



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 28, 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- September 28: The Department of Education (ED) [announced](#) that it formally rescinded the Biden administration's regulations under Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance. In 2020, the Biden administration added regulations under Title IX that covered discrimination based on an individual's sexual orientation and gender identity. These regulations were vacated, or set aside, by federal courts in early 2025. The ED has not been enforcing the vacated regulations since then, and schools and educational institutions have been required to comply with the pre-Biden administration version of the regulations, which do not cover discrimination based on an individual's sexual orientation and gender identity. The ED's announcement is a formal step to remove the vacated regulations from the Code of Federal Regulations to reflect the ED's enforcement of Title IX since early 2025.

Education

- September 22: The Federal Trade Commission (FTC) [announced](#) that the FTC "strongly endorsed" the ED's proposed rule to revise the regulations governing the Secretary of Education's recognition of accrediting agencies, which was covered in the [August 25, 2026 issue](#) of the *Patterson Policy Watch*. Directors of the FTC's Office of Policy Planning and Bureau of Competition filed a [comment](#) in support of the proposed rule. The comment and the FTC's announcement note that monopolies in the accreditation market drive up tuition costs, limit consumer choice, and stifle innovation, and assert that incumbent institutional and programmatic accreditors are often influenced by higher education interests and incumbent members of the professions with incentives to impose rigid requirements and create barriers to lower-cost alternatives.
- September 22: The Department of Justice (DOJ) [announced](#) its finding that the University of California, San Francisco School of Medicine (UCSF Medical School) discriminated based on race in admissions for its 2023-2025 incoming classes, in violation of Title VI of the Civil Rights Act of 1964 (Title VI), as interpreted by the Supreme Court's decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181 (2023) (the *Harvard* decision). Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial aid. The *Harvard* decision prohibits the use of race in higher education admissions decisions and was covered in our firm's [July 5, 2023 client alert](#). According to the DOJ's [findings letter](#), race is used to determine which applicants advance through each stage of UCSF Medical School's application process, and black and Hispanic applicants were invited to interview and admitted at higher rates than white and Asian applicants with stronger MCAT scores and undergraduate GPAs.
 - The DOJ has recently announced similar findings regarding the medical schools of the University of California at Los Angeles, Yale University, the University of California Davis, and the University of California San Diego, as covered in the [May 12, 2026](#), [May 19, 2026](#), [June 16, 2026](#), and [July 28, 2026](#) issues of the *Patterson Policy Watch*, respectively.

Judicial 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:

- 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 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 24, 2026**, the First Circuit [vacated](#), or set aside, the District Court's decision and remanded the case back to the District Court for further proceedings.

Legislative Watch

- On September 22, [S. 5451](#) was introduced by Sen. Jim Banks (R-IN) in the Senate and referred to the Senate Committee on Health, Education, Labor, and Pensions. The bill would amend the Higher Education Act of 1965 to require that, as a condition of eligibility to receive a Federal Pell Grant, an applicant for a Federal Pell Grant must be a citizen or national of the United States.

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