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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

REPUBLICAN PARTY OF ARIZONA
LLC, an Arizona limited liability
company and political party committee;
REPUBLICAN NATIONAL
COMMITTEE, a national political party
committee; and GINA SWOBODA, and
individual,

Plaintiffs,

v.

STATE OF ARIZONA, a body politic;
and ADRIAN FONTES, in his official
capacity as the Secretary of State of
Arizona,

Defendants.

No. CV2025-022859

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

(Assigned to the Hon. Michael Herrod)

1 Plaintiffs, Republican National Committee (“RNC”) and the Republican Party of
2 Arizona, LLC (“RPAZ”) (collectively, “Party Plaintiffs”), and voter Gina Swoboda,
3 challenge the facial constitutionality of A.R.S. § 16-103(E), which permits children of
4 military members and others covered by the Uniformed and Overseas Citizens Absentee
5 Voting Act, 52 U.S.C. §§ 20301 *et seq.* (“UOCAVA”) to register to vote. But discovery
6 confirms that Plaintiffs lack standing to challenge the provision.

7 Even if they had standing, however, this Court must presume that A.R.S. § 16-
8 103(E) is constitutional and resolve any doubts in favor of its constitutionality. And
9 A.R.S. § 16-103(E) is clearly a reasonable and lawful exercise of the Arizona
10 Legislature’s authority under the Arizona Constitution. By enacting A.R.S. § 16-103(E)
11 unanimously in 2005, the Legislature protected the right to vote for a discrete group of
12 U.S. citizens *who would otherwise lose that most fundamental right*. The Court should
13 not construe a constitutional provision intended to ensure the fundamental right to vote
14 as *preventing* the Legislature from ensuring that right for children of overseas voters.

15 Because Plaintiffs lack standing and because they cannot show that A.R.S. § 16-
16 103(E) is facially unconstitutional, the Court should enter summary judgment for
17 Defendants.

18 **BACKGROUND**

19 **I. In 1986, Congress enacted UOCAVA to increase access to the fundamental** 20 **right to vote for overseas citizens and military personnel and their families.**

21 In general, states control elections for federal office. *Ariz. v. Inter Tribal Council*
22 *of Ariz.*, 570 U.S. 1, 9 (2013). Under the U.S. Constitution’s Elections Clause, however,
23 Congress may alter state laws regarding elections. U.S. Const. art. I, § 4, cl.1. Congress
24 exercised its Elections Clause authority by enacting UOCAVA in 1986. UOCAVA’s
25 purpose is to increase voter registration and participation by those U.S. citizens who meet
26 its definitions of overseas and uniformed voters. *See Calif. v. Trump*, 786 F. Supp. 3d
27 359, 389 (D. Mass. 2025).

28 UOCAVA applies to “overseas voter[s],” including active-duty members of the
U.S. military, Public Health Service or National Oceanic and Atmospheric

Administration, members of the merchant marine, and their spouses and dependents. 52 U.S.C. § 20310(1), (5), (7). Due to the difficulty of obtaining and returning ballots abroad, UOCAVA supplants certain state laws concerning voter registration and absentee voting. For example, Arizona law generally provides that voters must register to vote at least 29 days before an election and early ballots are not mailed until 27 days before an election. A.R.S. §§ 16-120(A), -542(C). But UOCAVA preempts those rules and requires that UOCAVA voters' ballots be mailed no fewer than 45 days before an election. 52 U.S.C. 20302(a)(8)(A); A.R.S. § 16-543(A). And UOCAVA voters may register to vote using the Federal Write-in Absentee Ballot up until the deadline for county recorders to receive voted ballots—7:00 pm on election day. 52 U.S.C. § 20304(b)(1). By extending these protections to the families of those serving overseas, UOCAVA recognizes their important role in the lives of those stationed overseas and preserves for those U.S. citizens a right to vote that would otherwise be lost.

II. The Legislature adopted A.R.S. § 16-103(E) after voters amended the Arizona Constitution to eliminate barriers to the fundamental right to vote.

Before 2000, article VII, § 2 of the Arizona Constitution provided in relevant part: “[n]o person shall be entitled to vote . . . unless such person be a citizen of the United States of the age of twenty-one years or over, and shall have resided in the state one year immediately preceding such election.” Defs’ Statement of Facts (“DSOF”) ¶ 2, Ex. B. Voters amended this section of the Constitution in 2000 to state, in relevant part: “[n]o person shall be entitled to vote . . . unless such person be a citizen of the United States of the age of eighteen years or over, and shall have resided in the state for the period of time preceding such election *as prescribed by law*. Ariz. Const. art. VII, § 2(A) (emphasis added).

The amendment was intended to bring Arizona’s constitution into compliance with federal law to ensure that no Arizona citizen was deprived of the fundamental right to vote. First, it brought the voting age in Arizona into compliance with the U.S. Constitution, which prohibits any state from denying the right of a citizen who is at least

1 age 18 to vote on account of age. U.S. Const. amend. XXVI, § 1. And second, it
2 eliminated the one-year durational residency requirement, which was of doubtful
3 constitutionality after intervening U.S. Supreme Court decisions,¹ and replaced it with
4 legislative discretion. *See also* DSOF ¶ 1.

