exempt Organizations*, perma.cc/7ZLT-4MJ8.

## I. Factual Background

Holding Space Foundation is the nonprofit arm of Therapy for Black Girls, "an online space dedicated to encouraging the mental wellness of Black women and girls." *See* Therapy for Black Girls, perma.cc/BPW5-5EEX (archived Sept. 24, 2026). It claims tax-exempt status under section 501(c)(3) of the Internal Revenue Code. *See, e.g.*, Holding Space Foundation, Form 990 (2024), Sched. A, perma.cc/4TKV-5PVX (archived Sept. 24, 2026).

Holding Space Foundation does not hide its discriminatory purpose. In its 2024 IRS filings, it stated its primary exempt purpose was to "[c]reate healing spaces for Black women." *See* Form 990. This "therapeutic space[]" includes "group therapy for Black women and girls facilitated by licensed mental health professionals." Holding Space Foundation (Homepage).

Holding Space Foundation also sponsors the "Therapy for Black Girls Self-Care Scholarship" in partnership with Therapy for Black Girls. *See* Therapy for Black Girls University, perma.cc/64HG-VW4P (archived Sept. 24, 2026). Each year, "four deserving recipients" "between the ages of 18-25" are awarded the scholarship, which "empowers young Black women to prioritize self-care." *Id.* The scholarship "offer[s] financial assistance without limitations" "to support Black women in investing in their mental wellness and overall well-being." *Id.*

The bottom line is that the organization's programs are not open to all. *See id.* From the name of its parent organization (Therapy for Black Girls) to the descriptions of the programs it offers, the Holding Space Foundation's message is loud and clear: its support is only for "Black women." *Id.* All other races look elsewhere. These racist exclusions are repugnant to our civil rights laws and "the Congressional intent underlying … §501(c)(3)." *Bob Jones*, 461 U.S. at 595-96. Do No Harm urges the IRS to investigate the Holding Space Foundation and whether the organization should continue enjoying the significant tax advantages that taxpayers ultimately fund.

## II. Legal Analysis

Under Supreme Court precedent, the presence of a single unlawful policy or purpose under §501(c)(3) renders the entire organization ineligible for tax-exempt status. The law emphasizes tax-exempt organizations must be "operated *exclusively* for religious, charitable, scientific, testing for public safety, literary, or educational purposes." §501(c)(3) (emphasis added). Thus, "[t]he presence of a single substantial purpose that is not described in section 501(c)(3) precludes exemption from tax under section 501(a) regardless of the number or the importance" of the organization's other purposes. *Better Bus. Bureau v. United States*, 326 U.S. 279, 283 (1945); *see also* Treasury Regulation §1.501(c)(3)-1(d)(1)(ii).

Moreover, the IRS in 1970 publicly confirmed that an organization seeking exemption under §501(c)(3) must satisfy the common-law definition of "charitable." *See* Statement of Randolph W. Thrower, Commissioner of Internal Revenue, before the Senate Select Committee on Equal Educational Opportunity, 91st Cong., 2d Sess., August 12, 1970; *see also* Revised Rule 71-447, 1971-2 C.B. 230 ("All charitable trusts are subject to the requirement that the purpose of the trust may not be illegal or contrary to public policy."). That "common-law concept of 'charity'" underpins the reason why tax exemptions exist in the first place. So while section 501(c)(3) lists other tax-exempt purposes alongside "charitable purposes," the common-law doctrine of charitable trusts applies equally to all of them. *Id.* (cleaned up).

***Bob Jones University v. United States.*** In *Bob Jones*, the Supreme Court addressed whether the IRS properly denied tax-exempt status "under §501(c)(3) of the Internal Revenue Code" to a private school that refused to admit students engaged in interracial marriages. 461 U.S. at 577. Examining the text and history of section 501(c)(3), its implementing regulations, and related IRS guidance, the Court concluded the IRS acted lawfully in denying tax-exempt status because the school pursued purposes that

conflicted with the fundamental objectives of the tax laws. *Id.* at 585-96. In doing so, the Court reaffirmed the IRS's longstanding view that Congress used the term "charitable" in section 501(c)(3) with its established common-law meaning. *Id.*

The Court extensively discussed the history of the Nation's tax-exempt system for charitable organizations and its purposes. "When the Government grants exemptions or allows deductions all taxpayers are affected; the very fact of the exemption or deduction for the donor means that other taxpayers can be said to be indirect and vicarious 'donors.'" *Id.* at 591-92. "Charitable exemptions are justified on the basis that the exempt entity confers a public benefit—a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues." *Id.* at 592. "History buttresses logic to make clear that, to warrant exemption under §501(c)(3), an institution must fall within a category specified in that section and must demonstrably serve and be in harmony with the public interest." *Id.* Thus, an organization that acts contrary to public policy cannot qualify for tax-exempt status. *Id.* Applying that governing principle, the Court turned to whether public policy prohibited racial discrimination. In holding that it did, the Court drew from federal civil-rights statutes and executive measures designed to eliminate race-based discrimination. *See id.* at 592-95.

Some commentators have suggested that *Bob Jones* confined its holding to racial discrimination in higher education. But the Court's opinion in *Bob Jones* itself refutes that claim. Because the petitioner in *Bob Jones* operated a school the Court necessarily addressed "racial discrimination in education." Yet the Court immediately explained that discrimination in education violates public policy because *all* racial discrimination violates public policy. To illustrate that principle, the Court cited Titles IV and VI of the Civil Rights Act of 1964 as evidence that Congress "clearly expressed its agreement that racial discrimination in education violates a fundamental public policy." *Id.* at 594. It then broadened the frame, pointing to "[o]ther sections of [the Civil Rights] Act, and numerous enactments since then," which "testif[ied] to the public policy against racial discrimination." *Id.* The Court did not cabin that statement to the educational context, and it cited the Voting Rights Act of 1965 and the Fair Housing Act to support its sweeping statement.

The executive-branch measures the Court cited likewise spanned a wide range of contexts, including "prohibiting racial discrimination in federal employment decisions and in classifications for the Selective Service." *Id.* (cleaned up); *see also id.* ("The Executive Branch has consistently placed its support behind eradication of racial discrimination."). The Court, for example, pointed to executive orders that created the President's Council on Equal Opportunity, required nondiscrimination in federally assisted programs, and directed "clear and consistent government-wide implementation by federal agencies of the nondiscrimination provisions" of federal law. *Id.* at 595; *see also* U.S. Dep't of Justice, *Executive Order 12250 Clearance Requirements and Coordination for Nondiscrimination Regulations and Policy Guidance Documents and Related Executive Orders* (Oct. 12, 2021), perma.cc/WGR7-8YSN (discussing continued implementation of Exec. Order No. 12250 authorized in 1980). The Court emphasized that these measures represented "but a few of numerous Executive Orders over the past three decades demonstrating the commitment of the Executive Branch to the fundamental policy of eliminating racial discrimination." *Bob Jones*, 461 U.S. at 595.

It's important to stress that the Supreme Court did not announce a new rule in *Bob Jones*. Rather, the Court ratified longstanding IRS practice. The Court pointed out that the IRS had "referred consistently to principles of charitable trust law" for "more than 60 years" when interpreting §501(c)(3) and "comparable provisions." *Id.* at 597. Most relevant here, the *Bob Jones* Court stressed that "[s]ome years before the issuance of the [IRS] rulings challenged in these cases, the IRS also ruled that contributions to community recreational facilities would not be deductible and that the facilities themselves would not be entitled to tax-exempt status, unless those facilities were open to all on a racially

nondiscriminatory basis." *Id.* (citing Rev. Rul. 67-325, 1967-2 Cum. Bull. 113.). In short, any claim that the rule in *Bob Jones* is limited in scope is inconsistent not only with the reasoning of the Court's opinion but also with the historical context in which the case was decided.

***Federal Courts' and the IRS's Application of Bob Jones.*** Decades of practice confirm that the public-policy requirement the Court affirmed in *Bob Jones* governs broadly and covers Holding Space Foundation's discriminatory programs. *See, e.g.*, *United States v. Mubayyid*, 476 F. Supp. 2d 46, 50 (D. Mass. 2007) (explaining that the IRS denied tax-exempt status because the organization's activities promoting jihad and holy war "were against public policy").

In 1987—just four years after *Bob Jones*—the Service denied tax-exempt status to a white supremacist organization known as the Nationalist Movement, concluding that its "membership policies [were] invidiously discriminatory and thus contrary to public policy." *Nationalist Movement v. Comm'r*, 102 T.C. 558, 571 (1994), *aff'd*, 37 F.3d 216 (5th Cir. 1994). Similarly, an organization that encourages others to contravene public policy can also fail the public-policy requirement. The IRS denied tax-exempt status on this basis where it determined that the "petitioner did not satisfy [section 501(c)(3)'s] public policy requirement because" the petitioner encouraged other taxpayers to refuse to pay taxes. *Church of Scientology of California v. Comm'r of Internal Revenue*, 83 T.C. 381, 503 n.4 (1984), *aff'd sub nom. Church of Scientology of California v. Comm'r*, 823 F.2d 1310 (9th Cir. 1987).

Moreover, the IRS's own guidance confirms that racially discriminatory conduct is in direct opposition to the charitable purposes §501(c)(3) exists to promote. The IRS Technical Guide for tax-exempt organizations states that "[t]he pursuit of *eliminating* [racial] prejudice and discrimination is a charitable exempt activity under section 501(c)(3)." Internal Revenue Service, *Exempt Organizations Technical Guide 3-3: Exempt Purposes – Charitable*, 41 (emphasis added). If one of the goals of the Internal Revenue Code's tax-exempt provisions is to facilitate the end of racial prejudice, then overtly discriminatory policies are surely incompatible with those goals and cannot be a "public benefit" that tax exemptions were created to promote. *Bob Jones*, 461 U.S. at 592.

***Students for Fair Admissions, Inc. v. President & Fellows of Harvard College ("SFFA").*** In "situations involving the [Internal Revenue] Service's determinations about particular public policies, the Service has relied almost exclusively on the Supreme Court's position regarding certain constitutional issues that relate directly to the public policy at issue." D. Brennan, *Charities and the Constitution: Evaluating the Role of Constitutional Principles in Determining the Scope of the Tax Law's Public Policy Limitation for Charities*, 5 Fla. Tax. Rev. 779, 796 (2002). For example, in pre-*Rice v. Cayetano* IRS guidance:

> In a Technical Advice Memoranda ("TAM") regarding the Kamehameha Schools, whose admissions policy generally required that the applicant be of Hawaiian ancestry, the IRS national office opined that the policy did not run afoul of public policy. However, in a concluding message, the TAM noted that the Supreme Court had granted certiorari in *Rice v. Cayetano*, a case involving the right to vote for nine trustees of the Office of Hawaiian Affairs, which was at the time limited to voters of Hawaiian descent.

*Id.* at 803 (cleaned up).

The IRS advised the schools that, if the Court expanded or clarified its affirmative action jurisprudence in a future case, then the agency would revisit its analysis of the schools' tax-exempt status under the Court's refined approach. Indeed, the Court *did* conclude that racially discriminatory voter qualification in *Rice* was unconstitutional. *Rice v. Cayetano*, 528 U.S. 495, 524 (2000). And, *Rice* does not stand alone. A long line of cases has set forth the same equal-protection principles articulating the law of the land.

Unquestionably, programs like Holding Space Foundation's already violated federal law and public policy well before the Supreme Court decided *SFFA v. Harvard*. 600 U.S. 181 (2023). *See, e.g.*, *Wygant v. Jackson Bd. of Ed.*, 476 U.S. 267, 283-84 (1986) (plurality op.); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 508 (1989); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 235-36 (1995); *NFCAGC v. Jacksonville*, 508 U.S. 656, 666 (1993); *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701, 748 (2007).

