

Codifying the Constitution's Emoluments Clauses

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Introduction

A number of President Donald Trump's actions in his second term potentially violate the Constitution's Foreign and Domestic Emoluments Clauses. These clauses bar the president and other federal officials from receiving emoluments — meaning benefits or advantages — from foreign governments and, in the case of the president, the federal and state governments. They are among the United States' oldest explicit anticorruption safeguards and the only ones written directly into the Constitution.

Before Trump's first term, these provisions rarely received significant public attention. But that changed when Trump took office in 2017 and declined to meaningfully divest from his extensive business holdings, including hotels and other properties around the world that received patronage and other sizable benefits from foreign governments and U.S. state officials. The apparent violations of the Emoluments Clauses prompted several lawsuits against the president, all of which foundered on procedural grounds and were later dismissed after he left office. The failure of these legal actions reinforces the need for legislation and other congressional actions to clearly articulate which benefits are prohibited and who can enforce against violations. Now, in Trump's second term, the need for congressional action has never been clearer.

The president's business entanglements have considerably expanded since his first term, including his burgeoning cryptocurrency empire and a host of new real estate deals in the Middle East and other parts of the world. More than any of his recent predecessors, he has also adopted an explicitly transactional approach to governing, one that melds his political identity as the U.S. president with his personal business interests.¹ This is possible in large part because presidents are exempt from many federal laws against corruption.²

Rectifying this situation requires congressional action to fully implement the Constitution's Foreign and Domestic Emoluments Clauses and ensure guardrails at the top of government. This paper outlines what Congress can

do, starting with more robustly exercising its oversight powers and using formal disapproval resolutions for specific emoluments that lack congressional consent. New legislation is also imperative. It must, among other things, provide a clear statutory definition of the term *emoluments* that broadly covers any benefit or advantage that has the potential to influence a federal official or employee. This legislation should also expressly prohibit indirect emoluments, create limited exceptions for specific assets that pose little threat of undue influence or conflicts of interest, and establish an effective enforcement scheme.

These recommendations are certainly not the only needed legislative response to the president's business entanglements and the broader erosion of anticorruption safeguards. But given Congress's unquestioned authority to police emoluments violations, they are essential steps that lawmakers can take to bolster government integrity.³ Reining in corruption has broad appeal among voters across the political spectrum, making this area ripe for bipartisan compromise.⁴

Part I of this paper reviews the framers' motivations for including the Emoluments Clauses in the Constitution, as well as how courts and lawmakers have interpreted and enforced the provisions in the past. Part II identifies the apparent emoluments violations that have occurred so far during Trump's second term. Part III discusses why Congress is best positioned to address this problem and lays out specific recommendations and the key policy considerations that inform them.

I. History, Interpretation, and Enforcement of the Emoluments Clauses

The Emoluments Clauses were adopted at a time of profound concern about the integrity of American government. Drawing on classical republican thought and their own experiences with British and other European monarchies, the framers viewed personal enrichment by public officeholders as a primary threat to governmental integrity and to the new nation's independence.⁵ To guard against this threat, they built protections into the republic's legal and constitutional fabric to forestall corrupt patronage systems that would erode public trust and lead to despotism. The Foreign and Domestic Emoluments Clauses were central to this effort.

The Foreign Emoluments Clause bars the president and other federal officials from accepting “any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State” without congressional consent.⁶ The framers feared that without strict prohibitions, American officials could be influenced by foreign governments seeking to manipulate U.S. policy. They were acutely aware of how European powers often sought to influence foreign officials through gifts, titles, and other personal benefits — and particularly how monarchs had long corrupted diplomats and military officers with pensions and honors to secure favorable treatment. This concern was not abstract: Several American envoys, including Benjamin Franklin, received lavish gifts while abroad, prompting early debates during the Constitutional Convention about the propriety of accepting such tokens.⁷

The Domestic Emoluments Clause gives presidents a fixed salary and bars them from receiving “any other Emolument from the United States, or any of them.”⁸ The framers wanted to insulate the president against undue pressure from Congress or any individual state.⁹ They worried that allowing state governments or Congress to supplement the president's compensation could invite favoritism and political bargaining, thereby distorting the executive's independence and undermining the separation of powers. As Alexander Hamilton wrote, a fixed salary was essential to ensure that the president would not be tempted “by largesses, to surrender at discretion his judgment to their inclinations.”¹⁰

