Highlights of Recent Public Policy Developments Affecting Nonprofits

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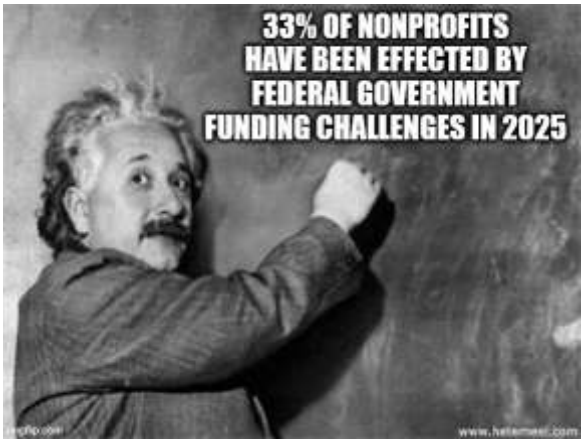
***Note:** The Center does not officer legal advice to nonprofits. This summary is not intended to give legal advice and should not be relied on without your attorney's counsel.*

Federal grant disruptions

Context:



- Since January 2025, the Trump Administration and various federal agencies have attempted to freeze federal funding to nonprofits, have terminated a variety of federal grants to nonprofits, and have threatened not to renew or extend other federal grants to nonprofits.
- According to an October 2025 report from the Urban Institute, 33% of nonprofits reported experiencing some type of funding disruption in the first 4-6 months of 2025, including 21% that lost at least some government funding, 27% reporting a delay, pause, or freeze in government funding, and 6% reporting receiving a stop work order.

Recent developments:

- On February 26, 2025, President Trump issued an EO 14222, which gives the Department of Government Efficiency (DOGE) broad authority to work with federal agencies to terminate or modify a wide range of federal grants to nonprofits. The Executive Order directs agency heads to work with DOGE to review every federal grant and to terminate or modify those that are inconsistent with the Trump Administration's priorities.
- On April 15, 2025, President Trump issued EO 14275 directing the Federal Acquisition Regulatory Council and the heads of federal agencies to make significant changes to the Federal Acquisition Regulation (FAR). FAR provides a wide variety of legal protections for nonprofits with federal grants, contracts, and cooperative agreements and sets forth a variety of rules that apply to nonprofits with federal funding. The Executive Order calls for revisions to FAR to ensure that it "contains only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests." The changes to FAR are still forthcoming.

- In June 2025, the U.S. Department of Justice (DOJ) issued a memo with guidance on the types of policies and practices that are deemed "unlawful discrimination" for recipients of federal funds, including nonprofits with federal grants or contracts. Among other things, the memo asserts that diversity, equity, and inclusion (DEI) policies and practices are unlawful discrimination and asserts that "unlawful proxy discrimination" is unlawful discrimination, explaining that "facially neutral criteria . . . that function as proxies for protected characteristics violate federal law if designed or applied with the intention of advantaging or disadvantaging individuals based on protected characteristics." The memo gives several examples of "proxy discrimination" in hiring and promotion decisions and determinations about program recipients for nonprofits receiving federal funding. Examples of "proxy discrimination" include the use of criteria like "cultural competence," "lived experience," "overcoming obstacles" narratives, and targeting programs and services to specific geographic areas based on their racial or ethnic composition. The memo implies that federal agencies could freeze or discontinue grant funding for nonprofits that are engaged in practices or policies that DOJ deems discriminatory, either directly or through proxy criteria. ***Because DOJ and other federal agencies have referenced this memo regularly in their analysis of potentially discriminatory activities of federal grantees and contractors, nonprofits with federal grants and contracts may want to read this memo (see the link to the memo at the end of this section).***
- In December 2025, DOJ reportedly began investigating whether the DEI policies and practices of some businesses and organizations with federal grants and contracts violate the False Claims Act. In April 2026, DOJ announced that International Business Machines Corporation (IBM) had agreed to pay more than $17 million in a settlement agreement after a DOJ investigation alleged that IBM had violated the False Claims Act by DEI practices in place in violation of the terms of its federal contract. Among other things, DOJ alleged that IBM violated federal antidiscrimination laws because it prioritized diversity by race and sex in its employment practices, including its hiring and promotion decisions. The settlement is the first stemming from DOJ's investigation into DEI practices and activities of federal contractors and grantees.
- On August 7, 2025, President Trump issued EO 14332 making several significant changes to the process by which federal agencies award, oversee, and terminate federal grants, including grants to nonprofits. Several of these changes could have significant implications for nonprofits that currently have federal grants and for those applying for federal grants in the future. The Executive Order directs that each agency have a political appointee responsible for oversight of its grant process with broad authority to ensure that grants are consistent with Trump Administration priorities. It also prohibits federal grants from being awarded to nonprofits that: (a) use racial preferences, including "proxies for race" in employment or program participation decisions; (b) don't acknowledge "the sex binary in humans or the notion that sex is a chosen or mutable characteristic"; and (c) serve undocumented immigrants. The Executive Order gives priority to nonprofits with lower indirect cost rates in competitive grant application processes and requires the Office of Management and Budget (OMB) to revise its Uniform Guidance to require all federal grant agreements to include provisions allowing for "termination for convenience" by federal agencies. In addition, it requires OMB to revise its Uniform Guidance to "appropriately limit the use of discretionary grant funds for costs related to facilities and administration."
- On May 29, 2026, published on the Federal Register its proposed changes to the OMB Uniform Guidance. OMB is proposing to change the name of the document from the Uniform Guidance to the Uniform Grants Regulation (UGR). Notably, the proposed UGR maintains three important provisions from the 2024 revision of the OMB Uniform Guidance for which the Center and our nonprofit partners have advocated:
    1. Ensuring that nonprofits may receive a *de minimis* indirect cost rate of 15% of their modified total direct costs on their federal grants;

2. Setting the threshold for a single audit at $1 million in federal grants received; and
3. Ensuring that federal agencies' notices of funding opportunities (NOFOs) are clearly worded.