But the Court has now removed any conceivable doubt. "Racial discrimination is invidious in all contexts." *SFFA*, 600 U.S. at 214 (cleaned up). The Court's rule is categorical: "race may never be used as a 'negative,'" and in zero-sum settings, such as admissions or competitive scholarships, any "benefit provided to some applicants" on the basis of race "but not to others necessarily advantages the former group at the expense of the latter." *Id.* at 218-19. Put simply, the Court's sweeping decision in *Harvard* makes crystal clear that racial discrimination in *all* its forms is contrary to established public policy, to say nothing of federal law and the Constitution. After all, "[e]liminating racial discrimination means eliminating all of it." *Id.* at 206. In light of that unequivocal holding, the IRS cannot plausibly treat race-based scholarship programs as consistent with public policy. Even if prior IRS leadership may have taken a narrower view of the public-policy doctrine, the Service must now conform its enforcement position to the Court's clear command.

President Trump's recent executive orders also leave the Service with no discretion. Consistent with the Court's decree and well-established civil-rights laws, the President has rescinded prior executive orders that agencies had invoked to justify race-based classifications in the name of "equity." *See* Exec. Order No. 14148, 90 Fed. Reg. 8237 (Jan. 20, 2025). He has also directed all federal agencies to terminate "all discriminatory programs, including illegal DEI and 'diversity, equity, inclusion, and accessibility' (DEIA)" policies, as well as policies "allowing or encouraging" third parties "to engage in workforce balancing based on race." Exec. Order No. 14151, 90 Fed. Reg. 8337 (Jan. 20, 2025). Most significantly, he has "order[ed] all agencies to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities." Exec. Order No. 14173, 90 Fed. Reg. 8633 (Jan. 21, 2025). Executive Order 14173 leaves no ambiguity: "race- and sex-based preferences" are "dangerous, demeaning, and immoral" and "violate the civil-rights laws of this Nation." *Id.* Taken together, these directives reflect the Executive Branch's duty to enforce the Nation's longstanding civil-rights laws, including the laws that embody the fundamental public policy against racial discrimination. *See* Exec. Order No. 14173, 90 Fed. Reg. 8633; *see also* Memorandum Opinion for the Acting General Counsel, Department of Education, *Constitutionality of Race-Based Department of Education Programs* (Off. of Legal Counsel Dec. 2, 2025).

***Application of the Public-Policy Principle to Holding Space Foundation.*** Here, there is no question that the Holding Space Foundation's programs are racially discriminatory. The Foundation specifies which races and ethnicities are eligible to receive therapy sessions and scholarships and, by omission, which races are ineligible for such benefits. Nor can the Foundation defend this discrimination as merely a "benefit" conferred on certain races with no penalty on other applicants. Applications for services and scholarships—like the college admissions applications in *Harvard*—"are zero-sum." *SFFA*, 600 U.S. at 218. Holding Space Foundation's use of race as an eligibility requirement necessarily treats the race of some applicants as a negative. That is textbook racial discrimination, and it is unlawful and contrary to public policy for the reasons explained above. Those reasons are fatal since the presence of even a single unlawful purpose defeats an organization's claim to tax-exempt status. *Supra* at 2. Because Holding Space Foundation's scholarships are "contrary to settled public policy" against racial discrimination, the organization does not "qualify for a tax exemption pursuant to §501(c)(3)." *See Bob Jones*, 461 U.S. at 585.

In short, an investigation is warranted. If the Holding Space Foundation wishes to avoid such an investigation and maintain its tax-exempt status, it can reconsider its commitment to invidious discrimination and open its scholarships and any similar programs to all races. Indeed, Bob Jones University eliminated its racially discriminatory policies to regain its tax-exempt status. Surely the Holding Space Foundation can do the same—at least if it wants to maintain this valuable subsidy, courtesy of the federal government and the American taxpayer. *See Bob Jones*, 461 U.S. at 591-92; Paul Fain, *Bob Jones U to Become Nonprofit Again*, Inside Higher Ed, (Feb. 16, 2017), perma.cc/UBY2-RU7F.

* * *

For these reasons, Do No Harm respectfully asks the IRS to open an investigation into the activities and tax-exempt status of Holding Space Foundation.

Sincerely,

Do No Harm

Form **13909**
(November 2023)

Department of the Treasury - Internal Revenue Service

# Tax-Exempt Organization Complaint (Referral)

OMB Number
1545-2314

## Referred Organization Information

1. Name of referred organization
Mental Health Liberation

2. Street address
3439 SE Hawthorne Blvd #933

| 3. City | 4. State | 5. ZIP code | 6. Date of referral |
|---|---|---|---|
| Portland | OR | 97214 | 11-25-2026 |

7. Organization's Employer Identification Number (EIN)
86-3382951

## Details of Alleged Violation

8. Name(s) of person(s) involved
Melody Li; Dr. Ebony Butler

9. Organizational title(s)
Founding Director; President

| 10. Date(s) | 11. Dollar amount(s) *(if known)* |
|---|---|
| 2022 - Present | |

12. Description of alleged activities *(briefly describe the facts of the alleged violation – Who/What/Where/When/How you learned about and obtained the information in this report. Attach another sheet if needed)*

See attached letter.

## Submitter Information

13. Name
Do No Harm

14. Occupation or business
501(c)(3) nonprofit dedicated to challenging protecting healthcare from radical, divisive, and discriminatory ideologies and practices.

15. Street address
2825 E. Cottonwood Parkway, Suite 500

| 16. City | 17. State | 18. ZIP code | 19. Telephone number |
|---|---|---|---|
| Salt Lake City | UT | 84121 | 312-980-1197 |

☐ 20. I am concerned that I might face retaliation or retribution if my identity is disclosed

## Submission and Documentation

The completed form, along with any supporting documentation, may be mailed to IRS TEGE Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1027 or emailed to eoclass@irs.gov. **Disclaimer Notice:** Your email submission of Form 13909 and attachments are not encrypted for security.

# Instructions for Form 13909, Tax-Exempt Organization Complaint (Referral)

## General Information

The information provided on this form will help the Internal Revenue Service (IRS) determine if there has been a violation of federal tax law. The Tax Exempt and Government Entities (TEGE) division is responsible for exempt organizations, employee plans, Indian tribal governments, tax exempt bonds, and federal, state and local governments. Submission of this form is voluntary.

Upon receipt of this form, the IRS will send you a letter acknowledging receipt of the information you submitted. If at a later date you wish to submit additional information regarding the organization, please attach a copy of the form initially submitted, and send it to the address shown above.

## Specific Instructions

**1 - 5. Organization name and address:** Provide the current name and address of the organization. If the organization has used prior or multiple name(s) or address(es), also provide that information.

**6. Date of referral:** Enter the date you submit the completed form

**7. Employer identification number:** Provide the organization's EIN.

The EIN is a nine-digit number, issued by the IRS, that the organization uses for tax purposes (like a Social Security Number (SSN) for an individual). If the EIN is unavailable, include a state nonprofit corporation registration number, if available.

**8 - 12. Details of alleged violation:** Provide specific details of the alleged violation including names, actions, places, amounts, dates, and the nature of any evidence or documentation (who, what, where, when, how). Include the names of other organizations, entities or persons that may be involved with the organization, providing EINs or SSNs, if available.

**13 - 20. Submitter information:** Provide your name, address, and business or occupation. Include your daytime telephone number, in case we wish to contact you. The acknowledgement letter will be sent to the address you provide.

If you are concerned that you may face retribution if your identity is disclosed, check the box. You may enter "Anonymous" for Submitter's name if you do not want to be identified.

**Submission and Documentation:** Mail the completed form, including any supporting documentation that you would like for us to review, to the address provided on the form. You may also email the completed form and any supporting documentation to the email address provided on the form. Include a cover letter describing the documentation or evidence you are providing. If you have already received an acknowledgment letter, include a copy of that letter. If possible, please try to submit all documentation at the same time.

If your referral relates to a church please be aware that Congress has imposed special limitations, found in IRC section 7611, on how and when the IRS may conduct civil tax inquiries and examinations of churches. You can find out more about these special limitations in Publication 1828, *Tax Guide for Churches and Religious Organizations*, in the section on Special Rules Limiting IRS Authority to Audit a Church.

**Claim for reward:** To claim a reward for providing this information to the IRS, file Form 211, *Application for Award for Original Information*.

**Note:** Federal law prohibits the IRS from providing you with status updates or information about specific actions taken in response to the information you submit.

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Use of this form is completely voluntary.

Form 13909 is used to submit a complaint about tax-exempt organizations. The IRS uses the information that is provided to determine if there has been a violation of federal tax law. From IRS.gov, you can fill out the mobile friendly version of the form and submit it, or download the fillable PDF version to complete, print, and mail, or email it for submission to IRS.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form, or its instructions must be retained if their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . . 6 min.
**Learning** . . . . . 1 min.
**Preparing, copying, and sending the form to the IRS** . . . . . 39 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Do No Harm

2825 E. Cottonwood Parkway, Suite 500
Salt Lake City, UT 84121

November 25, 2026

Mr. Robert Malone
Exempt Organizations and Government Entities
Internal Revenue Service
TEGE Referrals Group – MC 4910 DAL
1100 Commerce Street
Dallas, TX 75242

**VIA EMAIL**

**Re: Request for Investigation into the Activities of Mental Health Liberation (EIN: 86-3382951).**

Dear Mr. Malone:

Do No Harm is a nationwide membership organization dedicated to protecting healthcare from radical, divisive, and discriminatory ideologies and policies. We write to respectfully request that the Internal Revenue Service open an investigation into the organization Mental Health Liberation, EIN 86-3382951.[*]

An investigation is warranted because Mental Health Liberation is engaged in invidious racial discrimination that violates established public policy and thus renders it ineligible for tax-exempt status. *See Bob Jones University v. United States*, 461 U.S. 574, 590-96 (1983). Mental Health Liberation funds and facilitates free mental health therapy and support groups that are solely "open to Black, Indigenous, and People of Color/Global Majority." *Therapy and Healing Fund*, perma.cc/DF24-LTQ8 (archived Oct. 31, 2026). Such discrimination is sufficient grounds for the IRS to revoke the Mental Health Liberation's tax-exempt status under 26 U.S.C. §501(c)(3). *See Bob Jones*, 461 U.S. at 595-96 ("Racially discriminatory" institutions "cannot be viewed as conferring a public benefit within the 'charitable' concept" of the common law "or within the Congressional intent underlying §170 and §501(c)(3).").

## I. Factual Background

Mental Health Liberation is a nonprofit focused on "center[ing] the wellbeing of marginalized communities by advancing care practices that are culturally responsive, collective-trauma informed, and identity-affirming." *MHL 2025 Impact Report*, at 5 perma.cc/QJ9X-W4YY (archived Oct. 31, 2026). It

[*] In addition to submitting IRS Form 13909, *Tax-Exempt Organization Complaint (Referral)*, Do No Harm is providing the basis for the complaint "in letter format," for convenience. Internal Revenue Service, *IRS Complaint Process – Tax-Exempt Organizations*, perma.cc/7ZLT-4MJ8.

claims tax-exempt status under section 501(c)(3) of the Internal Revenue Code. *See, e.g.*, Mental Health Liberation Form 990 (2024), perma.cc/YY98-M598 (archived Sept. 15, 2026).

Mental Health Liberation was founded as the "sibling" non-profit arm of Inclusive Therapists, "a social justice and liberation-oriented mental health directory." *See* About Inclusive Therapists Directory and Community, perma.cc/K776-UADS (archived Sept. 15, 2026).

Mental Health Liberation carries out its mission by explicitly discriminating against the people it works with and the people it serves. To become a service provider with Mental Health Liberation, a provider must "[i]dentify as a Black, Indigenous, or Person of Color/Global Majority." *Share Your Services*, perma.cc/UNR9-JG5E (archived Oct. 30, 2026). With respect to the services it provides, Mental Health Liberation offers two main initiatives: a "BIPOC Healing & Therapy Fund" and a "Liberatory Student Support Circle." *About Our Work*, perma.cc/FR2B-4XD7 (archived Nov. 1, 2026). Both programs explicitly discriminate on the basis of race.

