



Patterson Policy Watch – A Resource for the Nonprofit Sector

Welcome to the *Patterson Policy Watch*, which tracks key legal and policy developments that matter to the nonprofit sector. In response to the rapidly evolving landscape under the new presidential administration, Patterson Belknap's Tax-Exempt Organizations Group is highlighting executive actions, agency directives, legislative updates, and judicial responses that have the potential to impact nonprofit organizations and the communities they serve.

Below is a digest of select developments from the past week through February 17, 2026, which are organized broadly by issue area. We note that this is not a comprehensive list of all updates that may potentially be relevant to tax-exempt organizations. We will continue to provide regular updates to the *Patterson Policy Watch* to help you anticipate and navigate policy and legal developments. You can also view prior editions of the *Patterson Policy Watch* [here](#).

Education

- February 13: The Department of Education (ED) [issued](#) a proposed interpretive [rule](#) that would require accrediting agencies for institutions of higher education to describe themselves as national or institutional accreditors. In 2019, the ED eliminated the concept of “regional accreditors” from its regulations, but the ED’s press release states that “some recognized accreditors, colleges and universities, states, and professional licensure boards still continue to perpetrate this outdated discrimination.” According to the ED, the continued use of the concept of “regional accreditors” “contributes to confusion among students and families, drives up the cost of higher education, and may limit graduates’ access to professional licensure opportunities,” and the proposed interpretive rule is intended “to make it clear that these practices are misleading.” The ED will accept public comments on the proposed interpretive rule through March 19.
- February 13: The ED [announced](#) that it is investigating the Louisiana Board of Regents to determine whether its Master Plan for Higher Education violates Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in education programs and activities receiving federal funding. According to the ED’s press release, the Louisiana Board of Regents’ Master Plan for Higher Education may “authoriz[e] racially-exclusionary practices and initiatives” because its goal is to “increase the unduplicated number of underrepresented minorities (all races other than white, Asian),” and the Master Plan for Higher Education includes a target to raise matriculation and graduation rates for “all races other than white, Asian.”

Environment

- February 12: The Environmental Protection Agency (EPA) [announced](#) that it issued a [final rule](#) to eliminate the “Endangerment Finding,” a [2009 final rule](#) issued by the EPA finding that certain greenhouse gases (GHG) endangered public health and the public welfare under the Clean Air Act of 1970. Since 2009, the Endangerment Finding has served as the legal basis for many EPA regulations regarding GHG emissions and federal GHG emission standards for motor vehicles and engines. The EPA’s final rule repeals the Endangerment Finding and all post-2009 regulations issued under the Endangerment Finding. According to the EPA’s press release, the EPA did not have authority under the Clean Air Act of 1970 to regulate GHG emissions for motor vehicles and engines, such that the EPA “has no legal basis for the Endangerment Finding and resulting regulations” and that only Congress has the authority to regulate GHG emissions. EPA Administrator Lee Zeldin stated that the EPA’s repeal of the Endangerment Finding is “the single largest deregulatory action in U.S. history.”

Judicial Watch

As legal challenges to executive actions continue to grow, and as the Department of Justice (DOJ) has begun to initiate actions in court to enforce the administration’s priorities, we are tracking developments in key cases that have the potential to most directly impact nonprofit organizations across the sector.

Denial of Congressionally Appropriated Funds

A growing number of nonprofit grantees have sued the federal government (and their agents) for improperly withholding Congressionally appropriated funds. Updates in cases we are following in this area include:

- *American Association of University Professors v. Trump* (Northern District of California): On September 16, 2025, a group of labor unions and associations representing faculty, students, and employees throughout the University of California (UC) school system filed a lawsuit challenging a letter sent by the federal government to cancel and/or threaten to cancel federal funding unless the UC system complied with the government's policy demands for control of the curriculum, adoption of the administration's ideological viewpoints, and restrictions on free speech. Plaintiffs contend that these threats violate the Administrative Procedure Act, the First Amendment, and Constitutional separation-of-powers principles.
 - On November 14, 2025, the District Court granted Plaintiffs' motion for a preliminary injunction, finding that Plaintiffs have demonstrated a likelihood of success at showing that Defendants' grant terminations and funding cancellations violate the Administrative Procedure Act, Title VI and Title IX, as well as the First and Tenth Amendments of the Constitution. The court vacated Defendants' grant terminations and decisions to reauthorize new grant funding to the University of California, Los Angeles, and enjoin the Defendants from improperly conditioning grants or federal funding to all of the UC system.
 - On January 13, Defendants notified the District Court that they were appealing the November 14, 2025 decision to grant Plaintiffs' preliminary injunction to the Ninth Circuit Court of Appeals.
 - On **February 13**, pursuant to the parties' joint motion for modification of the preliminary injunction, the District Court modified the existing preliminary injunction. The existing preliminary injunction enjoined Defendants from seeking payments or imposing penalties or fines on UC in connection with any civil rights investigation, and the modified order clarifies that this injunction does not prohibit the voluntary resolution of civil rights investigations and litigations with respect to UC. The new modified order for a preliminary injunction also enjoins the Defendants from forcing UC to agree to provisions found in a prior settlement offer and the "Task Force Policy," where a grant would be cancelled and the DOJ would demand money and the approval of other conditions in order to restore federal funding.
 - Also on **February 13**, the Ninth Circuit dismissed the appeal pursuant to the parties' stipulation, so the Ninth Circuit will not be reviewing the District Court's ruling on the preliminary injunction.

