IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

REPUBLICAN NATIONAL COMMITTEE; REPUBLICAN PARTY OF ARIZONA, LLC; AND YAVAPAI COUNTY REPUBLICAN PARTY,
Plaintiffs/Appellants,

v.

ADRIAN FONTES, IN HIS OFFICIAL CAPACITY AS ARIZONA SECRETARY OF STATE,
Defendant/Appellee,

VOTO LATINO, ARIZONA ALLIANCE FOR RETIRED AMERICANS, DEMOCRATIC NATIONAL COMMITTEE, AND ARIZONA DEMOCRATIC PARTY,
Intervenor-Defendants/Appellees.

No. 2 CA-CV 2024-0241
Filed December 5, 2025

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Maricopa County
No. CV2024050553
The Honorable Frank W. Moskowitz, Judge

AFFIRMED

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MEMORANDUM DECISION

Presiding Judge Gard authored the decision of the Court, in which Chief Judge Staring and Judge O'Neil concurred.

G A R D, Presiding Judge:

¶1 The Republican National Committee, Republican Party of Arizona, LLC, and Yavapai County Republican Party (collectively "the RNC") argue that multiple provisions of the Arizona Secretary of State's

2023 Elections Procedures Manual (EPM) contradict or directly conflict with state and federal statutes. Among other arguments, the Secretary and intervenors Voto Latino and Arizona Alliance for Retired Americans assert the RNC lacks standing to challenge the identified provisions under the Uniform Declaratory Judgments Act (DJA).[1] *See* A.R.S. §§ 12-1831 to 12-1846. We agree that the RNC has failed to satisfy Arizona's "rigorous standing requirement." *Fernandez v. Takata Seat Belts, Inc.*, 210 Ariz. 138, ¶ 6 (2005). We therefore affirm the superior court's judgment dismissing this action for failure to state a claim upon which relief can be granted. *See* Ariz. R. Civ. P. 12(b)(6).

Factual and Procedural Background

¶2 The chief election officer for the State of Arizona, the Secretary of State, is tasked every other year with drafting an EPM "to achieve and maintain the maximum degree of correctness, impartiality, uniformity and efficiency on the procedures for [elections]." A.R.S. §§ 16-142(A), 16-452(A), (B). The Secretary must submit the manual to the governor and the attorney general for approval no later than October 1 of each odd-numbered year preceding a general election. § 16-452(B). Upon approval, the EPM must be issued no later than December 31 of that year. *Id.* Once issued, "the EPM has the force of law" and any violation of a rule it contains is punishable as a class two misdemeanor. *Ariz. Pub. Integrity All. v. Fontes*, 250 Ariz. 58, ¶ 16 (2020); § 16-452(C). On December 30, 2023, the Secretary published the most recent EPM with the approval of the governor and attorney general.

¶3 Shortly thereafter, the RNC filed a verified special action complaint for declaratory and injunctive relief. Count I alleged that the EPM's promulgation was subject to the rulemaking process set forth in the Arizona Administrative Procedure Act (APA), A.R.S. §§ 41-1001 to 41-1093.08, and that the Secretary had failed to comply with the APA's notice-and-comment requirements. Because a rule is invalid unless adopted in substantial compliance with the APA, *see* § 41-1030(A), the RNC sought a declaration invalidating the EPM and an injunction prohibiting its enforcement until and unless the Secretary complies with the rulemaking process.

[1]The Democratic National Committee and Arizona Democratic Party have also intervened in this matter, but they do not challenge the RNC's standing.

¶4 The RNC also set forth eight alternative counts, seeking declarations that specific EPM provisions conflict with state and federal laws. Because an EPM provision that exceeds its statutory authority or conflicts with statutory requirements is void, the RNC sought a declaration invalidating the identified provisions. *See Ariz. All. for Retired Ams., Inc. v. Crosby*, 256 Ariz. 328, ¶ 18 (App. 2023) ("[A]n EPM regulation that either exceeds its statutory authority or contradicts statutory requirements 'does not have the force of law.'" (quoting *Leibsohn v. Hobbs*, 254 Ariz. 1, ¶ 22 (2022))). The RNC specifically challenged:

- Chapter 1, § IX(C)(2)(b), which directs a county recorder, upon receiving a summary report from a jury commissioner indicating a registered voter has professed non-citizenship, not to cancel the voter's registration if the voter either previously provided Documentary Proof of Citizenship (DPOC) or registered to vote before DPOC was required. The RNC alleged this provision conflicts with A.R.S. § 16-165(A)(10), which requires a recorder to send such a voter notice that the voter's registration will be canceled if the voter does not provide DPOC within thirty-five days. (Count II)

- Chapter 1, § II(A), which allows federal-only voters to vote in Presidential Preference Elections (PPEs); Chapter 10, § II(F)(1)(f)(i), which requires provisional ballots submitted by federal-only voters in PPEs to be tabulated; Chapter 2, § I(B)(1), which allows federal-only voters to be placed on the Active Early Voter List (AEVL) after first proving their identities; and Chapter 2, § V(B), which deems a federal-only voter's use of a federal form without providing DPOC an "invalid ground[] for challenging an early ballot." The RNC alleged these provisions conflict with A.R.S. § 16-127, which disqualifies persons who have not provided DPOC from voting in presidential elections and receiving early ballots by mail. (Counts III and IV)

- Chapter 1, § II(A)(8)(a), and Chapter 1, § IX(C)(2)(a), which state that, in verifying the citizenship of registrants, county recorders "currently" have no obligation to check certain databases because they either lack access to those databases or have access only for limited purposes. The RNC alleged that these provisions conflict with A.R.S. §§ 16-121.01(D) and 16-165, which require county recorders to consult specific databases under certain circumstances. (Count V)

- Chapter 1, § XI(C)(1), which recognizes that a signature component of a registrant's record is generally confidential and may be "viewed or accessed by a member of the public only for purposes of verifying signatures on a candidate, initiative, referendum, recall, new party, or other petition or for purposes of verifying candidate filings." The RNC alleged that this provision conflicts with A.R.S. § 16-168(F), which the RNC interprets to permit access to signatures for broad "elections purposes." (Count VI)

- Chapter 2, § I(B)(1), which permits a non-uniformed-services or overseas voter on the AEVL to make a one-time request to have a ballot mailed to an address outside of Arizona. The RNC alleged that this provision conflicts with A.R.S. § 16-544(B), which permits only uniformed-services or overseas voters to use an address outside of Arizona for the AEVL. (Count VII)

- Chapter 2, § V(A), which requires that challenges "be submitted in writing after an early ballot is returned to the County Recorder and prior to the opening of the early ballot affidavit envelope" and that any challenges "received before the early ballot is returned or after the affidavit envelope containing the ballot has been opened must be summarily denied as untimely." The RNC alleged that this provision conflicts with A.R.S. § 16-552(D), which sets forth the procedure for challenging early ballots and permits such challenges any time before the ballot is deposited in the ballot box. (Count VIII)

- Chapter 8, § VIII(B), which requires a voter to attest when submitting a provisional ballot that the voter understands that voting the incorrect ballot style in the wrong precinct or county will result in his or her vote not being counted, and Chapter 9, § VI(B)(1)(f), which requires an election official to permit a voter whose name does not appear on the precinct's signature roster to vote a provisional ballot in the correct style for the voter's assigned precinct and to advise the voter that the ballot will be counted after it is confirmed the voter is eligible to vote and has not already voted. The RNC alleged that this provision conflicts with A.R.S. § 16-122, which directs that "[n]o person shall be permitted to vote unless such person's name appears as a qualified elector in both the general county register and in the precinct register or list of the precinct and election districts or

proposed election districts in which such person resides," subject to certain statutory exceptions. (Count IX)

¶5 A few days later, the RNC moved for a preliminary injunction on the APA claim, as well as on six of the eight alternative claims challenging particular EPM provisions. The Secretary opposed the request and moved to dismiss the complaint for lack of standing and failure to state a claim under Rule 12(b)(1) and (6), Ariz. R. Civ. P. Intervenors Voto Latino and Arizona Alliance for Retired Americans also moved to dismiss on various grounds including standing.

¶6 The superior court granted the motion to dismiss. Although the court expressed "concerns about whether [the RNC has] standing for some or all of their claims," it did not expressly rule on that issue. Instead, it concluded that the APA's procedures did not apply to the EPM because § 16-452 provides an independent procedure to promulgate a valid EPM. The court also upheld each of the challenged provisions, finding they did not contradict or directly conflict with federal or state laws. The court entered final judgment in the Secretary's favor, and the RNC appealed.