5 Five years later, in 2005, consistent with amended § 2(A) and UOCAVA, the
6 Legislature enacted § 16-103(E) to protect the right to vote for a subset of U.S. citizens—
7 children who “never resided in the United States” but “whose parent is registered to vote
8 in this state.” This change effectively allowed such children to adopt the residency or
9 domicile of their Arizona resident parent for the limited purpose of registering to vote.
10 No party disputes that absent A.R.S. § 16-103(E) those U.S. citizen children would not
11 be allowed to vote in Arizona or any other state. *See* DSOF ¶¶ 9, 11 (RPAZ agreeing that
12 it is “[c]orrect” that these children “wouldn’t be able to vote in any other state” absent
13 this law and stating “everybody should have the ability to vote”).

14 **LEGAL STANDARD**

15 Summary judgment is appropriate only if the moving party shows that (1) “there
16 is no genuine dispute as to any material fact” and (2) “the moving party is entitled to
17 judgment as a matter of law.” Ariz. R. Civ. P. 56(a). To succeed on a facial challenge,
18 “the challenger must establish that no set of circumstances exists under which the [statute]
19 would be valid.” *Stanwitz v. Reagan*, 245 Ariz. 344, 349 ¶ 19 (2018) (cleaned up). “[T]he
20 fact that the [statute] might operate unconstitutionally under some conceivable set of
21 circumstances is insufficient to render it wholly invalid.” *Id.* (citation omitted).
22 Moreover, a statute is presumed constitutional and “where there is a reasonable, even
23

24 ¹ In *Dunn v. Blumstein*, 405 U.S. 330, 342 (1982), the U.S. Supreme Court held that
25 durational residency requirements for voting must satisfy strict scrutiny. Several states
26 subsequently determined that the durational residency requirements in their state
27 constitutions were no longer valid. *See, e.g., RNC v. Benson*, No. 25-000181-MZ (Mich.
28 Ct. Claims, Apr. 22, 2026), slip op. at (Mich. Ct. Claims Apr. 22, 2026) (finding that
after *Dunn*, the “six-month state residency requirement [in the Michigan Constitution] is
no longer valid law”); *Nicholls v. Schaffer*, 344 F. Supp. 238, 241-42 (D. Conn. 1972)
(similar).

1 though debatable, basis for the statute, [the court] will uphold it unless it is clearly
2 unconstitutional.” *Fann v. State*, 251 Ariz. 425, 433-34 ¶ 23 (2021).

3 ARGUMENT

4 **I. Plaintiffs fail to present a justiciable controversy and lack standing.**

5 The Court previously found that Plaintiffs had standing to survive a motion to
6 dismiss. Under Advisement Ruling (“Ruling”) at 2-4. But that finding at the pleading
7 stage does not govern now. *Central Delta Water Agency v. United States*, 306 F.3d 938,
8 947 (9th Cir. 2002); *see also Ariz. Creditors Bar Ass’n v. State*, 257 Ariz. 406, 410 ¶ 14
9 n.1 (App. 2024) (noting that, at trial, plaintiffs must “prove standing, not just allege it”).
10 Instead, Plaintiffs must show that there is a genuine issue of material fact regarding
11 standing, not merely that they have stated facts that, if accepted as true, state a claim for
12 relief. *Central Delta*, 306 F.3d at 947; *see also Coleman v. City of Mesa*, 230 Ariz. 352,
13 359 ¶ 9 (2012). Subsequent discovery confirms that Plaintiffs do not have standing, and
14 that Defendants are therefore entitled to summary judgment.

15 Justiciability is an indispensable threshold matter requiring Plaintiffs to “seek[]
16 judicial relief from actual or threatened injuries.” *Mills v. Ariz. Bd. of Tech. Registration*,
17 253 Ariz. 415, 420 ¶ 11 (2022). Plaintiffs here seek both declaratory and injunctive relief
18 but have failed to establish any actual or threatened injury to their interests or otherwise.
19 *See* Compl. ¶ 48; *see also* A.R.S. § 12-1832. In particular, they have not established that
20 A.R.S. § 16-103 will cause or even has the potential to cause them any competitive harm.

21 Under Arizona’s Uniform Declaratory Judgments Act (“DJA”), A.R.S. §§ 12-
22 1831, *et seq.*, Plaintiffs must establish an “existing state of facts,” *Thomas v. City of*
23 *Phoenix*, 171 Ariz. 69, 74 (App. 1991), showing either an actual injury or the existence
24 of a “present existing controversy” upon which the Court can “adjudicate [a] present
25 right[],” *Mills*, 253 Ariz. at 424 ¶¶ 24-25 (citation omitted). They cannot simply rely on
26 the strength of the parties’ difference of opinion. *See Riley v. Cochise Cnty.*, 10 Ariz.
27 App. 55, 60 (1969) (noting a “difference [of opinion], in and of itself, cannot form the
28 basis for a declaratory judgment”). At minimum, Plaintiffs must have “an actual or real

1 interest in the matter for determination.” *Pena v. Fullinwider*, 124 Ariz. 42, 44 (1979).
2 To obtain injunctive relief, Plaintiffs must further show “a distinct and palpable injury,”
3 *Fernandez v. Takata Seat Belts, Inc.*, 210 Ariz. 138, 140 ¶ 7 (2005), caused by the conduct
4 complained of and likely to be redressed by the relief sought, *Lujan v. Defs. of Wildlife*,
5 504 U.S. 555, 560-61 (1992) (citations omitted); *see also Strawberry Water Co. v.*
6 *Paulsen*, 220 Ariz. 401, 406 ¶ 8 (App. 2008).²

7 Here, Plaintiffs’ claims of harm are of general, not distinct, interest and therefore
8 do not meet the DJA’s requirements for relief. Nor can they obtain injunctive relief, as
9 they have not produced evidence of an actual or threatened injury caused by the State or
10 the Secretary that is redressable by this action.

