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Court filing: Brewer should stay out of Arizona college tuition rates for 'dreamers'

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15 hours ago • By [Howard Fischer](#) [Capitol Media Services](#)

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PHOENIX—The attorney for the state's largest community college system says Gov. **Jan Brewer** has no right to tell them how much they can charge "dreamers" to attend school there.

In legal filings this week in Maricopa County Superior Court, **Mary O'Grady** tells Judge **Arthur Anderson** there is nothing in the statutory powers of Attorney General **Tom Horne** which entitles him to sue another government agency over its decisions.

And O'Grady said a late effort by the governor to cure the defect of Horne's lawsuit by directing him to sue on her behalf is no more valid. She said Brewer's powers also do not extend to suing the elected governing board of the Maricopa County Community College District.

The claim drew a sharp response from Horne.

"The community college district thinks that it's a law unto itself, and unaccountable for violations of [x]

if Anderson sides with O'Grady that would have broad implications.

Most immediately it would kill the lawsuit Horne filed last year seeking to overturn the decision by the Maricopa board to grant the lower resident tuition to those who have been accepted into the Deferred Action for Childhood Arrivals program. It allows those who arrived in this country as children to not only remain but also get permits to work.

But it also would throw a roadblock in the path of state officials to interfere with similar decisions being made by college governing boards elsewhere. Horne already has threatened to sue the Pima board over its policy of granting resident tuition to DACA recipients.

Central to the fight is a 2006 ballot measure limits in-state tuition to citizens and legal residents. It also denies waivers of tuition or fees, grants, scholarships, financial aid, tuition assistance "or any other type of financial assistance that is subsidized or paid in whole or in part with state monies."

Horne contends those who are not citizens or legal residents are must pay the higher "out-of-state" tuition, regardless of how long they have lived in the state.

The college has taken the position that any student with a work-authorization permit issued by the federal government can qualify for resident tuition.

But O'Grady, in asking Anderson to kill the lawsuit, said the legal issue is simpler: It's none of Brewer's business because she has no authority over an independent government entity like the community college district.

"She cannot initiate litigation — or direct the attorney general to initiate litigation — simply because she disagrees with the legal interpretation adopted by a separate and independent government entity," O'Grady wrote.

Horne said that O'Grady is missing the bigger picture.

"The governor has the power to sue because the (Arizona) Constitution says the governor shall see that the laws are properly executed," he said.

O'Grady said that's true — but only to the extent it involves laws governing agencies under her control. And that, she said, does not include the college and its board.

"The governing board is directly responsible to the electorate and not subject to gubernatorial supervision," O'Grady said.

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