



One Hundred Sixteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
www.foreignaffairs.house.gov

October 10, 2019

The Honorable Eliot Engel, Chairman
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515

Re: Applicability of longstanding committee impeachment inquiry procedures

Dear Mr. Chairman:

As a friend and colleague who deeply values our years of bipartisan cooperation to promote America's national security and foreign policy interests, I regret that I must publicly register serious objections and pose questions about the rushed, closed-door, and unprecedented "joint impeachment inquiry" initiated by Speaker Pelosi and Chairman Schiff, to which the Committee on Foreign Affairs has been committed.

Yesterday evening, you issued a newly updated public notice for depositions of five current and former foreign policy officials, beginning tomorrow, October 11, 2019. Thus, I respectfully request that you clarify as soon as possible whether those proceedings will include the fundamental procedural fairness safeguards guaranteed in prior impeachment inquiries of both Republican and Democrat Presidents, as specifically outlined below.

For more than 45 years, the consistent, bipartisan procedures followed by both Democrat and Republican chairmen in presidential impeachment inquiries (sometimes referred to as the "Rodino-Hyde rules") have guaranteed certain fundamental elements of due process:¹

1. The Majority and the Minority are guaranteed co-equal power to initiate subpoenas;

¹ H.Res. 581 (105th Congress); H.Res. 803 (93rd Congress); Deschler's Precedents Vol. 3, Ch. 14, §15.6; House Committee on the Judiciary, *Authorization of an Inquiry Into Whether Grounds Exist for the Impeachment of William Jefferson Clinton, President of the United States*, committee print, 105th Cong., 2nd sess., December 1998, Committee Print Ser. No. 8 (Washington: GPO, 1998), pp. 220-221 ("House Committee on the Judiciary Impeachment Inquiry Procedures").

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2. The Majority and the Minority each have the right to require a prompt committee vote on any subpoena;
3. The President's counsel has the right to attend all depositions and hearings, including those held in executive session;
4. The President's counsel has the right to cross-examine witnesses;
5. The President's counsel has the right to propose witnesses;
6. The President's counsel has the right to present evidence, and to object to the admission of evidence, at committee proceedings; and
7. The President's counsel has the right to respond to evidence received and testimony adduced by the committee.

These basic protections represent longstanding, bipartisan consensus, which – according to precedent on this most serious Constitutional matter– should be voted on and adopted at the outset of an impeachment inquiry. It is deeply troubling that they have been willfully ignored by Speaker Pelosi and Chairman Schiff, even though the Republican Leader sent two letters raising these concerns last week. It is clear to me that this rush to impeachment is a result of political calculation, not a desire to get to bottom of the matter.

The impeachment of a sitting President is not a run-of-the-mill committee inquiry. It is a grave Constitutional reckoning that demands basic standards of order, transparency, and fairness. We are only asking for the same rights and procedures that were afforded to the minority in the Nixon and Clinton impeachment proceedings. Without such protections, this rushed proceeding will undermine our Constitutional democracy.

I do not presume to know all the information an impeachment inquiry might find. But I am certain that any fact-finding process must be credible, methodical, public, and beyond reproach if the outcome is to enjoy the trust and support of the American people. For these reasons, there needs to be a clear answer to what this process will be prior to the conduct of any new deposition or interview under the auspices of this, or any other, committee.

Sincerely,



MICHAEL T. McCAUL
Ranking Member