



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 October 5, 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

- October 1: The Department of Justice (DOJ) [announced](#) its investigative findings that the University of California, Los Angeles School of Law (UCLA Law) discriminated against white and Asian applicants in granting admission to its 2023, 2024, and 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). According to the DOJ's [findings letter](#), following the *Harvard* decision, UCLA Law's application included personal statements and essay prompts designed to elicit information about applicants' race, and admissions staff instructed prospective applicants during race-based recruitment events on how to reveal their race in those sections of the application. The DOJ's analysis found that UCLA Law rejected white and Asian applicants who had the same LSAT scores as admitted Black and Hispanic applicants.
 - The DOJ has recently announced similar findings regarding Duke University School of Law and the University of California, Berkeley School of Law, as covered in the [August 11, 2026](#) and [September 15, 2026](#) issues of the *Patterson Policy Watch*, respectively.

Education

- October 5: The Department of Education (ED) and the DOJ [sent a joint letter](#) to all state Attorneys General, reminding state Attorneys General of parents' rights to know and be informed about certain private information related to their children under the Family Educational Rights and Privacy Act (FERPA) and Protection of Pupil Rights Amendment (PPRA). FERPA is a federal privacy law that protects the privacy of students' education records, and PPRA is another federal privacy law that requires schools to provide notice to parents and obtain written parental consent when conducting surveys, analyses, or evaluations asking students for certain private information. The joint letter encourages the state Attorneys General "to assist state and local educational agencies in your jurisdiction by ensuring robust compliance with parental rights under federal laws."

Tax

- September 29: The Department of the Treasury (Treasury) [released](#) its 2026-2027 Priority Guidance Plan, which lists 121 guidance projects on which Treasury and the Internal Revenue Service (IRS) plan to focus during the period of October 1, 2026 to September 30, 2027, which, beginning with this year's Priority Guidance Plan, aligns with the federal government's fiscal year. Guidance projects that would impact tax-exempt organizations include:
 - Regulations under §4968 regarding excise tax based on investment income of certain private colleges and universities.
 - Regulations under §4960 regarding excess compensation paid by applicable tax-exempt organizations, including the expanded definition of "covered employee."
 - Regulations under §25F on the income tax credit for contributions of individuals to scholarship granting organizations.
 - Proposed and temporary regulations under §25F were issued on October 1, 2026 and are discussed below.
 - Final regulations concerning the reporting of charitable contributions of trusts under §6034.
 - Proposed regulations were published on August 17, 2026.
 - Final regulations regarding the application of the fundamental public policy against racial discrimination, including consideration of recent caselaw, in determining the eligibility of private schools for recognition of tax-exempt status under §501(c)(3).
 - Proposed regulations were published on September 4, 2026, and were covered in the [September 10, 2026](#) issue of the *Patterson Policy Watch*.
 - Guidance on the statutory prohibition in §501(c)(3) against participation or intervention in political campaigns (the "Johnson Amendment").
 - Regulations under §6104 regarding the place for public inspection of materials relating to tax-exempt organizations, pensions, and other plans.
 - Regulations under §4945 regarding expenditure responsibility requirements.
 - Guidance under §§4966 and 6033 regarding certain donor advised fund arrangements.
 - The proposed regulations under §4966, which the IRS issued on November 13, 2023, were covered in our firm's [November 27, 2023 client alert](#).
 - Guidance under §6033 regarding exempt organization information reporting requirements, including with regard to fiscal sponsorship arrangements.
 - Guidance revising Rev. Proc. 2026-08 for certain types of group exemption letters.
- September 29: Treasury and the IRS issued [temporary regulations](#) and [proposed regulations](#) regarding "Trump accounts," a new type of investment account for children that was enacted as part of the One Big Beautiful Bill Act (OBBA). The regulations provide guidance for how eligible donors, including Section 501(c)(3) organizations, can make qualified

contributions to Trump accounts. Such donors must enter into a Treasury acceptance agreement specifying the amount and date of the gift, as well as the qualified class of at least 5,000 equal beneficiaries, who must be designated by their geographic location and/or birth year. Among other things, the regulations also confirm that such a general funding contribution furthers a Section 501(c)(3) purpose and may be eligible for a charitable deduction under Section 170. The temporary regulations are effective as of September 30, 2026.

- October 1: Treasury and the IRS [issued proposed regulations](#) and [temporary regulations](#) implementing Section 25F, the new federal scholarship tax credit enacted as part of the OBBB, which permits individual taxpayers, beginning in 2027, to claim a dollar-for-dollar tax credit of up to \$1,700 per year for cash contributions to “scholarship granting organizations” (SGOs). SGOs are charitable intermediaries that exist to aggregate contributions to provide scholarships to qualified K-12 students to pay for qualified school expenses.
 - The temporary regulations, which are effective as of December 1, 2026, establish the procedures for states and SGOs to prepare for the tax credit in 2027, including procedures for states to elect and certify SGOs and for SGOs to register and report contributions from donors. Under the OBBB, states must elect to participate in the tax credit for each tax calendar year and must identify SGOs in their respective states.
 - The proposed regulations, if made final, would address several open questions regarding the new tax credit, including the following:
 - The \$1,700 limitation would apply per individual rather than per return, so married couples filing jointly could claim up to \$3,400 if each spouse makes qualified contributions to SGOs. Taxpayers could contribute to an SGO in any participating state regardless of their state of residence and could rely on an IRS-published list of SGOs.
 - For purposes of the requirement that an SGO spend at least 90 percent of its income on scholarships, “income” would mean total gross receipts from all sources, but, consistent with Treasury’s June preview, an SGO with at least 85 percent of whose activities are scholarship granting activities could apply the test to its Section 25F segregated account only. An SGO could operate in multiple states if it is “located in” each state, meaning authorized to do business in and in compliance with the state’s charitable organization laws, without a physical presence.
 - Household income for purposes of the 300 percent of area median gross income limit on student eligibility would be measured on a cash basis, excluding imputed returns on assets, which Treasury estimates would make approximately 95 percent of elementary and secondary school-age children eligible.
 - Participating states would be prohibited from imposing requirements on SGOs more restrictive than the statute, and could include on their SGO lists organizations whose applications for recognition of exemption are pending with the IRS.

Public comments on the proposed regulations are due by December 1, 2026, and a public hearing is scheduled for December 15, 2026. For more coverage on Section 25F, please see the [December 16, 2025](#), [December 23, 2025](#), [May 12, 2026](#), and [June 16, 2026](#) issues of the *Patterson Policy Watch*.

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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