11 **A. Plaintiffs do not have standing for declaratory relief because they have**
12 **no “definite interest” that is “affected by” A.R.S. § 16-103(E).**

13 The DJA provides persons “whose rights, status or other legal relations are affected
14 by a statute” the right to “obtain a declaration of rights, status or other legal relations
15 thereunder.” A.R.S. § 12-1832. Those not “affected by” a challenged statute are not
16 entitled to relief under the DJA. *Id.* A plaintiff must show either actual injury or that the
17 statute affects a “definite interest” in a “legal relation, status, or right” denied by the
18 opposing party. *Riley*, 10 Ariz. App. at 60; *see also Thomas*, 171 Ariz. at 74 (finding
19 mere “desire to know whether [a statute] is constitutional” insufficient to establish
20 standing). Only then is a matter justiciable under the DJA. *Riley*, 10 Ariz. App. at 60.

21 The Court previously found that Plaintiffs alleged a valid case or controversy
22 under the DJA, namely, “whether 16-603(E) violates the Arizona Constitution.” Ruling
23 at 4. Defendants do not dispute that this is a valid legal controversy that a party with
24 standing could bring under the DJA. The record confirms, however, that Plaintiffs are

25 ² Defendants recognize that this Court is bound by precedent holding that standing is
26 prudential, but nevertheless preserve the argument that standing is mandated and
27 jurisdictional. *See* Ariz. Const. art. VI, § 14(1) (superior court has jurisdiction over
28 “[c]ases and proceedings”); *Campbell v. Thurman*, 96 Ariz. 212, 213-14 (1964); *State ex*
rel. Andrews v. Super. Ct., 39 Ariz. 242, 245-47 (1931). The Court need not hold
otherwise to grant this Motion.

1 not such a party.

2 To be cognizable under the DJA, an interest must be particular to a party’s “rights,
3 status or other legal relations.” *See Mills*, 253 Ariz. at 421, ¶ 16. And, a plaintiff cannot
4 “eviscerat[e] the standing requirement merely by asserting an interest,” *Ariz. Sch. Bds.*
5 *Ass’n v. State*, 252 Ariz. 219, 224, ¶ 18 (2022), including one that is “shared alike by all
6 or a large class of citizens,” *Sears v. Hull*, 192 Ariz. 65, 69, ¶ 16 (1998). Here, Plaintiffs
7 have shown nothing more than general interests unaffected by A.R.S. § 16-103(E).

8 First, Party Plaintiffs claim an “interest in the administration of elections and the
9 competitive environment affecting Republican candidates in Arizona.” Compl. ¶¶ 8-9.
10 They further claim to “have a direct interest in the effectuation and enforcement of
11 Arizona’s constitutional residency qualification for voting in the State” merely because
12 RPAZ is a political party and, by extension, participates in voter registration. *Id.* ¶ 33.
13 Similarly, Plaintiffs, including Ms. Swoboda, all claim a “direct legal interest in the
14 enforcement and implementation of constitutional provisions and statutes that govern
15 voter registration” statewide. *Id.* ¶ 46. In short, Plaintiffs claim a general interest in
16 elections and the laws that allow people to register and vote in them.

17 However, in *Arizona Free Enterprise Club v. Fontes*, the court rejected an interest
18 of similar flavor. No. 2 CA-CV 2024-0221, 2025 WL 2462952 (Ariz. App. Aug. 27,
19 2025).³ Specifically, the court rejected RPAZ and a voter’s request for a declaration
20 interpreting a signature verification law because they lacked a cognizable interest and had
21 not established their interest in an actual controversy regarding the matter. *Id.* at *5-*6,
22 ¶¶ 26-34. The court found they had no cognizable interest “in the proper and uniform
23 enforcement . . . of statutory strictures governing the verification of early ballot affidavit
24

25
26 ³ Although *Arizona Free Enterprise Club* is an unpublished memorandum decision, it is
27 particularly helpful here because it addresses RPAZ’s and an individual elector’s standing
28 to seek declaratory, injunctive, and mandamus relief. Furthermore, the authorities on
which its analysis relies are all published decisions and thus independently support that
Plaintiffs lack standing here. Pursuant to Ariz. R. Sup. Ct. 111(c), a copy is attached
hereto. *See* DSOF ¶ 18, Ex. I.