The Constitution does not specify what counts as an emolument, but various court rulings and government agency opinions have generally defined the term broadly to encompass any kind of benefit or advantage that could exert an improper influence on the recipient.¹¹ This capacious definition is consistent with founding-era sources and usage, and also with the concerns that motivated the framers to include the clauses in the Constitution.¹²

Historically, Congress has enforced the clauses as an ethics watchdog. During the early years of the republic, Congress determined whether officials could receive

diplomatic gifts from foreign rulers on a case-by-case basis.¹³ While it allowed some gifts, including one instance when it approved then-Ambassador Benjamin Franklin's receipt of a diamond-encrusted snuff box (a small container used to hold ground tobacco) from the king of France, it routinely refused consent. In 1830, for example, Congress rejected President Andrew Jackson's request to keep a commemorative gold medal presented by Colombian President Simón Bolívar and ordered Jackson to turn it over to the Department of State.¹⁴

In the 20th century, Congress formalized this practice of approving certain gifts with the Foreign Gifts and Decorations Act (FGDA), which provides blanket consent for officials to personally accept certain gifts of low value while requiring them to hand over most other gifts to the government as the property of the United States.¹⁵ The FGDA gives enforcement authority to the Department of Justice (DOJ), which can sue to force compliance. The House and Senate Ethics Committees have also investigated FGDA and other emoluments issues involving their own members and staff.¹⁶

For the most part, however, formal enforcement of the Emoluments Clauses was unnecessary because high-level officials usually took steps to comply voluntarily. Since at least the 1970s, presidents and vice presidents have typically limited their financial holdings to cash and widely distributed mutual funds, which cannot give rise to prohibited emoluments, and have voluntarily turned remaining assets over to be sold, with the proceeds then placed in a blind trust whose contents are hidden from the beneficiary.¹⁷ Presidents have also proactively sought guidance and opinions from the DOJ's Office of Legal Counsel to avoid running afoul of the Emoluments Clauses' prohibitions.¹⁸ For example, President Ronald Reagan asked whether the pension he earned from his time as governor of California violated the Domestic Emoluments Clause, and President Barack Obama asked whether a cash award accompanying his receipt of the Nobel Peace Prize violated the Foreign Emoluments Clause.¹⁹ In both instances, the DOJ determined that the payments were not prohibited emoluments,

though Obama still declined to accept the cash prize to avoid any appearance of impropriety.

Trump broke with this tradition when he refused to divest his business holdings during his first term, leading to his receipt of numerous benefits that appeared to violate the Foreign and Domestic Emoluments Clauses and sparking several lawsuits.²⁰ He is not the only federal official whose conduct has raised serious emoluments concerns in recent years. For instance, Robert Menendez was recently convicted for accepting bribes while he was a U.S.

senator, including cash payments and gold bars, in exchange for acting as an agent of the Egyptian government.²¹ And under the Obama administration, Secretary of State Hillary Clinton maintained her ties to the Clinton Foundation, which accepted donations from foreign governments.²² But, as detailed below, the scale of Trump's potential violations dwarfs that of any other official — now more than ever, given the new cryptocurrency ventures and international real estate deals that have made headlines in his second term.

II. Emoluments Violations in President Trump's Second Term

The examples below highlight publicly reported deals and payments linked to President Trump that appear to implicate the Foreign or Domestic Emoluments Clauses, as well as business ventures that could become vehicles for prohibited emoluments.

Cryptocurrency

The biggest change in President Trump's personal holdings since his first term is that massive amounts of money now flow through his cryptocurrency holdings, especially the Trump family's meme coins and its World Liberty Financial trading platform; many of these transactions likely violate the Emoluments Clauses.²³ Analysts estimate that Trump has made at least \$802 million from cryptocurrency sales and related transaction fees since taking office, in addition to adding \$11 billion in net worth from the value of the Trump Organization's cryptocurrency holdings. Of the sales to date, over 70 percent are linked to foreign nationals and entities with ties to foreign governments.²⁴

Meme coins. The president and first lady each launched meme coins in January 2025 that have generated hundreds of millions of dollars from sales. Trump invited the 220 individuals who bought the most of his \$TRUMP coin to a gala in May at his Virginia golf club, and the top 25 buyers received a private tour of the White House.²⁵ Based on cryptocurrency experts' analyses, the majority of these invitees were likely foreign nationals.²⁶ Each \$TRUMP purchase not only inflates the value of the meme coin — about 80 percent of which are controlled by the Trump Organization and its affiliates — but also generates a fee that channels profit directly to the Trumps. Since the \$TRUMP launch in January, trading fees alone have totaled more than \$336 million.²⁷

