

**IN THE SUPREME COURT
STATE OF ARIZONA**

OWEN ANDERSON,
Petitioner,

v.

ARIZONA BOARD OF REGENTS,
Respondent.

Arizona Supreme Court
No. CV-26-0012-PR

Court of Appeals Division One
No. 1 CA-SA 25-0007

Maricopa County Superior Court
No. CV2024-005713

**BRIEF OF AMICI CURIAE PRESIDENT PETERSEN AND SPEAKER
MONTENEGRO IN SUPPORT OF PETITIONER**

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INTRODUCTION

Senate President Warren Petersen and House Speaker Steve Montenegro (“Amici”) submit this amicus brief in support of the Petition for Review filed on January 29, 2026 (“Petition”). This brief makes the following points.

First, Arizona law makes clear that the traditional writ of injunction itself provides a cause of action when a plaintiff seeks to restrain a state official or agency from taking future actions that infringe on a person’s civil rights. Accordingly, the court of appeals erred by treating the question whether the statute provides a complete remedy foreclosing common law remedies as separate from whether § 41-1494 creates an implied right of action. *See ABOR v. Anderson*, No. 1 CA-SA 25-0007, 2025 WL 3653226, at *4 ¶19 (Ariz. Ct. App. Dec. 17, 2025).

Second, this is a civil rights case. A.R.S. § 41-1494(A) and (B) were enacted in part to prohibit discriminatory state and local government practices, including conduct that could qualify as, or lead to, a discriminatory work environment and even liability for the State. Given these objectives, the statute’s “context, language, subject matter, effects, and purpose” all strongly point to allowing for a private right of action to enjoin a violation of the statute in addition to reporting. *See Chavez v. Brewer*, 222 Ariz. 309, 318 ¶25 (App. 2009).

Third, because § 41-1494 is a civil rights statute that prevents ABOR from exercising its appointment and employment authority in a manner that violates

employees' civil rights by requiring or using public monies for discriminatory trainings and other practices, a writ of injunction is an available private right of action to restrain ABOR from continuing to violate the statute.

Fourth, ABOR's private-right-of-action argument, which the court of appeals ultimately adopted, is breathtakingly broad and leads to absurd results. If let stand, under the court of appeal's decision, a government agency could carry out a training for its employees that expressly instructs them that one race is morally and intellectually superior to another and that an individual should be discriminated against because of his or her race, and the only remedy for that clear violation of § 41-1494 would be reports related to the same.

INTEREST OF AMICI CURIAE

Amici are Speaker of the Arizona House of Representatives Steve Montenegro and President of the Arizona Senate Warren Petersen. They file this brief in their official capacities as the presiding officers of their respective chambers. *See* Ariz. Const. art. IV, pt. 2, § 8; Ariz. State Senate Rule 2(N); Ariz. House of Reps. Rule 4(K). In enacting § 41-1494, the Legislature acted to prohibit discriminatory practices by state and local governments. The conduct outlawed in that section—such as training employees that “[o]ne race, ethnic group or sex is inherently morally or intellectually superior to another race, ethnic group or sex”—has no place in state government. The Speaker and President file this brief supporting

Petitioner Owen Anderson (“Anderson”) to ensure that § 41-1494 is given its proper force and effect.

ARGUMENT

I. The Court of Appeals Erred by Severing the Determination of Whether a Statute Permits a Private Cause of Action.

Arizona law makes clear that the traditional writ of injunction itself provides a cause of action for the relief Anderson seeks here—restraining a state official or agency from taking future actions that infringe on a person’s civil rights. The court of appeals, though, treated the question whether the statute provides a complete remedy foreclosing common law remedies as separate from whether § 41-1494 creates an implied right of action. *Anderson*, 2025 WL 3653226, at *4 ¶19. This was error. Because Anderson seeks to enjoin a public body from exceeding its authority and infringing on a person’s civil rights, the two questions are synonymous here. Indeed, if § 41-1494 does not create a complete remedy, then Anderson may seek any remedy available at common law as an implied right of action.