The BIPOC Healing & Therapy Fund provides "[f]ree … mental health services centering Black, Indigenous and Communities of Color/Global Majority, prioritizing people with intersecting marginalized identities." *Id.* Elsewhere, the organization reemphasizes that the program is "open to Black, Indigenous, and People of Color/Global Majority who are adults (18+) living in the so-called 'United States' and in need of financial support for short-term mental health therapy." *Therapy & Healing Fund.*

The Liberatory Student Support Circle follows the same template. It offers "[f]ree peer and mentor support uplifting Black, Indigenous, and Global Majority students." *About Our Work*. The application erases any ambiguity as to who is welcome in the program. It asks applicants, "Do you identify as Black, Brown, Indigenous, Racialized or a Person of Color/Global Majority?" The form offers two answers to choose from: either "Yes, I do" or "No, this space is not for me." *Liberatory Student Support Circle for BI&POC Students in Mental Health*, perma.cc/L46E-TBSS (archived Sept. 17, 2026).

Both programs explicitly and intentionally refuse to serve certain people in need—based solely on the color of their skin. Each of these racist exclusions is repugnant to our civil rights laws and "the Congressional intent underlying … §501(c)(3)." *Bob Jones*, 461 U.S. at 595-96. The sheer breadth of the Mental Health Liberation's discrimination makes this complaint an essential vehicle for the IRS to investigate the non-profit's professed commitment to racial discrimination and whether the organization should continue enjoying the significant tax advantages that taxpayers ultimately fund.

## II. Legal Analysis

Under Supreme Court precedent, the presence of a single unlawful policy or purpose under §501(c)(3) renders the entire organization ineligible for tax-exempt status. The law emphasizes tax-exempt organizations must be "operated *exclusively* for religious, charitable, scientific, testing for public safety, literary, or educational purposes." §501(c)(3) (emphasis added). Thus, "[t]he presence of a single substantial purpose that is not described in section 501(c)(3) precludes exemption from tax under section 501(a) regardless of the number or the importance" of the organization's other purposes. *Better Bus. Bureau v. United States*, 326 U.S. 279, 283 (1945); *see also* Treasury Regulation §1.501(c)(3)-1(d)(1)(ii).

Moreover, the IRS in 1970 publicly confirmed that an organization seeking exemption under §501(c)(3) must satisfy the common-law definition of "charitable." *See* Statement of Randolph W. Thrower, Commissioner of Internal Revenue, before the Senate Select Committee on Equal Educational Opportunity, 91st Cong., 2d Sess., August 12, 1970; *see also* Revised Rule 71-447, 1971-2 C.B. 230 ("All charitable trusts are subject to the requirement that the purpose of the trust may not be illegal or contrary to public policy."). That "common-law concept of 'charity'" underpins the reason why tax exemptions

exist in the first place. So while section 501(c)(3) lists other tax-exempt purposes alongside "charitable purposes," the common-law doctrine of charitable trusts applies equally to all of them. *Id.* (cleaned up).

***Bob Jones University v. United States.*** In *Bob Jones*, the Supreme Court addressed whether the IRS properly denied tax-exempt status "under §501(c)(3) of the Internal Revenue Code" to a private school that refused to admit students engaged in interracial marriages. 461 U.S. at 577. Examining the text and history of section 501(c)(3), its implementing regulations, and related IRS guidance, the Court concluded the IRS acted lawfully in denying tax-exempt status because the school pursued purposes that conflicted with the fundamental objectives of the tax laws. *Id.* at 585-96. In doing so, the Court reaffirmed the IRS's longstanding view that Congress used the term "charitable" in section 501(c)(3) with its established common-law meaning. *Id.*

The Court extensively discussed the history of the Nation's tax-exempt system for charitable organizations and its purposes. "When the Government grants exemptions or allows deductions, all taxpayers are affected; the very fact of the exemption or deduction for the donor means that other taxpayers can be said to be indirect and vicarious 'donors.'" *Id.* at 591-92. "Charitable exemptions are justified on the basis that the exempt entity confers a public benefit—a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues." *Id.* at 592. "History buttresses logic to make clear that, to warrant exemption under §501(c)(3), an institution must fall within a category specified in that section and must demonstrably serve and be in harmony with the public interest." *Id.* Thus, an organization that acts contrary to public policy cannot qualify for tax-exempt status. *Id.* Applying that governing principle, the Court turned to whether public policy prohibited racial discrimination. In holding that it did, the Court drew from federal civil-rights statutes and executive measures designed to eliminate race-based discrimination. *See id.* at 592-95.

Some commentators have suggested that *Bob Jones* confined its holding to racial discrimination in higher education. But the Court's opinion in *Bob Jones* itself refutes that claim. Because the petitioner in *Bob Jones* operated a school the Court necessarily addressed "racial discrimination in education." Yet the Court immediately explained that discrimination in education violates public policy because *all* racial discrimination violates public policy. To illustrate that principle, the Court cited Titles IV and VI of the Civil Rights Act of 1964 as evidence that Congress "clearly expressed its agreement that racial discrimination in education violates a fundamental public policy." *Id.* at 594. It then broadened the frame, pointing to "[o]ther sections of [the Civil Rights] Act, and numerous enactments since then," which "testif[ied] to the public policy against racial discrimination." *Id.* The Court did not cabin that statement to the educational context, and it cited the Voting Rights Act of 1965 and the Fair Housing Act to support its sweeping statement.

The executive-branch measures the Court cited likewise spanned a wide range of contexts, including "prohibiting racial discrimination in federal employment decisions and in classifications for the Selective Service." *Id.* (cleaned up); *see also id.* ("The Executive Branch has consistently placed its support behind eradication of racial discrimination."). The Court, for example, pointed to executive orders that created the President's Council on Equal Opportunity, required nondiscrimination in federally assisted programs, and directed "clear and consistent government-wide implementation by federal agencies of the nondiscrimination provisions" of federal law. *Id.* at 595; *see also* U.S. Dep't of Justice, *Executive Order 12250 Clearance Requirements and Coordination for Nondiscrimination Regulations and Policy Guidance Documents and Related Executive Orders* (Oct. 12, 2021), perma.cc/WGR7-8YSN (discussing continued implementation of Exec. Order No. 12250 authorized in 1980). The Court emphasized that these measures represented "but a few of numerous Executive Orders over the past three decades demonstrating the commitment of the Executive Branch to the fundamental policy of eliminating racial discrimination." *Bob Jones*, 461 U.S. at 595.

It's important to stress that the Supreme Court did not announce a new rule in *Bob Jones*. Rather, the Court ratified longstanding IRS practice. The Court pointed out that the IRS had "referred consistently to principles of charitable trust law" for "more than 60 years" when interpreting §501(c)(3) and "comparable provisions." *Id.* at 597. Most relevant here, the *Bob Jones* Court stressed that "[s]ome years before the issuance of the [IRS] rulings challenged in these cases, the IRS also ruled that contributions to community recreational facilities would not be deductible and that the facilities themselves would not be entitled to tax-exempt status, unless those facilities were open to all on a racially nondiscriminatory basis." *Id.* (citing Rev. Rul. 67-325, 1967-2 Cum. Bull. 113.).

In short, any claim that the rule in *Bob Jones* is limited in scope is inconsistent not only with the reasoning of the Court's opinion but also with the historical context in which the case was decided.

***Federal Courts' and the IRS's Application of Bob Jones.*** Decades of practice confirm that the public-policy requirement the Court affirmed in *Bob Jones* governs broadly and covers Mental Health Liberation's discriminatory programs. *See, e.g.*, *United States v. Mubayyid*, 476 F. Supp. 2d 46, 50 (D. Mass. 2007) (explaining that the IRS denied tax-exempt status because the organization's activities promoting jihad and holy war "were against public policy").

In 1987—just four years after *Bob Jones*—the Service denied tax-exempt status to a white supremacist organization known as the Nationalist Movement, concluding that its "membership policies [were] invidiously discriminatory and thus contrary to public policy." *Nationalist Movement v. Comm'r*, 102 T.C. 558, 571 (1994), *aff'd*, 37 F.3d 216 (5th Cir. 1994). Similarly, an organization that encourages others to contravene public policy can also fail the public-policy requirement. The IRS denied tax-exempt status on this basis where it determined that the "petitioner did not satisfy [section 501(c)(3)'s] public policy requirement because" the petitioner encouraged other taxpayers to refuse to pay taxes. *Church of Scientology of California v. Comm'r of Internal Revenue*, 83 T.C. 381, 503 n.4 (1984), *aff'd sub nom. Church of Scientology of California v. Comm'r*, 823 F.2d 1310 (9th Cir. 1987).

Moreover, the IRS's own guidance confirms that racially discriminatory conduct is in direct opposition to the charitable purposes §501(c)(3) exists to promote. The IRS Technical Guide for tax-exempt organizations states that "[t]he pursuit of *eliminating* [racial] prejudice and discrimination is a charitable exempt activity under section 501(c)(3)." Internal Revenue Service, *Exempt Organizations Technical Guide 3-3: Exempt Purposes – Charitable*, 41 (emphasis added). If one of the goals of the Internal Revenue Code's tax-exempt provisions is to facilitate the end of racial prejudice, then overtly discriminatory policies are surely incompatible with those goals and cannot be a "public benefit" that tax exemptions were created to promote. *Bob Jones*, 461 U.S. at 592.

***Students for Fair Admissions, Inc. v. President & Fellows of Harvard College ("SFFA").*** In "situations involving the [Internal Revenue] Service's determinations about particular public policies, the Service has relied almost exclusively on the Supreme Court's position regarding certain constitutional issues that relate directly to the public policy at issue." D. Brennan, *Charities and the Constitution: Evaluating the Role of Constitutional Principles in Determining the Scope of the Tax Law's Public Policy Limitation for Charities*, 5 Fla. Tax. Rev. 779, 796 (2002). For example, in pre-*Rice v. Cayetano* IRS guidance:

> In a Technical Advice Memoranda ("TAM") regarding the Kamehameha Schools, whose admissions policy generally required that the applicant be of Hawaiian ancestry, the IRS national office opined that the policy did not run afoul of public policy. However, in a concluding message, the TAM noted that the Supreme Court had granted certiorari in *Rice v. Cayetano*, a case involving the right to vote for nine trustees of the Office of Hawaiian Affairs, which was at the time limited to voters of Hawaiian descent.

*Id.* at 803 (cleaned up).

The IRS advised the schools that, if the Court expanded or clarified its affirmative action jurisprudence in a future case, then the agency would revisit its analysis of the schools' tax-exempt status under the Court's refined approach. Indeed, the Court *did* conclude that racially discriminatory voter qualification in *Rice* was unconstitutional. *Rice v. Cayetano*, 528 U.S. 495, 524 (2000). And, *Rice* does not stand alone. A long line of cases has set forth the same equal-protection principles articulating the law of the land.

Unquestionably, programs like Mental Health Liberation's already violated federal law and public policy well before the Supreme Court decided *SFFA v. Harvard*. 600 U.S. 181 (2023). *See, e.g.*, *Wygant v. Jackson Bd. of Ed.*, 476 U.S. 267, 283-84 (1986) (plurality op.); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 508 (1989); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 235-36 (1995); *NFCAGC v. Jacksonville*, 508 U.S. 656, 666 (1993); *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701, 748 (2007).

But the Court has now removed any conceivable doubt. "Racial discrimination is invidious in all contexts." *SFFA*, 600 U.S. at 214 (cleaned up). The Court's rule is categorical: "race may never be used as a 'negative,'" and in zero-sum settings, such as admissions policies or other competitive opportunities, any "benefit provided to some applicants" on the basis of race "but not to others necessarily advantages the former group at the expense of the latter." *Id.* at 218-19. Put simply, the Court's sweeping decision in *Harvard* makes crystal clear that racial discrimination in *all* its forms is contrary to established public policy, to say nothing of federal law and the Constitution. After all, "[e]liminating racial discrimination means eliminating all of it." *Id.* at 206. In light of that unequivocal holding, the IRS cannot plausibly treat race-based programs as consistent with public policy. Even if prior IRS leadership may have taken a narrower view of the public-policy doctrine, the Service must now conform its enforcement position to the Court's clear command.

