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 24, 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 18: The Department of Education (ED) issued a Dear Colleague Letter regarding student discipline and compliance with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin in educational programs and activities receiving federal financial assistance. The letter states that "neither Title VI nor the Constitution requires the use of race in student discipline, and that the use or consideration of race in student discipline violates Title VI and the Constitution absent truly extraordinary circumstances that satisfy strict scrutiny." According to the letter, a school engages in race discrimination when "it decides to forgo, reduce, or increase discipline because of a student's race," or when it changes its discipline policies for the purpose of avoiding or reducing racial disparities in discipline. The letter states that facially neutral discipline policies, including those that call for a teacher's or administrator's discretion, do not violate Title VI if they are applied evenhandedly and were adopted without wrongful racial intent. The letter applies to recipients of ED funding from preschool through graduate school and implements the April 23, 2025 executive order, entitled "Reinstating Common Sense School Discipline Policies," which was covered in the April 29, 2025 issue of the *Patterson Policy Watch*. The letter also follows the ED's final rule rescinding disparate-impact liability from its Title VI regulations, which was covered in the July 28, 2026 issue of the *Patterson Policy Watch*. According to the ED, the guidance is an interpretive rule that lacks the force and effect of law.

- August 18: The ED issued a report, finding that the Council of the Section of Legal Education and Admissions to the American Bar Association (ABA), which is the accrediting arm of the ABA and only federally recognized accrediting agency for law school programs in the U.S., is not in compliance with federal accreditation regulations and recommending that the accrediting agency should lose its recognition as a federally recognized accreditor. The report is not final, and a committee of the ED will meet to review the report on September 23, 2026 and determine whether to approve the recommendation.

- August 19: The ED issued a Notice of Proposed Rulemaking that would revise the regulations governing the Secretary of Education's recognition of accrediting agencies. According to the ED, the proposed rule would simplify the process for recognizing new and existing accreditors, allow institutions of higher education to change accreditors more readily, limit the influence of private trade associations on accreditors, eliminate accreditor standards that "discriminate on the basis of immutable characteristics," and promote academic freedom, intellectual diversity, and research integrity. The proposed rule implements the April 23, 2025 executive order, entitled "Reforming Accreditation to Strengthen Higher Education," which was covered in the April 29, 2025 issue of the *Patterson Policy Watch*. The proposed rule also follows the Accreditation, Innovation, and Modernization Committee's consensus on the underlying regulatory framework, reached following two negotiated rulemaking sessions held in April and May 2026 and covered in the May 27, 2026 issue of the *Patterson Policy Watch*. Public comments on the proposed rule are due on or before September 21, 2026.

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.

Federal Funding Freeze

On January 27, 2025, the Office of Management and Budget (OMB) issued a memorandum, M-25-13, ordering all federal agencies to freeze all grants, loans, and other federal financial assistance. The freeze also applied to "other relevant agency activities that may be implicated by President Trump's prior executive orders, including, but not limited to, financial assistance for foreign aid, nongovernmental organizations, DEI, woke gender ideology, and the green new deal." The stated purpose of the freeze was to "provide the Administration time to review agency programs and determine the best uses of the funding for those programs consistent with the law and the President's priorities." OMB later rescinded the memorandum, but it remains the subject of active litigation as plaintiffs have sought to prevent it from being reissued and to enforce orders prohibiting the memorandum's enforcement. Updates in cases that challenge OMB's memorandum include:

- *National Council of Nonprofits v. Office of Management and Budget* (District of Columbia): On January 28, 2025, National Council of Nonprofits and other nonprofit organizations filed a lawsuit against OMB to challenge OMB's memorandum and sought injunctive relief to prevent the implementation of the federal funding freeze directed by OMB's memorandum.
  - On February 25, 2025, the District Court granted Plaintiffs' motion for a preliminary injunction and issued its order to enjoin Defendants "from implementing, giving effect to, or reinstating under a different name the unilateral, non-individualized directives in OMB Memorandum M-25-13 with respect to the disbursement of Federal funds under all open awards."
  - On April 24, 2025, Defendants filed a notice of appeal with the D.C. Circuit Court of Appeals.
  - On **August 21, 2026**, the D.C. Circuit Court of Appeals issued its opinion and vacated, or set aside, the District Court's preliminary injunction. The D.C. Circuit Court of Appeals concluded that Plaintiffs' challenge to OMB's memorandum was moot because: (1) OMB rescinded the memorandum on January 29, 2025 and (2) "there is no reasonable expectation [OMB] would impose a global funding freeze if the case were dismissed" because OMB "made clear it had not wanted to impose such a freeze by the time the case started."

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:

- *Thakur v. Trump* (Northern District of California): On June 4, 2025, a group of University of California (UC) researchers who received federal grants brought a lawsuit challenging the federal government's efforts to suspend or terminate their grants. Plaintiffs contend that the grant suspensions and terminations violate the Administrative Procedure Act, the First Amendment, and Constitutional separation-of-powers principles.

- On June 23, 2025, the District Court granted Plaintiffs' motion for a preliminary injunction barring Defendants from terminating the grants of two classes of UC researchers: (1) researchers whose grants were terminated because they allegedly involved diversity, equity, and inclusion (DEI)-related research topics, and (2) researchers whose grants were terminated by generic form letter without any reasoned explanation. The District Court held that termination of grants solely because they involved alleged DEI-related research topics violated the First Amendment and that the termination of grants by form letter, without providing a reasoned explanation for the termination, violated the Administrative Procedure Act's prohibition on arbitrary and capricious administrative action.
- On December 23, 2025, the Ninth Circuit Court of Appeals granted in part and denied in part Defendants' motion for a partial stay pending the appeal of the preliminary injunction. The Ninth Circuit found that a partial stay was warranted regarding claims raised by UC professors whose research was terminated by form letter without any specific explanation for the termination, but that a stay was not warranted regarding claims raised by UC professors whose grants were terminated because of DEI-related research topics.
- On July 15, 2026, Plaintiffs filed a motion for summary judgment and class certification. Plaintiffs argue that Defendants' grant suspensions and terminations violate the First Amendment, Equal Protection Clause, and the Separation of Powers doctrine and seek to certify four different classes of Plaintiffs whose grants were terminated.
- On **August 21, 2026**, Defendants filed a cross motion for summary judgment and opposition to Plaintiffs' motion for summary judgment and class certification. Defendants argue that their grant terminations are lawful and not subject to judicial review, and the four classes should not be certified because they are based on invalid legal claims and the named Plaintiffs are not parties to the challenged grants or contracts.

Legislative Watch

- On August 24, H.R. 10148, the "Safeguarding America's Nonprofits Act," was introduced in the House of Representatives by Rep. Greg Steube (R-FL) and Rep. Suzan DelBene (D-WA) and referred to the House Committee on Ways and Means. The bill would amend the Internal Revenue Code of 1986 to clarify that an organization's Federal tax-exempt status under Section 501(c) does not constitute Federal financial assistance.
    - On April 10, 2025, Representative Steube introduced a similar bill in the House entitled the "Safeguarding Charity Act" (H.R. 2896) and Senator James Lankford (R-OK) introduced companion legislation with the same name in the Senate (S. 1428).

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