The proposed rule would make several other significant changes to federal grant requirements. These would include:

- Requiring political appointees to perform a "pre-issuance review" of many grant awards to ensure that grants are being used for purposes consistent with Administration priorities.
- Expressly providing that federal grant funds must not be used for: (a) diversity, equity, and inclusion (DEI) or diversity, equity, inclusion, and accessibility (DEIA) policies, principles, or practices; (b) gender ideology (meaning "theories or ideologies that deny the biological reality of sex or the sex binary in humans, or endorse or advocate for the notion that sex is a chosen or mutable characteristic); and (c) "the so-called 'transition' of a child under 19 years of age from one sex to another." The proposed rule includes a lengthy justification for the legality of this new provision, presumably anticipating that it will be challenged in court.
- Ensuring that federal grants do not discriminate against (or in favor of) faith-based nonprofits.
- Providing that federal grants may not be used to promote or support "disparate impact liability."
- Encouraging federal agencies to award multi-year grants instead of requiring nonprofits to reapply for federal grants every year. This change could create greater certainty or cost savings for many nonprofits.
- Requiring federal grantees and sub-grantees to provide assurances that none of their employees worked for a federal granting agency in the previous two years.
- Allowing federal agencies to consider the risk level of grantees based on their "history of questionable practices" which includes plagiarism, use of discredited studies, and engaging in activities that violate federal civil rights or religious liberty laws (presumably including the activities mentioned in the first bullet point above).
- Limiting the ability of federal agencies to require additional audits on nonprofit grantees.
- Increasing the authority of federal agencies to terminate or temporarily suspend federal grants for violations of the OMB UGR.
- Eliminating the use of fixed amount grant awards.
- Providing more leeway on how grantees establish their internal controls while also expressly requiring grantees to use the federal E-Verify system and to have cybersecurity measures in place to protect confidential business information.
- Limiting the ability of nonprofits to use federal grant funds for fundraising activities or to attend conferences unless these activities are approved by the federal granting agency.
- Expanding the prohibition on the use of federal grant funds for lobbying activities to restrict the use of federal grants for nonpartisan voter registration activities and for public messaging on public policy issues.
- Limiting the use of federal funds for membership in country clubs or in organizations whose primary purposes are lobbying.

OMB plans to publish a final version of the UGR in summer or early fall of 2026 so that it will take effect on October 1, 2026.

- In late August, 2025, President Trump sent a memorandum to the Attorney General directing DOJ "in consultation with the heads of executive departments and agencies, to investigate whether Federal grant funds are being used to illegally support lobbying activities (See, 31 U.S.C. 1352) and to take appropriate enforcement action." The memorandum appears to misinterpret the relevant federal statute, which does not actually prohibit nonprofits (or businesses) that

receive federal grants, contracts, or cooperative agreements from lobbying. The memorandum directs the Attorney General to report to the President on the results of investigations into lobbying activities by federal grant recipients in 180 days. It is unclear what, if any, enforcement actions federal agencies may attempt to take against nonprofits that receive federal grants and are engaged in lobbying activities.

- An August 2025 U.S. Supreme Court ruling makes it more difficult for nonprofits that have had their federal grants terminated to have those grants reinstated by federal courts. The controlling opinion in the *National Institutes of Health v. American Public Health Association* case means that, to have terminated grants reinstated, nonprofits will now have to win separate lawsuits in two federal courts.
- In early September 2025, a federal trial court in Massachusetts invalidated more than $2 billion in federal grant terminations and frozen federal funds to Harvard University. Among other things, the court found that the government's grant terminations were illegal retaliation for speech protected under the First Amendment, placed unconstitutional conditions on Harvard's receipt of federal funds, and used unconstitutional coercion to force the university to suppress free speech rights. The court ruling in the Harvard case suggests that it is not legally permissible for federal agencies to freeze funding for, and terminate grants to, nonprofits simply because organizations will not acquiesce to the Trump Administration's policy priorities.
- In late September 2025, a federal judge in California issued an injunction preventing several federal agencies from requiring certain grantees to certify that they are not engaged in DEI practices and activities. The court found that these grant conditions violated the federal Administrative Procedures Act by imposing requirements on federal grantees that were not authorized by Congress. The injunction only applies to grants from the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Transportation (DOT), and the U.S. Department of Health and Human Services (HHS) to the plaintiffs in the case, which include several cities and nonprofits in California. The U.S. Supreme Court's ruling in *Trump v. CASA* from June 2025 effectively prevented the court in this case from issuing a broader injunction that applied to all nonprofits that have had similar anti-DEI grant conditions imposed on them by HUD, DOT, and HHS. However, the judge's ruling suggests that North Carolina nonprofits that have been required to comply with similar grant conditions from these or other federal agencies may be able to have these grant conditions invalidated if they were to initiate their own lawsuits against their granting agencies.
- Because Congress and the White House could not agree on appropriations legislation for the new federal fiscal year, the federal government was shut down between October 1, 2025 and November 13, 2025. Most notably for nonprofits, funding for the Supplemental Nutrition Assistance Program (SNAP) ran out on October 31, 2025, meaning that SNAP funding was suspended on November 1, 2025. Congress agreed to end the shutdown with a continuing resolution to fund the federal government through January 30, 2026. As part of that continuing resolution, Congress provided SNAP funding for the full fiscal year (through September 30, 2026), meaning that another government shutdown in the first nine months of 2026 will not affect SNAP funding. On February 3, 2026, Congress gave final approval to legislation to fund the remainder of the federal government (except the Department of Homeland Security) through the end of the fiscal year. On April 30, 2026, President Trump signed into law legislation funding all of the Department of Homeland Security except for Border Patrol and Immigration and Customs Enforcement through the end of the fiscal year.
- In December 2025, OMB released the Trump Administration's President's Management Agenda, which articulates the Administration's priorities for management of federal government agencies. Several parts of the President's Management Agenda have implications for nonprofits with federal grants and contracts, including:

1. A policy to "put political appointees in control of grant process to deliver results" that is likely to lead to more ideological oversight of federal grants to nonprofits instead of oversight by subject matter experts;
2. A priority to "defund DEI, gender ideology, K-12 indoctrinization, child mutilation, and open borders" that means elimination of federal funding for a wide range of nonprofits with missions, programs, and services that are not consistent with the priorities of the Trump Administration;
3. An emphasis on eliminating government waste and "demand[ing] partners who deliver," which may prompt changes to the rules on indirect costs for nonprofits with federal grants; and
4. An emphasis on stronger oversight of federal grantees and contractors that could lead to more burdensome reporting, review, and audit requirements for nonprofits with federal funds.

- In January 2026, the U.S. Substance Abuse and Mental Health Services Administration (SAMSHA) sent letters to hundreds of nonprofits serving people experiencing addiction, homelessness, and mental illness, including some organizations in North Carolina, terminating their federal grants, effective immediately. The letters indicated that the grants were being terminated because the nonprofits' programs and services were not aligned with the Trump Administration's policy priorities. Two days after sending the termination letters, SAMSHA reversed course and rescinded the grant terminations after the news of the grant terminations, and its potential devastating impact on communities across the country, received widespread media attention. It is unclear whether SAMSHA had legal authority to terminate these grants and whether other federal agencies could attempt similar widespread grant terminations in the future.
- In January 2026, the U.S. General Services Administration (GSA) posted a notice on the Federal Register indicating that it intends to amend the certification requirements in the System for Award Management (SAM) registration system for nonprofits with federal grants to "align with updated executive branch guidance" on discrimination. The posting specifically references the June 2025 DOJ mentioned above.
- In March 2026, President Trump issued EO 14398, which aims to prevent federal contractors from having diversity, equity, and inclusion (DEI) practices in place. The Executive Order directs federal agencies to include provisions in all contracts and subcontracts by April 25, 2026 prohibiting federal contractors and subcontractors from "engaging in any racially discriminatory DEI activities." The Executive Order also requires federal contractors and subcontractors to provide their contracting agency with any "information and reports, including providing access to books, records, and accounts" so that the federal agency can assess compliance with the anti-DEI provision. Further, the Executive Order allows federal agencies to cancel, terminate, or suspend contracts for violation of the anti-DEI provisions and to prevent noncompliant contractors or subcontractors from receiving future federal contracts.
- In March 2026, a federal court issued a permanent injunction that prevents the Trump Administration from implementing or enforcing EO 14290 from May 2026, which aimed at defunding National Public Radio (NPR) and the Public Broadcasting System (PBS), two of the nationals largest and most prominent nonprofit news outlets. The Executive Order directed the now-defunct Corporation for Public Broadcasting (CPB) to immediately cease federal funding for NPR and PBS and directed other federal agencies to ensure that they do not provide funding to NPR or PBS. Last summer, Congress approved a rescission request from President Trump that ended funding for CPB (hence its recent dissolution as a nonprofit corporation), NPR, and PBS. The court ruling found that the Executive Order violated the First Amendment by preventing NPR and PBS from receiving federal funding simply because the President disagreed with their reporting. While it does not restore their rescinded funding and cannot lead to the reformation

