

Developments in Nonprofit and Association Law 2025–2026

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The following review offers associations and other nonprofit organizations a concise guide to significant cases and regulatory developments from the past year. What follows are practical summaries of developments affecting governance, tax exemption, constitutional rights, antitrust and competition, political activity and lobbying, employment and benefits, intellectual property, and administrative law—along with their potential implications for nonprofit operations and decision-making.

The summary does not include pending legislation or proposed rules. The new developments are organized as follows:

- Governance
- Tax-Exemption
- Constitutional
- Antitrust and Competition
- Political Law and Lobbying
- Employment and Benefits
- Intellectual Property
- Administrative Law

GOVERNANCE

California Court of Appeal Rejected Direct Fiduciary Duty Claims by Nonprofit Members Acting as Contract Providers

California Dental Association v. Delta Dental of California, No. A170821 (Cal. Ct. App. Oct. 10, 2025)

Dentist members of Delta Dental of California, a nonprofit mutual benefit corporation, challenged future changes to reimbursement fees under their provider agreements. They alleged that Delta breached the implied covenant of good faith and fair dealing and that its directors owed direct fiduciary duties to them because they were corporate members.

The Court of Appeal affirmed dismissal without leave to amend. It held that the provider agreements and governing statutes permitted future amendments after notice and allowed providers to terminate. It also held that the directors' statutory fiduciary duties ran to Delta as the corporation, not to dentist members in their separate capacity as contracting providers, where a direct duty would conflict with the directors' duties to the corporation.

Third Circuit Affirmed Dismissal of Member's Direct Fiduciary Duty Claim Against Nonprofit Director

Sports Enterprises, Inc. v. Goldklang, No. 25-1299 (3d Cir. Jan. 21, 2026)

Sports Enterprises, Inc. (SEI), which owned the Salem-Keizer Volcanoes, alleged that Marvin Goldklang breached fiduciary duties to SEI while serving on the board and 2020 negotiating committee of the National Association of Professional Baseball Leagues, Inc., a Florida nonprofit. SEI claimed that Goldklang used his interests in Major League Baseball and several minor league clubs to help reduce the number of affiliated minor league teams, causing the Volcanoes to lose their longstanding affiliation with the San Francisco Giants.

The Third Circuit affirmed dismissal. It held that Florida's nonprofit corporation statute required a director to act in the corporation's best interests but did not create a direct fiduciary duty to individual members. The Association's governing documents did not expressly create such a duty, and SEI's dependence on the Association and receipt of negotiating updates did not establish an implied fiduciary relationship with Goldklang.

Washington State Court of Appeals Resolved Membership and Board Authority Dispute in Firefighters Association

Chappel v. Johnson, 576 P.3d 578 (Wash. Ct. App. 2025)

Members of the Seattle Black Firefighters Association (SBFFA) challenged the board's treatment of retired firefighters, actions concerning association property, and an attempted sale of SBFFA's house. The dispute required the court to determine whether retired firefighters remained voting members, whether the board

complied with the bylaws and Washington’s Nonprofit Corporation Act, and whether SBFFA qualified as a statutory charitable corporation.

The Court of Appeals affirmed rulings that retired firefighters remained members with voting rights and that the proposed sale had not been properly approved under the governing documents. It also affirmed rejection of the fiduciary duty claims because the plaintiffs did not prove a breach, and it held that SBFFA’s charitable activities did not make it a “charitable corporation” under the statutory definition.

Fifth Circuit Reversed Jurisdictional Dismissal That Depended on Secular Reinterpretation of Church Governance

The Lutheran Church-Missouri Synod v. Christian, No. 25-50130 (5th Cir. June 4, 2026)

The Lutheran Church-Missouri Synod (LCMS), a Missouri nonprofit corporation that handled the Synod’s civil affairs, alleged that Concordia University Texas officials unlawfully rejected the Synod’s governance authority and refused to seat Synod-elected regents. The officials argued that the ecclesiastical Synod, rather than LCMS, was the real and indispensable party and that the Synod should be treated as a Texas unincorporated association whose citizenship defeated complete diversity.

The district court accepted that characterization and dismissed the case for lack of diversity jurisdiction. The Fifth Circuit reversed. It held that LCMS was a real and substantial party authorized by the church’s governing documents to conduct the Synod’s civil litigation and that the district court violated church autonomy principles by second-guessing the church’s allocation of civil and ecclesiastical authority and imposing Texas unincorporated association law on the religious structure.