¶7 In March 2025, we reversed the superior court's dismissal, concluding that the EPM is subject to the APA's rulemaking procedures and that the Secretary had not substantially complied with those procedures in promulgating the 2023 EPM. *Republican Nat'l Comm. v. Fontes*, ___ Ariz. ___, ¶ 2, 566 P.3d 984, 987 (App. 2025). In October 2025, however, our supreme court vacated our opinion after concluding the APA did not apply to the EPM's promulgation and reinstated the first three pages of the superior court's May 2024 decision. It further remanded the case for us to address the RNC's alternative arguments that the above-listed EPM provisions are invalid.

Discussion

¶8 The Secretary and intervenors Voto Latino and Arizona Alliance of Retired Americans encourage us to affirm the superior court's dismissal without reaching the merits of the RNC's claims because the RNC lacks standing to challenge the specific EPM provisions at issue. *See Sears v. Hull*, 192 Ariz. 65, ¶ 9 (1998) (court does not address merits of claim if plaintiff lacks standing). The Secretary maintains that the challenged rules govern election officials—not the RNC—and that the RNC has failed to show a "real or imminent threat of harm" from the rules' enforcement. Likewise, Voto Latino and the Arizona Alliance for Retired Americans assert the RNC has "fail[ed] to explain how . . . the enforcement of any of

the individually challenged provisions harms—or even affects—them in any way." The RNC's response to these arguments focuses primarily on its APA claim. As to its substantive challenges to the EPM, the RNC asserts that its expenditure of resources for election purposes, its general interest in elections administration, and the potential for criminal prosecution under § 16-452(C) is sufficient to establish standing under the DJA.

¶9 We review questions of standing de novo.[2] *Ariz. Creditors Bar Ass'n v. State*, 257 Ariz. 406, ¶ 8 (App. 2024). "[T]he question of standing in Arizona is not a constitutional mandate since we have no counterpart to the 'case or controversy' requirement of the federal constitution." *Armory Park Neighborhood Ass'n v. Episcopal Cmty. Servs. in Ariz.*, 148 Ariz. 1, 6 (1985); *see* Ariz. Const. art. VI; U.S. Const. art. III, § 2, cl. 1. And "[t]he consequence of not having a case or controversy requirement in our Constitution is that in Arizona, standing is a prudential consideration rather than a mandatory prerequisite to suit." *Montenegro v. Fontes*, ___ Ariz. ___, ¶ 18, 576 P.3d 692, 697 (2025); *see also Strawberry Water Co. v. Paulsen*, 220 Ariz. 401, ¶ 7 (App. 2008) (standing "only raises 'questions of prudential or judicial restraint'" (quoting *Armory Park Neighborhood Ass'n*, 148 Ariz. at 6)).

¶10 Nonetheless, Arizona has "established a rigorous standing requirement." *Fernandez*, 210 Ariz. 138, ¶ 6. "The requirement is important: the presence of standing sharpens the legal issues presented by ensuring that true adversaries are before the court and thereby assures that our courts do not issue mere advisory opinions." *Sears*, 192 Ariz. 65, ¶ 24. As a result, we waive the standing requirement only in "exceptional circumstances." *Id.* ¶ 25. In most cases, we apply the standing doctrine "as a matter of judicial restraint to ensure courts 'refrain from issuing advisory opinions, that cases be ripe for decision and not moot, and that issues be fully developed between true adversaries.'" *Mills v. Ariz. Bd. of Tech. Registration*, 253 Ariz. 415, ¶ 23 (2022) (quoting *City of Surprise v. Ariz. Corp. Comm'n*, 246 Ariz. 206, ¶ 8 (2019)).

¶11 In our prior opinion, we concluded the RNC had standing to seek a declaration that the APA applied and that the Secretary's failure to comply with its procedures in promulgating the EPM invalidated the manual. *Republican Nat'l Comm.*, ___ Ariz. ___, ¶¶ 15, 27, 566 P.3d at 990, 993-94; *see Samaritan Health Sys. v. Ariz. Health Care Cost Containment Sys.*

[2]Although the superior court did not resolve the standing question, we may affirm its dismissal on any basis supported by the record. *See R.O.I. Props. LLC v. Ford*, 246 Ariz. 231, ¶ 13 (App. 2019).