of the CPB, the court ruling means that NPR and PBS are eligible to receive federal funds from other agencies. The ruling also sets an important precedent that could help bolster the legal case for other nonprofits whose federal grants have been terminated or suspended because they express ideas that are contrary to priorities of the Trump Administration. In a strongly-worded opinion, the court noted that "[i]t is difficult to conceive of clearer evidence that a government action is targeted at viewpoints that the President does not like and seeks to squelch" and that the President may not "use his governmental power to direct federal agencies to exclude Plaintiffs from receiving federal grants or other funding in retaliation for saying things that he does not like."

For more information:

- EO 14222, Implementing the President's Department of Government Efficiency Cost Efficiency Initiative: https://www.federalregister.gov/documents/2025/03/03/2025-03527/implementing-the-presidents-department-of-government-efficiency-cost-efficiency-initiative
- EO 14275, Restoring Common Sense to Federal Procurement: https://www.federalregister.gov/documents/2025/04/18/2025-06839/restoring-common-sense-to-federal-procurement
- EO 14332, Improving Oversight of Federal Grantmaking:, https://www.federalregister.gov/documents/2025/08/12/2025-15344/improving-oversight-of-federal-grantmaking
- **DOJ memo on "unlawful discrimination" by federal grantees: https://www.justice.gov/ag/media/1409486/dl?inline**
- Proposed revisions to OMB Uniform Guidance: https://www.federalregister.gov/documents/2025/08/12/2025-15344/improving-oversight-of-federal-grantmaking
- Venable law firm summary of significant provision in proposed OMB Uniform Guidance revisions: https://www.venable.com/insights/publications/2026/06/the-administrations-proposed-revisions
- President Trump memo to AG on lobbying investigations of federal grantees: https://www.whitehouse.gov/presidential-actions/2025/08/use-of-appropriated-funds-for-illegal-lobbying-and-partisan-political-activity-by-federal-grantees/
- *National Institutes of Health v. American Public Health Association* Supreme Court decision: https://www.supremecourt.gov/opinions/24pdf/25a103_kh7p.pdf
- District court ruling reinstating $2 million in terminated and frozen grant funds to Harvard University: https://storage.courtlistener.com/recap/gov.uscourts.mad.283718/gov.uscourts.mad.283718.238.0.pdf
- California district court ruling finding grant conditions related to DEI impermissible: https://www.bloomberglaw.com/public/desktop/document/CityofFresnoetalvTurneretalDocketNo325cv07070NDCalAug202025CourtD/1?doc_id=XJQ0KBU1G9QLRR67OAS7GU630
- Urban Institute report on impact of government funding disruptions on nonprofits in 2025: https://www.urban.org/sites/default/files/2025-10/How_Government_Funding_Disruptions_Affected_Nonprofits_in_Early_2025.pdf
- President's Management Agenda: https://www.whitehouse.gov/wp-content/uploads/2025/12/M-26-03-Presidents-Management-Agenda.pdf
- *Governing* article explaining possible implications of President's Management Agenda: https://www.governing.com/management-and-administration/the-cascading-impacts-of-a-new-presidential-management-agenda

Johnson Amendment litigation and future IRS enforcement of nonpartisanship by 501(c)(3)s

Context:

- For more than 60 years, a provision in Section 501(c)(3) of the Internal Revenue Code sometimes known as the Johnson Amendment prohibits charitable nonprofits, foundations, and houses of worship from endorsing or opposing candidates for office and from making political campaign contributions.

Recent developments:

- In June 2025 the Internal Revenue Service filed a motion in a federal court in Texas asking a judge to allow two churches to make political endorsements to members of their congregations. Like other 501(c)(3) tax-exempt organizations, churches may not "participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." Essentially, through the court filing, the IRS is interpreting the Johnson Amendment as having a narrow exemption for communications from churches and other houses of worship to their congregations "through [their] customary channels of communication on matters of faith in connection with religious services."
- In July 2025, Americans United for Separation of Church and State (AU), a left-leaning advocacy group, filed a motion to intervene in the case, effectively arguing that it has a legal interest in the case and that none of the parties to the case adequately represent its interest. On December 12, 2025, the court denied AU's motion to intervene in the case, and AU did not appeal this decision.
- On March 31, 2026, the court dismissed the case, ruling that it did not have jurisdiction to decide the case under the Tax Anti-Injunction Act since the case involved the potential revocation of the churches' 501(c)(3) tax-exempt status, which would create tax liability for them. The court noted, however, the parties could consider bringing the lawsuit in a different federal court – the U.S. Tax Court, the U.S. Court of Federal Claims, or the U.S. District Court for the District of Columbia – if the IRS were to make a determination about the churches' 501(c)(3) status as a result of their violation of the Johnson Amendment. The plaintiffs in the case have filed a notice that they will appeal the ruling to the U.S. Court of Appeals for the Fifth Circuit, but the appellate court will likely rule on the applicability of the Tax Anti-Injunction Act, not the underlying Johnson Amendment claims. If the plaintiffs' appeal is unsuccessful, it is unclear whether the churches may file a new lawsuit in another court seeking an interpretation that the Johnson Amendment does not apply to their political endorsement. ***In the meantime, the Johnson Amendment remains fully in place without any limitations.***
- On September 30, 2025, a federal court ruled that the Internal Revenue Service (IRS) guidance on what constitutes impermissible partisan political activities by 501(c)(4) social welfare organizations is unconstitutionally vague. Unlike 501(c)(3) nonprofits, which are prohibited from engaging in any partisan political activities, 501(c)(4)s can engage in some partisan political activities as long as partisan politics are not their primary activities. Since 2016, Congress has prohibited the IRS from issuing formal guidance defining what is permissible partisan political intervention for 501(c)(4) organizations. The court noted that this congressional prohibition means that the IRS cannot issue regulations or a revenue ruling to provide more clarity on what

constitutes "political activities" and what is meant by "primary activities" of 501(c)(4) social welfare organizations. Consequently, the court has asked both parties to recommend a framework for defining these terms, and it is possible that the court could then establish standards for what is permissible partisan political engagement for 501(c)(4)s. These definitions also could affect how partisan political engagement is defined for 501(c)(3) nonprofits. In March 2026, the parties to the case and several other organizations filed briefs with the court suggesting a variety of possible interpretations of "political activities" and "primary activities" by 501(c)(4) organizations. The court could hear oral arguments in the case in 2026.