World Liberty Financial. The Trump Organization also runs a cryptocurrency platform called World Liberty Financial, which offers a stablecoin tied to the value of the U.S. dollar, USD1, as well as its own cryptocurrency token, \$WFLI.²⁸ In May, shortly before Trump's visit to the Middle East, a state-backed investment company in Abu Dhabi announced that it would use USD1 to complete a \$2 billion investment in the cryptocurrency giant Binance.²⁹ World Liberty Financial reportedly could collect as much as \$80 million per year from yields related to this deal.³⁰ And in June, an Emirati cryptocurrency fund purchased \$100 million worth of \$WFLI tokens.³¹

International Real Estate

The Trump Organization is also developing a host of new real estate projects around the world, often in parallel with the president's official visits to those countries. These properties give foreign governments easy vehicles to funnel emoluments to Trump, not only through direct payments and patronage but also through favorable permitting and other regulatory approvals. Indeed, during Trump's first term, his international real estate holdings received numerous regulatory benefits from foreign governments, including special tax status for a development in Indonesia and permitting to expand a Trump-branded golf course in Ireland.³² Since the start of the president's second term, his businesses have announced developments in Europe, the Middle East, and Asia worth more than \$10 billion. While the Trumps will receive only a portion of that total, their share is likely to be substantial: In 2024 alone, the Trump Organization reportedly received more than \$44 million from foreign real estate licensing fees.³³

Middle East real estate deals. The Trump Organization recently announced real estate projects worth billions of dollars in Oman, Qatar, Saudi Arabia, and the United Arab Emirates.³⁴ Despite the conglomerate's pledge not to enter into any new deals with foreign governments while President Trump is in office, several of these projects include partnerships with the Dubai-based real estate development company Dar Global, which has close ties to the Saudi royal family. One such deal between the Trump Organization and Dar Global — for a \$5.5 billion Trump-branded beach resort and golf club near Doha to be developed by a Qatari government-owned company — was struck in April 2025.³⁵

Vietnam real estate deals. In May 2025, during negotiations with the Trump administration over his threat of steep tariffs on the country's goods, the Vietnamese government made way for a \$1.5 billion golf complex outside Hanoi.³⁶ The government bypassed legal restrictions and normal procedures to fast-track the project because, according to Vietnamese officials, the development was "receiving special attention from the Trump

administration and President Donald Trump personally.”³⁷ Another \$1 billion project to build a Trump Tower offering a mix of luxury residential and commercial space in Ho Chi Minh City could start in the next year.³⁸

Serbia real estate deal. In November 2024, one week after Trump won reelection, Serbian officials cleared the way for a half-billion-dollar Trump International Hotel in Belgrade after allegedly falsifying a document to allow the demolition of a cultural site at the location. An investigation is ongoing, but Serbian opposition leaders say the scandal reveals the government’s eagerness to strike deals benefiting Trump.³⁹

Other international properties. Trump has additional real estate holdings across the world, including golf courses in Scotland, Dubai, and Indonesia; Trump Towers in Turkey, South Korea, and the Philippines; and planned and ongoing projects in India, Romania, and Uruguay, among others.⁴⁰ He stands to benefit from direct payments, licensing fees, permitting decisions, trademarks, and other regulatory decisions related to these properties while he is in office.

Domestic Real Estate

The president also owns or has a stake in numerous domestic real estate holdings. During Trump’s first term, foreign officials and state government officials spent lavishly at his Washington hotel.⁴¹ Although the Trump Organization no longer owns that hotel, unlawful emoluments could flow through the president’s other domestic properties.