Nevada Supreme Court Allowed Neutral Principles Review of Religious Nonprofit Governance Claims

Singh v. Second Judicial District Court, 142 Nev. Adv. Op. 25 (Apr. 2, 2026)

Leaders of the Northern Nevada Sikh Society sought a writ barring civil adjudication of members’ claims that management had violated the Society’s bylaws and Nevada nonprofit law. The members alleged that management created unauthorized committees, transferred temple property to a trust without required approval, failed to issue membership cards and maintain records, and denied inspection rights.

The Nevada Supreme Court denied the writ. It held that the neutral principles exception to ecclesiastical abstention was not limited to property disputes and could apply to corporate governance claims. Because the pleaded issues could be resolved by applying the bylaws, records requirements, and Nevada statutes without interpreting Sikh doctrine or religious law, the district court could proceed.

Florida Modernized Its Nonprofit Corporation Act

Fla. HB 797, Amending Chapter 617 of the Florida Statutes (eff. July 1, 2026)

Florida enacted a very broad revision of Chapter 617 of the Florida Statutes, renamed the Florida Nonprofit Corporation Act (previously, the Florida Not for Profit Corporation Act). The legislation made substantive changes to align numerous provisions with the Florida Business Corporation Act and conformed terminology to the Model Nonprofit Corporation Act.

The law revised corporate powers, notices, distributions, officer and director duties, director removal, board vacancies, member admission and termination, equal membership rights, remote participation, proxy voting, board composition, liability protections, mergers, and statements concerning property held for charitable purposes. It weakened immunity for director and officer liability protection, specifying that immunity does not apply to “reckless” conduct by a director or officer, and added a statutory framework for derivative action procedures. It also removed a registration requirement for certain affiliate chapters. The law took effect July 1, 2026. Any nonprofit organization incorporated in Florida should carefully review its governance documents and practices, with the advice of legal counsel, to ensure compliance with the new law.

TAX EXEMPTION

IRS Resumed Group Exemption Applications Under Revised Procedures

Rev. Proc. 2026-8

The IRS replaced its longstanding group exemption procedures and resumed accepting new group exemption applications after a suspension that began in 2020. Revenue Procedure 2026-8 applies to requests submitted after January 20, 2026, and governs both new and existing group exemption letters.

The procedure generally requires a central organization to have recognized or pending exempt status, at least five subordinate organizations to obtain a new letter, and at least one subordinate to maintain it. It limits a central organization to one group letter; requires affiliation and general supervision or control; generally requires subordinates to be described in the same paragraph of Section 501(c); imposes uniform purpose, authorization, recordkeeping, and annual reporting requirements; and provides transition rules for existing group rulings.

Washington State Excluded Section 501(c) Nonprofit Live Presentations from Retail Sales Tax

Washington Department of Revenue Special Notice (Apr. 3, 2026)

Washington State’s 2025 legislation classified many live presentations, including seminars, lectures, workshops, courses, and similar interactive programs, as retail sales beginning October 1, 2025, subject to state sales tax. The Washington Department of Revenue issued a Special Notice on April 3, 2026, explaining that new statutory exclusions would take effect July 1, 2026, including an exclusion for presentations given by organizations tax-exempt under Section 501(c).

The Department stated that receipts from qualifying nonprofit presentations would no longer be subject to retail sales tax after June 30, 2026, although the receipts generally remained subject to business and occupation tax under the Service and Other Activities classification unless a separate exemption applied.

CONSTITUTIONAL

Settlement Limited California Attorney General's Access to Trade Association Advocacy Materials

American Chemistry Council, Inc. v. Bonta, No. 1:24-cv-01533-APM (D.D.C. Jan. 21, 2026)

The American Chemistry Council (ACC) sued the California Attorney General seeking to quash an investigative subpoena seeking internal materials concerning ACC's plastics advocacy, confidential member communications, and petitioning before the Federal Trade Commission (FTC), including materials relating to ACC's comments on the FTC's Green Guides. ACC withheld 550 documents and asserted that compelled disclosure would violate its First Amendment associational, petitioning, and free speech rights. After the Attorney General withdrew the subpoena, he argued that the federal action was moot, but the district court held in May 2025 that a live controversy remained because the Attorney General had left open the possibility of seeking the same materials through other litigation or investigative means. The parties later settled. Under the settlement incorporated into the court's January 21, 2026, order, the Attorney General agreed to not knowingly to compel ACC or current members of ACC's Plastics Division to produce 550 documents identified on ACC's log in specified related litigation and the Attorney General's plastic pollution investigation. The court dismissed the case without prejudice under Rule 41(a)(2) and retained jurisdiction to enforce the settlement. The order did not decide the merits of ACC's asserted First Amendment protections.