1 signatures” because those interests “could be asserted by anyone” and amounted to “issue
2 advocacy” over “a disagreement with the [S]ecretary about what the law requires.” *Id.*

3 Plaintiffs’ claimed interests in challenging A.R.S. § 16-103(E) are materially
4 indistinguishable from those rejected in *Arizona Free Enterprise Club*. Notably, although
5 Party Plaintiffs broadly alleged an interest connected to registering voters, RPAZ
6 confirmed during discovery that none of its Arizona voter registration activities target
7 individuals overseas potentially eligible to vote under A.R.S. § 16-103(E). *See* DSOF ¶
8 15. Plaintiffs’ voter registration activities would therefore be wholly unaffected by a
9 declaration adjudicating A.R.S. § 16-103(E)’s constitutionality. As to Ms. Swoboda, this
10 Court has already found that A.R.S. § 16-103(E) “is not directed at limiting her right to
11 vote. Rather, the law seeks to enfranchise an entire class of voters.” Ruling at 4. It would
12 thus be illogical to conclude that Ms. Swoboda, who is *already* registered to vote, is in
13 any way affected by a law that extends that right to other eligible individuals, especially
14 where this Court has already dismissed her vote dilution theory of injury. *Id.*

15 Absent any evidence that Plaintiffs are “affected by” A.R.S. § 16-103(E) or the
16 Secretary’s exercise of his duties thereunder, Plaintiffs’ contentions boil down to a mere
17 “disagreement with the [S]ecretary” about the law’s constitutionality. *Id.* at *5 ¶ 26; *see*
18 *also* Ruling at 4 (observing that “the case or controversy here is whether 16-103(E)
19 violates the Arizona Constitution”). “Such difference [of opinion], in and of itself, cannot
20 form the basis for a declaratory judgment.” *Riley*, 10 Ariz. App. at 60. If the opposite
21 were true, anyone could get into court by simply alleging an interest in the
22 constitutionality or interpretation of a law, which is an interest belonging to all. But
23 A.R.S. § 12-1832 expressly limits relief to parties actually “affected by” the law under
24 which they seek a declaration. *See also Sears*, 192 Ariz. at 69, 70-71, ¶¶ 16, 23
25 (explaining that “generalized harm that is shared alike by all or a large class of citizens;”
26 i.e., all voters, is not an injury in fact). Because Plaintiffs are not affected by A.R.S. §
27 16-103(E), there is no “actual controversy” under the DJA for the Court to adjudicate
28 here. *Mills*, 253 Ariz. at 423-24 ¶ 25 (citations and quotations omitted).

1 In short, because Plaintiffs have not articulated, let alone produced any evidence
2 that their direct interests are affected by A.R.S. § 16-103(E), they lack standing to bring
3 a facial challenge to the statute’s constitutionality under the DJA.

4 **B. Plaintiffs do not have standing for injunctive relief.**⁴

5 Plaintiffs have also failed to meet Arizona’s rigorous standing requirement for
6 their requested injunctive relief. *See Fernandez*, 210 Ariz. at 140 ¶ 6. A plaintiff must
7 establish standing for each claim asserted and each form of relief requested. *See, e.g.,*
8 *Home Builders Ass’n Cent. Ariz. v. Kard*, 219 Ariz. 374, 376-80, ¶¶ 7-27 (App. 2008)
9 (affirming dismissal of requests for damages and injunctive relief but not declaratory
10 relief).

11 The Court previously found that Plaintiffs had alleged a particular competitive
12 injury for which there is standing by asserting that A.R.S. § 16-103(E) confers “Arizona
13 residence on US citizens who have never lived in Arizona” in excess of the Legislature’s
14 constitutional authority. Ruling at 4. Subsequent discovery confirms that Plaintiffs are
15 not *particularly* injured by the allegedly unconstitutional action here, and thus that
16 Defendants are entitled to judgment.

17 **1. Plaintiffs have no distinct and palpable injury.**

18 To establish standing, Plaintiffs are first required to show that A.R.S. § 16-103(E)
19 inflicts on them an actual or threatened injury that is “distinct and palpable.” *Fernandez*,
20 210 Ariz. at 140 ¶ 6; *see also Klein v. Ronstadt*, 149 Ariz. 123, 124 (App. 1986). Here,
21 Plaintiffs claim to have suffered a competitive injury. *See* Compl. ¶¶ 27-34. But that
22 theory is inapplicable here. And even if it applied, Plaintiffs have not shown they have
23 suffered an injury-in-fact.

24 First, and foundationally, the competitive injury theory of standing does not apply
25 here. Section 16-103(E) is categorically different from the kinds of actions and statutes
26 that courts have found to create a competitive injury. *Cf. Nelson v. Warner*, 472 F. Supp.

27
28 ⁴ Defendants do not address Ms. Swoboda’s vote dilution theory of injury, which the
Court has already rejected as a basis for standing. *See* Ruling at 4.

