



Your guide to impeachment — in five questions

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WASHINGTON, DC—In the week and a bit since the topic of President Donald Trump’s conduct toward Ukraine emerged as a major source of news, the revelations and developments have been relentless — documents declassified and released, an impeachment inquiry established, witnesses subpoenaed, barrages of presidential tweets launched. You may be forgiven if you need to catch up on what exactly is going on. What is Trump alleged to have done? Is there a chance he can actually be fired over this? How does it all work?

Here’s a primer on impeachment and the current situation.

What is President Trump accused of doing?

The primary allegations are that Trump solicited foreign interference in the upcoming presidential election, abused his control over U.S. foreign policy to do so, and then engaged in a coverup to prevent the American government and people from learning about it.

At the heart of it all is a phone conversation Trump had with Ukrainian President Volodymyr Zelenskiy that became the subject of a whistle-blower complaint from someone working in the U.S. intelligence community. A publicly released partial transcript of the call shows Trump responding to Zelenskiy’s plea for military aid with the phrase, “I would like you to do us a favour, though,” and then requesting that Ukraine begin investigations both into a conspiracy theory dealing with servers hacked in the 2016 election and into potential Democratic presidential nominee Joe Biden. He suggests in the call that Zelenskiy should work with Rudy Giuliani, who is not employed by the U.S. government and has been acting as Trump’s personal lawyer, and with Attorney General William Barr on investigating Biden.

About a week prior to the call in July, Trump had personally suspended \$391 million in aid to Ukraine for reasons that were never specified. After congress was made aware of the existence of the whistle-blower complaint, the funds were released to the Ukraine. The whistle-blower complaint alleges that Ukrainian officials understood that getting to speak to Trump was dependent on their willingness to “play ball” with the investigation into Biden.

After the call, the whistle-blower complaint alleges, the White House directed that the partial transcript be moved off the normal servers where such calls are stored for consultation by officials with security clearance and moved to separate code-word protected servers normally use for sensitive matters of national security. The White House late last week told CNN that it had moved the transcript to the secure server on the advice of National Security Council lawyers.

What is disputed about these accusations?

A substantial amount of what's alleged has either been admitted by both the president, his White House officials or Giuliani, or has been demonstrated in the call transcript that was publicly released after news of the whistle-blower complaint was reported and the impeachment inquiry was launched.

Trump's defence is that he did nothing wrong by making the request in the call. Where opponents see it as seeking foreign interference into the upcoming election campaign, he says it was simply an attempt to crack down on corruption.

He and his defenders have also emphatically denied there was any "quid pro quo" involved. While some reading the transcript see the strong suggestion in the phrasing and sequence of the conversation that an exchange of one thing for the other is being requested, Trump and his defenders deny that is the case.

Initially Trump said his unilateral suspension of aid dollars was motivated by fears of "corruption" in the new Ukrainian government, but he subsequently said he held it up because of his frustration that other European countries weren't contributing enough to the aid budget.

Is this impeachable?

The U.S. Constitution provides for impeachment and possible removal from office for "treason, bribery, or other high crimes and misdemeanours." The vague framing of the last clause leaves definition up to the elected officials in congress who investigate and try such offences.

While people on the outside might assume impeachment is a process akin to a criminal trial presided over by an impartial judge, its mechanism through congress is inherently political.

However, most political observers agree that soliciting foreign interference in an election would constitute an impeachable offence. Michael Sozan, a senior fellow at the Center for American Progress in Washington, D.C., wrote last week that "ensuring that foreign entities did not influence America's democratic system" was one of the primary goals of the country's founders when they wrote the impeachment clause of the constitution. Without anything else considered, simply seeking such interference may be enough.

If such interference provides something of value to Trump's campaign, it may also violate campaign finance laws — though Barr's Justice Department already reviewed the whistle-blower complaint on those grounds and dismissed it — which would almost certainly qualify as an impeachable offence.

If an inducement was offered in the form of leveraging foreign policy towards ensuring this interference, that would add abusing the office by offering a form of bribe to the articles of impeachment. Sozan said in an interview that in his opinion, this sort of "quid pro quo" would not be required for impeachment, but if it is proven it would be a further serious impeachable offence.

And many forms of coverup, of which some argue moving the material to a more classified server may be part, would amount to obstructing justice (which was one of the articles of impeachment against Bill Clinton in 1998) or obstructing congress (included in the articles of impeachment against Richard Nixon in 1974).

Finally, some of Trump's tweets and comments since the impeachment investigation was launched have been seen as intimidating or punishing the whistle-blower (who is guaranteed to be free from retribution by federal law), other officials, or members of congress, which may also be seen as impeachable conduct.

How does the impeachment process work?

A president accused of misconduct is investigated and impeached by the House of Representatives, and then tried and potentially removed from office by the Senate.

Currently, the Democratic party-controlled House has launched an impeachment inquiry to hold hearings and gather evidence to investigate the president's conduct. If the committees involved find conduct they believe is serious enough, they will draw up articles of impeachment and the full House will vote on whether to impeach — essentially formally charge the president with wrongdoing. A simple majority of the House's 435 members is required to impeach the president.

If the House votes to impeach, the matter will go to the Senate for a trial on whether or not to convict the president and remove him from office. The process in the Senate would proceed much like a criminal trial, with witnesses called and cross-examined and evidence presented. A two-thirds majority of the Republican-controlled body would be required to convict the president and remove him from office.

So is there any chance Trump winds up losing his job for this?

Only two presidents — Andrew Johnson and Bill Clinton — have ever been impeached by the House. Neither was removed from office, as both were acquitted in the Senate. A third president, Richard Nixon, was subject to an impeachment inquiry that drew up articles of impeachment, but he resigned as the House was preparing to vote.

So there's not a lot of precedent to point to a successful impeachment leading to conviction. That Trump's Republican party controls the Senate, meaning at least 20 members of his own party would have to vote to convict him, makes the outcome seem all the less likely.

“The supermajority requirement for Senate conviction makes it extremely difficult to remove a president — more difficult, probably, than the constitution's framers' understood,” Gene Healy, vice-president of the Cato Institute in Washington, D.C. said in an email. “In 1868, the Republicans had more than enough votes to convict Andrew Johnson on a party-line vote — they held over 80 per cent of the Senate seats — but they couldn't manage it. So the smart money would say that what's never been done before probably won't be done this time either.”

Which doesn't mean it's impossible. Sozan of the Center for American Progress, while agreeing the most likely outcome is that the Senate would not convict, emphasized in a phone call that this

is a political process in which public opinion in reaction to the facts will shape the outcome. “The results of the impeachment inquiry are going to depend largely on how clearly and compellingly Democrats convey the extent of the president’s abuse of power. The facts are there, but can the facts be presented with clarity, and with soberness, and with force?” he said. “We already see after just one week how quickly the American people are becoming more supportive of the impeachment inquiry. And it’s notable that this includes not just Democrats, not just independents, but a sizable number of Republicans.”

Republican senators, Sozan says, especially those in swing states, need to be concerned about their own re-election prospects, so are likely to follow public opinion if it continues to move towards supporting impeachment.

If the president is impeached but is not removed from office, forecasting the political implications for the 2020 election and beyond is virtually impossible. “Anyone who thinks they can predict how this all cashes out politically is kidding themselves,” writes Healy of the Cato Institute.