



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

March 27, 2024

The Honorable Chuck Schumer
Senate Majority Leader
322 Hart Senate Office Building
Washington, D.C. 20510

Re: Expulsion proceedings needed against Senator Robert Menendez

Dear Leader Schumer:

I write to you on behalf of my organization, Citizens for Responsibility and Ethics in Washington (CREW), a nonpartisan, nonprofit organization committed to protecting and strengthening our democracy and building an ethical and accountable government, to urge you to begin expulsion proceedings against Senator Robert Menendez of New Jersey.

This is a decision that CREW reaches with great reluctance. To expel a sitting senator is to make a deeply fraught compromise, effectively overruling the voters in the senator's state in the interest of protecting the nation. That is why the Senate has only exercised this solemn constitutional power fifteen times, fourteen of which occurred during the Civil War.¹ Historically, expulsion has only occurred in cases of immense disloyalty to the United States or when a member has been criminally convicted for acts that amount to abuse of office.²

Senator Menendez's latest indictment demonstrates his alleged disloyalty and abuse of office, making clear that the preconditions for Congress to initiate expulsion proceedings have been met. Specifically, the government alleges that Senator Menendez engaged in a shocking pattern of corrupt and disloyal conduct, including taking bribes from agents of foreign governments, abusing his position to obstruct justice and protect an alleged co-conspirator, and pressuring various officials, including those at the United States Department of Agriculture, to take actions to benefit his friends at the expense of his constituents.³ These actions alone would be cause for resignation and eventual expulsion should he be convicted.

¹ United States Senate, "Powers and Procedures: Expulsion," <https://www.senate.gov/about/powers-procedures/expulsion.htm>.

² Congressional Research Services, Recall of Legislators and the Removal of Members of Congress from Office (CRS Report No. RL30016), Jan. 5, 2012, <https://www.everycrsreport.com/reports/RL30016.html>.

³ Superseding Indictment, *United States v. Menendez, et. al.*, Case 1:23-cr-00490-SHS (S.D.N.Y., Mar. 5, 2024), <https://static01.nyt.com/newsgraphics/documenttools/45a1fa9dc672fe0f/4aca6090-full.pdf>.

However, one of the recent allegations added against Senator Menendez makes clear that the Senate cannot wait for his criminal trial to run its course and instead demands his immediate expulsion: Senator Menendez allegedly worked as an agent of the Egyptian government from 2018 through 2022, during which time he served as either the Chairman or Ranking Member of the Senate Foreign Relations Committee.⁴ This appears to be the first time a sitting member of Congress has been charged with operating as a foreign agent in violation of the Foreign Agents Registration Act.⁵ Those positions allowed Senator Menendez access to highly confidential national security information; provided him with immense power to shape the country's international affairs; and granted him influence over the government's allocation of military resources and other foreign aid around the world. And the government alleges that Senator Menendez abused all of these authorities. He allegedly used his authority to facilitate military sales and financing to Egypt despite concerns about the country's commitment to democracy and human rights. And he allegedly passed the Egypt government sensitive information about the United States embassy in Cairo.⁶

It is incumbent upon the Senate to take action to protect the country's national security before more harm is done. Senator Menendez still has access to confidential national security information and has attended classified national security briefings since his indictment.⁷ Despite stepping down as the Chairman following his indictment, he still sits on the Senate Foreign Relations Committee, and uses that position to shape the country's international policy. And he still has a voice in allocating taxpayer money to foreign governments—including governments he has allegedly been acting on behalf of.

While expulsion is not appropriate in all circumstances and Senator Menendez must be granted the presumption of innocence in his various criminal matters, recent practice in the House of Representatives makes clear that expulsion is not just warranted but appropriate here. At the end of last year, in December 2023, the House of Representatives expelled New York representative George Santos following his indictment for allegedly engaging in a series of bizarre and corrupt activities including repeatedly lying about his background and credentials.⁸ Crucially, Rep. Santos was expelled before his criminal trial ever began, likely

⁴ *Id.*

⁵ Josh Gerstein, "Is it legal for a senator to work as a foreign agent? The answer won't surprise you.", *Politico*, Oct. 12, 2023, <https://www.politico.com/news/2023/10/12/menendez-indictment-foreign-agents-explained-00121304#:~:text=Mark%20Siljander%20%E2%80%94%20a%20Republican%20who,well%20after%20he%20left%20Congress.>

⁶ Superseding Indictment, *United States v. Menendez et. al.*, Case 1:23-cr-00490-SHS (S.D.N.Y., Mar. 5, 2024), <https://static01.nyt.com/newsgraphics/documenttools/45a1fa9dc672fe0f/4aca6090-full.pdf>.

⁷ Sara Dorn, "'Sleaze Ball': Indicted Sen. Menendez Attends Classified Briefing - Drawing Fresh Attacks from Fetterman", *Forbes*, Jan. 18, 2024 <https://www.forbes.com/sites/saradorn/2024/01/18/sleaze-ball-indicted-sen-menendez-attends-classified-briefing-drawing-fresh-attacks-from-fetterman/?sh=36aeaa2d31e7>.

⁸ Eric McDaniel, "New York Republican George Santos expelled from Congress," *NPR*, Dec. 1, 2023, <https://www.npr.org/2023/12/01/1215899764/george-santos-expulsion-house>.

because the House reasoned that Rep. Santos' conduct and character presented an imminent threat to the institution.⁹ So while expulsion is generally not appropriate prior to a conviction, there are circumstances where national security concerns must take precedence. That is the case here.

Senator Menendez's alleged conduct is far worse than Rep. Santos's. Unlike Rep. Santos, Senator Menendez's alleged schemes occurred while he served in government. They involved his willingness to use his position to enrich himself and his friends, and demonstrated a cavalier attitude towards sensitive national security information. And while the threat Rep. Santos posed to our national security was theoretical, Senator Menendez's alleged abuses may have actively undermined or harmed our country.¹⁰

As a nonpartisan watchdog committed to protecting our democracy and rooting out unethical conduct by government officials, CREW would be abdicating its mission if we were to remain silent about Senator Menendez's alleged corruption. We have repeatedly called on Senator Menendez to resign. He has not. Our call for his expulsion is thus grounded in the solemn realization that as a nation, we have exhausted other avenues to safeguard our national security and protect our democracy. It is time for the Senate to act.

Kind regards,



Noah Bookbinder
President
Citizens for Responsibility and Ethics in
Washington

⁹ See H. Res. 878, Providing for the expulsion of Representative George Santos from the United States House of Representatives, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/house-resolution/878/text>; U.S. House of Representatives Committee on Ethics, In the Matter of Allegations Relating to Representative George Santos. 118th Cong. (Nov. 9, 2023),

https://ethics.house.gov/sites/ethics.house.gov/files/documents/ISC%20Report_0.pdf.

¹⁰ Julia Shapero, "Democrats to McCarthy: George Santos a 'direct threat to national security'", *The Hill*, Jan. 10, 2023

<https://thehill.com/homenews/house/3807793-democrats-to-mccarthy-george-santos-a-direct-threat-to-national-security/>.