

# NEWS RELEASE

Arizona Supreme Court  
Administrative Office of the Courts



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## Arizona Supreme Court Clarifies Rulemaking Process for Election Procedures Manual

**PHOENIX** – The Arizona Supreme Court today issued its opinion providing an explanation for the decision order in *Republican National Committee v. Fontes*. The Court explained that Arizona’s Election Procedures Manual (EPM) is not subject to the Arizona Administrative Procedure Act (APA) because the EPM is governed by a distinct statutory process.

The case arose after the Secretary issued the 2023 EPM. The Republican National Committee and other plaintiffs challenged the manual, arguing that the Secretary was required to follow the APA when developing it. The superior court dismissed that claim, but the court of appeals reversed.

The Supreme Court explained that the APA generally applies to agency rulemaking unless the Legislature expressly creates an exemption. Although the EPM is not expressly exempt from the APA, the APA also recognizes that the Legislature may provide a different method for adopting valid rules.

The Court held that A.R.S. § 16-452 provides such an alternative method. That statute requires the Secretary to consult with county election officials, submit a draft EPM to the Governor and Attorney General by a fixed deadline, obtain both officials’ approval, and issue the completed manual by December 31 of each odd-numbered year. The Court concluded that these requirements establish a comprehensive, distinct, and self-contained process tailored to the recurring and time-sensitive demands of election administration.

The Court distinguished prior cases in which agencies adopted policies under statutes that supplied no rulemaking process. Here, the Legislature did not leave the Secretary to devise a procedure; it prescribed the EPM process in detail. The Court therefore concluded that the EPM is not invalid for failure to comply with the APA’s procedures.

The Court vacated the court of appeals’ opinion and reinstated the superior court’s ruling on the applicability of the APA to the EPM. It also remanded the case to the court of appeals for consideration of the plaintiffs’ alternative challenges to eight specific EPM provisions. On remand, the court of appeals later affirmed dismissal of those claims based on lack of standing.

Justice William G. Montgomery wrote the opinion for a unanimous court.

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*This summary is intended solely to notify the public about an Arizona Supreme Court Opinion. It is not to be considered an official commentary by the Court or any member of the Court, nor may it be cited as legal authority for any reason or purpose. The full Opinion is available [here](#) for those seeking details about the Court’s reasoning.*

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