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 July 6, 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 29: The Department of Education (ED) announced a final rule to establish the new accountability framework for postsecondary education programs based on graduates' earnings. The final rule implements provisions of the One Big Beautiful Bill Act (OBBB) by requiring an institution of higher education to demonstrate that graduates of its undergraduate program earn as much as high school graduates in order to remain eligible to participate in federal student loan programs. For prior coverage of the new accountability framework, see the April 21, 2026 issue of the *Patterson Policy Watch*.
- June 29: The Department of Justice (DOJ) announced that it filed complaints against Massachusetts and Rhode Island to challenge each state's laws that provide in-state tuition and financial assistance to illegal aliens. According to the DOJ's announcement, Massachusetts' and Rhode Island's "laws unconstitutionally discriminate against U.S. citizens who are not afforded the same reduced tuition rates or scholarships, create incentives for illegal immigration, and reward illegal aliens with benefits that U.S. citizens are not eligible for, all in direct conflict with federal law." The DOJ has filed similar lawsuits against ten other states that have similar laws, and courts in four of those states have issued orders to permanently enjoin and declare unconstitutional state laws that provided in-state tuition to illegal aliens.

Other

- June 30: The Internal Revenue Service (IRS) requested comments on the Form 13909, "Tax-Exempt Organization Complaint (Referral)," which is the form used by individuals to submit a complaint about tax-exempt organizations to the IRS. This request follows (1) the IRS's April 17, 2026 Whistleblower Alert, which highlighted "an area of concern about misuse, diversion or fraudulent use of federal funds by tax-exempt organizations, individuals and businesses, and urged the public to provide information" about tax-exempt organizations and (2) the Department of the Treasury's (Treasury) practice of listing "Whistleblower Resources" on its website; see the April 21, 2026 issue of the *Patterson Policy Watch* for more information. Comments on the Form 13909 are due by August 28, 2026.
- July 3: The Trump administration published its midyear edition of the Unified Agenda of Regulatory and Deregulatory Actions, which is a semiannual compilation that reports regulatory and deregulatory activities under development throughout the Federal Government. In describing its regulatory priorities, Treasury stated that "the IRS and Office of Tax Policy will focus on other key areas, including guidance addressing section 501(c)(3) issues." Specifically, Treasury's agency rules list includes, among other things:
    - "Form 990 Fiscal Sponsorship Reporting," which is described as a proposed regulation that "would provide guidance under section 6033 on the reporting of fiscal sponsorship arrangements on the annual information return of an organization described in section 501(c)(3)." Notice of proposed rulemaking for this rule is scheduled for August 2026.
        - For more coverage on the possible revisions to Form 990 reporting, please see the March 10, 2026, April 28, 2026, and June 2, 2026 issues of the *Patterson Policy Watch*.
    - "Taxes on Taxable Distributions Under 4966," which is described as "[f]inal regulations under section 4966 regarding excise taxes on taxable distributions made by sponsoring organizations from donor advised funds, and on the agreement of certain fund managers to the making of such distributions." Final action for this rule is scheduled for July 2026.
        - For more information on the proposed regulations under Section 4966, which the IRS issued on November 13, 2023, see our November 27, 2023 client alert.
    - "Tax Credit for Contributions of Individuals to Scholarship Granting Organizations," which is described as proposed regulations that "would provide guidance for the new tax credit for contributions by individuals to scholarship granting organizations." An interim final rule is scheduled for July 2026.
        - For more information about the tax credit, see our July 24, 2025 client alert and the December 16, 2025, December 23, 2025, and June 16, 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.

Public Service Loan Forgiveness Litigation

On October 30, 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, entitled "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) and *Commonwealth of Massachusetts v. Department of Education* (District of Massachusetts): On November 3, 2025, a coalition of cities, nonprofits, and membership associations 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 Final Rule is arbitrary and capricious and contrary to the constitutional rights of Free Speech and Due Process. Similarly, on November 3, 2025, 21 states and the District of Columbia sued the ED to challenge the Final Rule on the same grounds. Plaintiffs in both cases requested a joint briefing schedule, in light of their similar challenges to the Final Rule, and the District Court granted the joint briefing schedule on December 11, 2025.

  - On February 13, 2026, Plaintiffs in both cases filed motions for summary judgment, arguing that the District Court should find that the Final Rule violates the Administrative Procedure Act and that the District Court should vacate the Rule to render it void.
  - On March 16, 2026, Defendants filed a consolidated opposition to both Plaintiffs' motions for summary judgment and also filed a cross-motion to dismiss both Plaintiffs' complaints, or in the alternative a motion for summary judgment. Defendants argue that they acted pursuant to their authority to promulgate the Final Rule, the Final Rule is not arbitrary and capricious, and the Final Rule does not target constitutionally protected speech.
  - On **June 30, 2026,** the District Court ruled in favor of Plaintiffs' motions for summary judgment in both cases, finding that the Final Rule violates the Administrative Procedure Act and the First Amendment. The District Court dismissed both cases.