3d 297, 303-04 (S.D. W. Va. 2020) (finding competitive injury because a state ballot-order statute mandated that ballots for partisan offices list first the party whose candidate for president received the most votes in the last election); *Drake v. Obama*, 664 F.3d 774, 780-84 (9th Cir. 2011) (finding *competing political candidates* would have satisfied the injury-in-fact component of standing when they were candidates because, at that time, they had a “competitive interest in running against a qualified candidate,” but concluding that non-candidates, state representatives, only had abstract grievances); *Shays v. Fed. Election Comm’n*, 414 F.3d 76, 87 (D.C. Cir. 2005) (finding a competitive injury where FEC campaign finance rules “illegally structure[d] a competitive environment” by regulating “*candidates’* . . . opportunities to persuade the electorate” (emphasis added)); *Schulz v. Williams*, 44 F.3d 48, 53 (2d Cir. 1994) (finding that *adding candidates* on the ballot created “competition on the ballot from candidates that . . . were able to ‘avoid complying with the Election Laws’”); *Owen v. Mulligan*, 640 F.2d 1130, 1132-33 (9th Cir. 1981) (applying doctrine of competitive injury where U.S. Postal Service gave a *candidate’s* opponent a preferential rate).

Taking *Mecinas v. Hobbs* as an example, the court there found that a ballot ordering statute inflicted an injury-in-fact because it *directly dictated the ordering* of candidates on the state ballot *based on their political affiliation*. 30 F.4th 890, 894-95 (9th Cir. 2022) (describing that “the candidates of the political party that received the most votes” in the last gubernatorial election “appear[ed] first in all races and on all ballots in that county”). The plaintiffs successfully argued that the statute was unconstitutional because it gave candidates “the benefit of appearing first on the ballot, *not on the basis of some politically neutral ordering* (such as alphabetically or by lot), *but on the basis of political affiliation.*” *Id.* at 894 (emphases added).

By contrast, A.R.S. § 16-103(E) makes no reference to political affiliation. Nor does it implement any government regulations concerning competition, which is the bedrock of a competitive injury. *See Castro v. N.H. Sec’y of State*, 701 F. Supp. 3d 176, 182 (D.N.H. 2023) (explaining that the competitive standing theory “arose in the context

1 of the commercial marketplace, specifically when *government-imposed restrictions* put
2 certain market participants at a competitive disadvantage” (emphasis added)). Indeed,
3 A.R.S. § 16-103(E) does none of the things that have been found as bases of competitive
4 injury. It in no way regulates Plaintiffs or any political party or candidate. It does not
5 induce an unfair process or competition between parties or create political leverage that
6 inherently disadvantages any candidate’s (or party’s) electoral chances. Nor does it
7 structure any competition, as in the ballot ordering context. The existence of A.R.S. § 16-
8 103(E) plainly does not create the kind of competitive unfairness that gives rise to a
9 competitive injury.

10 Nor is an alleged constitutional violation sufficient on its own, without more, to
11 demonstrate particular injury. *Cf.* Ruling at 4 (finding sufficient allegation of competitive
12 injury at the pleading stage on the basis of a constitutional violation). Although that may
13 have sufficed to move past the motion to dismiss, Plaintiffs can no longer rely on these
14 mere allegations to establish particular injury. *See Central Delta*, 306 F. 3d at 947. For
15 example, in *Sears* the court found a lack of standing where plaintiffs alleging
16 constitutional violations did “not assert that the statute discriminates in favor of some
17 person or persons or against [them].” *Sears*, 192 Ariz. at 70-71 ¶ 23. To establish
18 standing at this stage, Plaintiffs had to have shown that § 16-103(E) discriminates against
19 them. They have not done so.

20 In addition to a lack of evidence of discrimination among political competitors by
21 A.R.S. § 16-103(E), Plaintiffs provide no evidence to show that A.R.S. § 16-103(E)
22 unfairly tips the competitive scale against them. To the contrary, Plaintiffs’ evidence
23 shows that A.R.S. § 16-103(E) has not created a registration disadvantage to them
24 whatsoever, even assuming that voters who register under A.R.S. § 16-103(E) *now*
25 disproportionately register non-Republican.⁵ As of April 2026, RPAZ had nearly
26 500,000 more registered members (1,542,604) than it did when the Legislature enacted §
27

28 ⁵ It could be that, at other times, A.R.S. § 16-103(E) voters were more inclined to register
and vote Republican. But Plaintiffs’ purported injuries cannot turn on such headwinds.

1 16-103(E) in 2005 (1,063,466). *See* DSOF ¶¶ 4-5. And records from Maricopa, Mohave,
2 Pima, Pinal and Yuma Counties show a total of 405 voters—less than one-tenth of one
3 percent of voters statewide—who registered and/or voted in recent elections under A.R.S.
4 § 16-103(E) *across the five counties*, which make up more than eighty-six percent of
5 Arizona’s registered voters. *See* DSOF ¶¶ 5, 7, Ex. E. Moreover, Plaintiffs admit that
6 they do not know for which candidates any of those 405 voters voted. DSOF ¶ 14.

7 Without more than the bare bones allegation of a constitutional violation, plaintiffs
8 are in the same position as all citizens or voters—*i.e.*, without the kind of particularized
9 injury needed to establish standing. *See Sears*, 192 Ariz. at 69 ¶ 16 (“generalized harm
10 that is shared alike by all or a large class of citizens” is insufficient for standing); *Gill v.*
11 *Whitford*, 585 U.S. 48, 66 (2018) (“standing is not dispensed in gross”); *City of S. Lake*
12 *Tahoe v. Cal. Tahoe Reg’l Planning Agency*, 625 F.2d 231, 237 (9th Cir. 1980) (“[A]
13 litigant’s standing cannot be based on the generalized interest of all citizens in
14 constitutional governance.”) (cleaned up). As such, the Court should find that Plaintiffs
15 have not established an injury-in-fact and grant summary judgment for Defendants.

