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# TaxNewsFlash

## Exempt Organizations

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# Proposed regulations: Racial nondiscrimination requirements for private schools under section 501(c)(3)

The U.S. Treasury Department and IRS today released proposed regulations (REG-119986-25) that would update existing regulations to provide that a private school is not exempt from federal income tax as an organization described in section 501(c)(3) if it discriminates on the basis of race, color, or national or ethnic origin in the administration of any educational policy, admissions policy, scholarship or loan program, athletic program, or other school-administered or school-supported program.

The proposed regulations would apply to private schools classified as educational organizations described in section 170(b)(1)(A)(ii), including private primary and secondary schools, colleges, universities, and professional or trade schools. Governmental units, agencies or instrumentalities of governmental units, and organizations owned or operated by such governmental entities would not be covered.

The proposed regulations would not preclude a private school from maintaining a religious mission, curriculum, or program of observance, or from selecting students on the basis of religious affiliation or membership (provided the criteria are based solely on religion and not on shared ancestry or ethnic characteristics).

If the regulations are finalized, Treasury and the IRS would also modify Rev. Proc. 75-50 (as modified by Rev. Proc. 2019-22) by deleting sentences that currently provide that policies or financial assistance programs favoring racial minority groups, when designed to promote a school's racially nondiscriminatory policy as to students or that do not significantly derogate from such a policy, will not adversely affect exempt status.

Comments and requests for a public hearing must be submitted within 60 days after publication in the Federal Register, which is scheduled for September 4, 2026. The proposed regulations would apply to tax years of private schools beginning after May 31, 2027, which Treasury and the IRS expect will be after publication of final regulations.

Read a related IRS release—IR-2026-103

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