



One Hundred Eighteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

January 26, 2024

Hon. Mark E. Green, Chairman
Committee on Homeland Security
U.S. House of Representatives
H2-176 Ford House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Your ill-advised decision to rush to a markup of an impeachment resolution of Secretary Alejandro Mayorkas without any form of due process or Democrats' properly requested minority-day hearing is disappointing yet expected.

Nothing about this sham impeachment has abided by House precedent, but all of it has been done to reach the predetermined outcome you promised your donors last year.¹

1. **This impeachment inquiry was not authorized by the full House.** Until this Congress, Republicans have railed against pursuing impeachment without formal authorization by the full House.² The last time a Cabinet official was impeached—the 1876 case of Secretary of War William W. Belknap—the full House authorized several committees to investigate well-publicized cases of fraud in the Federal Government.³ In this case, however, the full House was not permitted to debate the merits (or lack thereof) of impeaching Secretary Mayorkas or consider the proper procedures for any such investigation.
2. **Secretary Mayorkas was not afforded any rights in the absence of an authorized impeachment inquiry.** Authorizing resolutions not only imbue investigative committees with additional authority and legitimacy, but they also afford subjects of such investigations the ability to respond to the investigation. When the House authorized its impeachment inquiry into former President Donald Trump during the 116th Congress, for example, House Resolution 660 authorized the Committee on the Judiciary to adopt rules allowing for the participation of the President and his counsel.⁴ In the Belknap impeachment, the committee of primary jurisdiction “gave [Belknap]

¹ Karoun Demirjian, *Key Republican Tells Donors He Will Pursue Impeachment of Mayorkas*, N.Y. TIMES (Apr. 18, 2023), <https://www.nytimes.com/2023/04/18/us/politics/republicans-mark-green-mayorkas-impeachment.html>.

² See, e.g., Luke Broadwater, *McCarthy Reversal on Impeachment Inquiry Reflects Pressure From the Right*, N.Y. TIMES (Sept. 13, 2023), <https://www.nytimes.com/2023/09/13/us/politics/mccarthy-reversal-impeachment-inquiry.html>.

³ 3 ASHER C. HINDS, HINDS' PRECEDENTS OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, § 2444, (1907) at 902.

⁴ H. Res. 660, 116th Cong., 1st Sess. (Oct. 31, 2019).

opportunity to explain, present witnesses, and cross-examine witnesses.”⁵ No such rights were afforded to Secretary Mayorkas.

- 3. Secretary Mayorkas was not afforded the opportunity to testify before the Committee despite his willingness to do so.** Secretary Mayorkas has testified at congressional hearings 27 times during his tenure—more than any other Cabinet secretary. The Secretary said he would “make himself available” to testify before the House Homeland Security Committee,⁶ but you refused to accommodate his request and find a mutually agreeable date. Instead, on January 18, 2024, you offered the Secretary the opportunity to include written testimony for the record of that day’s hearing. The window to submit such testimony will still be open by the time the Committee proceeds to markup a resolution impeaching him on Tuesday, January 30, 2024.
- 4. Democrats’ properly entered minority-day hearing request will not be acted upon prior to the markup of an impeachment resolution.** At the January 18, 2024 Committee hearing, I furnished you with a timely demand for a minority-day hearing, signed by all Democratic Members of the Committee, pursuant to clause 2(j)(1) of rule XI of the Rules of the U.S. House of Representatives. The rule is clear: “[T]he minority members of the committee shall be entitled... to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.”⁷ When presented with that demand, however, you erroneously said, “So as I understand the rules, the request is only in order when you don’t have a witness present and today, you have a witness present, so this not [in] order.”⁸

Nothing in the text of the rule supports that assertion. Indeed, as I pointed out during our exchange, the rule states the precise opposite: “Although a majority of the minority members of a committee are entitled to call witnesses selected by the minority for at least one day of hearings, no rule of the House requires the calling of witnesses on opposing sides of an issue.”⁹ The Chair is required to schedule a minority-day hearing. Having a witness selected by the Minority at a hearing does not preclude the request for a minority-day hearing under rule XI.

Democrats intended to call additional Constitutional and legal experts to continue to inform the Committee of the lack of any grounds to proceed with the impeachment of Secretary Mayorkas. Indeed, even frequent Republican impeachment expert Jonathan Turley thinks that Secretary Mayorkas has not committed an impeachable offense.¹⁰ The impeachment resolution will proceed to markup without this hearing required under House rules and the benefit of such testimony.

- 5. The Committee was used as a platform for Members to campaign for other office.** In blatant disregard for the House Code of Official Conduct (House rule XXIII) and chapter 4 of the *House*

⁵ 3 ASHER C. HINDS, HINDS’ PRECEDENTS OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, § 2445, (1907) at 904.

⁶ Letter from Zephrañie Buetow, Assistant Sec’y for Legis. Aff., U.S. Dept. of Homeland Security to Chairman Mark E. Green, H. Comm. on Homeland Security (Jan. 11, 2024), at 2.

⁷ Rules of the U.S. House of Representatives (118th Cong.), rule XI, clause 2(j)(1).

⁸ *Voices for the Victims: The Heartbreaking Reality of the Mayorkas Border Crisis Before the H. Comm. on Homeland Security*, 118th Cong. (Jan. 18, 2024) (CQ unofficial transcript).

⁹ Rules of the U.S. House of Representatives (118th Cong.), § 802, at 599.

¹⁰ Jonathan Turley, *Homeland Security Chief Alejandro Mayorkas’ Failures Are Not Impeachable*, DAILY BEAST (Jan. 9, 2024), <https://www.thedailybeast.com/homeland-security-chief-alejandro-mayorkas-failures-are-not-impeachable>.

Ethics Manual, a Republican Member referenced his campaign for State attorney general during his questioning of hearing witnesses on January 10, 2024. As I pointed out to you at the time, “I just ask that if [the Member is] going to run just go run, just don’t run when the committee is in session.”¹¹ This violation of ethical standards underscores the political nature of this entire impeachment farce: it bears no relationship to the Constitution or whether Secretary Mayorkas has committed an impeachable offense.

Despite these obvious defects and departures from precedent, the Committee will regrettably proceed to a markup of an impeachment resolution next week.

This unserious impeachment is a testament to partisan politics over rules and reason. Just two legal experts testified before the Committee, and both participated at the invitation of Democrats. Both of these distinguished scholars plainly stated that the Constitution did not support the impeachment of Secretary Mayorkas. Given the grave importance of impeachment—which you once described as “probably the most extreme remedy that our constitution affords for taking someone out of office”¹²—this Committee should do better. At the very least, it should follow the rules and practices established over more than two centuries of congressional history.

In 1788, Alexander Hamilton wrote: “In many cases [impeachment] will connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence, and interest on one side or on the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt.”¹³

In the inept and inappropriate ways you have handled the Committee during this partisan sham, you have proven Hamilton correct.

Sincerely,



Bennie G. Thompson
Ranking Member

¹¹ *Havoc in the Heartland: How Secretary Mayorkas’ Failed Leadership Has Impacted the States Before the H. Comm. on Homeland Security*, 118th Cong. (Jan. 10, 2024) (CQ unofficial transcript).

¹² Tommy Crouse, *Rep. Green on impeachment ‘I can’t imagine the founders would support anything like this’*, NEWSCHANNEL5 (last updated Oct. 11, 2019), <https://www.newschannel5.com/news/i-cant-imagine-the-founders-would-support-anything-like-this>.

¹³ THE FEDERALIST NO. 65 (Alexander Hamilton).