President Trump's executive orders also leave the Service with no discretion. Consistent with the Court's decree and well-established civil-rights laws, the President has rescinded prior executive orders that agencies had invoked to justify race-based classifications in the name of "equity." *See* Exec. Order No. 14148, 90 Fed. Reg. 8237 (Jan. 20, 2025). He has also directed all federal agencies to terminate "all discriminatory programs, including illegal DEI and 'diversity, equity, inclusion, and accessibility' (DEIA)" policies, as well as policies "allowing or encouraging" third parties "to engage in workforce balancing based on race." Exec. Order No. 14151, 90 Fed. Reg. 8337 (Jan. 20, 2025). Most significantly, he has "order[ed] all agencies to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities." Exec. Order No. 14173, 90 Fed. Reg. 8633 (Jan. 21, 2025). Executive Order 14173 leaves no ambiguity: "race- and sex-based preferences" are "dangerous, demeaning, and immoral" and "violate the civil-rights laws of this Nation." *Id.* Taken together, these directives reflect the Executive Branch's duty to enforce the Nation's longstanding civil-rights laws, including the laws that embody the fundamental public policy against racial discrimination. *See* Exec. Order No. 14173, 90 Fed. Reg. 8633; *see also* Memorandum Opinion for the Acting General Counsel, Department of Education, *Constitutionality of Race-Based Department of Education Programs* (Off. of Legal Counsel Dec. 2, 2025).

***Application of the Public-Policy Principle to Mental Health Liberation.*** Here, there is no question that Mental Health Liberation's programs are racially discriminatory. The programs specify which races and ethnicities are eligible to receive services and to provide them. Nor can Mental Health Liberation defend this discrimination as merely a "benefit" conferred on certain races with no penalty on those excluded. Applications for services and employment—like college admissions applications "are zero-sum." *SFFA*, 600 U.S. at 218. Mental Health Liberation's use of race as an eligibility requirement necessarily treats the race of some applicants as a negative. That is textbook racial discrimination, and it is unlawful and contrary to public policy for the reasons explained above. Those reasons are fatal since

even a single unlawful purpose defeats an organization's claim to tax-exempt status. *Supra* at 2. Here, the organization's *entire* mission, focus, and programming are devoted to racial discrimination in "contra[vention] to settled public policy." *See Bob Jones*, 461 U.S. at 585. Accordingly, Mental Health Liberation does not "qualify for a tax exemption pursuant to §501(c)(3)." *See id.*

In sum, an investigation is warranted. If Mental Health Liberation wishes to avoid such an investigation and maintain its tax-exempt status, it can reconsider its commitment to invidious discrimination and open its doors to all races. Indeed, Bob Jones University eliminated its racially discriminatory policies to regain its tax-exempt status. Surely Mental Health Liberation can do the same—at least if it wants to maintain this valuable subsidy, courtesy of the federal government and the American taxpayer. *See Bob Jones*, 461 U.S. at 591-92; Paul Fain, *Bob Jones U to Become Nonprofit Again*, Inside Higher Ed, (Feb. 16, 2017), perma.cc/UBY2-RU7F.

* * *

For these reasons, Do No Harm respectfully asks the IRS to open an investigation into the activities and tax-exempt status of Mental Health Liberation.

Sincerely,

Do No Harm

Form **13909**
(November 2023)

Department of the Treasury - Internal Revenue Service

# Tax-Exempt Organization Complaint (Referral)

OMB Number
1545-2314

## Referred Organization Information

1. Name of referred organization
National Queer and Trans Therapists of Color Network

2. Street address
PO Box 50058

| 3. City | 4. State | 5. ZIP code | 6. Date of referral |
|---|---|---|---|
| Baltimore | MD | 21211 | 11-25-2026 |

7. Organization's Employer Identification Number (EIN)
Fiscal sponsor: Possibility Labs, EIN 85-3989363

## Details of Alleged Violation

8. Name(s) of person(s) involved
Erica Woodland; Krystal Portalatin-Gauthier; Tré Vasquez

9. Organizational title(s)
Founding Director; Advisory Board Member; Advisory Board Member

| 10. Date(s) | 11. Dollar amount(s) *(if known)* |
|---|---|
| 2017 - Present | |

12. Description of alleged activities *(briefly describe the facts of the alleged violation – Who/What/Where/When/How you learned about and obtained the information in this report. Attach another sheet if needed)*

See attached letter.

## Submitter Information

13. Name
Do No Harm

14. Occupation or business
501(c)(3) nonprofit dedicated to challenging protecting healthcare from radical, divisive, and discriminatory ideologies and practices.

15. Street address
2825 E. Cottonwood Parkway, Suite 500

| 16. City | 17. State | 18. ZIP code | 19. Telephone number |
|---|---|---|---|
| Salt Lake City | UT | 84121 | 312-980-1197 |

☐ 20. I am concerned that I might face retaliation or retribution if my identity is disclosed

## Submission and Documentation

The completed form, along with any supporting documentation, may be mailed to IRS TEGE Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1027 or emailed to eoclass@irs.gov. **Disclaimer Notice:** Your email submission of Form 13909 and attachments are not encrypted for security.

# Instructions for Form 13909, Tax-Exempt Organization Complaint (Referral)

## General Information

The information provided on this form will help the Internal Revenue Service (IRS) determine if there has been a violation of federal tax law. The Tax Exempt and Government Entities (TEGE) division is responsible for exempt organizations, employee plans, Indian tribal governments, tax exempt bonds, and federal, state and local governments. Submission of this form is voluntary.

Upon receipt of this form, the IRS will send you a letter acknowledging receipt of the information you submitted. If at a later date you wish to submit additional information regarding the organization, please attach a copy of the form initially submitted, and send it to the address shown above.

## Specific Instructions

**1 - 5. Organization name and address:** Provide the current name and address of the organization. If the organization has used prior or multiple name(s) or address(es), also provide that information.

**6. Date of referral:** Enter the date you submit the completed form

**7. Employer identification number:** Provide the organization's EIN.

The EIN is a nine-digit number, issued by the IRS, that the organization uses for tax purposes (like a Social Security Number (SSN) for an individual). If the EIN is unavailable, include a state nonprofit corporation registration number, if available.

**8 - 12. Details of alleged violation:** Provide specific details of the alleged violation including names, actions, places, amounts, dates, and the nature of any evidence or documentation (who, what, where, when, how). Include the names of other organizations, entities or persons that may be involved with the organization, providing EINs or SSNs, if available.

**13 - 20. Submitter information:** Provide your name, address, and business or occupation. Include your daytime telephone number, in case we wish to contact you. The acknowledgement letter will be sent to the address you provide.

If you are concerned that you may face retribution if your identity is disclosed, check the box. You may enter "Anonymous" for Submitter's name if you do not want to be identified.

**Submission and Documentation:** Mail the completed form, including any supporting documentation that you would like for us to review, to the address provided on the form. You may also email the completed form and any supporting documentation to the email address provided on the form. Include a cover letter describing the documentation or evidence you are providing. If you have already received an acknowledgment letter, include a copy of that letter. If possible, please try to submit all documentation at the same time.

If your referral relates to a church please be aware that Congress has imposed special limitations, found in IRC section 7611, on how and when the IRS may conduct civil tax inquiries and examinations of churches. You can find out more about these special limitations in Publication 1828, *Tax Guide for Churches and Religious Organizations*, in the section on Special Rules Limiting IRS Authority to Audit a Church.

**Claim for reward:** To claim a reward for providing this information to the IRS, file Form 211, *Application for Award for Original Information*.

**Note:** Federal law prohibits the IRS from providing you with status updates or information about specific actions taken in response to the information you submit.

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Use of this form is completely voluntary.

Form 13909 is used to submit a complaint about tax-exempt organizations. The IRS uses the information that is provided to determine if there has been a violation of federal tax law. From IRS.gov, you can fill out the mobile friendly version of the form and submit it, or download the fillable PDF version to complete, print, and mail, or email it for submission to IRS.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form, or its instructions must be retained if their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . . 6 min.
**Learning** . . . . . 1 min.
**Preparing, copying, and sending the form to the IRS** . . . . . 39 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Do No Harm

2825 E. Cottonwood Parkway, Suite 500
Salt Lake City, UT 84121

November 25, 2026

Mr. Robert Malone
Exempt Organizations and Government Entities
Internal Revenue Service
TEGE Referrals Group – MC 4910 DAL
1100 Commerce Street
Dallas, TX 75242

**VIA EMAIL**

**Re: Request for Investigation into the Activities of the National Queer and Trans Therapists of Color Network (EIN: 85-3989363).**

Dear Mr. Malone:

Do No Harm is a nationwide membership organization dedicated to protecting healthcare from radical, divisive, and discriminatory ideologies and policies. We write to respectfully request that the Internal Revenue Service open an investigation into the National Queer and Trans Therapists of Color Network ("the Network"), EIN 85-3989363.[*]

An investigation is warranted because the Network engages in racial discrimination that violates established public policy and thus renders it ineligible for tax-exempt status. *See Bob Jones University v. United States*, 461 U.S. 574, 590-96 (1983). The Network manages a directory and membership program, but both exclude white practitioners. That discrimination is sufficient grounds for the IRS to revoke the Network's tax-exempt status under 26 U.S.C. §501(c)(3). *See Bob Jones*, 461 U.S. at 595-96 ("Racially discriminatory" institutions "cannot be viewed as conferring a public benefit within the 'charitable' concept" of the common law "or within the Congressional intent underlying §170 and §501(c)(3).").

## I. Factual Background

The Network is a national nonprofit that describes itself as "a healing justice organization actively working to transform mental health for queer and trans Black, Indigenous and People of Color

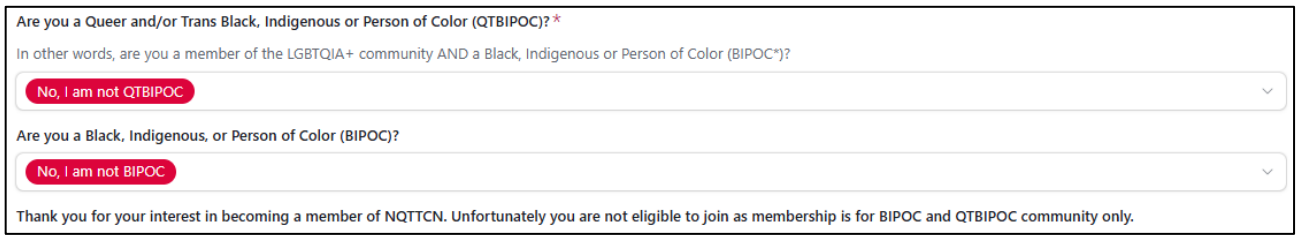
[*] In addition to submitting IRS Form 13909, *Tax-Exempt Organization Complaint (Referral)*, Do No Harm is providing the basis for the complaint "in letter format," for convenience. Internal Revenue Service, *IRS Complaint Process – Tax-Exempt Organizations*, perma.cc/7ZLT-4MJ8.

(QTBIPOC)." *See* NQTTCN, *Mission, Vision, and Values*, perma.cc/T8YH-MC7V (archived Sept. 18, 2026). Possibility Labs is the Network's fiscal sponsor under a comprehensive (Model A) arrangement. *Id.*; Possibility Labs, *Fiscal Sponsorship – Model A*, perma.cc/NWA4-CGQM (archived Sept. 18, 2026). Under that arrangement, the Network operates as a program of Possibility Labs and conducts its activities under Possibility Labs' 501(c)(3) tax-exempt status. *See* Possibility Labs, *Fiscal Sponsorship – Model A*.