U.S. Supreme Court Held That Outstanding Donor Disclosure Subpoena Created Present Associational Injury for Standing Purposes

First Choice Women's Resource Centers, Inc. v. Davenport, No. 24-781 (U.S. Apr. 29, 2026)

First Choice Women's Resource Centers, a New Jersey religious nonprofit, challenged in federal court a New Jersey Attorney General subpoena that demanded 28 categories of documents, including identifying information for donors who gave through channels other than one designated webpage. The nonprofit alleged that the demand chilled donor associational rights and violated the First Amendment.

The district court and a divided Third Circuit held that First Choice lacked standing because no state court had yet compelled production. The U.S. Supreme Court unanimously reversed. It held that official demands for private donor information burdened associational rights when made and for as long as they remained outstanding, regardless of whether the subpoena was self-executing, one donation channel was exempted, or a protective order might later restrict disclosure. The Court remanded without deciding the merits of the constitutional challenge.

Second Circuit Held State Subpoena Proceedings Precluded Nonprofit's Federal First Amendment Suit

VDARE Foundation, Inc. v. James, 162 F.4th 77 (2d Cir. 2025)

VDARE Foundation challenged a New York Attorney General subpoena seeking governance, financial, vendor, and contractor records. It alleged in federal court that the subpoena was retaliatory and viewpoint discriminatory, while the Attorney General separately pursued enforcement in state court.

After the state court ordered compliance subject to redactions and confidentiality protections, the federal district court dismissed VDARE's claims. The Second Circuit affirmed under New York claim preclusion law. It held that the final state enforcement judgment involved the same parties and transaction and barred the federal constitutional claims, even though VDARE had filed the federal action first. The court dismissed the appeal from denial of preliminary relief as moot.

Texas Supreme Court Required Substantial Compliance with Narrowed Civil Investigative Demand

Office of the Attorney General v. PFLAG, Inc., No. 24-0892 (Tex. Mar. 13, 2026)

PFLAG, a nonprofit organization that advocates on issues relating to LGBTQ individuals, challenged a Texas Attorney General civil investigative demand issued during a Deceptive Trade Practices Act investigation into possible misrepresentations or deceptive billing for medical treatments prohibited by Texas Senate Bill 14, enacted in 2023, which bars medical professionals in Texas from providing gender-affirming care to minors. During the litigation, the Attorney General narrowed the requests, disclaimed interest in member identities, and permitted redaction or anonymization of identifying information.

The Texas Supreme Court reversed the trial court's broad declaratory judgment and injunction, which had largely set aside the Attorney General's original civil investigative demand and restricted the Attorney General from seeking documents beyond those the trial court had permitted. It held that most of the revised requests had to be answered, subject to recognized privileges supported by a privilege log, and rejected a categorical privilege for confidential communications with a private advocacy organization. The court did not require production at that stage of certain chapter national contracts and governing documents because the Attorney General had not established their relevance.

ANTITRUST AND COMPETITION

Seventh Circuit Affirmed Dismissal of Antitrust Challenge to Medical Board Maintenance Requirements

Lazarou v. American Board of Psychiatry & Neurology, 158 F.4th 854 (7th Cir. 2025)

Two psychiatrists alleged that the American Board of Psychiatry and Neurology (ABPN) used control over specialty certification to force its diplomates to purchase its maintenance of certification program, thereby

unlawfully tying certification to a product that competed with continuing medical education.

The Seventh Circuit affirmed the district court's dismissal with prejudice. It held that the complaint did not plausibly allege that physicians viewed ABPN's certification maintenance program as reasonably interchangeable with continuing medical education. The program required additional examinations, practice improvement activities, time, and fees, and much of it directed physicians to purchase continuing education elsewhere. Without plausible interchangeability, the complaint did not allege separate products or foreclosure of the continuing education market.

District Court Dismissed Antitrust Claims Against Law School Admission Council with Leave to Amend

Risner v. Law School Admission Council, Inc., No. 2:25-cv-04461 (E.D. Pa. Apr. 28, 2026)

A law school applicant filed a purported class action antitrust lawsuit against the Law School Admission Council (LSAC), alleging that LSAC and its members, the 197 law schools accredited by the American Bar Association (ABA), fixed fees for the Credential Assembly Service, LSAC's centralized service for collecting and transmitting applicants' transcripts, letters of recommendation, and other application materials to law schools. The plaintiff argued that the LSAC service imposed an unreasonable horizontal restraint in the J.D. education and application platform markets and monopolized the law school application platform market.