16 **2. Plaintiffs’ alleged injuries are not caused by A.R.S. § 16-103(E).**

17 In addition to showing injury, Plaintiffs need to show causation. *Strawberry*, 220
18 Ariz. at 406 ¶ 8; *see also Mecinas*, 30 F.4th at 899-900 (requiring an adequate causal
19 nexus for the alleged state-imposed injury after finding injury-in-fact). In other words,
20 Plaintiffs must show that their purported injuries are fairly traceable to the challenged
21 action of Defendants, and not the result of the independent or intervening action of some
22 third party not before the Court. *Lujan*, 504 U.S. at 560; *Fulani v. Brady*, 935 F.2d 1324,
23 1329 (D.C. Cir. 1991).

24 Plaintiffs have not, and cannot, satisfy this requirement. That is because any
25 disadvantage that Plaintiffs could plausibly suffer by the mere existence of A.R.S. § 16-
26 103(E) *would result solely from the independent and intervening choice of voters* who
27 have the fundamental right to register and vote as they wish. At best, Plaintiffs’ claim is
28 that a statute allows more people to register to vote and those people are registering more

1 non-Republican, so the statute is injuring them. This logic is plainly absurd, especially
2 on a facial challenge. By their logic, Plaintiffs would have cause to challenge any neutral
3 law that merely allows people to vote if the political climate suggests that those people
4 are more likely to vote non-Republican. But would the same provision revert to being
5 lawful if those same voters switched to voting Republican? Plaintiffs’ argument suggests
6 so. But the issue of whether A.R.S. § 16-103(E), on its face, causes injury (or is lawful,
7 as relevant to the merits) does not and should not shift at the whims of a third party’s—
8 here, voters—discretionary choices. *Cf. Mecinas*, 30 F.4th at 895, 900 (finding causation
9 because the challenged statute’s ordering of candidates created a “position bias,” or
10 “primacy effect” and county supervisors had “*no discretion* in ordering candidate names”) (emphasis added). Simply put, the independent act of the third-party voter is the
11 intervening cause of Plaintiffs’ claimed injury—not A.R.S. § 16-103(E).⁶ Plaintiffs
12 therefore fail to establish causation and thus also lack standing for this additional reason.

14 **III. Plaintiffs’ claims fail as a matter of law.**

15 In addition to lacking standing, Plaintiffs’ facial challenge fails as a matter of law
16 because A.R.S. § 16-103(E) is a reasonable exercise of the Legislature’s authority to
17 define voter qualifications under article VII, § 2(A) of the Arizona Constitution. This
18 Court must therefore uphold it unless it is clearly unconstitutional. *Fann*, 251 Ariz. at
19 433-34. Plaintiffs can only prevail on their facial challenge to A.R.S. § 16-103(E) by
20 showing that it cannot be enforced in *any* constitutional manner under *any* circumstance.
21 *AZ Petition Partners LLC v. Thompson*, 255 Ariz. 254, 258 ¶ 17 (2023). But, as shown
22 below, they cannot meet this high bar. The Court must therefore grant summary judgment
23 to Defendants.

26 ⁶ Such independent action is what led Plaintiffs to file this lawsuit. *See* DSOF ¶ 16
27 (RPAZ’s designated representative admitting in the Party’s deposition that the impetus
28 for this lawsuit was that RPAZ’s election observers assumed “[s]omething’s wrong”
when they saw what they perceived as an unexpectedly large number of UOCAVA ballots
that included votes for Biden in the 2020 General Election).

1 **A. Section 16-103(E) is a reasonable exercise of the Legislature’s authority**
2 **under the Arizona Constitution.**

3 At the motion to dismiss stage, this Court stated that “[f]or 16-103(E) voters, the
4 legislature has arguably defined the length of residency as zero if a parent is registered to
5 vote in Arizona, or alternatively, the legislature has redefined the meaning of residency.”
6 Ruling at 5. Put differently, the Legislature has implemented article VII, § 2(A) to require
7 zero days of *physical* presence in the state for 16-103(E) voters. It did this by allowing
8 such voters to maintain the Arizona domicile bestowed on them at birth and presuming
9 they have elected to maintain the same based on the voter registration and residence of
10 their parents. *See* Ariz. Const. art. VII, § 3; A.R.S. §§ 16-101(B), -103(D). Ultimately,
11 the statute aims to preserve the right of these U.S. citizens to vote in federal elections,
12 consistent with the United States Constitution and UOCAVA. The Court should therefore
13 not construe article VII, § 2(A), intended to ensure this fundamental right, as *preventing*
14 the Legislature from enacting A.R.S. § 16-103(E) to ensure that right for children of
15 Arizonans overseas.