Undeniably, Arizona law is clear that absent a statute creating a “complete remedy,” “a statutory remedy is merely cumulative to any common law remedies.” *State Comp. Fund v. Ireland*, 174 Ariz. 490, 495 (App. 1992) (citing *Tucson Gas & Elec. Co. v. Schantz*, 5 Ariz. App. 511, 515 (1967)), disapproved on other grounds in *Carter v. Indus. Comm’n of Ariz.*, 182 Ariz. 128 (1995); see also *Rodgers v. Huckelberry*, 247 Ariz. 426, 430 ¶¶15–17 (App. 2019) (rejecting argument that

statutory remedy was exclusive and concluding “taxpayers had standing and a right of action to enjoin the allegedly illegal expenditures”). Indeed, “[w]hen statutory provisions and common law rights can be construed as consistent, [courts] are required to interpret all inferences in favor of consistency.” *State Comp. Fund*, 174 Ariz. at 495.

From the earliest months of statehood, Arizona courts have recognized “the ordinary injunction in equity” for “matters involving property or civil rights.” *State ex rel. Davis v. Osborne*, 14 Ariz. 185, 188 (1912). In 1912, State Senator H.A. Davis applied for an injunction against Secretary of State Sidney P. Osborne to restrain him from transmitting notices to hold a statewide candidate election that year. *Id.* at 186–87. In finding jurisdiction, this Court recognized that “[t]he superior courts of the state are not limited to the ordinary injunction in equity, *the scope and purpose of which is limited to matters involving property or civil rights*; but the prerogative writ of injunction may be resorted to in all cases necessary to preserve the sovereignty of the state, its prerogatives and franchises.” *Id.* at 188 (emphasis added). This writ of injunction is contained in A.R.S. § 12-1801.

Staying true to this understanding, later cases—including one brought by ABOR as Plaintiff—have consistently held that an injunction is available to restrain a government official from acting beyond his or her authority. *See Bd. of Regents of Universities & State Coll. v. City of Tempe*, 88 Ariz. 299, 302 (1960) (“[T]his Court

has on several occasions held an injunction to be a proper remedy where it is alleged that the statute . . . is being applied in an unauthorized manner.”); *see also* *Ariz. Pub. Integrity All. v. Fontes*, 250 Ariz. 58, 62 ¶14 (2020) (“[L]ike all public officials, the Recorder may be ‘enjoined from acts’ that are beyond his power.”); *Boruch v. State ex rel. Halikowski*, 242 Ariz. 611, 614 ¶6 (App. 2017) (permitting suit to advance where the State operating a water system that used plaintiffs’ properties as “‘ad hoc’ overflow relief . . . without just compensation in violation of the Arizona Constitution”); *Berry v. Foster*, 180 Ariz. 233, 235 (App. 1994) (“[T]he [school] board is still prohibited from taking action [i.e., moving forward with meeting to censure one of its members] which it has no power to take under the governing statutes.”); *Williams v. Super. Ct. In & For Pima Cnty.*, 108 Ariz. 154, 158 (1972) (“[W]here officers are acting in the execution of a public statute, they may be enjoined from acts which are beyond their power.”); *Crane Co. v. Ariz. State Tax Comm’n*, 63 Ariz. 426, 445 (1945) (Government “officers . . . may be enjoined from acts which are beyond their power.”).

Here, the court of appeals disregarded this longstanding recognition and instead exclusively looked to the statute’s language to determine whether Anderson could bring this claim. Because the statute did not expressly state that Anderson could seek injunctive relief, the court concluded he was not permitted to do so. But this gets the test backwards and impermissibly alters Arizona law, which makes clear

that to determine whether a party may bring an existing common law claim, courts ask whether such cause of action is prohibited. *See, e.g., Rodgers*, 247 Ariz. at 430 ¶17 (“It is easy enough for the legislature to state that a certain statute does or does not create, preempt, or *abrogate a private right of action*. We cannot say that § 34-613 is *so comprehensive that the legislature must have intended [it] to provide the sole remedy* for a violation of the competitive procurement procedures.” (emphasis added) (internal punctuation and citations omitted)). Accordingly, this Court should grant review to make clear that when a plaintiff seeks to enjoin a government body from violating a person’s civil rights, he may do so unless the statute expressly prohibits such an action.