The district court held that the applicant had standing and had plausibly alleged concerted action and, in part, a horizontal agreement among member schools. It nevertheless dismissed all claims without prejudice because the proposed markets were implausibly or inconsistently defined, the alleged competitive harms were insufficient, and the complaint did not plausibly allege LSAC's monopoly power or an unreasonable restraint in a properly defined market. The court granted leave to amend. The plaintiff subsequently filed an amended complaint, and on June 26, 2026, the court denied LSAC's motion to dismiss the amended complaint, allowing the case to proceed.

Texas and Florida Supreme Courts Reduced Exclusive Reliance on ABA Accreditation for Bar Eligibility

Final Approval of Amendments to Rule 1 of the Rules Governing Admission to the Bar of Texas, Misc. Dkt. No. 26-9002 (Tex. Jan. 6, 2026); *In re Amendments to Rules Regulating the Florida Bar and Rules of the Supreme Court Relating to Admissions to the Bar*, No. SC2025-2064 (Fla. Jan. 15, 2026)

The Texas Supreme Court gave final approval to amendments that placed authority over the law schools approved for Texas bar eligibility directly with the court rather than treating ABA accreditation as the sole gatekeeping criterion. Existing approved schools remained on the list, and loss of ABA accreditation alone no longer required removal.

For continued approval, existing schools were required to comply with specified ABA standards concerning bar passage, admissions qualifications and testing, and disclosures. The court also stated that it would develop a process for schools without ABA accreditation to seek approval. During the comment period, Federal Trade Commission staff supported the proposed change on competition grounds, arguing that making ABA accreditation determinative of bar eligibility gave a private professional association substantial control over entry into the Texas legal market and could increase the costs of legal education, discourage alternative law-school models, and ultimately constrain the supply of lawyers. FTC staff also questioned whether Texas's reliance on the ABA, without active state supervision of its accreditation decisions, satisfied the requirements for state-action immunity under federal antitrust law. The amendments took effect immediately.

The Florida Supreme Court similarly amended its bar admission rules to permit graduates of law schools accredited by an accrediting agency recognized by the U.S. Department of Education and approved by the Florida Supreme Court to qualify to sit for the Florida bar examination, rather than relying exclusively on ABA accreditation. The Florida amendments take effect October 1, 2026, and the court stated that it would finalize a process for approving additional accrediting agencies.

Justice Department Takes Position that Private Accreditation Activity Is Subject to Antitrust Scrutiny; Court Dismisses Antitrust Complaint on Ripeness Grounds Because Internal Procedural Options Were Still Available to the Plaintiff.

Lincoln Memorial University v. American Veterinary Medical Association, No. 3:25-cv-00282-TAV-DCP, Dkt. 45 (E.D. Tenn. Dec. 15, 2025); Dkt. 54 (E.D. Tenn. Sept. 1, 2026)

Lincoln Memorial University (LMU) filed an antitrust action against the American Veterinary Medical Association (AVMA) alleging that the AVMA's accreditation arm, the Council on Education, used accreditation standards and procedures to exclude LMU from the veterinary education market for the purpose of restraining trade, eliminating competition, reducing output, and raising prices in both the domestic market for veterinary education and the domestic market for veterinary care and services. LMU claimed that the Council's accreditation standards on research, internship, and residency requirements disadvantaged newer private schools and that the Council's decision to place LMU's Tennessee campus veterinary medical college on probationary accreditation status despite prior compliance harmed its ability to expand and damaged LMU's reputation.

In December 2025, the Justice Department filed a statement of interest explaining that a private professional accreditor did not become exempt from the Sherman Act merely because states relied on accreditation in their licensure laws or the Department of Education recognized the accreditor. It argued that state action immunity required a clearly articulated state policy and active state supervision, and that petitioning immunity did not automatically protect private standard setting and enforcement. The Justice Department took no position on the merits of the university's claims.