- On September 30, 2025, the IRS announced that it plans to issue "guidance on the statutory provision in §501(c)(3) against participation or intervention in political campaigns (the "Johnson Amendment")." The IRS last released formal guidance on the nonpartisanship provision in 2007 (Revenue Ruling 2007-41). It is possible that its forthcoming guidance on nonpartisanship could:
    1. Formalize the assertion from the IRS's requested consent agreement that the nonpartisanship provision has a narrow exemption for communications from churches and other houses of worship to their congregations "through [their] customary channels of communication on matters of faith in connection with religious services"; and/or
    2. Assert that the nonpartisanship provision limits the ability of 501(c)(3)s to engage in nonpartisan voter registration, voter education, or get-out-the vote activities.

For more information:

- IRS Revenue Ruling 2007-41: https://www.irs.gov/pub/irs-tege/rr2007-41.pdf.
- The Center's analysis of the proposed consent judgment and its implications for nonprofits: https://ncnonprofits.org/public-policy-blog/are-501c3-nonprofits-still-required-be-nonpartisan-yes-they-are

Public Service Loan Forgiveness rulemaking

Context:

- Under the Public Services Loan Forgiveness (PSLF) program, student loan borrowers who work in public service jobs – including positions with 501(c)(3) nonprofits – for 10 years while paying off their student loans are eligible to have the remainder of their federal student loans forgiven. PSLF has enabled many young professionals to afford careers in the nonprofit sector.

Recent developments:

- On March 7, 2025, President Trump issued EO 14235 directing the U.S. Department of Education to revise the definition of "public service" in its PSLF rulemaking to exclude "organizations that engage in activities that have s substantial illegal purpose."
- In August 2025, the U.S. Department of Education published a proposed rule limiting employer eligibility for PSLF. The Center submitted public comments sharing concerns about the proposed rule. Overall, nearly 14,000 individuals and organizations submitted public comments, the vast majority of which expressed concerns about the proposed rule.

- The Department of Education published its final rule on PSLF eligibility on October 31, 2025, making no substantive changes to the proposed rule. The final rule excludes employers – potentially including some 501(c)(3) nonprofits – from being eligible employers for PSLF if they are engaged in "substantial illegal purposes." The specific "illegal purposes" in the rule are consistent with those identified in EO 14235 but are found nowhere in the statute authorizing PSLF. Under the final rule, the Secretary of Education has the authority to determine "by a preponderance of the evidence" that an otherwise eligible nonprofit has engaged in activities that have a substantial illegal purpose with only minimal due process for the nonprofit. Once a nonprofit has been deemed to have engaged in activities that have a substantial illegal purpose, it would remain an ineligible employer for PSLF for at least 10 years. The final rule also requires that nonprofits must certify in their application to be a PSLF-eligible employer that they do not participate in activities that have a substantial illegal purpose, which may be difficult and unclear for staff to determine if the organization provides services in certain mission areas or to particular populations. The Center is concerned that this new rule could affect PSLF eligibility for some nonprofit employees.
- The final rule takes effect on July 1, 2026 and will only apply to "substantial illegal activities" that take place after that date. This means that nonprofits with employees currently in the PSLF program (or those that might have PSLF-eligible employees in the future) have eight months to review their operations to ensure that they are not engaged in "substantial illegal activities" as defined (quite broadly) in the rule and to make any necessary changes so that they are in compliance by July 1, 2026.
- On November 3, 2025, a group of nonprofits, local governments, and associations of public service employees filed a lawsuit asking a federal court to find the final rule unconstitutional and to issue an injunction stopping the Department from implementing the rule. On the same day, several states filed a similar lawsuit in a different federal court. Oral arguments in the cases could be held in spring 2026. Several groups, including legal services nonprofits, environmental nonprofits, local governments, and civil rights organizations, filed *amicus curiae* briefs supporting the plaintiffs' arguments that the final rule violates federal law and could create significant harm for a wide variety of nonprofits and local governments and the people and communities they serve. A federal coulrt in Massachusetts heard oral arguments in the case on June 3, 2026. The plaintiffs in the case have asked the court to issue a ruling prior to the rule's July 1, 2026 implementation date, bu it is unclear how soon the court will issue a ruling.

For more information:

- EO 14235, Restoring Public Service Loan Forgiveness: https://www.federalregister.gov/documents/2025/03/12/2025-04103/restoring-public-service-loan-forgiveness
- Final rule: https://public-inspection.federalregister.gov/2025-19729.pdf
- Center's public comments: https://ncnonprofits.org/sites/default/files/files/2025-09/North%20Carolina%20Center%20for%20Nonprofits%20public%20comments%20on%20PSLF%20proposed%20rulemaking%20-%209-12-25.pdf
- Center's analysis of the final rule: https://ncnonprofits.org/public-policy-blog/final-pslf-regulations-make-virtually-no-changes-problematic-proposed-rule

Is DEI now "illegal discrimination"?

Context:

- In a variety of Executive Orders, departmental memoranda, and public statements, President Trump and others in his administration have indicated that they believe that diversity, equity, and inclusion (DEI) programs and practices constitute "illegal discrimination."
- In the 2023 *Students for Fair Admission v. Harvard* case, the U.S. Supreme Court ruled that affirmative action admission programs at Harvard University and the University of North Carolina were unconstitutional because they violated the equal protection clause of the Fourteenth Amendment. Notably, Chief Justice Roberts wrote in his majority opinion: "Eliminating racial discrimination means eliminating all of it."
- In 2024, the Fearless Foundation in Atlanta discontinued a grant program for businesses owned by black women in light of a pending ruling from the Court of Appeals for the 11th Circuit that a grant program for businesses owned by Black women violated the Civil Rights Act of 1866 (which prohibits racial discrimination in private contracts).

