

## 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 8, 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

- June 3: The Department of Justice (DOJ) [announced](#) that it launched an investigation into the diversity, equity, and inclusion (DEI) practices at Arizona State University (ASU) to determine whether those practices are in violation of Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial aid. The DOJ's investigation will focus on "whether ASU subjects its students to illegal discrimination through its DEI policies in admissions, recruitment, scholarships, tutoring, and the provision of educational support."
- June 4: The DOJ [announced](#) that it is expanding its investigations into potential race discrimination in medical school admissions. According to the press release, the DOJ has opened fifteen new investigations into unnamed medical schools to determine whether these medical schools "follow Title VI of the Civil Rights Act as interpreted by the U.S. Supreme Court's decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*." Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial aid, and the *Harvard* decision prohibits the use of race in higher education admissions decisions, as covered in our firm's [July 5, 2023 client alert](#).
  - The DOJ recently announced its findings that the [University of California at Los Angeles \(UCLA\)](#) and [Yale University](#) each intentionally discriminated against applicants based on their race in medical school admissions, as covered in the [May 12, 2026](#) and [May 19, 2026](#) issues of the *Patterson Policy Watch*, respectively.

### Federal Government/Administrative Procedure

- May 29: The Office of Management and Budget (OMB) [proposed](#) revisions to the Guidance for Federal Financial Assistance, which includes government-wide regulations related to the management of Federal financial assistance, including grants and cooperative agreements. According to OMB, the proposed revisions aim to: "(1) improve transparency, accountability, and oversight for use of Federal taxpayer dollars; (2) clarify the status of OMB's policies and requirements . . . as an OMB regulation; and (3) reduce recipient burden." Among the proposed revisions is a new requirement that all Federal agencies ensure that a "Federal award is not used to fund, promote, encourage, subsidize, or facilitate": (1) "diversity, equity, and inclusion (DEI) or diversity, equity, inclusion, and accessibility (DEIA) policies, principles, or practices that violate any applicable Federal anti-discrimination laws"; (2) gender ideology; or (3) the "so-called 'transition' of a child under 19 years of age from one sex to another." Comments on the proposed changes are due by July 13, 2026.
- June 5: The Department of Treasury (Treasury) and the Internal Revenue Service (IRS) [issued](#) Notice 2026-36, announcing their intent to issue proposed regulations addressing the tax on excessive compensation and excess parachute payments to employees of tax-exempt organizations in order to implement changes under the One Big Beautiful Bill Act (OBBB). Starting with tax years beginning after December 31, 2025, the OBBB expanded the existing 21% excise tax imposed by Section 4960 of the Internal Revenue Code on "excess compensation" paid by charities, social welfare organizations, and certain other applicable tax-exempt organizations from the organization's five highest-paid employees to any employee who receives total annual compensation in excess of \$1 million and those receiving excess parachute payments. For more information about the OBBB, see our [July 24, 2025 client alert](#). Treasury and the IRS request comments on the proposed regulations by August 4, 2026.

### Other

- June 2: The DOJ [obtained](#) a superseding indictment against the Southern Poverty Law Center (SPLC). The new indictment further describes the DOJ's claim that the SPLC misled donors and banks about issuing payments to extremist group field informants and amends the language of the original indictment to more closely align with the alleged crimes. The superseding indictment does not introduce new charges. Arraignment for the superseding indictment is scheduled for June 16, 2026.
  - For more coverage of the DOJ's claim against SPLC, please see the [April 28, 2026](#), [May 5, 2026](#), [May 19, 2026](#), and [May 27, 2026](#) issues of the *Patterson Policy Watch*.

### 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.

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

President Trump issued several significant 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 anti-discrimination laws; and (3) the January 20, 2025 executive order, entitled "[Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#)," which prohibits federal funds from being used to promote "gender ideology." Updates in cases we are following in this area include:

- *State of California v. U.S. Department of Education* (District of Massachusetts): On March 6, 2025, a group of eight state Attorneys General [sued](#) to challenge the Education Department (ED)'s termination of approximately \$600 million in grants to support the Teacher Quality Partnership (TQP) and Supporting Effective Educator Development (SEED) programs because the programs had "included inappropriate and unnecessary topics such as Critical Race Theory; Diversity, Equity, and

Inclusion (DEI); social justice activism; 'anti-racism'; and instruction on white privilege and white supremacy."

