Patterson Belknap

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 June 29, 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.

Other

- June 25: The Office of Management and Budget (OMB) received the Internal Revenue Service's (IRS) proposed regulations "on the application of the fundamental public policy against racial discrimination in schools." In its 2025–2026 Priority Guidance Plan, the Department of the Treasury and the IRS announced that they would provide such "[g]uidance on the application of the fundamental public policy against racial discrimination, including consideration of recent caselaw, in determining the eligibility of private schools for recognition of tax-exempt status under §501(c)(3)." The 2025–2026 Priority Guidance Plan was covered in the October 7, 2025 issue of the *Patterson Policy Watch*. The IRS is expected to release the proposed regulations publicly after OMB's review.
- June 25: House Judiciary Committee Chairman Jim Jordan (R-OH) sent a letter to the Southern Poverty Law Center's (SPLC) President and Chief Executive Officer, Ryan P. Haygood, renewing the House Judiciary Committee's request for the SPLC to produce documents and communications relating to the SPLC's payment of sources and coordination with the Biden administration by July 9, 2026. The House Judiciary Committee previously sent letters to the SPLC's leadership on April 23, 2026, and May 20, 2026, as covered in the April 28, 2026 and May 27, 2026 issues of the *Patterson Policy Watch*, respectively.

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.

Ban on DEI Initiatives in the Executive Branch and by Recipients of Federal Funding

President Trump issued several significant Diversity, Equity, and Inclusion (DEI)-related executive orders (the DEI Executive Orders), including: (1) the January 20, 2025 executive order, entitled "Ending Radical and Wasteful Government DEI Programs and Preferencing," which orders the termination of DEI programs, offices, and positions as well as "equity-related" grants and contracts; (2) the January 21, 2025 executive order, entitled "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," which requires federal grant recipients and contractors to certify that they do not operate DEI programs that violate antidiscrimination laws; (3) the January 20, 2025 executive order, entitled "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," which prohibits federals funds from being used to promote "gender ideology"; and (4) the March 26, 2026 executive order, entitled "Addressing DEI Discrimination by Federal Contractors," which requires all federal agencies to include certain provisions in contracts, including the requirement that federal contractors and subcontractors agree that they will not engage in any "racially discriminatory DEI activities." Updates in cases we are following in this area include:

- *National Association of Diversity Officers in Higher Education v. Trump* (District of Maryland): On April 20, 2026, Plaintiffs National Association of Diversity Officers in Higher Education, American Association of University Professors, United Academics of Maryland-University of Maryland, National Association of Minority Contractors, and the DMV chapter of National Association of Minority Contractors sued the Government, challenging the March 26, 2026 executive order, entitled "Addressing DEI Discrimination by Federal Contractors," which prohibits "racially discriminatory DEI activities" by federal contractors. This executive order was covered in the March 31, 2026 issue of the *Patterson Policy Watch*. Plaintiffs allege that the executive order violates the Free Speech and Free Association provisions of the First Amendment and is content-based discrimination. Plaintiffs also argue that the Government is exceeding the scope of its authority. Plaintiffs request that the District Court declare the executive order unconstitutional and enjoin the Government from taking steps to implement the executive order.
    - On May 22, Plaintiffs filed an amended complaint to add factual allegations about the implementation of the executive order and additional claims for violation of the Fifth Amendment's Due Process Clause and violation of the Administrative Procedure Act.
    - On June 4, Plaintiffs filed a motion for a preliminary injunction, requesting that the District Court enjoin Defendants from implementing the executive order and stay the implementation of the executive order's prohibition on "racially discriminatory DEI activities" in active federal contracts.
    - On **June 25**, Defendants filed their memorandum in opposition to Plaintiffs' motion for a preliminary injunction. Defendants argue that Plaintiffs' arguments are identical to the arguments that the Fourth Circuit Court of Appeals rejected in *Nat'l Ass'n of Diversity Officers in Higher Educ. v. Trump*, a case filed by some of the same Plaintiffs on February 3, 2025 that challenged the DEI-related executive orders, entitled "Ending Radical and Wasteful Government DEI Programs and Preferencing" and "Ending Illegal Discrimination and Restoring Merit-Based Opportunity." On February 6, 2026, the Fourth Circuit Court of Appeals vacated, or set aside, the District Court's preliminary injunction that blocked portions of these two DEI-related executive orders, and Defendants argue that Plaintiffs' First Amendment challenge to the "Addressing DEI Discrimination by Federal Contractors" executive order should fail for the same reasons.

Legislative Watch

- On June 18, H.R. 9353 was introduced in the House of Representatives by Rep. Brendan Boyle (D-PA) and Rep. Mike Kelly (R-PA) and referred to the House Committee on Ways and Means. The bill would amend Section 4968 of the Internal Revenue Code, which imposes an excise tax on the net investment income of certain private colleges and universities, to exempt "qualified religious institutions" from the excise tax. The bill defines a "qualified religious institution" as an institution that:

- (1) was established after July 4, 1776;
- (2) was established by or in association with a church or a convention or association of churches (as described in Section 170(b)(1)(A)(i) of the Code);
- (3)
  - (A) has at least 25% of the members of its highest governing body as either (i) appointed or approved by a church or a convention or association of churches or (ii) required under the governing documents of the institution to be clerical members of a church or a convention or association of churches;
  - (B) is a party to a formal written agreement with a church or a convention or association of churches that expressly acknowledges the institution's historical and ongoing relationship with the church or convention or association of churches, and sets forth shared commitments relating to institutional mission, values, or engagement with the religious traditions of the church or convention or association of churches; or
  - (C) is formally designated as a religious institution by the governing body of a church or a convention or association of churches based on an evaluation of the institution's alignment with the organization's religious identity, values, or educational mission; and
- (4) which maintains a published institutional mission which is approved by the governing body of such institution and which includes, refers to, or is predicated upon religious tenets, beliefs, or teachings.

If enacted, the bill would apply to taxable years beginning after December 31, 2025.

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