



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 September 21, 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](#).

DEI/Anti-Discrimination

- September 15: The Department of Justice (DOJ) and the Department of Health and Human Services (HHS) [announced](#) that Lincoln Memorial University entered into a voluntary settlement agreement with the agencies to resolve the DOJ and HHS's joint investigation into the University's academic absence policy under Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin by recipients of federal financial assistance. The DOJ and HHS's investigation found that the University denied accommodation requests by Jewish students to reschedule classes, exams, and other academic assignments for religious observance while granting similar accommodation requests by non-Jewish students. Under the settlement agreement, the University will revise its absence policy to allow excused absences for religious reasons on the same basis as non-religious reasons.

Education

- September 16: The Department of Education (ED) and the Department of State (State) [announced](#) that they opened foreign funding investigations into Duke University (Duke) and the University of North Dakota (UND) to review each university's compliance with Section 117 of the Higher Education Act of 1965, which requires postsecondary institutions receiving federal financial assistance to disclose foreign source gifts and contracts with a value of \$250,000 or more annually. The ED and State sent notices of investigation to [Duke](#) and [UND](#), which both state that each university submitted "incomplete, inaccurate, and untimely disclosures" of foreign source gifts and contracts, including erroneously identifying certain governmental partners as "non-governmental." The notices focus on Duke's joint venture with China's Wuhan University to establish Duke Kunshan University and UND's ties to Chinese aviation companies with reported associations to China's military, respectively. Each university must produce certain records within 30 calendar days, including tax records related to foreign involvements, records concerning agreements with foreign entities and international research collaborations, and copies of reportable foreign gifts, grants, and contracts.

Foreign Affairs

- September 16: The DOJ [issued](#) a press release, reminding the public that federal law requires persons and entities, including nonprofit organizations, acting in the United States at the direction or control of a foreign government or foreign principal to register as foreign agents, and that failure to do so may result in civil and criminal liability. The press release addresses two statutes: the Foreign Agents Registration Act (FARA), 22 U.S.C. § 611 *et seq.*, and 18 U.S.C. § 951, which is narrower and covers certain espionage-like activities on behalf of foreign governments. FARA requires registration with the DOJ if a person or entity, including a nonprofit organization, acts within the United States on behalf of a non-U.S. principal (which may be a non-U.S. government, corporation, foundation, charity, or individual) and engages in covered activities, such as political advocacy intended to influence the federal government or the U.S. public, public relations or political consulting, soliciting or disbursing money in the principal's interests, or representing the principal before the federal government. Engaging in FARA-covered activity is not itself illegal, and the statute contains a number of registration exemptions, but willful failure to register under FARA with the DOJ may result in criminal penalties of up to five years' imprisonment. For further discussion of the DOJ's press release, see our firm's [September 18, 2026 client alert](#).

Health

- September 18: The DOJ [announced](#) agreements with New York University Langone Hospitals (NYU) and University of Pittsburgh Medical Center (UPMC) to resolve the DOJ's investigations into both hospital systems regarding alleged violations of federal law from providing sex-rejecting procedures to minor children. Under the agreements, NYU and UPMC will both cease to provide sex-rejecting procedures to minors, including administering puberty blockers and cross-sex hormones and performing surgical procedures. NYU will also pay a monetary penalty of \$8.5 million to the DOJ, and UPMC will pay a monetary penalty of \$950,000 to the DOJ.
 - The DOJ has reached similar agreements with other hospital systems, as covered in the [May 19, 2026](#) and [August 11, 2026](#) issues of the *Patterson Policy Watch*.

Judicial Watch

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 federal 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:

- 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 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 **September 17, 2026**, the District Court [granted](#) summary judgment in favor of the eight states and vacated the ED's February 2025 directive terminating over \$600 million in TQP and SEED education grants. The District Court determined that the directive was unlawful under the Administrative Procedure Act (APA), because it was arbitrary and capricious in lacking a reasoned explanation, failing to account for reliance interests, departing from prior practice without justification, and ignoring less extreme alternatives.
 - For prior coverage on *State of California v. U.S. Department of Education*, please see the [March 17, 2025](#), [March 25, 2025](#), [April 1, 2025](#), [November 18, 2025](#), and [June 9, 2026](#) issues of the *Patterson Policy Watch*.

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:
- *Rhode Island AFL-CIO v. United States Environmental Protection Agency* (District of Rhode Island): On October 6, 2025, a group of business owners and nonprofit organizations [sued](#) the Environmental Protection Agency (EPA) over its termination of the Solar for All program, a Congressionally funded program designed to provide low-income households and communities with savings based on the creation of household and community solar energy programs through grants to local communities and nonprofit organizations. Plaintiffs allege that the termination of this program violates the Administrative Procedure Act, Constitutional separation-of-powers principles, and the Presentment Clauses of the Constitution.
 - On February 6, 2026, Plaintiffs [filed](#) a motion for summary judgment, requesting that the District Court vacate the government's termination of the Solar for All program so that the program can be restored and, on March 6, 2026, Defendants [filed](#) their opposition to Plaintiffs' motion for summary judgment and cross-moved for summary judgment.
 - On **September 18, 2026**, the District Court [granted](#) Plaintiffs' motion for summary judgment and denied Defendants' cross-motion for summary judgment, finding that the EPA's termination of the Solar for All program was contrary to law because Congress intended for the EPA to administer the already obligated Solar for All program grants. The District Court vacated, or set aside, Defendants' termination of the program.
 - *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.
 - 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.
 - On August 7, 2026, the District Court [granted](#) in part Plaintiffs' motion for summary judgment, finding that HUD issued the June 1, 2026 NOFO in a procedurally invalid manner by failing to engage in a public notice-and-comment period. The District Court set aside the June 1, 2026 NOFO. On August 13, 2026, Defendants [appealed](#) the District Court's decision to the U.S. Court of Appeals for the First Circuit.
 - On **September 16, 2026**, the First Circuit Court of Appeals [granted](#) Defendants' emergency motion for a stay pending appeal of the District Court's decision granting summary judgment in favor of Plaintiff, noting that HUD was likely to succeed on the merits of appeal and that it was not required to engage in a notice-and-comment period.

Legislative Watch

- On September 14, Sen. Jon Husted (R-OH) introduced [S. 5392](#) and Rep. Tim Walberg (R-MI), Chairman of the House Committee on Education and Workforce, introduced [H.R. 10351](#), companion bills entitled the "Training and Education for American Members in University Sports and Athletics Act" (TEAM USA Act). S. 5392 was referred to the Senate Committee on Health, Education, Labor, and Pensions, and H.R. 10351 was referred to the House Committee on Education and Workforce.
 - The bills would amend the Higher Education Act of 1965 to require institutions of higher education, as a condition of participating in federal student aid programs under Title IV of such Act, to ensure that not more than 20% of the student athletes on the official roster of any varsity sports team are international students; for teams with fewer than 10 student athletes, not more than one international student athlete could be included on the roster. The bills would also require institutions to report annually to the Secretary of Education and to the applicable athletic association the percentage of each varsity team's roster comprised of international student athletes. If enacted into law, these requirements would take effect on July 1, 2029, beginning with the 2029–2030 academic year.

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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