16 Article VII, § 2(A) expressly vests the Legislature with authority to make laws
17 regarding voters’ residence and the duration thereof. “Prescribed by law” as used
18 throughout the Arizona Constitution, including in article VII, empowers the Legislature
19 to make laws on the subject contemplated. “The Legislature has plenary power to deal
20 with any topic unless otherwise restrained by the Constitution.” *Knight v. Fontes*, 261
21 Ariz. 29, 42 ¶ 49 (2025) (quotation omitted). Article VII, § 2 “do[es] not prescribe the
22 qualifications of electors.” *Ahrens v. Kerby*, 44 Ariz. 337, 341 (1934). Instead, it guides
23 the Legislature’s exercise of its “power . . . to provide who shall vote, and as long as that
24 body acts within these bounds it may prescribe such qualifications as it thinks wise.” *Id.*

25 Exercising that constitutional authority, the Legislature enacted A.R.S. § 16-
26 101(B), which provides that for purposes of A.R.S. Title 16, “‘resident’ means an
27 individual who has actual physical presence in this state . . . combined with an intent to
28 remain.” The Legislature also provided that “[e]very resident of this state is qualified to

1 register to vote if the resident” meets six other eligibility requirements. A.R.S. § 16-
2 101(A). It further created an exception to the “actual physical presence” part of the
3 “resident” definition. *See* A.R.S. §§ 16-101(B); -103(A)-(B). And consistent with article
4 VII, § 2(A)’s purpose to protect the voting rights of citizens of voting age, the Legislature
5 further enacted A.R.S. § 16-103(E) to provide that a subset of U.S. citizens may register
6 to vote for federal offices even if they do not meet A.R.S. § 16-101(B)’s definition. *See*
7 A.R.S. § 16-103(E) (“Any [U.S.] citizen who has never resided in the [U.S.] and whose
8 parent is a [U.S.] citizen who is registered to vote in this state is eligible to register to vote
9 and may vote in this state using a federal write-in early ballot . . .”).

10 The Legislature’s ability to prescribe zero physical presence in the state as an
11 exception to the baseline residency requirement to protect the fundamental right to vote
12 is consistent with other provisions in the Arizona Constitution, specifically those in article
13 VII, “Suffrage and Elections.” For example, article VII, § 3 provides that “no person
14 shall be deemed to have gained or lost a residence by reason of being present or absent”
15 due to federal employment, school attendance, institutionalization, or incarceration. This
16 shows an intention to not strictly tie Arizona residency to physical presence in every
17 circumstance. Physical presence not being wholly determinative of residency is also
18 reflected in article VII, § 6, which provides that military personnel shall not be “deemed
19 a resident of this state” simply by being stationed in Arizona. Thus, Arizona’s
20 constitutional provisions demonstrate that there is no one-size-fits-all definition of
21 residence applicable in all circumstances. Section 16-103(E), as an example of what
22 article VII, § 2(A) permits, reflects this foundational premise.

23 Moreover, A.R.S. § 16-103(E) is a clear exercise of the Legislature’s authority to
24 set voter qualifications that are not plainly established or barred by the Constitution. And
25 as relevant, A.R.S. § 16-101 lists qualifications to register to vote, but it does not bar the
26 Legislature from enacting laws that include *different* qualifications and extend the right
27 to vote in Arizona to people who do not meet the requirements set forth in A.R.S. § 16-
28 101(A), provided they do not conflict with the express bars to registration in article VII,

1 § 2(C). *See* Ariz. Const. art VII § 2(C) (prohibiting persons “adjudicated . . .
2 incapacitated,” and those “convicted of treason or felony,” from being qualified to vote).

3 But even if the Court were to read A.R.S. § 16-101(A)’s qualifications as
4 exclusive, such that they conflicted with A.R.S. § 16-103(E), then the later enacted and
5 more specific statute, A.R.S. § 16-103(E), controls for that small subset of adult children
6 of UOCAVA voters who have never resided in the U.S. but otherwise meet all
7 constitutional age and citizenship requirements. *See Baker v. Gardner*, 160 Ariz. 98, 101
8 (1988) (“Courts construe seemingly conflicting statutes in harmony when possible.
9 However, when two statutes truly conflict, either the more recent or more specific
10 controls.”) (citations omitted).⁷ Either way, A.R.S. § 16-103(E) should stand under the
11 deferential facial challenge standard.

12 **B. Plaintiffs cannot meet the high bar for a facial challenge.**

13 The Arizona Supreme Court has repeatedly reaffirmed a presumption in favor of
14 interpreting a statute to be in harmony with the Constitution. For example, in *AZ Petition*
15 *Partners*, the court explained that “in a typical facial challenge, we require the challenger
16 to demonstrate that under no set of circumstances can the law be enforced in a
17 constitutional manner.” 255 Ariz. at 258 ¶ 17. That requirement, “corresponds to
18 [courts’] practice of construing ambiguous statutes, when possible” to preserve their
19 constitutionality. *Id.* (citation omitted); *see also Stillman v. Marston*, 107 Ariz. 208, 209
20 (1971) (“[S]tatutes are to be construed so as to be in harmony with our Constitution.”).