Public Service Loan Forgiveness Litigation

On October 31, 2025, the ED promulgated a Final Rule that amends the Public Service Loan Forgiveness ("PSLF") Program regulations to redefine a "qualifying employer" whose employees can participate in the PSLF Program to exclude organizations that have a "substantial illegal purpose," such as aiding and abetting violations of federal immigration laws, supporting terrorism or engaging in violence for the purpose of obstructing or influencing federal government policy, engaging in the illegal chemical or surgical castration or mutilation of children, and engaging in a pattern of aiding and abetting illegal discrimination, among others. The Final Rule was issued pursuant to the March 7, 2025 Executive Order 14235 ("Restoring Public Service Loan Forgiveness"). A number of nonprofits and state and local jurisdictions have sued the ED seeking to prevent this Final Rule from going into effect on July 1, 2026. Cases we are following on this issue include:

- *National Council of Nonprofits v. McMahon* (District of Massachusetts): On November 3, 2025, a coalition of cities, nonprofits, and membership associations sued the ED to challenge the Final Rule, alleging that the Final Rule violates the Administrative Procedure Act because the ED is exceeding its statutory authority and the Final Rule is arbitrary and capricious and contrary to the Constitutional rights of Free Speech and Due Process.
 - On **February 13**, Plaintiffs filed a motion for summary judgment, arguing that the District Court should find that the Final Rule violates the Administrative Procedure Act and vacate the Rule.
- *Robert F. Kennedy Center for Justice and Human Rights v. McMahon* (District of Columbia): On November 4, 2025, four nonprofit organizations sued the ED to challenge the Final Rule as violating the Administrative Procedure Act because it is contrary to the Higher Education Act, is in excess of the authority provided under the Higher Education Act, is arbitrary and capricious, and violates the Due Process Clause of the Constitution as well as the First Amendment's protection of Free Speech.

- On **February 9**, Plaintiffs filed a motion for summary judgment, requesting that the District Court declare that the Final Rule violates the Administrative Procedure Act and to vacate the Final Rule.
- Commonwealth of Massachusetts v. Department of Education (District of Massachusetts): On November 3, 2025, 21 states and the District of Columbia sued the ED to challenge the Final Rule as violating the Administrative Procedure Act because the ED is exceeding its statutory authority and because the Rule is arbitrary and capricious.
 - On **February 13**, Plaintiffs filed a motion for summary judgment, requesting that the District Court enter a declaratory judgment finding the Final Rule unlawful.

Legislative Watch

On February 5, S. 3790, the “Protect America Act,” was introduced in the Senate by Senator Eric Schmitt (R-MO). The bill is a four-part legislative package focused on federal immigration enforcement. Among the provisions of the bill are the following:

- The bill would condition certain federal funding on a jurisdiction’s certification that it does not have in effect any “sanctuary policy” and that it will not adopt, enforce, or maintain any “sanctuary policy” during the period for which such federal funds are obligated or expended. Sanctuary policy is defined as “any statute, ordinance, regulation, policy, or practice of a covered jurisdiction that prohibits, restricts, or materially impedes immigration enforcement cooperation.”
- The bill would provide that colleges and vocational schools located in sanctuary jurisdictions are ineligible to receive new foreign student visas until their jurisdictions comply with federal immigration law.
- The bill would add a new subsection to Section 501 of the Internal Revenue Code, providing that a Section 501(c)(3) organization will not be eligible for tax-exempt status if the organization “promotes, incites, or provides material support for criminal violence.” The bill does not define what activity constitutes promoting, inciting, or providing material support for criminal violence.

Patterson Belknap is a firm of approximately 200 lawyers based in New York, delivering a full range of services centered around three areas: litigation and disputes, corporate and transactions, and the legal needs of tax-exempt organizations and private clients.

[Unsubscribe](#) | [Update my email preferences](#) | [Follow us on LinkedIn](#)

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

Laura E. Butzel	212.336.2970	lebutzel@pbwt.com
Robin Krause	212.336.2125	rkrause@pbwt.com
John Sare	212.336.2760	jsare@pbwt.com
Susan M. Vignola	212.336.2256	svignola@pbwt.com
Justin S. Zaremby	212.336.2194	jszaremby@pbwt.com
Tiffany N. Tam	212.336.2520	ttam@pbwt.com
Peter B. Franklin	212.336.2978	pfranklin@pbwt.com
Jack McGlone	212.336.2974	jmcglone@pbwt.com
Colleen O’Leary	212.336.2516	coleary@pbwt.com

To subscribe to any of our publications, call us at 212.336.2813, email info@pbwt.com, or sign up on our website, <https://www.pbwt.com/subscribe/>.

1133 Avenue of the Americas New York, NY 10036-6710 212.336.2000 www.pbwt.com

Copyright © 2026 Patterson Belknap Webb & Tyler LLP. All rights reserved.

This publication may constitute attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.