



**KATIE HOBBS**  
SECRETARY OF STATE  
*State of Arizona*

October 1, 2021

The Honorable Doug Ducey  
Governor of Arizona  
1700 W. Washington Street, 9<sup>th</sup> Floor  
Phoenix, AZ 85007

The Honorable Mark Brnovich  
Arizona Attorney General  
2005 N. Central Avenue  
Phoenix, AZ 85004

Governor Ducey and Attorney General Brnovich,

Enclosed with this letter is the 2021 Elections Procedures Manual for your review and approval pursuant to A.R.S. § 16-452.

This updated Manual is a product of months of work with elections officials from all fifteen of Arizona's counties. As you may know, working with a group of such diverse stakeholders isn't always easy, but it's always worth it. Having the perspective of officials from counties large and small, urban and rural, has given us a Manual that truly works for the entire State. The input and feedback we received from elections officials during this process was invaluable and will truly benefit Arizona voters.

Additionally, we posted an initial draft of the Manual for public comment and held two public meetings for Arizonans to learn more about the Manual and offer their thoughts. The public comment period resulted in more than 6000 comments submitted to my Office. I feel confident that a draft of this Manual has never received so much public input. Some of the responses received from the public were well-stated and were incorporated into the Manual submitted to you today.

There are a couple notes about the Manual worthy of immediate mention.

- First, much has been made about my decision to change Arizona's policy regarding the tabulation of votes cast by out-of-precinct voters. Some believe that this policy is required by statute and have made reference to lower court decisions as evidence. However, no one has pointed to any statutory provision actually requiring the out-of-precinct policy and the Supreme Court's recent decision in *Brnovich v. DNC* made

clear that the policy is required by the Manual alone.<sup>1</sup> And as more counties now plan to move to the vote center model, it's likely that this policy will affect fewer and fewer voters, eliminating any meaningful administrative burden. The prior out-of-precinct policy only serves to throw out the votes of eligible and registered Arizona voters. Ultimately, I don't believe an archaic policy should stand between citizens and the exercise of their fundamental rights.

- Second, as you know, S.B. 1819 has been declared unconstitutional by Judge Katherine Cooper of the Maricopa County Superior Court in *Arizona School Boards Association, et al. v. State of Arizona*, No. CV2021-012741. Because an appeal is pending, relevant provisions of S.B. 1819 remain incorporated in the Manual, but are highlighted in yellow so they can be readily identified and removed if Judge Cooper's ruling is not overturned on appeal prior to the December 31<sup>st</sup> deadline for approval of the Manual.

In 2019, our Offices worked together to implement the first update to the Elections Procedures Manual in five years. Since then, our elections have become the subject of wild conspiracy theories and partisan attack. It's my hope that we can once again show our State that public officials across the political spectrum—whether Democrat, Republican, or Independent—can work together in the interest of all Arizonans.

Please do not hesitate to reach out with questions and comments as you review and approve this Manual.

Sincerely,



Katie Hobbs  
Arizona Secretary of State

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<sup>1</sup> See *Brnovich v. DNC*, 141 S.Ct. 2321, 2334 (2021) (stating that the out-of-precinct policy is enforceable through the EPM and A.R.S. § 16-452(C), not through the Attorney General's authority to enforce the statutes of Title 16 generally pursuant to A.R.S. § 16-1021). Further, while Judge Rayes, in his Amended Findings of Fact and Conclusions of Law, noted that the out-of-precinct policy "derives from the collective effect of A.R.S. §§ 16-122, -135, -584," there's an obvious difference between a policy being "derived from" versus being required by the cited statutory provisions. See *DNC v. Reagan*, 329 F. Supp. 3d 824, 832 (D. Ariz. 2018).