On September 1, 2026, the federal district court dismissed LMU’s complaint without prejudice, holding that LMU’s claims were not ripe because they were dependent on a speculative and contingent future event: a final decision denying accreditation. The court noted that it “does not have a crystal ball to determine the future course of events as to [LMU’s] accreditation status, and, under some of these potential outcomes, [LMU’s] threatened injury would not come to pass.” The court held that LMU’s allegations of current harms from its probationary status, such as negative reputational effects and decreased ability to recruit faculty and students, were not supported by sufficient specific factual allegations. Noting that LMU would have access to an internal appeal process under the Council’s procedures before any terminal accreditation assignment would become final, the court also rejected LMU’s argument that it would suffer irreparable harm from a dismissal: “the hardship plaintiff will face by not having its claims heard at this juncture are the general hardships that it will have to proceed through the normal channels under the AVMA COE’s policies and procedures,” rather than “any particularly severe hardship.”

POLITICAL LAW AND LOBBYING

Florida and Indiana Expand State Foreign Influence Restrictions

CS/CS/CS/HB 905, Ch. 2026-66, Laws of Florida (eff. July 1, 2026); S.B. 256, Pub. L. No. 131-2026 (Ind. 2026)

Florida broadened an existing charitable solicitation restriction that prohibited a charitable organization or sponsor from soliciting or accepting contributions or anything of value from a “foreign source of concern.” Chapter 2026-66 amended the statutory definition of that term to include a designated foreign terrorist organization and an agent acting on such an organization’s behalf. The amendment took effect July 1, 2026.

Indiana enacted a separate registration regime for agents of covered foreign principals and foreign supported political organizations. The law defines covered agency relationships, political activity directed at Indiana government, policy, public opinion, or elections, and foreign financial support; it requires registration and periodic reporting to the Attorney General. The act took effect July 1, 2026, but the agent registration requirement applies to persons who act as agents of covered foreign principals beginning January 1, 2027.

Illinois, Tennessee, Kansas, Alabama, and Missouri also introduced similar foreign influence registration legislation in 2026.

EMPLOYMENT AND BENEFITS

Treasury and IRS Announce Implementation of Expanded Section 4960 Covered Employee Definition IRS Notice 2026-36

Notice 2026-36 addresses the One, Big, Beautiful Bill Act's amendment of Section 4960 of the Internal Revenue Code, which imposes an excise tax on remuneration above \$1 million and excess parachute payments involving covered employees of an applicable tax-exempt organization. For taxable years beginning after December 31, 2025, Section 4960's definition of covered employee is no longer limited to an organization's five highest compensated employees and generally includes any employee of an applicable tax-exempt organization, regardless of compensation level.

The notice interprets the amended definition to include individuals who had become covered employees under the prior rule in a taxable year beginning after December 31, 2016, and on or before December 31, 2025, plus any employee of an applicable tax-exempt organization in a taxable year beginning after December 31, 2025, subject to future exceptions. Treasury and the IRS announced proposed limited hours and nonexempt funds exceptions and permitted reliance on the announced approach until the proposed regulations are issued.

Department of Labor Issues Opinion Letter on Volunteer Activities by Employees for Their Nonprofit Employer FLSA2026-12

On September 10, 2026, the Department of Labor's Wage and Hour Division issued an Opinion Letter addressing whether employees of a nonprofit organization may provide volunteer services to the organization outside of their normal work hours.

The inquiring organization breeds and trains service dogs, and it relies on non-employee volunteers to provide basic care, early training, and socialization for puppies in the volunteers' homes before the organization provides specialized training at its onsite facilities to those puppies. Several exempt employees of the organization requested to volunteer as puppy raisers.

The Opinion Letter explains that nonprofit organization employees may, "freely and without coercion from the employer or its agents" and without promise or expectation of compensation, volunteer to perform work that is neither the same nor of similar type as the work that the employee is employed to perform." However, that services of the same or similar type of work that the employee is employed to perform are "an indivisible part of the employment relationship" and constitute compensable work hours. Moreover, employees cannot waive wages for those services.

In circumstances in which the services performed are of the same or a similar type as an employee's primary duties, for a non-exempt employee, the employer must pay for all combined hours worked, including any "volunteer" hours. For a salaried, exempt employee, no additional compensation beyond the salary is required for the extra work, so long as the employee's primary duty remains the performance of exempt work. In the inquirer's case, the Department deemed the job duties of veterinarians and supervisory employees to be sufficiently different from puppy raising that those employees could do so on an unpaid volunteer basis, but that puppy raising was sufficiently similar to the employed work of trainers that the organization would need to compensate the trainers for any puppy-raising activities on behalf of the organization.