Recent developments:

- On January 20, 2025, President Trump issued EO 14151 directing the Office of Management and Budget and Office of Personnel Management to work with federal agencies to end DEI programs in federal agencies and federal grant programs.
- On January 21, 2025, President Trump issued EO 14173 directing every federal grant or contract recipient to certify that it complies with federal anti-discrimination laws and that it does not operate programs promoting DEI that violate federal antidiscrimination laws. The Executive Order also directs OMB to remove all references to DEI principles in federal grant programs, requirements, and activities, and it directs the U.S. Department of Justice to identify major private-sector entities that have DEI programs and practices and to develop steps to deter private entities, including nonprofits, from having DEI programs and practices in place.
- Several federal agencies have required grant recipients to agree to amended grant agreements and/or have required new grant applicants to agree to grant agreements that prohibit grantees from having DEI programs and practices in place.
- In March 2025, the Equal Employment Opportunity Commission (EEOC) published two fact sheets on its new interpretation of the ways that DEI initiatives, policies, programs, and practices may be impermissible discrimination under Title VII. One of the fact sheets provides answers to 11 common questions about the EEOC's position on DEI and Title VII discrimination, noting (among other things) that "[t]he EEOC's position is that there is no such thing as 'reverse' discrimination, there is only discrimination." The other fact sheet provides tips for how employees can identify DEI-related workplace discrimination and the steps they can take to initiate legal action against their employers. Small nonprofits should be aware that Title VII generally does not apply to organizations with fewer than 15 employees.
- On April 23, 2025, President Trump issued EO 14281 directing federal agencies to stop using disparate impact theory. Disparate impact liability is a principle of civil rights law that allows individuals or groups to have protection against a wide range of policies – such as height and weight requirements, criminal history or credit history tests, and educational requirements –

that disproportionally affect people who are part of a protected class (based on race, sex, age, and other factors).

- As noted above in the section on federal grant freezes, terminations, and cuts, in a June 2025 memo, the USDOJ has indicated that DEI programs and practices, including the use of "proxy discrimination" are impermissible for federal grantees.
- President Trump has threatened to direct the IRS to revoke the tax exempt status of Harvard Universities, one of the oldest and largest 501(c)(3) organizations in the country, this year, in part because of the school's commitment to DEI. A conservative nonprofit also sent a letter to the IRS in 2025 asking for an investigation of several large, prominent private foundations and charitable nonprofits that have DEI policies and programs on the grounds that these DEI programs are illegal discrimination based on the *Students for Fair Admission* decision. So far, the IRS has not taken any adverse action on any 501(c)(3) organization based on its DEI programs or practices.
- On September 30, 2025, the IRS announced that it plans to issue "guidance on the application of 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)." The concept of a "fundamental public policy against racial discrimination" comes from the 1983 U.S. Supreme Court ruling in *Bob Jones v. United States* where the Court found that the IRS could revoke a nonprofit private college's tax-exemption under Section 501(c)(3) because its policy of denying admission to individuals in interracial relationships violated a "fundamental public policy" of eradicating racism in education. It is quite likely that the "consideration of recent caselaw" is a reference to the *Students for Fair Admission v. Harvard* decision. Potentially, IRS guidance combining the reasoning from these two cases could lead to a conclusion that nonprofit private schools with race-based practices – including those with diversity, equity, and inclusion (DEI) policies and practices – are not eligible for tax-exemption under Section 501(c)(3) of the Internal Revenue Code.

For more information:

- *Students for Fair Admission v. Harvard* decision: https://www.supremecourt.gov/opinions/22pdf/20-1199_hgdj.pdf
- *Bob Jones University v. United States* decision: https://supreme.justia.com/cases/federal/us/461/574/
- EO 14151, Ending Radical and Wasteful Government DEI Programs and Preferencing: https://www.federalregister.gov/documents/2025/01/29/2025-01953/ending-radical-and-wasteful-government-dei-programs-and-preferencing
- EO 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity: https://www.federalregister.gov/documents/2025/01/31/2025-02097/ending-illegal-discrimination-and-restoring-merit-based-opportunity
- EO 14281, Restoring Equality of Opportunity and Meritocracy: https://www.federalregister.gov/documents/2025/04/28/2025-07378/restoring-equality-of-opportunity-and-meritocracy
- EEOC fact sheets on DEI and employment discrimination: https://www.eeoc.gov/wysk/what-you-should-know-about-dei-related-discrimination-work and https://www.eeoc.gov/what-do-if-you-experience-discrimination-related-dei-work
- DOJ memo on "unlawful discrimination" by federal grantees: https://www.justice.gov/ag/media/1409486/dl?inline
- NPR article on EEOC approach to DEI in the context of employment discrimination: https://www.npr.org/2026/03/31/nx-s1-5763966/eeoc-trump-white-men-civil-rights-dei-discrimination

Final note:

- Other than the *Students for Fair Admission* decision, which is applicable only to government entities and government grantees through the Fourteenth Amendment equal protection claims, none of the insinuations that DEI is "illegal discrimination" is settled law.

Allegations of nonprofit involvement in political violence or terrorism

Context:

- President Trump has sought legal action against nonprofits and foundations that are alleged to have instigated or funded political violence.

Recent developments:

- On September 22, 2025, President Trump announced an Executive Order designating Antifa as a "domestic terrorist organization" and directing federal agencies "to investigate, disrupt, and dismantle any and all illegal operations – especially those involving terrorist actions – conducted by Antifa or any person claiming to act on behalf of Antifa." This Executive Order is misleading both because Antifa is a political movement, not an organization, and because federal law does not include a designation for, or penalties against, "domestic terrorist organizations." The Executive Order has not been published to the Federal Register, so it is not legally enforceable.
- On September 25, 2025, President Trump issued a National Security Presidential Memorandum (NSPM) focused on countering domestic terrorism and organized political violence. The NSPM directs the National Joint Terrorism Task Force to "investigate, prosecute, and disrupt entities and individuals engaged in acts of political violence and intimidation designed to suppress lawful political activity or obstruct the rule of law," including investigations of nonprofits and foundations that engage in or fund activities that could foster political violence. It also directs DOJ to develop guidance on the types of activities on domestic terrorism, including "an identification of any behaviors, fact patterns, recurrent motivations, or other indicia common to organizations and entities that coordinate these acts." Further, the NSPM implies that the IRS can revoke the tax-exempt status of organizations and foundations that are deemed to be supporting political violence or domestic terrorism.
- On September 29, 2025, DOJ published a memo aimed at preventing political violence against the U.S. Immigration and Customs Enforcement (ICE). The memo suggests that nonprofits and their staff, volunteers, and board members, who are engaged in anti-ICE speech or activities could be subject to DOJ investigations and prosecution.
- On April 21, 2026, after an investigation by the DOJ and the Federal Bureau of Investigation (FBI), a federal grand jury in Alabama indicted the Southern Policy Law Center (SPLC), a 501(c)(3) nonprofit, on 11 counts of federal crimes including bank and wire fraud. The indictment alleges that through a program that embedded SPLC informants in extremist organizations, "unbeknownst to donors, some of their donated money was being used to fund leaders and organizers of racist groups, including the Ku Klux Klan, the Aryan Nation, and the National Alliance." The DOJ and FBI investigation and the indictment appear to follow up on President