Admin., 198 Ariz. 533, ¶ 22 (App. 2000) ("Parties may seek declaratory relief against an agency through A.R.S. section 41-1034 [if] . . . the plaintiff asserts that a rule is invalid due to an agency's failure to comply with the applicable statutory procedures when promulgating the rule."). Central to our reasoning was the APA's broad standing provision, which permits "[a]ny person who is or *may be affected by a rule*" to sue to enforce the APA's requirements. § 41-1034(A) (emphasis added). This provision, however, does not apply to the RNC's substantive EPM challenges, which arise only under the DJA, §§ 12-1831 to 12-1846. We must therefore determine if the RNC has standing to raise its substantive claims under that statute.

¶12 Unlike the APA, the DJA does not allow a party to redress a possible, but uncertain, future harm. *Ariz. Creditors Bar Ass'n*, 257 Ariz. 379, ¶ 12 (relief sought must be "based on an existing state of facts, not those which may or may not arise in the future," and any decision on the matter must not be advisory (quoting *Land Dep't v. O'Toole*, 154 Ariz. 43, 47 (App. 1987))). Standing under the DJA is, however, broad. *Id.* The statute allows a party "whose rights, status or other legal relations are affected by a statute" to have a court determine "any question of construction or validity arising under the . . . statute" and to "obtain a declaration of rights, status or other legal relations thereunder." § 12-1832.

¶13 Actual injury or prejudice is not required, and because a declaratory-judgment action is remedial in nature it "should be 'liberally construed and administered.'" *Ariz. Sch. Bds. Ass'n v. State*, 252 Ariz. 219, ¶ 16 (2022) (quoting *Podol v. Jacobs*, 65 Ariz. 50, 54 (1946)). But there still must be "an actual controversy ripe for adjudication" and "parties with a real interest in the questions to be solved." *Bd. of Supervisors of Maricopa Cnty. v. Woodall*, 120 Ariz. 379, 380 (1978); *see* § 12-1842 (purpose of the DJA is to "settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations"); *Ariz. Creditors Bar Ass'n*, 257 Ariz. 379, ¶ 12 ("While broad, [the DJA] does not permit courts to act as legislators by setting policy or issuing advisory opinions—standing is still required."). "No proceeding will lie under the declaratory judgment acts to obtain a judgment which is advisory only or which merely answers a moot or abstract question; a mere difference of opinion will not suffice." *Ariz. State Bd. of Dirs. for Junior Colls. v. Phx. Union High Sch. Dist. of Maricopa Cnty.*, 102 Ariz. 69, 73 (1967).

¶14 In its complaint, the RNC explained that each of its county, state, and national party committees "promote[] the election of Republican candidates" and have "an interest in the administration" and "procedural

integrity of Arizona elections," as well as "the competitive environment affecting Republican candidates." The RNC alleged that it would be forced to divert resources "if election rules are not made consistent with Arizona law." The RNC reiterates those arguments on appeal and emphasizes that, because the EPM governs "the conduct of persons campaigning, voting, observing, administering, and reporting on elections," and because the failure to follow the EPM is a crime, the RNC, as well as its candidates and volunteers, are necessarily affected by a legally erroneous rule. It also contends that political parties in general have a "broad interest . . . against being forced to compete in an illegally structured environment."

¶15 These arguments, however, assert a "generalized harm that is shared alike by all or a large class of citizens" and typically "is not sufficient to confer standing." *Ariz. Creditors Bar Ass'n*, 257 Ariz. 406, ¶ 12 (quoting *Sears*, 192 Ariz. 65, ¶ 16). Further, the RNC's allegation that the provisions compromise its ability to promote candidates establishes, at most, an "injury to its advocacy," which also does not confer standing. *See Ariz. Sch. Bds. Ass'n*, 252 Ariz. 219, ¶ 18. Nor can the RNC establish standing merely by asserting that an erroneous EPM provision could require it to expend resources unnecessarily. *Id.* (rejecting argument that organization has standing to challenge statute's constitutionality "if it demonstrates merely that the contested statute drained its resources and frustrated its mission").

