

September 10, 2025

Kris Mayes, Arizona Attorney General
2005 North Central Avenue
Phoenix, Arizona 85004-1592
Attn: Hayleigh S. Crawford, Deputy Solicitor General
hayleigh.crawford@azag.gov

Dear Attorney General Mayes:

As you know, I, in my capacity as the President of the Arizona Free Enterprise Club, recently filed with your office a complaint (the “Complaint”) outlining apparent violations of A.R.S. § 15-1633 by the leadership of Arizona State University (“ASU”) in manipulating the rules governing a 2022 gubernatorial debate that it co-sponsored. Your office responded on August 29 that it has “a conflict that prevents us from undertaking an investigation of these allegations,” citing your representation of ASU and ASU President Michael Crow “in his official capacity.”

Your declaration of a conflict and your ostensible solicitude for ethical strictures with respect to ASU, however, contrasts starkly with your overt adversity towards other state agencies and bodies. Since its earliest days, your administration has waged a sustained campaign against the Department of Education’s administration of Arizona’s popular and path-breaking Empowerment Scholarship Accounts. In May 2023, for example, you appeared on KPNX-TV to publicly criticize and threaten with investigations not only the Department of Education but also the Department of Water Resources.¹ More recently, you launched a public and factually dubious broadside against the Department of Education’s processing of ESA purchases, which the Superintendent has since decisively rebutted.²

Tellingly, ASU is selectively spared from the public assaults you inflict on your more politically disfavored clients. As you undoubtedly recall, one of your first actions upon taking office was to kowtow—at Arizona taxpayers’ significant expense—to ASU’s demand that your office drop Attorney General Brnovich’s legal challenge to the misuse of ASU’s tax-exempt property for a private hotel deal. *See* Phineas Hogan, *Arizona Attorney General and ABOR Agree to Drop Tempe Omni Hotel Lawsuit*, THE STATE PRESS, Mar. 17, 2023, available at <https://www.statepress.com/article/2023/03/omni-hotel-in-tempe-continues-brnovich-lawsuit-dismissed>.

It appears you have rationalized your opportunistic attacks by relying on the notion that your office represents the State itself and not any individual officer or employee. *See* Ariz. Att’y Gen., *Arizona Agency Handbook* § 1.9.2.5 (2018) (“There is . . . no inherent conflict of interest for the Attorney General to enforce civil or criminal laws against state officials.”). But even accepting it at face

¹ Available at https://www.youtube.com/watch?v=nsLL3MRx_o&ab_channel=12News.

² *See* Ariz. Dep’t of Education, *Horne Calls Out AG Mayes for Misleading Attacks on ESA Program*, Aug. 29, 2025, available at <https://www.azed.gov/communications/horne-calls-out-ag-mayes-misleading-attack-esa-program>.

value, that distinction discredits your declaration of a conflict here. Violations of A.R.S. § 15-1633 necessarily are carried out by individual officers and employees undertaking unauthorized actions, and actually victimize the institution itself by illegally diverting its resources for political ends. *See* A.R.S. § 15-1633(H) (requiring that “misused funds [recovered in litigation] shall be returned to the university whose funds were misused”). If your office genuinely espouses a position that it can pursue real or imagined wrongdoing by certain individuals within the Department of Education, then it certainly is not ethically foreclosed from investigating demonstrably illegal conduct within ASU.

Fundamentally, the Complaint may, in fact, implicate a conflict of interests—but it is not the one your office identified. A reasonable observer could easily conclude that your past financial relationship with ASU prior to taking office is now influencing your official actions and decisions. Any conflict accordingly is specific to you in your personal capacity, and not your office. The appropriate course of action would have been to refer the complaint to a qualified and unconflicted designee.

In any case, it will now fall to a county attorney to carry out the responsibility to Arizona taxpayers that your office has shirked. *See* A.R.S. § 15-1633(H).

Respectfully,

A handwritten signature in cursive script that reads "Scot Mussi". The signature is written in dark ink and is positioned above the printed name and title.

Scot Mussi
President, Arizona Free Enterprise Club