The Network claims that it "mobilize[s]" queer, transgender, and black and Hispanic "health and healing practitioners, organizers and community" through their membership programs. *See* NQTTCN, *Who We Mobilize and Why*, perma.cc/8V7E-NHNN (archived Sept. 18, 2026). And the Network boasts that membership comes with a wide range of benefits. *See* NQTTCN, *Membership*, perma.cc/7W69-AC3X (archived Sept. 18. 2026). Successful applicants can access "pathways for connection, political education, leadership development, and collective action." *Id.* Even more, practitioners have the opportunity to join the Network's "Mental Health Directory" so that they may "share [their] psychotherapy practice more broadly," thereby broadening their clientele. *Id.*

Despite the Network's commitment to build "a world where all people have access to health and healing resources," its website makes clear that these benefits are not open to all regardless of race. *See Mission, Vision, and Values*. For example, its membership eligibility criteria clearly state the race-based qualifications that prospective applicants must meet to enter its "abolitionist ecosystems of care." NQTTCN, *Membership Application*, perma.cc/9RUT-2BTL (archived Sept. 17, 2026). Consider the "Comrades" and "Disrupters" membership levels, where applicants must certify that they are BIPOC—"Black, Indigenous, and/or [a] Person of Color." *Id.*

Failure to meet the Network's racial requirements prohibits an individual from even completing an application. Indeed, the application's first question asks: "Are you a Queer and/or Trans Black, Indigenous or Person of Color (QTBIPOC)?" *Id.* If an applicant answers "No," the application prompts them to answer whether they are "a Black, Indigenous, or Person of Color." *Id.* If the applicant answers "No" again, the application responds, "[u]nfortunately you are not eligible to join as membership is for BIPOC and QTBIPOC community only." *Id.*




Notably, by "BIPOC," the Network specifies that it means "Black, Indigenous, Latinx, Pacific Islander, Asian, SWANA, Arab, Middle Eastern, and mixed race people." *Id.* Thus, Network membership is specifically designed to exclude, at minimum, whites. Such race-based exclusion is repugnant to our civil rights laws and "the Congressional intent underlying … §501(c)(3)." *Bob Jones*, 461 U.S. at 595-96. Given the Network's brazen discrimination, this complaint is an essential vehicle for the IRS to investigate the non-profit's professed commitment to racial discrimination and whether the organization should continue enjoying the significant tax advantages that taxpayers ultimately fund.

## II. Legal Analysis

Under Supreme Court precedent, the presence of a single unlawful policy or purpose under §501(c)(3) renders the entire organization ineligible for tax-exempt status. The law emphasizes tax-

exempt organizations must be "operated *exclusively* for religious, charitable, scientific, testing for public safety, literary, or educational purposes." §501(c)(3) (emphasis added). Thus, "[t]he presence of a single substantial purpose that is not described in section 501(c)(3) precludes exemption from tax under section 501(a) regardless of the number or the importance" of the organization's other purposes. *Better Bus. Bureau v. United States*, 326 U.S. 279, 283 (1945); *see also* Treasury Regulation §1.501(c)(3)-1(d)(1)(ii).

Moreover, the IRS in 1970 publicly confirmed that an organization seeking exemption under §501(c)(3) must satisfy the common-law definition of "charitable." *See* Statement of Randolph W. Thrower, Commissioner of Internal Revenue, before the Senate Select Committee on Equal Educational Opportunity, 91st Cong., 2d Sess., August 12, 1970; *see also* Revised Rule 71-447, 1971-2 C.B. 230 ("All charitable trusts are subject to the requirement that the purpose of the trust may not be illegal or contrary to public policy."). That "common-law concept of 'charity'" underpins the reason why tax exemptions exist in the first place. So while section 501(c)(3) lists other tax-exempt purposes alongside "charitable purposes," the common-law doctrine of charitable trusts applies equally to all of them. *Id.* (cleaned up).

***Bob Jones University v. United States.*** In *Bob Jones*, the Supreme Court addressed whether the IRS properly denied tax-exempt status "under §501(c)(3) of the Internal Revenue Code" to a private school that refused to admit students engaged in interracial marriages. 461 U.S. at 577. Examining the text and history of section 501(c)(3), its implementing regulations, and related IRS guidance, the Court concluded the IRS acted lawfully in denying tax-exempt status because the school pursued purposes that conflicted with the fundamental objectives of the tax laws. *Id.* at 585-96. In doing so, the Court reaffirmed the IRS's longstanding view that Congress used the term "charitable" in section 501(c)(3) with its established common-law meaning. *Id.*

The Court extensively discussed the history of the Nation's tax-exempt system for charitable organizations and its purposes. "When the Government grants exemptions or allows deductions all taxpayers are affected; the very fact of the exemption or deduction for the donor means that other taxpayers can be said to be indirect and vicarious 'donors.'" *Id.* at 591-92. "Charitable exemptions are justified on the basis that the exempt entity confers a public benefit—a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues." *Id.* at 592. "History buttresses logic to make clear that, to warrant exemption under §501(c)(3), an institution must fall within a category specified in that section and must demonstrably serve and be in harmony with the public interest." *Id.* Thus, an organization that acts contrary to public policy cannot qualify for tax-exempt status. *Id.* Applying that governing principle, the Court turned to whether public policy prohibited racial discrimination. In holding that it did, the Court drew from federal civil-rights statutes and executive measures designed to eliminate race-based discrimination. *See id.* at 592-95.

Some commentators have suggested that *Bob Jones* confined its holding to racial discrimination in higher education. But the Court's opinion in *Bob Jones* itself refutes that claim. Because the petitioner in *Bob Jones* operated a school the Court necessarily addressed "racial discrimination in education." Yet the Court immediately explained that discrimination in education violates public policy because *all* racial discrimination violates public policy. To illustrate that principle, the Court cited Titles IV and VI of the Civil Rights Act of 1964 as evidence that Congress "clearly expressed its agreement that racial discrimination in education violates a fundamental public policy." *Id.* at 594. It then broadened the frame, pointing to "[o]ther sections of [the Civil Rights] Act, and numerous enactments since then," which "testif[ied] to the public policy against racial discrimination." *Id.* The Court did not cabin that statement to the educational context, and it cited the Voting Rights Act of 1965 and the Fair Housing Act to support its sweeping statement.

The executive-branch measures the Court cited likewise spanned a wide range of contexts, including "prohibiting racial discrimination in federal employment decisions and in classifications for the Selective Service." *Id.* (cleaned up); *see also id.* ("The Executive Branch has consistently placed its support behind eradication of racial discrimination."). The Court, for example, pointed to executive orders that created the President's Council on Equal Opportunity, required nondiscrimination in federally assisted programs, and directed "clear and consistent government-wide implementation by federal agencies of the nondiscrimination provisions" of federal law. *Id.* at 595; U.S. Dep't of Justice, *Executive Order 12250 Clearance Requirements and Coordination for Nondiscrimination Regulations and Policy Guidance Documents and Related Executive Orders* (Oct. 12, 2021), perma.cc/WGR7-8YSN (discussing continued implementation of Exec. Order No. 12250 authorized in 1980). The Court emphasized that these measures represented "but a few of numerous Executive Orders over the past three decades demonstrating the commitment of the Executive Branch to the fundamental policy of eliminating racial discrimination." *Bob Jones*, 461 U.S. at 595.

It's important to stress that the Supreme Court did not announce a new rule in *Bob Jones*. Rather, the Court ratified longstanding IRS practice. The Court pointed out that the IRS had "referred consistently to principles of charitable trust law" for "more than 60 years" when interpreting §501(c)(3) and "comparable provisions." *Id.* at 597. Most relevant here, the *Bob Jones* Court stressed that "[s]ome years before the issuance of the [IRS] rulings challenged in these cases, the IRS also ruled that contributions to community recreational facilities would not be deductible and that the facilities themselves would not be entitled to tax-exempt status, unless those facilities were open to all on a racially nondiscriminatory basis." *Id.* (citing Rev. Rul. 67-325, 1967-2 Cum. Bull. 113.).

In short, any claim that the rule in *Bob Jones* is limited in scope is inconsistent not only with the reasoning of the Court's opinion but also with the historical context in which the case was decided.

***Federal Courts' and the IRS's Application of Bob Jones.*** Decades of practice confirm that the public-policy requirement the Court affirmed in *Bob Jones* governs broadly and covers the Network's discriminatory membership program. *See, e.g.*, *United States v. Mubayyid*, 476 F. Supp. 2d 46, 50 (D. Mass. 2007) (explaining that the IRS denied tax-exempt status because the organization's activities promoting jihad and holy war "were against public policy").

In 1987—just four years after *Bob Jones*—the Service denied tax-exempt status to a white supremacist organization known as the Nationalist Movement, concluding that its "membership policies [were] invidiously discriminatory and thus contrary to public policy." *Nationalist Movement v. Comm'r*, 102 T.C. 558, 571 (1994), *aff'd*, 37 F.3d 216 (5th Cir. 1994). Similarly, an organization that encourages others to contravene public policy can also fail the public-policy requirement. The IRS denied tax-exempt status on this basis where it determined that the "petitioner did not satisfy [section 501(c)(3)'s] public policy requirement because" the petitioner encouraged other taxpayers to refuse to pay taxes. *Church of Scientology of California v. Comm'r of Internal Revenue*, 83 T.C. 381, 503 n.4 (1984), *aff'd sub nom. Church of Scientology of California v. Comm'r*, 823 F.2d 1310 (9th Cir. 1987).

Moreover, the IRS's own guidance confirms that racially discriminatory conduct is in direct opposition to the charitable purposes §501(c)(3) exists to promote. The IRS Technical Guide for tax-exempt organizations states that "[t]he pursuit of *eliminating* [racial] prejudice and discrimination is a charitable exempt activity under section 501(c)(3)." Internal Revenue Service, *Exempt Organizations Technical Guide 3-3: Exempt Purposes – Charitable*, 41 (emphasis added). If one of the goals of the Internal Revenue Code's tax-exempt provisions is to facilitate the end of racial prejudice, then overtly discriminatory policies are surely incompatible with those goals and cannot be a "public benefit" that tax exemptions were created to promote. *Bob Jones*, 461 U.S. at 592.

***Students for Fair Admissions, Inc. v. President & Fellows of Harvard College ("SFFA").*** In "situations involving the [Internal Revenue] Service's determinations about particular public policies, the Service has relied almost exclusively on the Supreme Court's position regarding certain constitutional issues that relate directly to the public policy at issue." D. Brennan, *Charities and the Constitution: Evaluating the Role of Constitutional Principles in Determining the Scope of the Tax Law's Public Policy Limitation for Charities*, 5 Fla. Tax. Rev. 779, 796 (2002). For example, in pre-*Rice v. Cayetano* IRS guidance:

> In a Technical Advice Memoranda ("TAM") regarding the Kamehameha Schools, whose admissions policy generally required that the applicant be of Hawaiian ancestry, the IRS national office opined that the policy did not run afoul of public policy. However, in a concluding message, the TAM noted that the Supreme Court had granted certiorari in *Rice v. Cayetano*, a case involving the right to vote for nine trustees of the Office of Hawaiian Affairs, which was at the time limited to voters of Hawaiian descent.

*Id.* at 803 (cleaned up).

The IRS advised the schools that, if the Court expanded or clarified its affirmative action jurisprudence in a future case, then the agency would revisit its analysis of the schools' tax-exempt status under the Court's refined approach. Indeed, the Court *did* conclude that racially discriminatory voter qualification in *Rice* was unconstitutional. *Rice v. Cayetano*, 528 U.S. 495, 524 (2000). And, *Rice* does not stand alone. A long line of cases has set forth the same equal-protection principles articulating the law of the land.

Unquestionably, programs like the Network's already violated federal law and public policy well before the Supreme Court decided *SFFA v. Harvard*. 600 U.S. 181 (2023). *See, e.g.*, *Wygant v. Jackson Bd. of Ed.*, 476 U.S. 267, 283-84 (1986) (plurality op.); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 508 (1989); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 235-36 (1995); *NFCAGC v. Jacksonville*, 508 U.S. 656, 666 (1993); *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701, 748 (2007).

But the Court has now removed any conceivable doubt. "Racial discrimination is invidious in all contexts." *SFFA*, 600 U.S. at 214 (cleaned up). The Court's rule is categorical: "race may never be used as a 'negative,'" and in zero-sum settings, such as admissions policies or other competitive opportunities, any "benefit provided to some applicants" on the basis of race "but not to others necessarily advantages the former group at the expense of the latter." *Id.* at 218-19. Put simply, the Court's sweeping decision in *Harvard* makes crystal clear that racial discrimination in *all* its forms is contrary to established public policy, to say nothing of federal law and the Constitution. After all, "[e]liminating racial discrimination means eliminating all of it." *Id.* at 206. In light of that unequivocal holding, the IRS cannot plausibly treat race-based programs as consistent with public policy. Even if prior IRS leadership may have taken a narrower view of the public-policy doctrine, the Service must now conform its enforcement position to the Court's clear command.