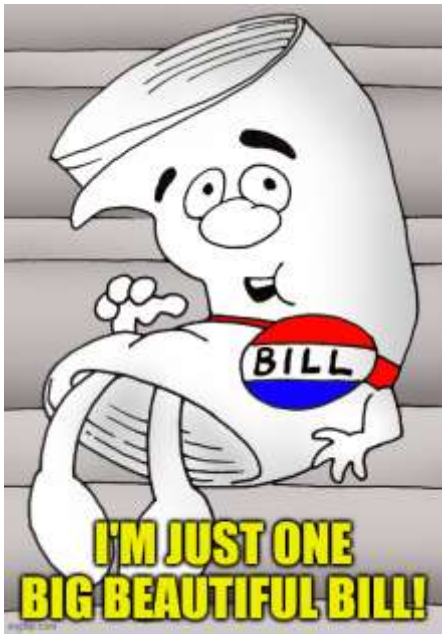
Trump's NSPM from September 2025 focused on countering domestic terrorism and organized political violence. The investigation and indictment do not affect other 501(c)(3) nonprofits, even those that may have partnered with SPLC, but they indicate that the ways that federal law enforcement officials may try to follow through on President Trump's NSPM to take legal actions against nonprofits that the Trump Administration believes are engaged in political violence or domestic terrorism. SPLC has filed a motion to dismiss the

- In December 2025, bills were filed in the U.S. Senate and the U.S. House of Representatives that would give the U.S. Treasury Secretary broad authority to revoke the tax-exempt status of "terrorist supporting organizations," which are nonprofits that provide material support (such as funding or training) to entities that have been designated as terrorist organizations by the federal government. Under existing law, the Treasury Secretary can revoke the tax-exempt status of organizations that the federal government has designated as terrorist organizations without providing any due process to these entities. The 2025 legislation would expand the Treasury Secretary's ability to revoke the tax-exempt status of "terrorist supporting organizations," which is a much broader and less clearly defined set of nonprofits than those that are covered by the current law. Because the designation of an organization as a "terrorist supporting organization" would be made by the Treasury Secretary and is somewhat subjective, it is possible that the provision could give the Treasury Secretary broad authority to revoke the tax-exempt status of a nonprofit largely because they disagreed with the organization's mission or policy positions. These bills are unlikely to become law.
- In March 2026, the Stop Proxy Organizations Nurturing Subversive Operations and Riots Act (SPONSOR Act) was introduced in both the U.S. Senate and the U.S. House of Representatives. The SPONSOR Act would make fiscal sponsors subject to criminal and civil liability for "covered activities" of their sponsored programs. Covered activities are broad and vague categories of actions that include:
    1. Aiding and abetting in acts of international terrorism, including providing substantial assistance to an individual or organization engaged in international terrorism;
    2. "By force or a specified and credible threat of force, or by physical obstruction, intentionally injuring intimidating or interfering with or attempting to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise a constitutional right"; and
    3. "By using force or a specified credible threat of force or by physically blocking the movement of any article or commodity in commerce to intentionally prevent the lawful movement of interstate and intrastate commerce."

For more information:

- Executive Order (not published on the Federal Register), Designating Antifa as a Domestic Terrorist Organization: https://www.whitehouse.gov/presidential-actions/2025/09/designating-antifa-as-a-domestic-terrorist-organization/
- National Security Presidential Memorandum, Countering Domestic Terrorism and Organized Political Violence: https://www.federalregister.gov/documents/2025/09/30/2025-19141/countering-domestic-terrorism-and-organized-political-violence
- International Center for Not-for-profit Law Information Sheet on Federal Terrorism Law and U.S. Civil Society: https://www.icnl.org/federal-terrorism-law-and-u-s-civil-society-an-explainer
- Reuters article on potential actions against nonprofits engaged in political violence or terrorism: https://www.reuters.com/legal/government/trumps-war-left-inside-plan-investigate-liberal-groups-2025-10-09/

Nonprofits and the One Big Beautiful Bill Act



Context:

- On July 4, 2025, President Trump signed the One Big Beautiful Bill Act into law. Congressional Republicans used the budget reconciliation process to pass this law this spring and summer. It enacts many of President Trump's tax and spending priorities.
- According to a recent survey by the Center for Effective Philanthropy, 42% of nonprofits believe the One Big Beautiful Bill Act will have a negative impact on fundraising.
- A recent report from the Lilly Family School of Philanthropy at Indiana University estimates that the tax changes in the One Big Beautiful Bill Act could reduce charitable giving by about $5.69 billion per year.

The Top 6 Things for Nonprofits to Know about the One Big Beautiful Bill:

1. It includes a new universal charitable deduction, capped at $1,000 annually for individual taxpayers and $2,000 annually for married couples, staring in 2026. This was a big policy win for the nonprofit sector. The Lilly report estimates that the universal charitable deduction will increase charitable giving by more than $4 billion per year.
2. It limits tax incentives for charitable giving for wealthy individuals and corporations, starting in 2026. For individuals, the law creates a new 0.5% of adjusted gross income floor on tax-deductible contributions and limits the value of tax deductions to 35% for taxpayers in the 37% marginal tax bracket. The Lilly report estimates that these changes will reduce charitable giving by itemizers by more than $8 billion per year. For corporations, the law creates a 1% floor on charitable deductions, which could mean that corporations may treat more of their charitable contributions as business expenses for tax purposes. The Lilly report estimates that the corporate charitable deduction floor will reduce corporate giving by about $1.5 billion per year.
3. It does not include an increase in the tax on investment income of private foundations or expansion of unrelated business income tax on nonprofits, both of which were considered in earlier versions of the bill.
4. It includes a new tax credit of up to $1,700 per year for donations to 501(c)(3)s that grant scholarships to pay for expenses of K-12 students, including private school tuition and expenses and public school expenses. States must opt in to this federal tax credit. The NC General Assembly is likely to override Governor Stein's veto of North Carolina's opt-in law in the near future.
5. The bill makes several significant changes to Medicaid, including limiting financing options for states and requiring states to add work requirements for Medicaid recipients and to re-determine Medicaid participants' eligible every six months instead of every year. These changes will create significant Medicaid financing challenges for North Carolina, could end Medicaid expansion in North Carolina (ending Medicaid coverage for more than 700,000 North Carolinians), and will create significant financial challenges for hospitals and other health care providers.
6. The bill shifts a portion of the cost of SNAP benefits from the federal government to state governments, likely creating fiscal challenges for the state budget in North Carolina. It also

increases work requirements for SNAP beneficiaries, meaning that fewer North Carolinians will receive federal food assistance in the future.

