

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 23, 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 18: The Department of Education (ED) [issued guidance](#) to institutions of higher education regarding the loss of eligibility to participate in federal Pell Grant and Direct Loan programs under Title IV of the Higher Education Act, which may be triggered based on an institution's failure to meet "cohort default rate" requirements. The cohort default rate is the percentage of an institution's federal student loan borrowers who default on their loans within a certain period. Under Title IV, if an institution of higher education has a cohort default rate of 30% or higher for each of its three most recent cohort fiscal years, the institution may lose eligibility to participate in federal student aid programs. The ED's guidance outlines best practices for institutions in developing default prevention plans, which are required under Title IV when an institution has a cohort default rate of 30% or higher in a single year. The ED is hosting a [webinar](#) on Wednesday, February 25 to address best practices for default management and prevention plans.
- February 19: The ED [announced](#) that it entered into resolution agreements with 31 institutions of higher education to end their respective partnerships with The Ph.D. Project, which the ED describes as "an organization which provides doctoral students with insights into obtaining a Ph.D." On March 14, 2025, the ED [announced](#) that it was investigating 45 institutions' partnerships with The Ph.D. Project; this announcement was covered in the [March 17, 2025](#) issue of the *Patterson Policy Watch*. Following those investigations, the ED determined that the institutions violated 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, because The Ph.D. Project "unlawfully limits eligibility based on the race of participants." Under the resolution agreements, each institution has agreed to terminate its relationship with The Ph.D. Project, if it has not done so already, and to "conduct a review of their partnerships with external organizations to identify any that violate Title VI by restricting participation based on race." The ED is continuing to negotiate with the remaining 14 institutions.

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:

- National Public Radio, et al. v. Trump* (District of Columbia) and *Public Broadcasting Service, et al. v. Trump* (District of Columbia): On May 27, 2025, National Public Radio ("NPR") and several local NPR affiliates [challenged](#) the suspension of federal grants to NPR. They allege that the suspension of the grants violates the Administrative Procedure Act and Constitutional separation-of-powers principles and constitutes unconstitutional retaliation for disfavored speech in violation of the First Amendment. On May 30, 2025, the Public Broadcasting Service ("PBS") and one of its local affiliates [filed](#) a lawsuit raising similar claims.
 - On October 24, 2025, Plaintiff National Public Radio, Inc. ("NPR") and Defendant Corporation of Public Broadcasting ("CBP") filed motions for summary judgment, respectively. In its motion for preliminary injunction and summary judgment, NPR [seeks](#) to permanently enjoin CBP from distributing federally allocated funding to entities other than NPR and seeks to require CBP to provide NPR with said funding. In its motion for summary judgment, CBP [requests](#) that the District Court rule in favor of its motion for summary judgment because CBP was legally justified in withholding funding from NPR.
 - On **February 20**, the District Court [issued](#) a minute order to consolidate *National Public Radio v. Trump* and *Public Broadcasting Service v. Trump* due to the "identical legal issues presented by the pending summary judgment motions" and the lack of objection to consolidation of the parties in both cases. The two cases will now proceed in the *National Public Radio* docket.
- State of Washington v. United States Department of Housing and Urban Development* (District of Rhode Island): On November 25, 2025, 21 states [sued](#) the United States Department of Housing and Urban Development (HUD) regarding the new conditions it announced for grants under the Continuum of Care (CoC) Program, which provides federal funding to nonprofit organizations and state and local governments to provide housing and services for individuals experiencing homelessness. The new conditions include, among others: (1) reducing the percentage of CoC funding for permanent housing from 90 percent to 30 percent; (2) prohibiting CoC funding to applicants that acknowledge transgender and gender diverse individuals; and (3) requiring funding recipients to align with the policies set forth in the July 24, 2025 executive order, entitled "[Ending Crime and Disorder on America's Streets](#)," which requires HUD to prioritize grants to states and localities that enforce prohibitions on illicit drug use, urban camping and loitering, and urban squatting. This executive order was covered in the [July 29, 2025 issue](#) of the *Patterson Policy Watch*. Plaintiffs argue that HUD's new conditions on federal funding violate the Administrative Procedure Act, separation-of-powers principles, the Spending Clause, and the Tenth Amendment. Plaintiffs additionally [filed](#) a motion for a preliminary injunction, requesting that the District Court enjoin the new grant conditions and reinstate the previous grant conditions; the Court converted the motion into a motion for temporary restraining order and a preliminary injunction. Similarly, on December 1, 2025, in *National Alliance to End Homelessness v. United States Department of Housing and Urban Development* (District of Rhode Island), Plaintiffs, nonprofit organizations and several local municipalities, [sued](#) HUD, challenging the same conditions as *State of Washington v. U.S. Department of Housing and Urban Development*.
 - On December 23, 2025, the District Court in both cases [granted](#) Plaintiffs' [requests](#) for a preliminary injunction, ordering that HUD's rescission of the 2024 and 2025 funding conditions is stayed and that HUD is preliminarily enjoined from replacing the 2024 and 2025 funding conditions.