President Trump's recent executive orders also leave the Service with no discretion. Consistent with the Court's decree and well-established civil-rights laws, the President has rescinded prior executive orders that agencies had invoked to justify race-based classifications in the name of "equity." *See* Exec. Order No. 14148, 90 Fed. Reg. 8237 (Jan. 20, 2025). He has also directed all federal agencies to terminate "all discriminatory programs, including illegal DEI and 'diversity, equity, inclusion, and accessibility' (DEIA)" policies, as well as policies "allowing or encouraging" third parties "to engage in workforce balancing based on race." Exec. Order No. 14151, 90 Fed. Reg. 8337 (Jan. 20, 2025). Most significantly, he has "order[ed] all agencies to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities." Exec. Order No. 14173, 90 Fed. Reg. 8633 (Jan. 21, 2025). Executive Order 14173 leaves no ambiguity: "race- and sex-based preferences" are "dangerous, demeaning, and immoral" and "violate the civil-rights laws of this Nation." *Id.* Taken

together, these directives reflect the Executive Branch's duty to enforce the Nation's longstanding civil-rights laws, including the laws that embody the fundamental public policy against racial discrimination. *See* Exec. Order No. 14173, 90 Fed. Reg. 8633; *see also* Memorandum Opinion for the Acting General Counsel, Department of Education, *Constitutionality of Race-Based Department of Education Programs* (Off. of Legal Counsel Dec. 2, 2025).

***Application of the Public-Policy Principle to the Network.*** Here, there is no question that the Network's membership programs are racially discriminatory. The Network specifies which races and ethnicities are eligible for membership, and, by omission, which races are ineligible for such benefits. Nor can the Network defend this discrimination as merely a "benefit" conferred on certain races with no penalty on other applicants. The Network's eligibility criteria make the penalty clear: Applicants who do not meet their race requirements will *not* be considered.[1] The race-based bar necessarily treats the race of some applicants as a "negative." *SFFA*, 600 U.S. at 212. That is textbook racial discrimination, and it is unlawful and contrary to public policy for the reasons explained above. Those reasons are fatal since even a single unlawful purpose defeats an organization's claim to tax-exempt status. *Supra* at 2. Because the Network's membership programs run "contrary to settled public policy" against racial discrimination, the organization does not "qualify for a tax exemption pursuant to §501(c)(3)." *See Bob Jones*, 461 U.S. at 585.

In sum, the Network's actions warrant an investigation. If the Network wishes to avoid such an investigation and maintain its tax-exempt status, it can reconsider its commitment to invidious discrimination and open its membership programs to all races. Indeed, Bob Jones University eliminated its racially discriminatory policies to regain its tax-exempt status. Surely the Network can do the same—at least if it wants to maintain this valuable subsidy, courtesy of the federal government and the American taxpayer. *See Bob Jones*, 461 U.S. at 591-92; Paul Fain, *Bob Jones U to Become Nonprofit Again*, Inside Higher Ed, (Feb. 16, 2017), perma.cc/UBY2-RU7F.

* * *

For these reasons, Do No Harm respectfully asks the IRS to open an investigation into the activities and tax-exempt status of the National Queer and Trans Therapists of Color Network.

Sincerely,

Do No Harm

[1] It is irrelevant that, for at least some of its membership levels and benefits, the Network also appears to exclude people on the basis of "gender identity" in addition to imposing race-based criteria. *See NQTTCN, Membership Application* ("While membership is open to Black, Indigenous and People of Color (BIPOC) who are ***not*** Queer and/or Trans, these members are only permitted at the Comrade membership level and are not eligible to join our mental health directory.") (emphasis in original). Adding additional criteria, even lawful ones, does not cure unlawful race-based exclusions. *See Connecticut v. Teal*, 457 U.S. 440, 455-56 (1982) (favorable treatment of other members of a racial group cannot immunize a race-based exclusion against the individual barred); *Gratz v. Bollinger*, 539 U.S. 244, 270-72 (2003) (racial classification unlawful even where race is merely one factor among many).

Form **13909**
(November 2023)

Department of the Treasury - Internal Revenue Service

# Tax-Exempt Organization Complaint (Referral)

OMB Number
1545-2314

## Referred Organization Information

1. Name of referred organization
Sista Afya Community Care

2. Street address
5022 S State Street

| 3. City | 4. State | 5. ZIP code | 6. Date of referral |
|---|---|---|---|
| Chicago | IL | 60609 | 11-25-2026 |

7. Organization's Employer Identification Number (EIN)
85-2035370

## Details of Alleged Violation

8. Name(s) of person(s) involved
Camesha L. Jones-Brandon; Tandra M. Rutledge

9. Organizational title(s)
Founder & Executive Director; President (Board of Directors)

| 10. Date(s) | 11. Dollar amount(s) *(if known)* |
|---|---|
| 2022 - Present | |

12. Description of alleged activities *(briefly describe the facts of the alleged violation – Who/What/Where/When/How you learned about and obtained the information in this report. Attach another sheet if needed)*

See attached letter.

## Submitter Information

13. Name
Do No Harm

14. Occupation or business
501(c)(3) nonprofit dedicated to challenging protecting healthcare from radical, divisive, and discriminatory ideologies and practices.

15. Street address
2825 E. Cottonwood Parkway, Suite 500

| 16. City | 17. State | 18. ZIP code | 19. Telephone number |
|---|---|---|---|
| Salt Lake City | UT | 84121 | 312-980-1197 |

☐ 20. I am concerned that I might face retaliation or retribution if my identity is disclosed

## Submission and Documentation

The completed form, along with any supporting documentation, may be mailed to IRS TEGE Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1027 or emailed to eoclass@irs.gov. **Disclaimer Notice:** Your email submission of Form 13909 and attachments are not encrypted for security.

# Instructions for Form 13909, Tax-Exempt Organization Complaint (Referral)

## General Information

The information provided on this form will help the Internal Revenue Service (IRS) determine if there has been a violation of federal tax law. The Tax Exempt and Government Entities (TEGE) division is responsible for exempt organizations, employee plans, Indian tribal governments, tax exempt bonds, and federal, state and local governments. Submission of this form is voluntary.

Upon receipt of this form, the IRS will send you a letter acknowledging receipt of the information you submitted. If at a later date you wish to submit additional information regarding the organization, please attach a copy of the form initially submitted, and send it to the address shown above.

## Specific Instructions

**1 - 5. Organization name and address:** Provide the current name and address of the organization. If the organization has used prior or multiple name(s) or address(es), also provide that information.

**6. Date of referral:** Enter the date you submit the completed form

**7. Employer identification number:** Provide the organization's EIN.

The EIN is a nine-digit number, issued by the IRS, that the organization uses for tax purposes (like a Social Security Number (SSN) for an individual). If the EIN is unavailable, include a state nonprofit corporation registration number, if available.

**8 - 12. Details of alleged violation:** Provide specific details of the alleged violation including names, actions, places, amounts, dates, and the nature of any evidence or documentation (who, what, where, when, how). Include the names of other organizations, entities or persons that may be involved with the organization, providing EINs or SSNs, if available.

**13 - 20. Submitter information:** Provide your name, address, and business or occupation. Include your daytime telephone number, in case we wish to contact you. The acknowledgement letter will be sent to the address you provide.

If you are concerned that you may face retribution if your identity is disclosed, check the box. You may enter "Anonymous" for Submitter's name if you do not want to be identified.

**Submission and Documentation:** Mail the completed form, including any supporting documentation that you would like for us to review, to the address provided on the form. You may also email the completed form and any supporting documentation to the email address provided on the form. Include a cover letter describing the documentation or evidence you are providing. If you have already received an acknowledgment letter, include a copy of that letter. If possible, please try to submit all documentation at the same time.

If your referral relates to a church please be aware that Congress has imposed special limitations, found in IRC section 7611, on how and when the IRS may conduct civil tax inquiries and examinations of churches. You can find out more about these special limitations in Publication 1828, *Tax Guide for Churches and Religious Organizations*, in the section on Special Rules Limiting IRS Authority to Audit a Church.

**Claim for reward:** To claim a reward for providing this information to the IRS, file Form 211, *Application for Award for Original Information*.

**Note:** Federal law prohibits the IRS from providing you with status updates or information about specific actions taken in response to the information you submit.

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Use of this form is completely voluntary.

Form 13909 is used to submit a complaint about tax-exempt organizations. The IRS uses the information that is provided to determine if there has been a violation of federal tax law. From IRS.gov, you can fill out the mobile friendly version of the form and submit it, or download the fillable PDF version to complete, print, and mail, or email it for submission to IRS.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form, or its instructions must be retained if their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . . 6 min.
**Learning** . . . . . 1 min.
**Preparing, copying, and sending the form to the IRS** . . . . . 39 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Do No Harm

2825 E. Cottonwood Parkway, Suite 500
Salt Lake City, UT 84121

November 25, 2026

Mr. Robert Malone
Exempt Organizations and Government Entities
Internal Revenue Service
TEGE Referrals Group – MC 4910 DAL
1100 Commerce Street
Dallas, TX 75242

**VIA EMAIL**

**Re: Request for Investigation into the Activities of Sista Afya Community Care (EIN: 85-2035370).**

Dear Mr. Malone:

Do No Harm is a nationwide membership organization dedicated to protecting healthcare from radical, divisive, and discriminatory ideologies and policies. We write to respectfully request that the Internal Revenue Service open an investigation into Sista Afya Community Care, EIN 85-2035370.*

An investigation is warranted because Sista Afya Community Care is engaged in racial discrimination that violates established public policy and thus renders it ineligible for tax-exempt status. *See Bob Jones University v. United States*, 461 U.S. 574, 590-96 (1983). Focused on Black women, Sista Afya's programs openly discriminate on the basis of race. *See Sista Afya Community Care (Homepage)*, perma.cc/222S-DVJQ (archived Sept. 30, 2026) ("SACC focuses [its] programs on serving Black women and girls"). That discrimination is sufficient grounds for the IRS to revoke Sista Afya's tax-exempt status under 26 U.S.C. §501(c)(3). *See Bob Jones*, 461 U.S. at 595-96 ("Racially discriminatory" institutions "cannot be viewed as conferring a public benefit within the 'charitable' concept" of the common law "or within the Congressional intent underlying §170 and §501(c)(3).").

## I. Factual Background

Sista Afya Community Care is a nonprofit that "was founded as a response to the mental health inequity impacting the lives of Black women in Chicago." *See About - About SACC*, perma.cc/7BA8-

* In addition to submitting IRS Form 13909, *Tax-Exempt Organization Complaint (Referral)*, Do No Harm is providing the basis for the complaint "in letter format," for convenience. Internal Revenue Service, *IRS Complaint Process – Tax-Exempt Organizations*, perma.cc/7ZLT-4MJ8.

XB6H (archived Nov. 1, 2026). It claims tax-exempt status under Section 501(c)(3) of the Internal Revenue Code. *See, e.g.*, Sista Afya Community Care, Form 990 (2024), perma.cc/4P5Y-SNJX (archived Sept. 30, 2026).

Sista Afya says that it offers services to "Black women" to "connect and heal." *See Sista Afya Community Care (Homepage)*. The organization offers various initiatives, among them: Thrive in Therapy, Community Care, Authentic Alignment, Heal TogetHER, and Developing Mental Wellness Warriors. *Id.* Briefly, the organization describes these as follows:

- The "Thrive in Therapy" program "provides accessible, affordable, and personalized mental health support" to adults and teens. *See Services -Thrive in Therapy*, perma.cc/4PJT-PS5B (archived Sept. 30, 2026). The program offers free or reduced therapy costs based on a client's income. *See Therapy – Adult Client Registration Form*, perma.cc/D4HF-SU6N (archived Sept. 30, 2026).

- The "Community Care" program "offers workshops, groups, and wellness classes where Black women can connect, learn, and support one another with their mental wellness." *See Services - Community Care*, perma.cc/WKV5-U9F8 (archived Sept. 30, 2026).