For more information:

- For more on these provisions and other parts of the One Big Beautiful Bill Act that could affect nonprofits, see the Center's analysis of the bill: https://ncnonprofits.org/public-policy-blog/tax-provisions-affecting-nonprofits-one-big-beautiful-bill-act
- Lilly Family School of Philanthropy at Indiana University report estimating the impact of the One Big Beautiful Bill Act on charitable giving: https://scholarworks.indianapolis.iu.edu/server/api/core/bitstreams/dc2f99d2-552a-470f-bc20-fd4afe7b97ff/content

State Budget Status and Implications for Nonprofits

Context:

- More than 11 months into the state's fiscal year, the NC Senate and the NC House of Representatives remain at an impasse on details of the state budget for FY 2025-27. North Carolina is currently the only state in the country without a state budget in place. North Carolina law allows state government operations to continue at their current funding levels if legislators and the Governor are unable to agree on a new state budget, so a state budget is not technically a "must pass" bill since the state government will not shut down without a new state budget. However, the lack of a budget has a variety of consequences for state government operations, for nonprofits, and for North Carolinians.
- On May 12, 2026, legislative leaders announced that they had agreed on a framework for a state budget and hoped that legislators could vote on a budget by mid-June.
- On March 6, 2026, Governor Stein proposed a critical needs budget that would provide full funding for Medicaid, increased child care subsidies, pay raises for state employees and public school teachers. Governor Stein's critical needs budget also would reopen the IOLTA grant program for 2026.
- On March 24, 2026, economists from the NC General Assembly's Fiscal Research Division (FRD) and the NC Office of State Budget and Management (OSBM) released their consensus forecast for state revenue. The economists released an updated forecast on May 15, 2026. The forecasts suggest that state legislators will have a revenue surplus of more than a half million dollars per year for FY 2025-26 and FY 2026-27, but that state general fund revenues are likely to decline in the near future.
- As part of the impasse on the state budget, legislators did not approve full Medicaid rebase funding (essentially adjusting Medicaid funding to reflect increased enrollment and costs) for the fiscal year beginning on July 1, 2025. As a result, on October 1, 2025, the NC Department of Health and Human Services (DHHS) cut rates for Medicaid providers, including many nonprofits, by 3% with some types of providers and services receiving a 10% rate cut. On December 10, DHHS retroactively reinstated full Medicaid rates after multiple state courts issued orders stopping DHHS from implementing rate cuts for certain types of providers. On April 30, 2026,

Governor Stein signed into law legislation to provide full Medicaid funding for the remainder of FY2025-26. Without this additional funding, DHHS would have run out of financial resources to pay Medicaid providers in May 2026. It is unclear whether legislators will provide full Medicaid rebase funding for FY2026-27 as part of the state budget.

- In June 2025, the NC General Assembly passed a law that prohibits the NC State Bar from making grants through its Interest on Lawyers' Trust Accounts (IOLTA) grant program from July 1, 2025 through June 30, 2026. The IOLTA grant program typically provides grant funding to a variety of legal services nonprofits. The new state law removed a significant revenue source for many of these organizations for a year. In January 2026, NC IOLTA and the NC State Bar released the results of their survey of 2025 IOLTA grantees, which demonstrates the negative impact of the defunding of the IOLTA grant program on these organizations and the people and communities they serve. As a result of the funding freeze, legal services nonprofits have been forced to lay off staff, reduce employee benefits, and cut back on the number of clients they serve and the number of sites where they offer services. A continued funding freeze could further hinder these organizations' ability to provide timely support to clients with urgent legal needs. Potentially, IOLTA grant funding could be restored in a state budget.

For more information:

- NC Budget and Tax Center blog post on the impact of not having a state budget in place: https://ncbudget.org/nc-lawmakers-havent-passed-a-comprehensive-state-budget-what-does-that-mean-for-me/
- NC IOLTA and the NC State Bar survey results on impact of IOLTA cuts: https://nciolta.org/grantees-report-impacts-of-continued-freeze-on-nc-iolta-grantmaking/

New State Laws Affecting Nonprofits

Context:

- The NC General Assembly ended its main 2025 session in late June Governor Stein vetoed 15 bills at the end of the session, and legislators have overridden nine of his vetoes.

New laws affecting nonprofits:

- A new nonprofit privacy law, which took effect on December 1, 2025, prohibits state and local government agencies from:
    1. Requiring nonprofits to provide the names of their donors, members, or volunteers;
    2. Publicly disclosing the names of any nonprofit donors, members, or volunteers that it obtains; and
    3. Requiring any current or prospective contractor or grantee from identifying any nonprofits to which it has "provided financial or nonfinancial support."

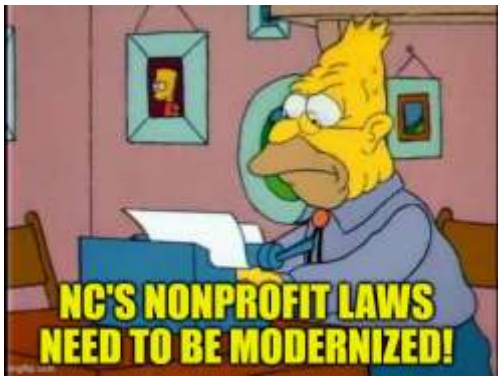
  The law includes several exceptions, including reports or disclosures required by the state campaign finance statute, investigations by the Attorney General or Secretary of State, information requested pursuant to a court warrant, certain litigation discovery requests, and as evidence in litigation. The limitations on state and local government agencies collecting and disseminating information do not cover nonprofit board members, officers, or staff.

- A new law clarifies the powers of the NC State Auditor. Notably, the final version does not include a provision from the original bill that would have treated nonprofits that receive state funds as state agencies and nonprofits receiving federal funds as federal agencies. Instead, the bill creates a new category of "publicly funded entities" which includes nonprofits that receive state or federal funding. The bill clarifies existing law that gives the State Auditor authority to conduct audits of nonprofits with state or federal funds. Notably, it also limits the scope of audits of nonprofits by the State Auditor to any state or federal funds received or held by nonprofits.
- A mini-budget bill establishes the Division of Accountability, Value, and Efficiency (DAVE) as a new division within the State Auditor's office to identify cost-cutting measures in state government. DAVE (a semi-clever pun since the current State Auditor is Dave Boliek) will be similar to the federal Department of Government Efficiency (DOGE). The mini-budget provides funding for the State Auditor to hire up to 45 DAVE staff members.
- A new law that will enable North Carolinians to receive a federal tax credit of up to $1,700 per year for contributions to 501(c)(3) nonprofits that qualify as "scholarship granting organizations" as part of a new law that was part of the One Big Beautiful Bill Act. The new tax credit will take effect for contributions made beginning in 2027. Governor Stein had vetoed this bill, but legislators voted to override his veto in spring 2026.

<u>Vetoed bills with implications for nonprofits:</u>

- Governor Stein vetoed a bill (H.B. 171) seeking to eliminate DEI initiatives in state and local government in North Carolina. The bill, which includes a clear definition of "diversity, equity, and inclusion," would prohibit state agencies, local governments, and public schools from promoting, supporting, funding, implementing, or maintaining DEI programs, policies, or initiatives and from applying for, accepting, or using federal funds, grants, or financial assistance that require compliance with DEI policies, initiatives, or mandates. It also would require the State Auditor to conduct periodic compliance audits to ensure that state agencies did not support DEI programs and initiatives. The House removed a portion of the original bill that would have significantly limited DEI initiatives and programs in nonprofits with state and local funding. Still, if the bill were to become law, it could change state law to prevent nonprofits from receiving federal or state grants related to DEI that pass through state agencies or local governments, even if future administrations were to revoke President Trump's Executive Orders that have effectively ended most federal grant programs related to DEI. In January 2026, a House committee indicated that lawmakers could consider additional legislation limiting DEI in state and local government and through government grant programs in 2026.
- Legislators could still consider override votes of six other bills that Governor Stein vetoed in 2025, including legislation to eliminate DEI in public K-12 schools and public higher education institutions and a bill to limit access to a wide range of state services and benefits to undocumented immigrants.

