



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

January 26, 2024

Ranking Member Bennie G. Thompson
Committee on Homeland Security
U.S. House of Representatives
H2-117 Ford House Office Building
Washington, DC 20515

Dear Ranking Member Thompson,

I am in receipt of your letter expressing concerns with our upcoming markup of the impeachment resolution of Secretary Alejandro Mayorkas. As you know, the resolution was referred to the Committee on Homeland Security (Committee) on the House floor by Democrat motion. In the absence of a precedent on impeachment in this Committee, we have not only relied on precedent set by the House Judiciary Committee in its 2019 impeachment proceedings, but have gone above and beyond to ensure a fair, transparent, and methodical process.

I will address your specific concerns:

- 1. This impeachment inquiry is proceeding by the direction of the full House.** In *United States v. Ballin*, the Supreme Court held that for House proceedings, “all matters of method are open to the determination of the house.”¹ In this case, on November 13, 2023, during a vote of the full House, every single Democrat present, including you, Mr. Ranking Member, agreed to refer articles of impeachment to the Committee for consideration.² Now, the Committee must do its duty to consider and report these articles to the full House.
- 2. Secretary Mayorkas has never been denied any rights.** There is no requirement in House or Committee rules that an authorizing resolution pass the full House floor to allow for consideration of a measure referred to this Committee. Further, had Secretary Mayorkas chosen to appear before the Committee to testify, his counsel was welcome to attend. The Committee’s decision to move forward to mark up the resolution despite Secretary Mayorkas’ evasion of accountability, does not deny him any rights.
- 3. Secretary Mayorkas was afforded ample opportunity to testify before the Committee and refused to do so.** On at least three separate occasions, Secretary Mayorkas was invited to testify on his own behalf to the Committee to defend his actions

¹ U.S. v. Ballin, 144 U.S. 1, 5 (1892).

² Roll Call 645, H. Res. 863, 118th Cong. (Nov. 13, 2024), available at <https://clerk.house.gov/Votes/2023645>.

as Secretary of the Department of Homeland Security. In response, his staff either tacitly declined my invitations or engaged in a game of cat-and-mouse by not promptly responding to the Committee and then later claiming that he would like to find a mutually agreeable day, though never offering any days or times in which to testify. Most recently, on January 5, 2024, the Secretary Mayorkas was invited to appear before the Committee at our January 18th hearing as part of official impeachment proceedings.³ The Secretary rejected the offer to testify, and his office failed to communicate with the Committee on “mak[ing] himself available” to testify at another time. Understanding that his declinations would continue, and our investigative duties would be stymied, the Committee offered Secretary Mayorkas 10 days from the date of the January 18th hearing to provide written testimony. The Committee has yet to receive a response.⁴

- 4. The minority-day hearing rule does not give the Minority the power to delay other Committee proceedings.** At the end of our exchange regarding the minority-day hearing request, I told you that “[I] would take [your request] under consideration” and would work with you further on the matter.⁵ I remain open to working with you on scheduling a minority-day hearing, however your interpretation of the scope of what the rule allows is mistaken.

While clause 2(j)(1) of Rule XI of the Rules of the House does entitle the minority to “call witnesses selected by the minority to testify with respect to a measure...during at least one day of hearing...,” it does not require the Chair to schedule a hearing on a particular day, or as a condition precedent, to taking any specific legislative action.⁶ In other words, the rule cannot be used to delay or block Majority action as you intend.

On December 11, 2019, the House Judiciary Committee met to consider articles of impeachment against then-President Trump. In a hearing on December 4, 2019, the Republican minority had made a request for a minority-day hearing. In the markup, the Ranking Member made a point of order against consideration of the articles because the minority did not receive a minority-day hearing date beforehand. Chairman Nadler ruled on the matter and stated, in part: “[T]here is no precedent for the use of minority days to delay committee legislative or impeachment proceedings.... The minority day rule was

³ Press Release, H. Comm. on Homeland Sec., Chairman Green Invites Mayorkas to Submit Written Testimony Following DHS Secretary’s Rejection of Committee’s Offer to Testify in Person (Jan. 17, 2024) (on file with author), *available at* <https://homeland.house.gov/2024/01/17/chairman-green-invites-mayorkas-to-submit-written-testimony-following-dhs-secretarys-rejection-of-committees-offer-to-testify-in-person/>.

⁴ Letter from Mark Green, Chairman, H. Comm. On Homeland Sec., to Alejandro Mayorkas, Sec’y, Dept. of Homeland Sec. (Jan. 17, 2024) (on file with author), *available at* <https://homeland.house.gov/wp-content/uploads/2024/01/Chairman-Green-to-Mayorkas-Written-Testimony.pdf>.

⁵ *Voices for the Victims: The Heartbreaking Reality of the Mayorkas Border Crisis, Hearing Before the H. Comm. on Homeland Sec.*, 118th Cong. (Jan. 18, 2024) (CQ unofficial transcript).

⁶ H. Rule XI, Cl. 2(j)(1) (118th Cong.).

made part of the House rules in 1971, but it was not invoked in either the Nixon or Clinton impeachments.”⁷

This Committee similarly has no precedent of the minority-day hearing rule being used to delay impeachment proceedings, and additionally has no precedent of handling impeachment proceedings at all; that is until the Democrat motion to refer the articles on November 13th. Given the last-minute request by the minority—and with no full session days between the request and the markup, there would be no reasonable date to hold a minority-day hearing before the markup. The Minority has had the opportunity to call and question witnesses at each hearing. The Minority will not be denied its right under Rule XI, but the Committee is not “required,” as you stated, to hold such a hearing prior to markup.

5. **No Member has campaigned for office before this Committee.** Allegations that a member of this Committee violated House Ethics rules are incredibly serious and carry with them potential financial and criminal penalties. Allegations of this type are not taken lightly. However, your claim that “a Republican Member referenced his campaign for State attorney general during his questioning of hearing witnesses” is false. I assume you are referring to the Member who simply stated to the witnesses that, “I look forward to joining you in 2025.” At no point did the Member state a specific reference to a past or future campaign nor solicit support for any past or future campaign. Further, this Committee is not the proper venue to discuss allegations of this sort, and there is no basis for it to be contemplated in preparation of a markup of Articles of Impeachment.

This Committee will indeed proceed to a markup of the impeachment resolution next week. There is ample evidence as to why we must proceed, and while I understand the “partisan sham” of attacking the process is easier for you than defending the Secretary’s actions, I would encourage you to engage meaningfully in your oversight duties as a Member of this Committee.

Sincerely,



MARK E. GREEN, M.D.
Chairman
Committee on Homeland Security

⁷ H. Res. 744, *Articles of Impeachment Against President Donald. J. Trump, Volume I, Markup Before the H. Comm. On the Judiciary*, 116th Cong. (Dec. 11, 2019).