- The "Authentic Alignment" program "empowers Black women to embrace their authenticity, ambition, and alignment in wellness and work." *Services - Authentic Alignment*, perma.cc/SNV8-PQZ7 (archived Nov. 10, 2026). The next "3-month cohort for early-career professionals begin[s] Spring 2027." *Id.*

- The "Heal TogethHER" initiative is a "mental health peer support model of care" "for Black women to be seen, heard, and build authentic connections that empower mental well-being." *Services - Heal TogethHER*, perma.cc/E69Y-CE8D (archived Nov. 10, 2026). The program "provide[s] 5 free brief 30-minute virtual sessions," offering "emotional support" and "problem-solving strategies." *Id.*

- The "Developing Mental Wellness Warriors" program "is a low-cost professional development course that trains organizations in Mental Health First Aid." *See Developing Mental Wellness Warriors*, perma.cc/J82U-78D7 (archived Sept. 30, 2026).

Each of these programs, however, is limited by race. Sista Afya admits that it uses these programs to "prioritize … serving Black women and girls." *See About -About SACC*. Moreover, the organization similarly appears to prioritize race in its hiring policies as evidenced by its administrative and clinical care team profiles. *See About - Team*, perma.cc/698A-Q4J9 (archived Nov. 10, 2026); *About – Clinical Care Team*, perma.cc/NZC9-R3FD (archived Nov. 10, 2026).

Such racist exclusions violate our civil rights laws and "the Congressional intent underlying … §501(c)(3)." *Bob Jones*, 461 U.S. at 595-96. Do No Harm urges the IRS to investigate Sista Afya and whether the organization should continue enjoying the significant tax advantages that taxpayers ultimately fund.

## II. Legal Analysis

Under Supreme Court precedent, the presence of a single unlawful policy or purpose under §501(c)(3) renders the entire organization ineligible for tax-exempt status. The law emphasizes tax-exempt organizations must be "operated *exclusively* for religious, charitable, scientific, testing for public safety, literary, or educational purposes." §501(c)(3) (emphasis added). Thus, "[t]he presence of a single substantial purpose that is not described in section 501(c)(3) precludes exemption from tax under section

501(a) regardless of the number or the importance" of the organization's other purposes. *Better Bus. Bureau v. United States*, 326 U.S. 279, 283 (1945); *see also* Treasury Regulation §1.501(c)(3)-1(d)(1)(ii).

Moreover, the IRS in 1970 publicly confirmed that an organization seeking exemption under §501(c)(3) must satisfy the common-law definition of "charitable." *See* Statement of Randolph W. Thrower, Commissioner of Internal Revenue, before the Senate Select Committee on Equal Educational Opportunity, 91st Cong., 2d Sess., August 12, 1970; *see also* Revised Rule 71-447, 1971-2 C.B. 230 ("All charitable trusts are subject to the requirement that the purpose of the trust may not be illegal or contrary to public policy."). That "common-law concept of 'charity'" underpins the reason why tax exemptions exist in the first place. So while section 501(c)(3) lists other tax-exempt purposes alongside "charitable purposes," the common-law doctrine of charitable trusts applies equally to all of them. *Id.* (cleaned up).

***Bob Jones University v. United States.*** In *Bob Jones*, the Supreme Court addressed whether the IRS properly denied tax-exempt status "under §501(c)(3) of the Internal Revenue Code" to a private school that refused to admit students engaged in interracial marriages. 461 U.S. at 577. Examining the text and history of section 501(c)(3), its implementing regulations, and related IRS guidance, the Court concluded the IRS acted lawfully in denying tax-exempt status because the school pursued purposes that conflicted with the fundamental objectives of the tax laws. *Id.* at 585-96. In doing so, the Court reaffirmed the IRS's longstanding view that Congress used the term "charitable" in section 501(c)(3) with its established common-law meaning. *Id.*

The Court extensively discussed the history of the Nation's tax-exempt system for charitable organizations and its purposes. "When the Government grants exemptions or allows deductions, all taxpayers are affected; the very fact of the exemption or deduction for the donor means that other taxpayers can be said to be indirect and vicarious 'donors.'" *Id.* at 591-92. "Charitable exemptions are justified on the basis that the exempt entity confers a public benefit—a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues." *Id.* at 592. "History buttresses logic to make clear that, to warrant exemption under §501(c)(3), an institution must fall within a category specified in that section and must demonstrably serve and be in harmony with the public interest." *Id.* Thus, an organization that acts contrary to public policy cannot qualify for tax-exempt status. *Id.* Applying that governing principle, the Court turned to whether public policy prohibited racial discrimination. In holding that it did, the Court drew from federal civil-rights statutes and executive measures designed to eliminate race-based discrimination. *See id.* at 592-95.

Some commentators have suggested that *Bob Jones* confined its holding to racial discrimination in higher education. But the Court's opinion in *Bob Jones* itself refutes that claim. Because the petitioner in *Bob Jones* operated a school the Court necessarily addressed "racial discrimination in education." Yet the Court immediately explained that discrimination in education violates public policy because *all* racial discrimination violates public policy. To illustrate that principle, the Court cited Titles IV and VI of the Civil Rights Act of 1964 as evidence that Congress "clearly expressed its agreement that racial discrimination in education violates a fundamental public policy." *Id.* at 594. It then broadened the frame, pointing to "[o]ther sections of [the Civil Rights] Act, and numerous enactments since then," which "testif[ied] to the public policy against racial discrimination." *Id.* The Court did not cabin that statement to the educational context, and it cited the Voting Rights Act of 1965 and the Fair Housing Act to support its sweeping statement.

The executive-branch measures the Court cited also spanned a range of contexts, including "prohibiting racial discrimination in federal employment decisions and in classifications for the Selective Service." *Id.* (cleaned up). The Court pointed to executive orders that created the President's Council on Equal Opportunity, required nondiscrimination in federally assisted programs, and directed "clear and

consistent government-wide implementation by federal agencies of the nondiscrimination provisions" of federal law. *Id.* at 595; *see also* U.S. Dep't of Justice, *Executive Order 12250 Clearance Requirements and Coordination for Nondiscrimination Regulations and Policy Guidance Documents and Related Executive Orders* (Oct. 12, 2021), perma.cc/WGR7-8YSN (discussing continued implementation of Exec. Order No. 12250 authorized in 1980). The Court emphasized that these measures represented "but a few of numerous Executive Orders over the past three decades demonstrating the commitment of the Executive Branch to the fundamental policy of eliminating racial discrimination." *Bob Jones*, 461 U.S. at 595.

It's important to stress that the Supreme Court did not announce a new rule in *Bob Jones*. Rather, the Court ratified longstanding IRS practice. The Court pointed out that the IRS had "referred consistently to principles of charitable trust law" for "more than 60 years" when interpreting §501(c)(3) and "comparable provisions." *Id.* at 597. Most relevant here, the *Bob Jones* Court stressed that "[s]ome years before the issuance of the [IRS] rulings challenged in these cases, the IRS also ruled that contributions to community recreational facilities would not be deductible and that the facilities themselves would not be entitled to tax-exempt status, unless those facilities were open to all on a racially nondiscriminatory basis." *Id.* (citing Rev. Rul. 67-325, 1967-2 Cum. Bull. 113.). In short, any claim that the rule in *Bob Jones* is limited in scope is inconsistent not only with the reasoning of the Court's opinion but also with the historical context in which the case was decided.

***Federal Courts' and the IRS's Application of Bob Jones.*** Decades of practice confirm that the public-policy requirement the Court affirmed in *Bob Jones* governs broadly and covers Sista Afya Community Care's discriminatory programs. *See, e.g.*, *United States v. Mubayyid*, 476 F. Supp. 2d 46, 50 (D. Mass. 2007) (explaining that the IRS denied tax-exempt status because the organization's activities promoting jihad and holy war "were against public policy").

In 1987—just four years after *Bob Jones*—the Service denied tax-exempt status to a white supremacist organization known as the Nationalist Movement, concluding that its "membership policies [were] invidiously discriminatory and thus contrary to public policy." *Nationalist Movement v. Comm'r*, 102 T.C. 558, 571 (1994). Similarly, an organization that encourages others to contravene public policy can also fail the public-policy requirement. The IRS denied tax-exempt status on this basis where it determined that the "petitioner did not satisfy [section 501(c)(3)'s] public policy requirement because" the petitioner encouraged other taxpayers to refuse to pay taxes. *Church of Scientology of California v. Comm'r of Internal Revenue*, 83 T.C. 381, 503 n.4 (1984).

Moreover, the IRS's own guidance confirms that racially discriminatory conduct is in direct opposition to the charitable purposes §501(c)(3) exists to promote. The IRS Technical Guide for tax-exempt organizations states that "[t]he pursuit of *eliminating* [racial] prejudice and discrimination is a charitable exempt activity under section 501(c)(3)." Internal Revenue Service, *Exempt Organizations Technical Guide 3-3: Exempt Purposes – Charitable*, 41 (emphasis added). If one of the goals of the Internal Revenue Code's tax-exempt provisions is to facilitate the end of racial prejudice, then overtly discriminatory policies are surely incompatible with those goals and cannot be a "public benefit" that tax exemptions were created to promote. *Bob Jones*, 461 U.S. at 592.

***Students for Fair Admissions, Inc. v. President & Fellows of Harvard College ("SFFA").*** In "situations involving the [Internal Revenue] Service's determinations about particular public policies, the Service has relied almost exclusively on the Supreme Court's position regarding certain constitutional issues that relate directly to the public policy at issue." D. Brennan, *Charities and the Constitution: Evaluating the Role of Constitutional Principles in Determining the Scope of the Tax Law's Public Policy Limitation for Charities*, 5 Fla. Tax. Rev. 779, 796 (2002). For example, in pre-*Rice v. Cayetano* IRS guidance:

> In a Technical Advice Memoranda ("TAM") regarding the Kamehameha Schools, whose admissions policy generally required that the applicant be of Hawaiian ancestry, the IRS national

> office opined that the policy did not run afoul of public policy. However, in a concluding message, the TAM noted that the Supreme Court had granted certiorari in *Rice v. Cayetano*, a case involving the right to vote for nine trustees of the Office of Hawaiian Affairs, which was at the time limited to voters of Hawaiian descent.

*Id.* at 803 (cleaned up).

The IRS advised the schools that, if the Court expanded or clarified its affirmative action jurisprudence in a future case, then the agency would revisit its analysis of the schools' tax-exempt status under the Court's refined approach. Indeed, the Court *did* conclude that racially discriminatory voter qualification in *Rice* was unconstitutional. *Rice v. Cayetano*, 528 U.S. 495, 524 (2000). And, *Rice* does not stand alone. A long line of cases has set forth the same equal-protection principles articulating the law of the land.

Unquestionably, programs like Sista Afya's already violated federal law and public policy well before the Supreme Court decided *SFFA v. Harvard*. 600 U.S. 181 (2023). *See, e.g.*, *Wygant v. Jackson Bd. of Ed.*, 476 U.S. 267, 283-84 (1986) (plurality op.); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 508 (1989); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 235-36 (1995); *NFCAGC v. Jacksonville*, 508 U.S. 656, 666 (1993); *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701, 748 (2007).

But the Court has now removed any conceivable doubt. "Racial discrimination is invidious in all contexts." *SFFA*, 600 U.S. at 214 (cleaned up). The Court's rule is categorical: "race may never be used as a 'negative,'" and in zero-sum settings such as admissions policies or other competitive opportunities any "benefit provided to some applicants" on the basis of race "but not to others necessarily advantages the former group at the expense of the latter." *Id.* at 218-19. Put simply, the Court's sweeping decision in *Harvard* makes crystal clear that racial discrimination in *all* its forms is contrary to established public policy, to say nothing of federal law and the Constitution. After all, "[e]liminating racial discrimination means eliminating all of it." *Id.* at 206. In light of that unequivocal holding, the IRS cannot plausibly treat race-based programs as consistent with public policy. Even if prior IRS leadership may have taken a narrower view of the public-policy doctrine, the Service must now conform its enforcement position to the Court's clear command.