Potential State Legislation Affecting Nonprofits in 2026



Context:

- The NC General Assembly began its short session on April 21, 2026. During the short session, legislators can approve a state budget, tax legislation, changes to election laws, and bills that passed either the House or Senate in 2025.

Key legislation for nonprofits to watch in the short session:

- The NC House of Representatives Select Committee on Property Tax Reduction and Reforms was formed in December 2025. The committee's goal is "to study options to reduce the property tax burden on taxpayers in North Carolina." Many charitable nonprofits that own their property are exempt from paying property tax on it if they use their property (or distinct parts of it) "wholly and exclusively" for their nonprofit's mission-related purposes. In its January 2026 and February 2026 meetings, the committee looked into property tax exemption for nonprofit hospitals, nonprofit private schools, and nonprofits providing affordable housing. During its February 2026 meeting, the committee also explored nonprofit sales tax refunds, particularly those of nonprofit hospital systems that operate through a structure of multiple affiliated nonprofits. The committee has recommended legislation that would require either government financing or 100% nonprofit ownership for the affordable housing property tax exemption. It also has recommended a constitutional amendment that would impose levy limits on local governments. Levy limits could help control increases in rental costs for nonprofits that lease their property and wind up paying higher rents when their landlords' property tax burden increases, but they also could lead to a reduction in counties' and municipalities' revenues, which could mean cuts to local government grants to nonprofits. Both the nonprofit affordable housing property tax exemption proposal (H.B. 1042) and the property tax levy constitutional amendment (H.B. 1089) were introduced in the House at the beginning of the short session. The property tax committee also considered, but did not approve, legislation to limit nonprofit hospital property tax exemption to 50% of the assessed value of hospital property and to lower the annual cap on nonprofits' sales tax refunds and to force nonprofit hospitals to combine all of their affiliated entities for the purpose of the cap.
- In June 2025, the House passed a bill (H.B. 517) that would modernize state nonprofit laws to make them more consistent with best practices for nonprofits and to protect the integrity of the nonprofit sector. Among other things, the bill would create annual reporting requirements for nonprofits, would facilitate nonprofit mergers, and would require most nonprofits to have at least three board members. The Senate could take up the bill in 2026.
- In April 2026, a bill (S.895) was introduced in the Senate to limit property tax exemption and sales tax refunds of nonprofit hospitals to the amount of charity care that they provide.
- In 2025, bills were introduced in both the House and Senate to exempt 501(c)(3) nonprofits from paying sales tax on their purchases instead of seeking semi-annual refunds of the sales taxes that they pay. In April 2026, a separate bill (S.860) was introduced in the NC Senate that also would create a nonprofit sales tax exemption process. Lawmakers could take up this legislation during the 2026 short session.

For more information:

- Legislation to modernize nonprofit law: https://ncnonprofits.org/sites/default/files/files/2025-01/Modernize%20Nonprofits%20short%20version%202025.pdf
- Nonprofit sales tax exemption: https://ncnonprofits.org/sites/default/files/files/2025-01/Sales%20tax%20exemption%20fact%20sheet%202025.pdf
- Property tax reform and nonprofits: https://ncnonprofits.org/public-policy-blog/north-carolina-property-tax-reforms-and-nonprofits

State Constitutional Amendments

Context:

- Amendments to the state constitution can be placed on the ballot if they receive approval from 60% supermajorities of both the NC Senate and NC House of Representatives. To be added to the state constitution, an amendment must receive support from a majority of voters in an election. Because voters ultimately determine whether to make constitutional amendments, legislation proposing constitutional amendments does not require the Governor's approval.
- Legislators have approved of three constitutional amendments for the November 2026 ballot and are considering at least four additional amendments.
- Charitable nonprofits can take positions on state constitutional amendments and other ballot measures. Efforts by 501(c)(3) nonprofits to advocate for citizens to vote for or against constitutional amendments is treated as direct lobbying for federal tax purposes, which is a legal activity for charitable organizations.

Constitutional amendments approved for the ballot in the November 2026 election:

1. An amendment would lower the cap on income tax rates in North Carolina from 7% to 3.5%. The Center is concerned that this constitutional amendment would be harmful to nonprofits. While the 3.5% cap is higher than the current 2% corporate income tax rate (which is scheduled to phase out altogether by 2030), it is below the 2026 individual income tax rate of 3.99%. The individual income tax rate has historically been much higher than 3.5%; it was 5.25% as recently as 2021. Because income tax rates below 3.5% would be new to North Carolina, it remains unclear how these lower rates will affect long-term revenue for the state, particularly during or after an economic recession. With a 3.5% income tax cap, future state legislators would have limited ability to raise needed revenue from income taxes (even temporary tax increases on high-income North Carolinians). This is likely to create pressure to increase revenue from sales tax and governmental fees and to cut state government spending. Ultimately, a lower income tax cap would increase the likelihood of future legislative challenges to nonprofit sales tax refunds and state income tax exemption. It also could lead to significant cuts to state grants and contracts with nonprofits that provide public services and could create the need for the state and local governments to offload certain programs and services onto the nonprofit sector without compensating nonprofits for the full cost of providing these services.

2. An amendment would require the NC General Assembly to establish limits on how much counties and municipalities may increase property tax levies. If the constitutional amendment were to pass, legislators would then work on the details of these levy limits next year. Proposals to limit local governments' ability to increase property tax collections could help keep lease prices down for nonprofits that rent their property but also could force many counties and municipalities to cut back on expenses, potentially meaning fewer local government grants for nonprofits and reductions to local government investment in other community priorities that are important to many nonprofits. Note that legislators already have the authority to establish levy limits for local government property tax increases and that the constitutional amendment provides no details for what levy limits would entail.
3. An amendment would require all voters to provide photo ID when voting. North Carolina currently has a voter ID statute, so the amendment would have little practical impact on elections.

Other constitutional amendments under consideration for inclusion on the ballot in the November 2026 election:

1. An amendment that would add a "right to work" to the state constitution, prohibiting requirements that workers join labor unions or labor organizations.
2. An amendment that would protect the right to engage in farming and forestry in the state constitution.
3. An amendment that would add a provision in the state constitution that if the Governor has to fill a vacancy in a Council of State position, the Governor must appoint someone from the same political party as the person who vacated the position.
4. An amendment that would make the members of the NC Board of Education elected rather than appointed by the Governor.

For more information:

- Resources for nonprofits on engagement on ballot measures: https://ncnonprofits.org/blog/what-your-nonprofit-needs-know-about-advocating-ballot-measures-north-carolina
- NC Budget and Tax Center resource on potential problems with the income tax cap constitutional amendment: https://ncbudget.org/10-reasons-ncs-income-tax-cap-amendment-is-a-bad-deal-for-the-states-future/