¶16 Moreover, the challenged provisions, for the most part, govern the duties and obligations of county recorders and other elections officials but do not impose affirmative obligations on the RNC. For example, the provisions challenged in Count II of the RNC's complaint establish how county recorders must respond to a registered voter's sworn admission of non-citizenship, and those challenged in Count V concern county recorders' duties to consult certain databases to verify citizenship. Likewise, the provisions at issue in Counts III, IV, VII and IX concern when and how certain groups of persons may vote, a question that does not directly implicate the RNC's interests. And while the provisions challenged in Count VI, which restricts public access to the signature component of a registrant's record, and Count VIII, which concerns the time for challenging an early ballot, impact political parties and the public at large, the RNC does not explain how those provisions' enforcement detrimentally affects its rights, status, or legal obligations such that a real legal controversy exists. *See* § 12-1832.

¶17 Nor are we persuaded by the RNC's reliance on *Mecinas v. Hobbs*, 30 F.4th 890, 898 (9th Cir. 2022), to argue that the competitive-

standing doctrine applies. As a threshold matter, the RNC directs us to no decision in which our supreme court has recognized competitive standing, and we are not bound by federal jurisprudence addressing Article III standing. *See Dobson v. State ex rel. Comm'n on App. Ct. Appointments*, 233 Ariz. 119, ¶ 9 (2013) (because Arizona lacks case-or-controversy requirement, "this Court is informed, but not bound, by federal standing jurisprudence").

¶18 In any event, *Mecinas* is distinguishable. There, the Ninth Circuit considered whether the Democratic National Committee (DNC) had standing to challenge Arizona's ballot order statute, which "require[d] that, in each county, candidates affiliated with the political party of the person who received the most votes in that county in the last gubernatorial race be listed first on the general election ballot." 30 F.4th at 894. Since the statute's enactment, candidates belonging to the Republican Party had been listed first on most ballots. *Id.* Applying the competitive-standing doctrine, the court reasoned: "If an allegedly unlawful election regulation makes the competitive landscape worse for a candidate or that candidate's party than it would otherwise be if the regulation were declared unlawful, those injured parties have the requisite concrete, non-generalized harm to confer standing."[3] *Id.* at 898. The court concluded that the DNC had "standing to sue based on the ongoing, unfair advantage conferred to their rival candidates" by the statute. *Id.*

¶19 Here, the RNC has failed to explain how the challenged EPM provisions "make[] the competitive landscape worse" for it or its candidates than it would be without the provisions. *Id.* Even assuming, without deciding, that the provisions are erroneous, they apply equally to all candidates and parties and do not disadvantage the RNC or its candidates in particular. For all of these reasons, we conclude the RNC lacks standing

[3]To the extent the RNC relies on *Arizona Public Integrity Alliance v. Fontes*, 250 Ariz. 58, ¶¶ 11-12 (2020), to assert that it possesses a sufficient beneficial interest in the action to confer standing, we disagree. *Arizona Public Integrity Alliance* involved a mandamus action, which by statute "allows a 'party beneficially interested' in an action to compel a public official to perform an act imposed by law." *Id.* (quoting A.R.S. § 12-2021). The RNC here has not sought mandamus relief.

on this record to seek a declaratory judgment that the challenged provisions of the EPM conflict with statute and are therefore invalid.[4]

Disposition

¶20 For the foregoing reasons, we affirm the superior court's decision dismissing the RNC's complaint.

[4]We recently arrived at the same conclusion in an unpublished decision involving similar facts and the Republican Party of Arizona, which is also a party here. *See Ariz. Free Enter. Club v. Fontes*, No. 2 CA-CV 2024-0221 (Ariz. App. Aug. 27, 2025) (mem. decision). In that case, various organizations sought a declaratory judgment that a provision of the 2019 and 2023 EPMs governing signature comparisons on early ballots contradicted state law. *Id.* ¶¶ 2, 18-21, 27-36. We concluded the Republican party lacked standing to seek such a judgment because its interest involved only "the uniform enforcement of the statutory scheme," which is "the type of interest that could be asserted by any Arizona voter." *Id.* ¶ 32. We likewise found the Republican party's argument that the EPM provision impeded its efforts to encourage voters to cure their defective ballot signatures too hypothetical to confer standing. *Id.* ¶ 34.