- *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, 2026, Plaintiffs filed a motion for summary judgment, requesting that the District Court declare that the Final Rule violates the Administrative Procedure Act and that the District Court vacate the Final Rule, meaning that the Final Rule would be void.
  - On March 9, 2026, Defendants filed an opposition to Plaintiffs' motion for summary judgment and also filed a cross-motion to dismiss Plaintiffs' complaint, or in the alternative a motion for summary judgment. Defendants argue that Plaintiffs lack standing to bring their claims and that their claims are not ripe because the Final Rule has not yet gone into effect. Defendants also argue that Plaintiffs' claims fail on the merits because Defendants acted pursuant to their authority to promulgate the Final Rule and their enforcement of the Final Rule will not violate Plaintiffs' constitutional rights.
  - On **June 30, 2026,** the District Court granted Plaintiffs' motion for summary judgment and dismissed the case, finding that the Final Rule violates the Administrative Procedure Act.

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 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. 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 those at issue in *State of Washington v. U.S. Department of Housing and Urban Development*.
  - On May 12, 2026, after several months of motion practice (see the April 28, 2026 issue of the *Patterson Policy Watch* for more information), Defendants stipulated to withdrawing the 2025 grant conditions on the CoC grants that HUD has currently renewed, sent out for renewal, or will renew with grantees. Defendants also acknowledged that these grant conditions "have no force and effect" and agree that no grantee is bound by the conditions.
  - On June 29, 2026, the District Court granted in part and denied in part Plaintiffs' motion for summary judgment. The Court set aside HUD's 2025 Notice of Funding Opportunities as violative of the Administrative Procedure Act but denied Plaintiffs' request for a permanent injunction due to the speculative nature of harm related to future funding regulations.

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 Alliance to End Homelessness v. Turner* (District of Rhode Island): On September 11, 2025, nonprofit organizations working to end homelessness and provide affordable housing filed a lawsuit challenging the Government's requirement that funding will only be rewarded for projects in jurisdictions aligned with the Trump administration's social policy views and to applicants willing to commit to those views. The Plaintiffs argue that "new criteria" set by the government violates the Administrative Procedure Act and the Constitution.
  - On September 14, 2025, the District Court granted the nonprofit Plaintiffs' motion for a temporary restraining order, which enjoins the Government from awarding grant funds under the specific housing funding opportunity in question using the "new criteria."
  - On November 13, 2025, Plaintiffs filed a motion for summary judgment, requesting that the District Court: vacate and declare unlawful the Government's funding requirements; permanently enjoin the Government from implementing the allegedly unlawful criteria for funding or any substantially similar criteria; and compel the Government to promptly provide the awarded funding.
  - On December 4, 2025, the Government cross-filed for summary judgment, arguing that Plaintiffs have failed to show that the Government's funding criteria have violated the law.
  - On March 31, 2026, the District Court granted in part and denied in part Plaintiffs' motion for summary judgment, finding that Defendants' actions violated the Administrative Procedure Act. The District Court vacated and set aside the Government's funding requirements but denied Plaintiffs' request for a permanent injunction.

- On **June 29, 2026,** the Government filed an appeal to the First Circuit Court of Appeals challenging the District Court's decision granting-in-part Plaintiffs' motion for summary judgment.

Legislative Watch

- On June 29, H.R. 9504, the "Tax Exempt Hospital Transparency Act," was introduced in the House of Representatives by Rep. Greg Murphy (R-NC) and Rep. Lloyd Smucker (R-PA), and, on July 1, the bill passed the House Committee on Ways and Means. The bill would add a new Section 6033A to the Internal Revenue Code to require additional reporting by all tax-exempt hospital organizations on the Form 990, which is the annual federal tax return, including, among other information, providing a description of how the organization is addressing the needs identified in the most recent community health needs assessment, the audited financial statements of the organization, the Centers for Medicare & Medicaid Service certification number of the organization, the value of the financial assistance provided during the taxable year, and the number of completed financial assistance applications received, granted, and denied during the taxable year. The bill would also require additional reporting by large tax-exempt hospital organizations (defined as hospitals with more than 100 inpatient beds) and high revenue tax exempt hospital organizations (defined as hospitals with more than $100 million in net patient revenue).
    - For more information, see the House Committee on Ways and Means' fact sheet on H.R. 9504 and Committee Chairman Jason Smith's statement at the Committee markup of the bill.

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

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