- On November 13, 2025, the District Court granted in part and denied in part Defendants' motion to dismiss Plaintiffs' amended complaint. The District Court determined that it lacked jurisdiction over disputes regarding Plaintiffs' terminated grants, which the District Court explained should be heard at the Court of Federal Claims. The District Court, however, determined that it retained jurisdiction over Plaintiffs' claims for prospective relief in setting aside unlawful agency actions, as well as related claims that Defendants' actions violate the Spending Clause of the Constitution and exceed their Constitutionally permitted powers.
- On April 16, 2026, Plaintiffs filed a motion for summary judgment, arguing that Defendants' grant terminations violate the Administrative Procedure Act, as well as constitutional Separations of Powers principles and the Spending Clause. Plaintiffs requested that Defendants' grant terminations be vacated and declared unlawful, and that Defendants be permanently enjoined from enacting the grant terminations.
- On **June 1, 2026**, Defendants cross-moved for summary judgment, requesting that the District Court issue a judgment in their favor and denying Plaintiffs' motion for summary judgment.
- ***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, 2026, 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, 2026**, 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.

#### Gender Affirming Care for Minors

Lawsuits have been filed challenging the January 28, 2025 executive order, entitled "Protecting Children from Chemical and Surgical Mutilation," and the January 20, 2025 executive order, entitled "Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," which, among other things, directs that federal research or education grants be withheld from medical institutions that provide gender affirming care for children under 19. Updates in cases we are following in this area include:

- ***Coe v. Blanche*** (Southern District of New York):
  - On **June 2, 2026**, a proposed class of minors, their parents, and young adults who have received gender affirming care in New York City sued the DOJ and New York University (NYU) Hospitals. On May 7, 2026, the DOJ had issued subpoenas to NYU requesting that the hospitals provide a list and related documents about individuals who underwent "sex-rejecting procedures." Plaintiffs argue that the documentation requests violate the Fifth Amendment's right to informational privacy, the Fourth Amendment, and that this would breach the doctor-patient confidentiality. Plaintiffs request that the subpoenas be declared unlawful and that compliance with the subpoenas would be unlawful, and Plaintiffs request that the District Court enjoin NYU from disclosing any identifying information or sensitive health information about its patients.

## Legislative Watch

- On June 2, 2026, H.R. 9103, the "Merit Restoration Act," was introduced in the House of Representatives by Rep. Ralph Norman (R-SC) and referred to the House Committee on Science, Space, and Technology. The bill would prohibit recipients of Federal research grants from using a "prohibited diversity, equity, or inclusion practice in carrying out the Federal research grant." The bill defines "prohibited diversity, equity, or inclusion practice" as: "(A) discriminating for or against any person on the basis of race, color, ethnicity, religion, biological sex, or national origin; (B) requiring as a condition of employment, as a condition for promotion or advancement, or as a condition for speaking, making a presentation, or submitting written materials that an employee undergo training, education, coursework, or other pedagogy that asserts that a particular race, color, ethnicity, religion, biological sex, or national origin is inherently or systemically superior or inferior, oppressive or oppressed, or privileged or unprivileged; or (C) requiring as a condition of employment, as a condition for promotion or advancement, or as a condition for speaking, making a presentation, or submitting written materials the signing of or assent to a statement, code of conduct, work program, plan, or other similar device that requires assent by an employee that a particular race, color, ethnicity, religion, biological sex, or national origin is inherently or systemically superior or inferior, oppressive or oppressed, or privileged or unprivileged."
- On June 2, 2026, H.R. 9109, the "Stop ANTIFA Act of 2025," was introduced in the House of Representatives by Rep. Greg Steube (R-FL). H.R. 9109 is the companion bill to S. 2936, which was introduced in the Senate last year by Sen. Rick Scott (R-FL) and covered in the October 14, 2025 issue of the *Patterson Policy Watch*. As with S. 2936, H.R. 9109 would codify the provisions of the September 22, 2025 executive order, entitled "Designating Antifa as a Domestic Terrorist Organization," and the September 25, 2025 National Security Presidential Memorandum, entitled "Countering Domestic Terrorism and Organized Political Violence." Please see our September 29, 2025 client alert for more information on this topic.

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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