Trump World Tower. At least five governments reportedly own property at Trump World Tower in New York City: Afghanistan, India, Kuwait, Qatar, and Saudi Arabia. Those governments are slated to make payments related to these properties totaling nearly \$2 million during Trump’s second term.⁴²

LIV Golf event. LIV Golf, the professional league financed by the Saudi sovereign wealth fund, paid the Trump family an undisclosed fee to host a tournament at the Trump National Doral resort in Florida in April 2025.⁴³ Trump has repeatedly partnered with LIV Golf to hold events at his courses since the league formed in 2021, but this was the first time he did so since his return to office. The tournament followed Trump’s attempt to broker a potentially lucrative merger between LIV Golf and the PGA Tour (the principal organizer of professional golfing events in North America), an effort that included holding a meeting between league executives in the Oval Office in February 2025.⁴⁴

House Republican retreat. Congressional Republicans

held their annual retreat at Trump’s Doral resort in January 2025, marking the first time that the House GOP spent money directly on a venue owned by the president.⁴⁵ The total cost is not publicly known, but the annual retreat typically costs upward of \$1 million. Any money paid to the resort that came from public funds would implicate the Domestic Emoluments Clause.⁴⁶

Other Business Ventures

Trump’s other businesses — including his social media platform Truth Social, various trademarks and other intellectual property related to the Trump brand, and officially licensed merchandise — present additional vectors for foreign and state governments to offer emoluments to Trump during his second term.

Truth Social. Through a trust, Trump owns more than 114 million shares of Trump Media & Technology Group, the publicly traded company that owns Truth Social.⁴⁷ As a result, he benefits when the share price increases, which can happen when governments invest in the company, buy advertising, or simply use Truth Social for official announcements to drive user traffic to the platform. Several state-owned investment funds already hold shares, potentially in violation of the Domestic Emoluments Clause, including funds in Arizona, California, Colorado, Florida, New Jersey, New York, North Carolina, Ohio, Texas, and Wisconsin.⁴⁸

Trademarks and other intellectual property. Foreign governments approved dozens of trademarks for the Trump family’s companies during the president’s first term.⁴⁹ Trump’s foreign policy decisions sometimes coincided closely with regulatory approvals, such as when he lifted tariffs on Argentine aluminum and steel in 2019 shortly before Argentina approved two pending trademark applications.⁵⁰ In the president’s second term, foreign governments may once again use trademarks and other intellectual property protections as a tool to curry favor with him.

Merchandise. Additionally, Trump’s businesses and partners sell a wide array of branded merchandise, including Bibles, cologne, and sneakers. According to his most recent financial disclosure, the president netted \$600 million from merchandise sales last year.⁵¹ Foreign governments or U.S. states could buy merchandise to try to influence Trump. Oklahoma’s then-state superintendent of public instruction, for example, announced a plan in 2024 to purchase \$3 million worth of Trump-branded Bibles to distribute among the state’s public schools.⁵² Although that proposal stalled due to a lack of funding, it could provide a template for future efforts in Oklahoma or other states.

Direct Gifts and Government Payouts

Trump has signaled an unprecedented willingness to accept gifts and other payouts from foreign nations and the U.S. government. For example, in May 2025, the White House announced that Qatar was giving the United States a Boeing 747-8 worth at least \$150 million to serve as a more luxurious Air Force One. A gift to the U.S. government does not necessarily implicate the Foreign Emoluments Clause or the FGDA, but the president has said that ownership of the plane will transfer to his presidential library when he leaves office.⁵³ Under this arrangement, Trump potentially could use the plane as a private jet, though he claims he will not do so. The president has vowed publicly “to protect” Qatar, calling it a “very special place with a special royal family,” but he rejects the idea that the plane was a bribe or an attempt to buy influence. Instead, he characterized the gift as a “normal thing that happens between allies,” which he would have been “stupid” to decline.⁵⁴

The president has also suggested that he would accept direct payments from the U.S. government. During a public event with DOJ officials at the White House, Trump brought up his unresolved claims that the Department pay \$230 million to compensate him for supposed injuries related to the investigations and prosecutions involving Russian tampering in the 2016 election and his alleged mishandling of classified documents after leaving office in 2020.⁵⁵ Trump initially lodged these demands through administrative claims filed before the 2024 election. Had they been resolved before he took office, any resulting payouts likely would not have violated the Domestic Emoluments Clause. Payouts for unresolved claims present a more serious concern, however, given the risk that officials seeking to influence the president could approve taxpayer-funded settlements even when claims lack merit, resulting in a financial windfall that the president is not entitled to receive. In this case, the decision whether to pay the president’s claims rests with two of his DOJ appointees who previously worked as his personal lawyers.⁵⁶

