

## 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 March 2, 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](#).

### DEI

- February 26: The U.S. Equal Employment Opportunity Commission (EEOC) Chair, Andrea Lucas, [sent](#) a formal letter to the leadership of hundreds of the nation's largest employers regarding the application of Title VII of the Civil Rights Act of 1964 to Diversity, Equity, and Inclusion (DEI) initiatives. Title VII prohibits employers from discriminating against individuals on the basis of certain protected characteristics, including race and sex. The letter states that the EEOC "is committed to educating employers to promote compliance and prevent unlawful discrimination, as well as to using its full range of enforcement tools" to address DEI-related practices. The letter also directs employers to recently released technical assistance documents, including "[What To Do If You Experience Discrimination Related to DEI at Work](#)" and "[What You Should Know About DEI-Related Discrimination at Work](#)."

### Education

- February 23: The Department of Education (ED) [announced](#) two new interagency agreements with the Department of State (State) and the Department of Health and Human Services (HHS) to shift certain ED programs to these agencies.
  - Under the agreement with State, State will [support](#) the ED in managing the Section 117 foreign funding reporting portal. Under Section 117 of the Higher Education Act of 1965, institutions of higher education that receive federal financial assistance must disclose certain foreign gifts and contracts with foreign sources to the ED. State will "use its national security and foreign national academic admissions expertise to review and assess the industry's compliance with the law, share data with the public and federal stakeholders, and identify potential threats."
  - Under the agreement with HHS, HHS will [assume](#) a greater role in administering school safety and family engagement programs, such as Project School Emergency Response to Violence. HHS will provide technical assistance to these programs and integrate the ED's programs into the programs that HHS already administers.
  - In recent months, the ED has entered into seven other interagency agreements to transfer certain federal education programs to other federal agencies in furtherance of the March 20, 2025 executive order, entitled "[Improving Education Outcomes by Empowering Parents, States, and Communities](#)" (covered in the [March 25, 2025](#) issue of the *Patterson Policy Watch*), in which the administration ordered the Secretary of Education to "take all necessary steps to facilitate the closure of the Department of Education and return authority over education to the States and local communities." For more information about these prior interagency agreements, see the [September 9, 2025](#) and [November 25, 2025](#) issues of the *Patterson Policy Watch*.
- February 24: The Department of Justice (DOJ) [announced](#) that it [filed](#) a lawsuit against the University of California (UC), alleging that UC engaged in a hostile work environment against Jewish and Israeli faculty and staff at the University of California, Los Angeles (UCLA) campus in violation of Title VII of the Civil Rights Act of 1964. Title VII prohibits employers from discriminating against individuals on the basis of certain protected characteristics, including race, color, and national origin. The complaint alleges that UC failed to prevent or correct a pattern of discriminatory harassment against Jewish and Israeli faculty and staff at the UCLA campus, particularly following the events of October 7, 2023.
- February 26: The ED [issued](#) an [interpretive rule](#) regarding the process for new accrediting agencies to become recognized by the Secretary of Education. Under the Higher Education Act of 1965 and the ED's regulations, a new accrediting agency must conduct two years of accrediting activities before it can be recognized by the Secretary of Education. The interpretive rule clarifies that this two-year period begins when an accrediting agency awards its first accreditation or pre-accreditation. The interpretive rule also shortens the ED's review process for applications from new accrediting agencies. The ED's press release states that the interpretive rule's changes are "aimed at reducing existing barriers for new accrediting agencies to apply for recognition from the Secretary of Education" and "to promote competition among accreditors and provide opportunities for new institutional and programmatic accreditors to break up the existing monopolies in the accreditation market."

### Federal Government/Administrative Procedure

- January 28: The General Services Administration (GSA) [proposed](#) amending the certification requirements of the System for Award Management (SAM), which processes applications for federal funding, to "align with updated executive branch guidance." Such guidance cited in GSA's proposal includes the January 21, 2025 executive order, entitled "[Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#)" (covered in the [February 10, 2025](#) issue of the *Patterson Policy Watch* and our firm's [February 6, 2025 client alert](#)) and Attorney General Pam Bondi's DOJ memorandum, entitled "[Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination](#)" (covered in the [August 5, 2025 issue](#) of the *Patterson Policy Watch* and our firm's [August 4, 2025 client alert](#)). The proposed new SAM certification language is not yet available. The public comment period for the proposed amendment ends on March 30, 2026.

### Judicial Watch

As legal challenges to executive actions continue to grow, and as the 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:

- *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.
  - On **February 27**, the District Court issued a text order in both cases to deny the Defendants' request to dissolve the preliminary injunction, finding that Plaintiffs continue to face the risk of irreparable harm from gaps that Defendants would cause by changing the funding selection criteria on an expedited basis and from trying to reimplement the Notice of Funding Opportunity for December 2025, which the Court had already found Plaintiffs had a strong likelihood of showing was illegal.
  - On **March 2**, Defendants in both related cases filed a notice of appeal with the First Circuit Court of Appeals and filed an emergency motion to stay the preliminary injunction issued by the District Court while Defendants appeal the injunction in the First Circuit.

#### 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.

- *Rhode Island Coalition Against Domestic Violence v. Bondi* (District of Rhode Island): On June 16, 2025, a coalition of organizations serving domestic violence victims filed a lawsuit challenging the government's requirement that they certify compliance with the DEI executive orders as a condition of receiving federal grants. They contend that the certification requirement violates the Administrative Procedure Act and the Constitution.
  - On August 8, 2025, the District Court granted a preliminary injunction barring the government from enforcing the new grant conditions as to the nonprofit Plaintiffs for all fiscal year 2025 grants.
  - On November 19, 2025, the nonprofit Plaintiffs filed a motion for partial summary judgment, seeking to vacate the funding conditions and compliance certifications as illegal, to permanently enjoin Defendants from enforcing compliance certifications against entities that may have already completed them, and to permanently enjoin Defendants from imposing the requirements via new agency action.
  - On **February 20**, Plaintiffs filed a motion for a temporary restraining order.
  - On **February 25**, the District Court issued a text order to convert the motion for a temporary restraining order into a motion for a preliminary injunction. Plaintiffs seek to set aside the grant conditions imposed on new grants made by the DOJ's Office of Justice Programs and enjoin Defendants from enforcing these conditions. These grant conditions require grant recipients to "ensure that no funds provided under this award (or any subaward, at any tier) will be used to provide benefits or services to any removable alien . . . or any alien otherwise unlawfully present in the United States" and require grant recipients to certify that they do "not operate any programs (including any such programs having components relating to diversity, equity, and inclusion) that violate any applicable Federal civil rights or nondiscrimination laws."

## Legislative Watch

On February 26, S. 3942 was introduced in the Senate by Senator Ted Cruz (R-TX) and referred to the Senate Committee on Finance. The bill would amend Section 501 of the Internal Revenue Code of 1986, as amended (the "Code"), to provide that tax-exempt organizations described in Section 501(c)(3) of the Code are liable for the use of funding provided as a fiscal sponsor.

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.

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