21 Here, RPAZ described the very voters to whom § 16-103(E) *would* constitutionally
22 apply—e.g., “17-year-old dependents of military stationed overseas that turn 18 while
23 their parent is stationed overseas.” DSOF ¶ 10. According to RPAZ, “Republicans
24 passed the [b]ill . . . to assist [such voters] in getting registered.” *Id.* Moreover, A.R.S.
25 § 16-103(E) is consistent with other statutes that give dependent children the benefit of
26

27 ⁷ The Legislature adopted the general definition of resident in A.R.S. § 16-101(B) in 1991,
28 long before it enacted § 16-103(E) in 2005. *See* 1991 Ariz. Sess. Laws, ch. 1, § 2 (40th
Leg., 3rd Spec. Sess.). So, to the extent they conflict, § 16-103(E) must prevail.

1 their parents' Arizona domicile without the children also meeting a durational residence
2 requirement. *See, e.g.*, A.R.S. § 15-1802(B)(1) (giving in-state college tuition to students
3 whose parents' domicile "is in this state and the parent is entitled to claim the person as
4 an exemption for state and federal tax purposes"). In view of A.R.S. § 16-103(E)'s plainly
5 constitutional application, and when properly construed in harmony with the Arizona
6 Constitution, Plaintiffs' facial challenge must fail.

7 **C. Other states have reached the same result.**

8 Upholding A.R.S. § 16-103(E) against Plaintiffs' facial constitutional challenge
9 would align with rulings in other states. RNC has filed similar challenges to this one in
10 Colorado, Michigan, Nebraska, Nevada, New Jersey, and Virginia (in addition to the
11 North Carolina case identified in the Complaint ¶ 40). But RNC has failed in its recent
12 efforts.⁸ Those decisions are instructive here.

13 In Michigan, the court considered a state statute and constitutional provision
14 remarkably similar to A.R.S. § 16-103(E). In particular, the Michigan Constitution
15 provides that:

16 Every citizen of the United States who has attained the age of 21 years, who
17 has resided in this state six months, and who *meets the requirements of local*
18 *residence provided by law*, shall be an elector and qualified to vote in any
election except as otherwise provided in this constitution. The legislature
shall define residence for voting purposes.

19 Mich. Const. art. 2, § 1 (emphasis added). The challenged statute provides that:

20 A spouse or dependent of an overseas voter who [a] is a citizen of the United
21 States, [b] is accompanying that overseas voter, and [c] is not a qualified
22 and registered elector anywhere else in the United States, may apply for an
[absentee ballot] even though the spouse or dependent is not a qualified
23 elector of a city or township of this state.

24 Mich. Compiled Laws 168.759a(3). The court concluded that:

25 Consistent with federal law, the Michigan Legislature made a policy choice

26 ⁸ The RNC's success in North Carolina, on the other hand, should not guide this Court,
27 because the North Carolina constitutional provision at issue does not give the North
28 Carolina General Assembly the authority to prescribe laws about residence within the
state for state elections. *See* N.C. Const. art. VI, § 2(1). Thus, it is materially
distinguishable from the Arizona Constitution's article VII, § 2(A).

1 to allow a small pool of individuals who accompany family members
2 abroad to qualify as Michigan residents for the purpose of voting in
3 Michigan because they are connected to Michigan through their spouse,
4 parent, or someone serving a parental role. The Legislature has defined the
subject group as residents. The Legislature was granted that authority by
the Constitution.

5 *RNC v. Benson*, No. 25-000181-MZ, slip op. at 12 (Mich. Ct. Claims Apr. 22, 2026).

6 A recent Nebraska decision also turns on the interpretation of a constitutional
7 provision and statute like the ones at issue here. *See RNC v. Evnen*, No. CI 26-2329, slip
8 op. (Neb. Dist. Ct. Aug. 12, 2026).⁹ Like Arizona’s Constitution, the Nebraska
9 Constitution requires residence to register to vote, but it does not define that term, and it
10 permits the legislature to determine the length of residence required. Neb. Const. art. VI,
11 § 1 (“Every citizen of the United States who has attained the age of eighteen years . . .
12 and *has resided within the state and the county and voting precinct for the terms provided*
13 *by law shall . . . be an elector . . .*”) (emphasis added). Because, like here, the RNC made
14 a facial challenge to a statute permitting UOCAVA voters’ adult children who had never
15 physically resided in the United States, the court found at least one circumstance that
16 would defeat that facial challenge. *Evnen*, No. CI 26-2329, slip op. at 11. It concluded
17 that the statute “may constitutionally apply to United States citizens who were born
18 abroad to a Nebraska-domiciled parent; who have never resided in the United States but
19 adopted the Nebraska domicile of their parent; who have never acquired a new domicile;
20 and who therefore remain Nebraska residents for voter qualification purposes.” *Id.* Under
21 Ariz. Const. art. VII, § 2(A), the same holds true for Arizonans. *See* DSOF ¶ 10.
22 Plaintiffs’ facial constitutional challenge therefore fails as a matter of law.

23 CONCLUSION

24 For the foregoing reasons, this Court should grant summary judgment for
25 Defendants.

26
27 ⁹ Pursuant to Ariz. R. Sup. Ct. 111(c), the Michigan and Nebraska cases are cited for their
28 persuasive value only. Copies of the decisions are attached as Exhibits J and K to the
DSOF.

1 RESPECTFULLY SUBMITTED this 24th day of August, 2026.

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The foregoing document was electronically filed and served through AZTurboCourt this 24th day of August, 2026 to:

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