President Trump's recent executive orders also leave the Service with no discretion. Consistent with the Court's decree and well-established civil-rights laws, the President has rescinded prior executive orders that agencies had invoked to justify race-based classifications in the name of "equity." *See* Exec. Order No. 14148, 90 Fed. Reg. 8237 (Jan. 20, 2025). He has also directed all federal agencies to terminate "all discriminatory programs, including illegal DEI and 'diversity, equity, inclusion, and accessibility' (DEIA)" policies, as well as policies "allowing or encouraging" third parties "to engage in workforce balancing based on race." Exec. Order No. 14151, 90 Fed. Reg. 8337 (Jan. 20, 2025). Most significantly, he has "order[ed] all agencies to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities." Exec. Order No. 14173, 90 Fed. Reg. 8633 (Jan. 21, 2025). Executive Order 14173 leaves no ambiguity: "race- and sex-based preferences" are "dangerous, demeaning, and immoral" and "violate the civil-rights laws of this Nation." *Id.* Taken together, these directives reflect the Executive Branch's duty to enforce the Nation's longstanding civil-rights laws, including the laws that embody the fundamental public policy against racial discrimination. *See* Exec. Order No. 14173, 90 Fed. Reg. 8633; *see also* Memorandum Opinion for the Acting General Counsel, Department of Education, *Constitutionality of Race-Based Department of Education Programs* (Off. of Legal Counsel Dec. 2, 2025).

***Application of the Public-Policy Principle to Sista Afya Community Care.*** Here, there is no question that Sista Afya's programs are racially discriminatory. The organization specifies which races and ethnicities its programming prioritizes. And Sista Afya cannot defend this discrimination as merely a

"benefit" conferred on certain races with no penalty on those excluded. Sista Afya's use of race necessarily treats the race of some individuals as a "negative." *SFFA*, 600 U.S. at 218. That is textbook racial discrimination, and it is unlawful and contrary to public policy for the reasons explained above. Those reasons are fatal since the presence of even a single unlawful purpose defeats an organization's claim to tax-exempt status. *Supra* at 2. Because Sista Afya's programs are "contrary to settled public policy" against racial discrimination, the organization does not "qualify for a tax exemption pursuant to §501(c)(3)." *See Bob Jones*, 461 U.S. at 585.

In sum, an investigation is warranted. If Sista Afya Community Care wishes to avoid such an investigation and maintain its tax-exempt status, it can reconsider its commitment to invidious discrimination and open each of its programs to all races. Indeed, Bob Jones University eliminated its racially discriminatory policies to regain its tax-exempt status. Surely Sista Afya can do the same—at least if it wants to maintain this valuable subsidy, courtesy of the federal government and the American taxpayer. *See Bob Jones*, 461 U.S. at 591-92; Paul Fain, *Bob Jones U to Become Nonprofit Again*, Inside Higher Ed, (Feb. 16, 2017), perma.cc/UBY2-RU7F.

* * *

For these reasons, Do No Harm respectfully asks the IRS to open an investigation into the activities and tax-exempt status of Sista Afya Community Care.

Sincerely,

Do No Harm

Do No Harm

2825 E. Cottonwood Parkway, Suite 500
Salt Lake City, UT 84121

November 25, 2026

U.S. Department of Health and Human Services
Office for Civil Rights
Hubert H. Humphrey Bldg.
200 Independence Avenue, SW
Washington, DC 20201-0004

**VIA EMAIL: OCRComplaint@hhs.gov**

**Re: Complaint Under Title VI and the ACA Against Sista Afya Community Care – Race Discrimination in Mental Health Programs**

To whom this may concern:

Pursuant to Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act (ACA), Do No Harm files this complaint against Sista Afya Community Care—a nonprofit mental health provider.[1] Sista Afya is unlawfully discriminating against white women, Asian women, and women of other races by "prioritiz[ing] … Black women and girls" in its mental health services. *See About - About SACC*, perma.cc/87FB-TM3K (archived Sept. 30, 2026).

That blatant discrimination is illegal. Racial discrimination is "invidious in all contexts." *SFFA v. Harvard*, 600 U.S. 181, 214 (2023) (reemphasizing longstanding equal protection precedent applicable to Title VI race discrimination claims) (cleaned up). As a nonprofit mental health provider that takes federal funds, Sista Afya is subject to Title VI, which prohibits Sista Afya from "us[ing] race as a factor" in its activities, including providing mental health services and programming. *Id.* at 204 (cleaned up). Likewise, the ACA incorporates Title VI's prohibition on race discrimination for "any health program" that receives federal funding and makes doubly clear that health care privileges may not be handed out on the basis of race. 42 U.S.C. §18116(a).

Illegal, discriminatory programs like Sista Afya's "not only violate the text and spirit of our longstanding federal civil-rights laws," but "they also undermine our national unity, as they deny, discredit, and undermine the traditional American values of hard work, excellence, and individual achievement in favor of an unlawful, corrosive, and pernicious identity-based spoils system." *E.g.*, *Ending Illegal Discrimination and Restoring Merit-Based Opportunities*, Exec. Order 14173, §1 (Jan. 21, 2025); *Barbour v. WMATA*, 374 F.3d 1161, 1170 (D.C. Cir. 2004) ("Simple justice requires that public funds,

[1] Sista Afya Community Care is located at 5022 S. State St. Chicago, IL 60609. *See Home*, *Sista Afya Community Care*, perma.cc/MF2S-5GX5 (archived Nov. 10, 2026).

to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.").

This Office has the statutory duty to investigate and rectify violations of Title VI and the ACA by healthcare providers that accept federal funds. *See* 45 C.F.R. §§80.3, 80.7. Do No Harm respectfully requests that the Office open an investigation and remedy Sista Afya's race discrimination.

## I. Sista Afya discriminates on the basis of race.

Sista Afya Community Care is a nonprofit that states it "was founded as a response to the mental health inequity impacting the lives of Black women in Chicago." *See About - About SACC*, *supra*. The organization offers mental health services for "Black women" to "connect and heal." *See Sista Afya Community Care (Homepage)*, perma.cc/222S-DVJQ (archived Sept. 30, 2026).

Sista Afya operates various initiatives, among them: Thrive in Therapy, Community Care, Authentic Alignment, Heal TogetHER, and Developing Mental Wellness Warriors. *Id.* Briefly, the organization describes these as follows:

- The "Thrive in Therapy" program "provides accessible, affordable, and personalized mental health support" to adults and teens. *See Services - Thrive in Therapy*, perma.cc/4PJT-PS5B (archived Sept. 30, 2026). The program offers free or reduced therapy costs based on a client's income. *See Therapy – Adult Client Registration Form*, perma.cc/D4HF-SU6N (archived Sept. 30, 2026).

- The "Community Care" program "offers workshops, groups, and wellness classes where Black women can connect, learn, and support one another with their mental wellness." *See Services - Community Care*, perma.cc/WKV5-U9F8 (archived Sept. 30, 2026).

- The "Authentic Alignment" program "empowers Black women to embrace their authenticity, ambition, and alignment in wellness and work." *Services - Authentic Alignment*, perma.cc/SNV8-PQZ7 (archived Nov. 10, 2026). The next "3-month cohort for early-career professionals begin[s] Spring 2027." *Id.*

- The "Heal TogethHER" initiative is a "mental health peer support model of care" "for Black women to be seen, heard, and build authentic connections that empower mental well-being." *Services - Heal TogethHER*, perma.cc/E69Y-CE8D (archived Nov. 10, 2026). The program "provide[s] 5 free brief 30-minute virtual sessions," offering "emotional support" and "problem-solving strategies." *Id.*

- The "Developing Mental Wellness Warriors" program "is a low-cost professional development course that trains organizations in Mental Health First Aid." *See Developing Mental Wellness Warriors*, perma.cc/J82U-78D7 (archived Sept. 30, 2026).

These programs, however, discriminate on the basis of race. Each of Sista Afya's programs "focuses … on serving Black women and girls." *See Sista Afya Community Care*, *supra*; *see also About - About SACC, supra* (Sista Afya "prioritize[s] … Black women and girls"); *2025 Impact Report (Letter from Executive Director)*, at 2 perma.cc/FF6U-B6B8 (archived Oct. 1, 2026) (explaining the "accomplish[ments]" and collective efforts of the SACC Team and Board of Directors "to meet Black women and girls where they are").

And Sista Afya's discrimination is pervasive. In 2025 alone, Sista Afya served over 300 women through more than 2,700 free therapy sessions. *See 2025 Impact Report*, at 8. But Sista Afya doesn't "show[] up" for all women equally. *See id* at 12. In Sista Afya's view, white women, Asian women, and women of other disfavored races are not worth the same "priorit[y]" or "focus" as black women, regardless of their needs, stories, or experience with "inequity." *See Sista Afya Community Care*, *supra*; *About - About SACC*, *supra*.

As if that all is not enough, as yet another potential layer of race-based discrimination accomplished through this organization, Sista Afya may further prioritize race in its hiring policies as evidenced by its administrative and clinical care team profiles. *See About - Team*, perma.cc/698A-Q4J9 (archived Nov. 10, 2026); *About – Clinical Care Team*, perma.cc/NZC9-R3FD (archived Nov. 10, 2026).

## II. Sista Afya's race discrimination violates federal law.

Sista Afya's race discrimination violates both Title VI and the ACA. Under Title VI, "[n]o person in the United States shall, on the ground of race … be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. §2000d.

Sista Afya is a nonprofit mental health provider that is subject to Title VI because it receives federal funds and, at minimum, is an entity that is "principally engaged in the business of providing … health care." *See Cook Cnty. Bd. of Comm'rs, Proposed Resolution for ARPA Cook County Behavioral Health Services Program Initiatives*, perma.cc/7KB7-CKMU (archived Oct. 31, 2026) (listing Sista Afya Community Care as a subrecipient of nearly $500,000 in federal ARPA funding); 42 U.S.C. §2000d-4a(3)(A)(ii). Sista Afya's mental health programs are a "program or activity" under Title VI because they are an "operatio[n]" of Sista Afya. 42 U.S.C. §2000d-4a. And Sista Afya causes non-black women to be "excluded from participation in, be denied the benefits of," and/or "be subjected to discrimination under" its programs "on the ground of race, color, or national origin" in violation of Title VI's anti-discrimination provisions. 42 U.S.C. §2000d.

Title VI does *not* permit the organization to advance "pernicious stereotype[s]" lumping together and proclaiming that "members of the same racial group—regardless of their age, education, economic status, or the community in which they live—[are all] alike." Nor may Sista Afya use race as a "negative" to overlook and deprioritize individuals of less favored racial classes. *SFFA*, 600 U.S. at 220, 218.

Sista Afya's discrimination also violates the ACA, which incorporates Title VI's prohibition on racial discrimination by "any health program or activity, any part of which is receiving Federal financial assistance." 42 U.S.C. §18116(a). Sista Afya is a "health program or activity" within the meaning of Section 1557. The Department's implementing regulation defines a "health program or activity" to include "[a]ny project, enterprise, venture, or undertaking to … [p]rovide or administer health-related services," as well as "all of the operations of any entity principally engaged in the provision or administration of" such services, expressly including a "community-based health care provider" or "other similar entity." 45 C.F.R. §92.4. Sista Afya—a nonprofit that provides mental health therapy, wellness workshops, and related support services to the public—easily qualifies. Sista Afya's conduct therefore runs afoul of the ACA for the same reasons it contravenes Title VI.

Whether a particular patient needs care most does not change "simply because he was not the right color." *SFFA*, 600 U.S. at 209. Bare deference to skin pigmentation is a particularly irresponsible

and dangerous practice in the healthcare context; and treating individual patients as racial archetypes to fix purported group differences is beyond the remit of a healthcare provider. In any event, it is illegal.

* * *

For all these reasons, Do No Harm requests that the Office of Civil Rights open an investigation into Sista Afya Community Care's mental health programs and find that its brazen race discrimination violates Title VI and the ACA. The Office should also consider referring the matter to the Department of Justice for further or concurrent action.

Sincerely,

Do No Harm