INTELLECTUAL PROPERTY

Third Circuit Held UpCodes Likely to Succeed on Fair Use Defense for Standards Incorporated into Law

American Society for Testing & Materials v. UpCodes, Inc., 172 F.4th 253 (3d Cir. 2026)

The American Society for Testing and Materials (ASTM), a nonprofit standards developer, sought a preliminary injunction after UpCodes posted on its website complete ASTM standards that had been incorporated by reference into mandatory building codes. ASTM argued that UpCodes copied ASTM's standards, which ASTM usually licenses to users for a fee, for a commercial purpose. ASTM also argued that UpCodes' inclusion in its publication of nonmandatory portions of the ASTM standards defeated UpCodes' defense of fair use.

The Third Circuit affirmed denial of the injunction, holding that UpCodes was likely to succeed on its fair use defense because its purpose was to publish the law governing particular jurisdictions rather than to distribute current best practice standards. The standards were primarily factual; copying the incorporated works, including contextual nonmandatory material, did not foreclose fair use; and the record did not establish likely significant market harm.

Supreme Court Left in Place Human Authorship Requirement for Copyright Registration

Thaler v. Perlmutter, 130 F.4th 1039 (D.C. Cir. 2025), cert. denied, No. 25-449 (U.S. Mar. 2, 2026)

Stephen Thaler sought copyright registration for an image that he represented had been created autonomously by an artificial intelligence system, with the system named as author. The Copyright Office rejected the application, and Thaler challenged the refusal under the Copyright Act.

The D.C. Circuit affirmed, holding that the Act required a human author for initial copyright ownership and registration. It relied on the statute's treatment of authors as persons who could own property, have spouses and heirs, sign instruments, possess domiciles, and have lifespans. The Supreme Court denied certiorari on March 2, 2026, leaving the D.C. Circuit's judgment in place.

Although this holding is not specific to nonprofit organizations, it addresses an issue that many find important.

ADMINISTRATIVE LAW

D.C. Circuit Vacates Preliminary Injunction Against OMB Funding Freeze on Mootness Grounds

National Council of Nonprofits v. Office of Management & Budget, No. 25-5148 (D.C. Cir. Aug. 21, 2026), appeal from 775 F. Supp. 3d 100 (D.D.C. 2025)

The National Council of Nonprofits and other organizations challenged the Office of Management and Budget's January 27, 2025, memorandum directing federal agencies to review federal financial assistance programs for consistency with specified executive orders and, in the interim, broadly pause obligations and disbursements of federal financial assistance, including assistance involving foreign aid, nongovernmental organizations, DEI, "woke gender ideology," and the "green new deal." They alleged that the directive exceeded OMB's authority and violated the Administrative Procedure Act and the First Amendment of the Constitution. On February 25, 2025, the district court entered a preliminary injunction after finding that the plaintiffs had standing and were likely to succeed on their claims that OMB acted arbitrarily and capriciously and exceeded its statutory authority, showed some likelihood of success on their First Amendment claim, and would suffer irreparable harm.

OMB appealed, and on August 21, 2026, the D.C. Circuit vacated the preliminary injunction. The court did not reach the merits of the plaintiffs' challenges to the funding freeze. Instead, it concluded that the case was likely moot because OMB had rescinded the challenged memorandum and the record indicated that a comparable government-wide funding freeze was unlikely to recur. The court distinguished litigation challenging separate agency actions implementing funding restrictions, explaining that the plaintiffs in this case challenged the OMB memorandum itself.

District Court Invalidated Mass Termination of National Endowment for the Humanities Grants

American Council of Learned Societies v. McDonald, No. 25-cv-3657 (CM), and *Authors Guild v. National Endowment for the Humanities*, No. 25-cv-3923 (CM) (S.D.N.Y. May 7, 2026), appeal docketed, No. 26-1832 (2d Cir. July 8, 2026)

Membership associations, grant recipients, and scholars challenged the April 2025 mass termination of more than 1,400 National Endowment for the Humanities grants. They alleged that officials associated with the U.S. DOGE Service directed the terminations without statutory authority and selected grants on impermissible ideological grounds.

The Southern District of New York granted summary judgment for the plaintiffs on May 7, 2026. It declared the mass termination unlawful, unconstitutional, *ultra vires*, and without legal effect because it violated the First Amendment, the equal protection component of the Fifth Amendment, and statutory limits

on agency authority. The court permanently enjoined implementation of the termination and required notice to affected recipients. The government appealed to the Second Circuit.

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