- On January 14, both Plaintiffs [filed](#) motions for summary judgment, requesting that the District Court (1) vacate and set aside the 2024 and 2025 funding conditions, meaning that the 2024 and 2025 funding conditions would be nullified and have no legal force, and (2) enjoin Defendants from implementing or enforcing the 2024 and 2025 funding conditions.
- On January 23, Defendants in both related cases [filed a cross-motion](#) for summary judgment and opposition to Plaintiffs' motions for summary judgment, arguing that HUD has statutory discretion in how it administers the CoC Program and that the new conditions on CoC funding are within HUD's statutory discretion.
- On **February 17**, Defendants in both related cases [filed an expedited request](#) to dissolve the District Court's preliminary injunction, arguing that the preliminary injunction "will not preserve the status quo pending the outcome of this litigation but will instead effectively dictate the final disposition of billions of FY 2025 dollars." Defendants argue that the preliminary injunction needs to be dissolved or, in the alternative, that the District Court must rule on the pending motions for summary judgment because, under the 2026 Consolidated Appropriations Act, if HUD does not award fiscal year 2025 funds to CoC projects under a Notice of Funding Opportunity before July 1, 2026, those projects will receive renewed funding.

Foreign Aid Funding Freeze

After President Trump issued the January 20, 2025 executive order, entitled "[Reevaluating and Realigning United States Foreign Aid](#)," which is aimed at ensuring that U.S. foreign assistance is fully aligned with the administration's foreign policy goals and which called for an immediate 90-day pause on all foreign development assistance, several lawsuits were filed challenging the administration's dismantling of the U.S. Agency for International Development (USAID).

- [AIDS Vaccine Advocacy Coalition v. United States Department of State](#) (District of Columbia) and [Global Health Council v. Trump](#) (District of Columbia): In February 2025, nonprofit Plaintiffs [filed complaints](#) challenging the government's freeze of foreign assistance and related steps to dismantle USAID. On March 10, 2025, the District Court [issued](#) a preliminary injunction in both cases, enjoining the government from (i) giving effect to any terminations, suspensions, or stop-work orders or from withholding payments or letter of credit drawdowns for certain work completed prior to February 13, 2025, and (ii) unlawfully impounding congressionally appropriated foreign aid funds.
 - After a series of challenges by the federal government to the District Court's preliminary injunction, on August 28, 2025, the D.C. Circuit Court [issued](#) a per curiam opinion vacating the part of the preliminary injunction that had enjoined the government from impounding congressionally appropriated foreign aid funds, holding that there exists no private right of action to enforce the Impoundment Control Act.
 - On September 3, 2025, the District Court [granted](#) the nonprofit Plaintiffs' motion for a preliminary injunction, holding that the government Defendants violated the Administrative Procedure Act by not spending congressionally appropriated funds. In addition, the District Court granted the Plaintiffs' motion for leave to file a second amended complaint.
 - On September 4, 2025, the government Defendants [filed](#) a notice of appeal to the D.C. Circuit Court regarding the District Court's decision.
 - On **February 18**, the D.C. Circuit Court [granted](#) the parties' requests to voluntarily dismiss the appeals in both *Global Health* and *AIDS Vaccine Advocacy Coalition*, meaning that the D.C. Circuit Court will not review the District Court's September 3, 2025 grant of Plaintiffs' motion for a preliminary injunction.