Violations by Other Federal Officials

President Trump is far from the only federal official whose business interests could implicate the Foreign Emoluments Clause. The current cabinet is the wealthiest in U.S. history, and cabinet members and other high-level appointees have wide-ranging foreign business entanglements and unprecedented conflicts of interest.⁵⁷ For instance, Steve Witkoff, Trump’s special envoy to the Middle East, and his family have extensive real estate and cryptocurrency holdings that appear to implicate his work in the region. As Witkoff was engaged in sensitive ceasefire negotiations between Israel and Hamas earlier this year, his son was asking some of the governments involved in the peace talks to invest billions of dollars in a planned fund to develop commercial real estate in the United States.⁵⁸ These investments reportedly could have yielded hundreds of millions of dollars for the Witkoff Group, the real estate development and investment group that Witkoff founded in 1997 and continues to partially own.⁵⁹ Meanwhile, as Witkoff was advocating for the White House to give the United Arab Emirates access to the United States’ most advanced and scarce computer chips — despite national security concerns about its connections with the Chinese military — his other son, who is an executive at World Liberty Financial, was negotiating USDI’s use in the massive \$2 billion Emirati-backed investment in Binance.⁶⁰

Foreign manipulation also can entangle members of Congress, as the Menendez scandal showed all too clearly. While the payments in that case amounted to outright bribes, the potential for lawmakers to receive unlawful emoluments extends to less overt financial incentives, such as ownership stakes in foreign sovereign bonds and state-owned enterprises. Public disclosures suggest that members of Congress typically do not hold these assets, but few guardrails exist to prevent them from doing so. To the contrary, weak rules and lax enforcement have allowed insider trading to flourish as lawmakers routinely use information gleaned through their positions to profit in the stock market.⁶¹ Congress has also failed to adopt popular reforms, including a proposed law that would bar sitting members from trading stocks altogether.

III. Recommendations for Congressional Action

The ongoing issues described above underscore the urgent need for Congress to give full effect to both Emoluments Clauses, both by clarifying their scope and strengthening their enforcement.

In the short term, as apparent violations of the Foreign Emoluments Clause grow more common, Congress must forcefully assert its watchdog role through oversight and disapproval resolutions. Historically, Congress served as an emoluments watchdog through the well-established custom of government officials voluntarily seeking congressional approval to accept emoluments.⁶² But Congress can act regardless of whether an official proactively seeks permission. Several members of the House and Senate did just that during Trump's first term when they introduced resolutions disapproving of his actions and calling on him to divest his interest in the Trump Organization.⁶³ In the months since Trump's second inauguration, lawmakers have introduced additional resolutions condemning the president's private business engagements and demanding that he forfeit unconstitutional emoluments.⁶⁴

These statements of disapproval give Congress a flexible tool to deter misconduct across the federal government. In the short term, given current levels of polarization and entrenched partisan blocs, lawmakers are unlikely to vote to censure leaders from their own party. Yet disapproval resolutions are still useful, especially because they are not limited to presidential action: Congress can target any federal official who accepts prohibited gifts or other benefits, and instances may arise in which a congressional majority will agree to issue a censure.

In addition, if the House and Senate jointly express disapproval of an emolument, it could strengthen the basis for a court to order the forfeiture or disgorgement of its value in subsequent legal action.⁶⁵ Even if they fail, moreover, these resolutions can signal to government officials that their actions are being scrutinized — attention that helps to build and preserve a factual record of violations and may deter some misconduct. Statements of congressional disapproval also reiterate Congress's constitutional primacy over emoluments issues, which could bolster future reform efforts.

Ultimately, however, Congress must pass new legislation to fully implement both Emoluments Clauses, building on its prior work passing the FGDA. Full codification is ideal because it would remove procedural hurdles to enforcement that arise when an individual or entity sues to enforce the Constitution. As Trump's first term showed, litigation seeking to enforce the Emoluments Clauses might not be resolved before the potential violator leaves office, leaving plaintiffs without any remedy. Codification would also

create unequivocal rules that prevent federal officials and employees from violating the law. And while President Trump's apparent emoluments violations have been the catalyst for renewed attention to these constitutional provisions, a comprehensive statutory scheme would apply equally to all future presidential administrations, regardless of party.

Already, members of Congress have introduced several proposals to fully codify the Constitution's prohibitions on receiving emoluments and create mechanisms for reporting and remedying violations.⁶⁶ As lawmakers assess these proposals, they should be mindful of several key considerations regarding the scope of proscribed conduct and the components necessary for effective enforcement. Specifically, the new legislation should provide a clear definition of emoluments that is comprehensive but not overly capacious, establish an effective enforcement regime, and spell out the remedies available to cure violations.

