



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

March 29, 2022

VIA EMAIL

The Honorable Brian McIntyre
Cochise County Attorney's Office
1415 Melody Lane, Building G
Bisbee, Arizona 85603
Attorney@cochise.az.gov

Re: Delegation of Attorney General's Powers Regarding Taking Down of Secretary of State's E-Qual System for Legislative and Congressional Candidates

Dear County Attorney McIntyre:

I am writing to delegate my powers as Arizona Attorney General to you to investigate and take any appropriate enforcement actions (civil and criminal) regarding the Secretary of State (SOS) taking down the online E-Qual system beginning on or about March 17, 2022. The scope of this delegation includes any actions or events prior to the March 17, 2022 take-down that are related to the SOS taking down the E-Qual system.

As background, the SOS is required by A.R.S. §§ 16-316 and -318 to provide a system for qualified electors to sign a nomination petition for candidates for the State Legislature and Congress. The SOS performs this statutory duty by maintaining the E-Qual system.¹ This duty was established in 2014 for legislative candidates, and it was expanded to congressional candidates in 2016.²

As late as December 29, 2021, the SOS told prospective candidates and voters that qualified voters would be able to use the E-Qual system through the end of the statutory signature-gathering period, which is April 4, 2022. However, the SOS later claimed that she would take down the system beginning March 6. After the Attorney General's Office indicated this action would violate Arizona law, the SOS sued the Attorney General for

¹ <https://apps.azsos.gov/equal/>

² 2014 Arizona Session Laws ch. 45, § 3 (2nd Regular Session); 2016 Arizona Session Laws ch. 176 (2nd Regular Session).

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declaratory and injunctive relief.³ The SOS claimed that counties would update their underlying voter information to change over to the new legislative and congressional districts following redistricting. She claimed that once this process began, her E-Qual system would become nonfunctional until all of the counties updated to the new congressional and legislative districts. The Maricopa County Superior Court denied the SOS's request for a preliminary injunction. The SOS nonetheless did take down the E-Qual system for legislative and congressional candidates on or about March 17.

It is a class 3 misdemeanor for “[a] public officer upon whom a duty is imposed by” Title 16 of the Arizona Revised Statutes to “knowingly fail[] or refuse[] to perform that duty in the manner prescribed by law.” A.R.S. § 16-1009; *see also* A.R.S. § 16-1010 (“A person charged with performance of any duty under any law relating to elections who knowingly refuses to perform such duty, or who, in his official capacity, knowingly acts in violation of any provision of such law, is guilty of a class 6 felony unless a different punishment for such act or omission is prescribed by law.”). The Attorney General may enforce the provisions of Title 16 through civil and criminal actions “[i]n any election for state office, members of the legislature, justices of the supreme court, judges of the court of appeals or statewide initiative or referendum.” A.R.S. § 16-1021.

The Attorney General's Office received multiple written complaints after March 17, 2022, when the SOS took down the E-Qual system for congressional and legislative candidates. Our office will forward those to you under separate cover. Our office will also forward you the materials from the *Hobbs v. Brnovich* case in Maricopa County Superior Court.

Thank you for your willingness to accept this delegation. You will operate independently of the Attorney General's Office in determining what actions are appropriate to resolve this matter. Please do not hesitate to contact my office if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Mark Brnovich". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Mark Brnovich
Arizona Attorney General

³ *Hobbs v. Brnovich*, No. CV2022-001546 (Maricopa County Superior Court).