II. The Statute at Issue Here—A.R.S. § 41-1494—Prohibits Discrimination by State and Local Governments.

The fact that the Legislature enacted § 41-1494 in part to prohibit discriminatory practices by state and local governments is critical to “the context, . . . subject matter, effects, and purpose of the statutory scheme.” *See Chavez*, 222 Ariz. at 318 ¶25. Indeed, “[c]ontext is always relevant’ because when ‘a provision is part of a broader statutory scheme’—as most provisions are—‘context can tell us the overall objective.’” *Associated Minority Contractors of Ariz. v. City of Phoenix*, __ Ariz. __, No. 1 CA-CV 24-0658, 2026 WL 547351, at *5 ¶27 (App. Feb. 27, 2026) (quoting *In re Chalmers*, __ Ariz. __, 571 P.3d 885, 889 ¶18 (2025)). Moreover, the fact that § 41-1494 uses plain language—“may not”—prohibiting agencies from

engaging in such practices is critical “language” further showing the existence of a private right by persons with standing to restrain statutory violations. *Chavez*, 222 Ariz. at 318 ¶25.

The court of appeals ignored this key fact—that § 41-1494 is in part a civil rights statute enacted to prohibit specific discriminatory practices against employees (and others) by government agencies and the use of public monies for such discriminatory practices. In fact, the term “civil rights” never appears in the court’s decision. Undeniably, though, § 41-1494 is codified in Chapter 9 of Title 41, which relates to “Civil Rights” and is commonly referred to as the “Arizona Civil Rights Act” or “ACRA.” *See, e.g., Higdon v. Evergreen Int’l Airlines, Inc.*, 138 Ariz. 163, 164, 165 n.1 (1983).

The fact that § 41-1494 is in part a civil rights statute that comfortably fits with longstanding prohibitions on employment discrimination supports the superior court’s conclusion that it had jurisdiction to hear Anderson’s claim and enjoin the prohibited practices by government officials. The scope of § 41-1494 relates to the employment context and the protected classes of “race” and “sex,” which are subjects that have long been covered by both ACRA and the corresponding federal civil rights law, Title VII. *See* 42 U.S.C. §§ 2000e–2000e17 (as amended). Article 4 of ACRA relates to discrimination in employment. *See* A.R.S. §§ 41-1461 to -1468.

And ACRA defines “employer” as a “person,” which includes “one or more . . . governmental agencies [or] political subdivisions.” A.R.S. § 41-1461(7)(a), (11).

The categories identified in § 41-1494(D) are also consistent with the protected classes throughout ACRA, including “race” and “sex.” *See* A.R.S. § 41-1463(B) (making it an “unlawful employment practice” to “fail or refuse to hire” or to “limit, segregate or classify employees or applicants for employment in any way that would . . . adversely affect the individual’s status as an employee, because of the individual’s race, color, [or] sex.”). Consistent with that prohibition, § 41-1494 prohibits trainings, orientations, and therapy by state agencies and subdivisions that are discriminatory by suggesting that:

- One race, ethnic group or sex is inherently morally or intellectually superior to another race, ethnic group or sex;
- An individual, by virtue of the individual’s race, ethnicity or sex, is inherently racist, sexist or oppressive;
- An individual should be invidiously discriminated against or receive adverse treatment solely or partly because of the individual’s race, ethnicity or sex;
- An individual’s moral character is determined by the individual’s race, ethnicity or sex; or

- An individual should feel discomfort, guilt, anguish or any other form of psychological distress because of the individual’s race, ethnicity or sex.