>> Define emoluments broadly.

Congress should define the term *emoluments* broadly to include any benefit or advantage that could influence a federal official or employee. This definition is consistent with guidance from the Office of Legal Counsel, court interpretations, founding-era definitions and usage, and the text of the clauses themselves.⁶⁷ In particular, the new legislation should clearly state that earned income, capital investments in businesses controlled by federal officials or employees, loans, leases, active investment income, and arms-length business transactions can all constitute unlawful emoluments.⁶⁸

>> Prohibit indirect and delayed emoluments.

Congress should also include language explicitly prohibiting indirect and delayed emoluments. The new legislation should state that no official of the U.S. government may accept covered emoluments with the express or implied expectation that they or any other official will have ownership or control of the emolument after leaving government service. For emoluments prohibited under the Foreign Emoluments Clause, Congress should consider implementing a mandatory holding period during which any covered gift received by the U.S. government or any official on its behalf may not be transferred to any former government official under any circumstance.

>> Include limited exceptions for specific assets.

Congress should bar only emoluments that can reasonably be expected to influence an official or employee's behavior.⁶⁹ Thus, the new legislation should state that the prohibitions do not apply to basic assets held on the same terms as those available to the general public, such as widely distributed mutual funds, passive investment income, routine consumer transactions (e.g., the redemption of frequent flier miles on a state-owned airline), professional licenses, or previously acquired intellectual property.⁷⁰ Congress also need not prohibit de minimis emoluments, which are unlikely to influence officials' decision-making.⁷¹ This approach is consistent with the FGDA, which currently applies a gift threshold of \$480. As a practical matter, given that the Foreign Emoluments Clause applies to so many individuals employed by the federal government, exempting de minimis emoluments should help make the statutory scheme workable and keep Congress's enforcement burden to a manageable level.

>> Ensure independent enforcement.

Vigorous enforcement is critical. Congress should empower each of its chambers as well as individual states and territories to bring legal actions to enforce both Emoluments Clauses. Past legislative proposals typically tasked federal bodies such as the DOJ, which oversees the investigation and prosecution of all federal crimes affecting government integrity, and the Office of Government Ethics (OGE) with enforcement.⁷² These proposals — particularly calls to revamp the OGE into a robust, independent ethics watchdog — continue to have merit. But enforcement through federal agencies assumes that such bodies will have adequate resources and be formally, or at least informally, insulated from inappropriate political interference. That assumption may not always be tenable given the Trump administration's recent efforts to dismantle long-standing anticorruption safeguards and offices, including the DOJ's independent Public Integrity Section.⁷³ Furthermore, even if Congress tries to formally insulate a new enforcement agency from presidential control, the Supreme Court may invalidate such independence requirements.⁷⁴ The new legislation therefore should supplement federal agency enforcement through other avenues.

The Foreign and Domestic Emoluments Clauses are closely intertwined with the Constitution's broader system of checks and balances, which envisions the three branches of government each checking abuses by the other, as well as the states, as sovereign entities, checking abuses by the federal government as a whole.⁷⁵ The new legislation should give full effect to this system by empowering each house of Congress — including internal bodies within them — to sue in federal court to

remedy violations of the Foreign Emoluments Clause, and empowering Congress and individual states and territories to likewise enforce the Domestic Emoluments Clause.

Because federal officials and employees cannot accept foreign emoluments "without the Consent of the Congress," disapproval from either the House or Senate should trigger standing for that chamber to sue to protect its institutional interests. Congress could also delegate its right to bring a lawsuit to specific committees, such as the House and Senate Ethics Committees, or to an independent body within Congress similar to the Office of Congressional Conduct.⁷⁶ The House and Senate also have strong interests in enforcing the Domestic Emoluments Clause, as do individual states and territories that could be harmed by violations.⁷⁷ Congress could consider empowering other litigants as well, including congressional caucuses, individual House and Senate members, or members of the public.⁷⁸ Expressly recognizing the authority of specific parties to enforce the Foreign and Domestic Emoluments Clauses should help solidify their position in the event that their right to sue is challenged in court.⁷⁹

The new legislation should also ensure that adequate remedies are available. It should allow any plaintiff in a civil action — whether the DOJ, the OGE, the House or Senate, individual states or territories, or other parties — to seek injunctive relief, forfeiture of the emoluments or disgorgement of their value, and potentially civil damages. Provisions for criminal sanctions also may be appropriate; those necessarily would fall under DOJ jurisdiction, and they should be limited to knowing and willful violations, mirroring the standard that has long applied in campaign finance cases.⁸⁰

>> Implement processes to prevent violations before they occur.

