

Board Briefing Summary - Arizona Secretary of State Letter

Purpose of the Letter

The letter asks Secretary of State Adrian Fontes for a written explanation, legal basis, and supporting records concerning the removal of the detailed Voting Equipment Certification section from Chapter 4 of the Arizona Elections Procedures Manual.

2019 EPM Background

The approved 2019 EPM devoted ten pages to detailed procedures for certification, recertification, decertification, and emergency conditional certification rather than simply stating that voting equipment had to be certified.

2021 Review History

The 2021 EPM submission retained the certification section, and the Secretary of State's Office opposed an Attorney General request to delete it on the grounds that the procedures had long appeared in the EPM and that removing them would create uncertainty and undermine election-system security.

2023 Removal and Current EPM

The certification section remained in the July 31, 2023 public-comment draft but was removed before the September 29 submission, and the current 2025 EPM likewise does not restore the standalone section, leading the Board to ask why the Office changed its earlier position.

What the Removed Section Covered

The removed section addressed the certification application process, committee review, legal and functional standards, demonstration and functionality testing, recertification of changes, engineering change orders, final decisions and appeals, decertification, and emergency conditional certification.

Statutory Framework

Arizona statutes establish parts of the voting-equipment framework through A.R.S. §§ 16-442, 16-442.01, and 16-446, but the 2019 EPM supplied detailed implementing procedures beyond those statutory provisions.

County Consultation Under A.R.S. § 16-452

Because A.R.S. § 16-452 requires consultation with county boards of supervisors or other officers in charge of elections when prescribing EPM rules, the Board asks how that consultation process addressed the late removal of the certification section.

Constitutional Context

The letter cites the federal and Arizona constitutional framework for elections to reinforce the importance of a clear, legally grounded, and publicly accessible process for certifying the systems used to record and tabulate votes.

Requested Written Answers and Records

1. Timing and reason for removal: Identify when the decision was made, who proposed or approved it, why it was made, and the records documenting that decision.
2. Relationship to the 2021 review: Explain whether the 2023 removal was based on the Attorney General's 2021 position and, if not, what changed from the Secretary of State Office's earlier defense of the section.
3. Current governing authority: Identify the statute, rule, EPM provision, policy, procedure, or other authority that now governs each subject formerly covered by the removed section.
4. State certification procedure: Identify the current written process for submitting and reviewing a voting-system certification application through the Committee and the Secretary of State's final decision.
5. Recertification of changes: Identify the current process and standards for determining when upgrades, modifications, or engineering changes require full recertification or a more limited review.
6. Loss of certification and decertification: Identify the standards required by A.R.S. § 16-442(C) and the current procedures for loss of certification and decertification.
7. Emergency certification: Identify the current procedures, documentation, review steps, and timelines for emergency approval of an upgrade or modification under A.R.S. § 16-442(G).
8. County consultation: Identify who was consulted in each county, whether removal of the certification section was discussed, and provide the records documenting that consultation and any later notice to counties.
9. Public availability and roadmap: Explain where the removed procedures are now published, what legal status those materials carry, and how counties, officials, vendors, and the public are expected to identify the controlling certification process.

Closing Position

The Board emphasizes that it is seeking a specific explanation of the removal, the legal authority relied upon, the procedures that replaced the deleted provisions, and the records showing compliance with the consultation requirement.

Because of the approaching November 3, 2026 General Election, the Board requests the written response and records as soon as practicable and asks that any records held by another custodian be specifically identified.