A.R.S. § 41-1494(D).

The Legislature could reasonably conclude that if a government agency is training its employees that one race is superior or inferior to another, or that people of one race are inherently racist, sexist, or oppressive, this could well lead to additional discriminatory conduct, and even liability for the State and its subdivisions for employment discrimination under ACRA or other laws. The Legislature was within its authority to broadly prohibit “requir[ing]” or “us[ing] public monies” for this practice. *See Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 206 (2023) (“Eliminating racial discrimination means eliminating all of it.”). And given this purpose, the court of appeals erred when it concluded that Anderson—a person who was directly subject to the actions in question—could not seek to enjoin officials from engaging in unlawful practices.

III. Common Law Remedies Are Available Absent a Complete Statutory Remedy.

A. A Writ of Injunction to Restrain ABOR’s Violation of § 41-1494 in Carrying out its Employment Powers Is Available Here.

Here, ABOR has statutory authority to “[a]ppoint and employ . . . professors, instructors, [and] lecturers.” A.R.S. § 15-1626(A)(3). Section 41-1494(A) and (B) is

a civil-rights statute that prevents ABOR from exercising its appointment and employment authority in a manner that violates employees' civil rights by requiring or using public monies for discriminatory trainings and other practices. Under the plethora of authority cited above, Part I, *supra*, an employee can bring a cause of action to restrain ABOR from exercising its employment powers in a manner that exceeds its authority.

ABOR makes much of the fact that other articles in ACRA provide express causes of action (including claims for damages). *See* Response at 12. That argument would be relevant if Anderson was bringing a claim for damages, but he is not. Instead, the absence of an express statutory right of action in § 41-1494 supports the conclusion that in enacting that statute, the Legislature did not intend to preclude “common law remedies.” *State Comp. Fund*, 174 Ariz. at 495; *see also Rodgers*, 247 Ariz. at 430 ¶¶15–17.

This makes sense given the breadth of § 41-1494(A) and (B). As repeatedly noted in this Amicus Brief, those statutes broadly prohibit “requir[ing]” or “us[ing] public monies” for purposes that could result in employment discrimination and even liability for state and local agencies. *See* pages 11–12, *supra*. The Legislature therefore left open the availability of injunctive relief to restrain violations.

B. ABOR’s Argument That There Is No Remedy Other Than Reports for § 41-1494 Violations is Breathtakingly Broad and Leads to Absurd Results.

It is also important to note the breadth and absurdity of ABOR’s private-right-of-action arguments, which the court of appeals ultimately agreed with. ABOR argues that § 41-1494’s only authorized enforcement method is the report that includes state agencies in compliance with that section. Response at 12–13. A state agency that required and used public money to create and carry out a training that expressly and repeatedly told its employees that “[o]ne race, ethnic group or sex is inherently morally or intellectually superior to another” and that “[a]n individual should be invidiously discriminated against . . . because of the individual’s race, ethnicity or sex” would plainly be in violation of A.R.S. § 41-1494(A) and (B).

Imagine such a training for corrections officers, teachers, DCS employees, police officers, judges, or any other government employees who exercise authority in a way that impacts the lives of countless Arizonans. If the court of appeals decision remains, no public employee subjected to that training could seek an injunction to enforce § 41-1494(A) or (B). Accordingly, the sole “remedy” would be being left off of a list in a report. This is plainly absurd. As the superior court correctly concluded § 41-1494’s “primary purpose is to ensure that public employees are not required to undergo training ‘that presents any form of blame or judgment on the basis of race, ethnicity or sex’ as a condition of their employment.”

Under Advisement Ruling at 4. Accordingly, this Court should grant the Petition for Review and ensure such a result does not take place.

CONCLUSION

For the foregoing reasons, the Court should grant the Petition for Review.

RESPECTFULLY SUBMITTED this 8th day of April, 2026.

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