Finally, Congress should create mechanisms to prevent violations before they occur and foster greater transparency, including formal requirements to seek congressional approval. The new legislation should create a mandatory process for all federal officials and employees to disclose foreign emoluments and submit them to Congress for review and consent before accepting them. Moreover, Congress should require the president and immediate family members to disclose any actual or potential domestic emoluments. The scope of these disclosures should include the source, date, and value of the emolument along with the identity of any business interests that reasonably could be expected to benefit from the emolument. And Congress should void contracts or grants awarded by federal agencies to the president or immediate family members — and any businesses they own — that would benefit those individuals while the president is in office.

Conclusion

The concern that drove the framers to include the Emoluments Clauses in the Constitution — preventing corruption and undue influence of public officials and employees — is still relevant today.

Foreign and domestic governments continue to jockey for influence over federal officials, while the erosion of long-standing norms and lack of judicial guidance have left few meaningful guardrails to prevent or remedy emoluments violations. Full implementation of the Constitu-

tion's Emoluments Clauses is far from the only needed reform, but it will help to ensure that all federal officials and employees refrain from illegal self-dealing and act in the best interests of the American people.

Endnotes

- 1 See Eric Petry, “Uncovering Conflicts of Interest and Self-Dealing in the Executive Branch,” Brennan Center for Justice, February 21, 2025, <https://www.brennancenter.org/our-work/research-reports/uncovering-conflicts-interest-and-self-dealing-executive-branch>.
- 2 Daniel I. Weiner, *Strengthening Presidential Ethics Law*, Brennan Center for Justice, December 13, 2017, <https://www.brennancenter.org/sites/default/files/publications/Strengthening%20Presidential%20Ethics%20Law.%20Daniel%20Weiner.pdf>. The Supreme Court has exacerbated this lack of guardrails against presidential misconduct, including through its 2024 decision granting presidents broad immunity from prosecution for any conduct that arguably falls within the scope of their official duties. See *Trump v. United States*, 603 U.S. 593 (2024).
- 3 See, e.g., Preet Bharara et al., *Proposals for Reform: National Task Force on Rule of Law and Democracy*, Brennan Center for Justice, October 2, 2018, <https://www.brennancenter.org/our-work/policy-solutions/proposals-reform-national-task-force-rule-law-democracy>; and Weiner, *Strengthening Presidential Ethics Law*.
- 4 See Taylor Orth, “Most Americans See Corruption Among Politicians, Judges, and Executives as Serious Problems,” YouGov, January 17, 2025, <https://today.yougov.com/politics/articles/51398-most-americans-see-corruption-as-serious-problem>.
- 5 See Zephyr Teachout, *Corruption in America: From Benjamin Franklin’s Snuff Box to Citizens United* (Harvard University Press, 2014); Zephyr Teachout, “The Anti-Corruption Principle,” *Cornell Law Review* 94, no. 2 (January 2009): 349–50, https://ir.lawnet.fordham.edu/faculty_scholarship/429; Lawrence Lessig, *Republic, Lost: How Money Corrupts Congress — and a Plan to Stop It* (Hachette Book Group, 2011); and Norman L. Eisen et al., “The Emoluments Clause: Its Text, Meaning, and Application to Donald J. Trump,” Brookings Institution, December 16, 2016, 4–6, https://www.brookings.edu/wp-content/uploads/2016/12/gs_121616_emoluments-clause1.pdf.
- 6 U.S. Const. art. I, § 9, cl. 8 (“No Person holding any Office of Profit or Trust under [the United States], shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.”).
- 7 Teachout, “Anti-Corruption Principle,” 361–62.
- 8 U.S. Const. art. II, § 1, cl. 7 (“The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.”).
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highlighted strong legal arguments that they do. See *In re Trump*, 928 F.3d 360, 286 (4th Cir. 2019) (noting that respondents’ standing argument “rests on legal principles that the Supreme Court has expressly endorsed”), *rev’d en banc*, 780 F. App’x 36 (4th Cir. 2019), *cert. granted, judgment vacated*, 141 S. Ct. 1262 (2021).

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