Education Department "Dear Colleague" Letter on DEI

On February 14, 2025, the ED's Office for Civil Rights [issued](#) a "Dear Colleague" letter (the "Letter"), interpreting the Supreme Court's 2023 decision in *Students for Fair Admissions v. Harvard*, which prohibits the use of race in higher education admissions decisions, to apply more broadly to also prohibit considering race in "hiring, promotion, compensation, financial aid, scholarships, prizes, administrative support, discipline, housing, graduation ceremonies, and all other aspects of student, academic, and campus life." On March 1, 2025, the ED [announced](#) the release of a Frequently Asked Questions Document (the "FAQs") that was "intended to anticipate and answer questions that may be raised in response" to the Letter. Several cases have challenged the Letter.

- [National Education Association v. US Department of Education](#) (District of New Hampshire): On March 5, 2025, several nonprofit organizations, including the National Education Association (NEA) and the American Civil Liberties Union (ACLU), [filed](#) a lawsuit against the ED challenging the Letter.
 - On April 24, 2025, the District Court [granted](#) a preliminary injunction enjoining enforcement of the Letter, as well as the associated FAQs, the ED's "End DEI" portal that allows individuals to submit reports of "discrimination based on race or sex in publicly-funded K-12 schools," and the ED's April 3, 2025 certification requirement that required each state to "certify their compliance with their antidiscrimination obligations in order to continue receiving federal financial assistance." In addition to ruling for the Plaintiffs on the First Amendment and Administrative Procedure Act issues, the District Court held that the Letter is likely unconstitutionally vague because it failed to adequately define prohibited DEI activities.
 - On February 3, the parties jointly [moved](#) to dismiss Plaintiffs' complaint, so that the case can be voluntarily terminated if the District Court approves the terms of the parties' stipulation of dismissal. The parties' stipulation required that the Dear Colleague letter would not be relied on by Defendants, and the subsequent certification of compliance demand would also not be reinstated.
 - On **February 18**, the District Court [granted](#) the parties' joint motion to dismiss Plaintiffs' complaint subject to the terms of their stipulation, including that the Dear Colleague letter will not be relied on by Defendants and that Defendants will not reinstate the ED's April 3, 2025 certification requirement.

Legislative Watch

On February 5, [H.R. 7403](#), the "No Foreign NIL Funds Act," was introduced in the House of Representatives by Rep. Blake Moore (R-UT) and Rep. Marc Veasey (D-TX) and referred to the House Committee on Education & the Workforce and the Committee on Foreign Affairs.

- The bill would amend the Higher Education Act of 1965 to prohibit institutions of higher education, student athletes, and organizations soliciting, receiving, or managing funds on behalf of institutions of higher education from receiving a benefit or contribution from any national or entity of a foreign country in relation to a name, image, and likeness agreement (NIL agreement). NIL agreements refer to an individual's ability to use their own identity, such as their name, photo, voice, or signature, for commercial use; since 2021, the National Collegiate Athletic Association (NCAA) has permitted student athletes to enter into NIL agreements to receive compensation for endorsements or sponsorships without losing their eligibility to play intercollegiate athletics.
- Under the bill, institutions of higher education would be required to maintain a policy that would prohibit student athletes who accept any benefit or contribution from any national or entity of a foreign country pursuant to a NIL agreement from participating in intercollegiate athletics at the institution for one year.
- Additionally, the bill would prohibit institutions of higher education, athletic conferences, media rights distributors, and bowl

or post-season football organizations from entering into, renewing, or maintaining "any contract, partnership, joint venture, naming-rights agreement, sponsorship, or media-rights arrangement that involves direct or indirect financing, ownership, or material participation by a foreign country" or engaging in other specified activities with a foreign country.

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