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 August 10, 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

- August 6: The Department of Education (ED) launched investigations into San José State University and San Francisco State University following allegations that both institutions permitted antisemitic harassment against Jewish students on their respective campuses. The investigations will determine whether the universities violated Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color, and national origin in educational programs and activities receiving federal financial assistance. The ED's announcement notes that the investigations follow the January 29, 2025 executive order, entitled "Additional Measures to Combat Anti-Semitism," which was previously covered in the February 10, 2025 issue of the *Patterson Policy Watch*.
- August 6: The Department of Justice (DOJ) announced its findings that Duke University School of Law (Duke Law) violated Title VI. Specifically, the DOJ found that Duke Law discriminated on the basis of race in granting and denying admission and that "while Duke Law's published policies assert that admissions reviewers did not see racial demographic data, Duke Law directed its admissions staff to highlight applicant information that could be used to advance Duke Law's racial diversity goals."

Health

- August 5: Connecticut Children's Medical Center entered into an agreement with the DOJ in which Connecticut Children's Medical Center committed to stop providing gender-affirming care, including puberty blockers, cross-sex hormones, and surgeries, to minors. Under the terms of the agreement, Connecticut Children's Medical Center will also pay a monetary penalty and allocate $500,000 toward medical care for individuals "living with the harmful consequences of 'gender affirming care.'" This agreement is the third such agreement secured under the DOJ's national investigation into violations of federal law in connection with the provision of gender-affirming care; the DOJ entered into similar agreements with the Cleveland Clinic Foundation and Texas Children's Hospital, as covered in the May 19, 2026 issue 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.

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:

- *Climate United Fund v. Citibank, N.A.* (District of Columbia): A group of nonprofit Plaintiffs that had been awarded Congressionally appropriated funding from the Environmental Protection Agency (EPA) sued the EPA and Citibank, the financial agent for the grants, for breach of contract, conversion, violation of the Administrative Procedure Act, and violation of the Due Process Clause, alleging that Defendants unlawfully suspended or terminated Plaintiffs' grant funds intended for clean energy projects. Plaintiffs claim that Citibank, under pressure from the EPA, refused to disburse the grant funds despite Plaintiffs' requests and the lack of a legal basis for such refusal. Furthermore, Plaintiffs allege that the EPA's actions, including public statements by its Administrator and attempts to freeze the grant funds without legal justification, were arbitrary and capricious and violated Plaintiffs' due process rights.
    - In April 2025, the District Court granted a preliminary injunction in favor of the nonprofit Plaintiffs, holding that the government had likely acted arbitrarily and capriciously, in violation of the Administrative Procedure Act, when it suspended and terminated the grants and further held that the government had acted unconstitutionally by suspending grants because of its policy disagreement with a program that Congress had enacted. The court also ordered Citibank to disburse funds pursuant to the Plaintiffs' awards. Later that day, the government sought an emergency stay from the D.C. Circuit Court pending appeal, which the D.C. Circuit Court granted in part. The D.C. Circuit Court's order stays the preliminary injunction to the extent it requires Citibank to release funds.
    - On September 2, 2025, the D.C. Circuit Court vacated the District Court's injunction, finding that the lower court lacked jurisdiction as the Plaintiff grantees' claims were essentially contractual and belonged in the Court of Federal Claims, the Plaintiffs' constitutional challenges lacked merit, and the balance of equities favors government oversight and management of the grant funding.
    - On September 10, 2025, the Plaintiff-Appellees filed a petition for an *en banc* rehearing regarding a panel of the D.C. Circuit Court's September 2 opinion vacating the District Court's injunction. The Plaintiff-Appellees argued that the District Court does have jurisdiction to hear the grantees' claims, their constitutional claims were erroneously rejected, and that the balance of equities favors enforcing the injunction. The D.C. Circuit granted the petition for an *en banc* rehearing on December 17, 2026.
    - On **August 4, 2026,** the D.C. Circuit *en banc* affirmed the District Court's preliminary injunction in favor of the nonprofit Plaintiffs.
- *State of Washington v. United States Department of Housing and Urban Development* (District of Rhode Island): In a case related to *State of Washington v. United States Department of Housing and Urban Development* (covered most recently in the July 7, 2026 issue of the *Patterson Policy Watch*), on July 7, 2026, Plaintiff States sued the Department of Housing and Urban Development (HUD) challenging the June 1, 2026 Notice of Funding Opportunity (NOFO) for the Continuum of Care Program, which seeks to implement a cap on permanent housing projects, setting aside money that Congress has reserved

for these permanent projects. Plaintiffs argue that the June 1, 2026 NOFO violates the Administrative Procedure Act because it is in excess of HUD's statutory authority, is arbitrary and capricious, and is contrary to law. Plaintiffs request that the District Court declare the June 1, 2026 NOFO unlawful, set it aside, and preliminarily and permanently enjoin Defendants from enacting the June 1, 2026 NOFO.

  - On July 17, 2026, Plaintiffs filed a motion for summary judgment, or in the alternative a motion for a preliminary injunction, arguing that Defendants' June 1, 2026 NOFO for the Continuum of Care Project should be permanently set aside by August 10, 2026 to avoid irreparable harm to Plaintiffs or at least that Defendants should be preliminarily enjoined from enacting them.
  - On **August 7, 2026**, the District Court granted in part Plaintiffs' motion for summary judgment. The District Court found that HUD issued the June 1, 2026 NOFO in a procedurally invalid manner but declined to address Plaintiffs' remaining challenges to the June 1, 2026 NOFO. Under the Administrative Procedure Act, HUD was required to engage in a public notice-and-comment period when it issued the June 1, 2026 NOFO and failed to do so. As a result, the District Court is setting aside the June 1, 2026 NOFO.

Legislative Watch

- On August 4, the Senate Committee on Health, Education, Labor, and Pensions approved S. 2511, the "College Transparency Act," in a 21-1 vote. Previously covered in the August 12, 2025 issue of the *Patterson Policy Watch,* this bill would amend the Higher Education Act of 1965 to create a secure, privacy-protected postsecondary student-level data network within the National Center for Education Statistics. The system would lift the current statutory ban on student unit record systems to accurately track student enrollment, progression, completion, transfer rates, post-collegiate employment, and earnings metrics across all student populations, while reducing redundant reporting burdens for institutions.
- On August 5, the Senate Committee on Health, Education, Labor, and Pensions approved S. 3589, the "Respond, Innovate, Succeed, and Empower Act" or "RISE Act," in a unanimous 22-0 vote. The bill would amend Section 487(a) and Section 777 (a) of the Higher Education Act of 1965 to streamline how college students with disabilities establish eligibility for academic accommodations. Specifically, the bill would require institutions of higher education receiving federal financial assistance to accept existing documentation, such as a high school Individualized Education Program, a Section 504 plan, a private school accommodation plan, or military disability documentation, as sufficient proof of a disability without requiring costly or redundant re-evaluations. The bill would also: require institutions to adopt transparent accommodation policies; mandate reporting on disability service enrollment and degree completion metrics; and reauthorize funding for the National Center for Information and Technical Support for Postsecondary Students with Disabilities.
- On August 8, the Senate passed a bill to keep the government funded through December 11, 2026. The bill includes a provision that would prevent the enforcement of the Office of Management and Budget's (OMB) proposed rule that would require Federal agencies to 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." The House passed its version of the bill on July 21, 2026. The Senate's bill now returns to the House as Congress works to pass a final bill before government funding expires on September 30, 2026.
  - For more information on OMB's proposed rule, please see the June 9, 2026 issue of the *Patterson Policy Watch*.

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