

Trump's impeachment trial: Everything you need to know

Former President Donald Trump has been out of office for nearly three weeks, but he is still expected to command the full attention of the legislative branch and the country in the coming days as the Senate begins his second impeachment trial, barely one year after his first.

The former president was impeached on Jan. 13, just one week after a pro-Trump mob overtook the Capitol as Congress and former Vice President Mike Pence were certifying the results of President Biden's win in the 2020 election.

WHEN DOES THE TRUMP IMPEACHMENT TRIAL START AND HOW DO I WATCH?

Democrats in Congress, and even some Republicans, were outraged that the former president had gathered a rally in Washington, D.C., that day where he repeated his false claims that he won the presidential election and said he did not do enough to stop the attack once his supporters began to breach the Capitol about one hour after his rally's conclusion.

But Trump's defenders say he is not responsible for the actions of the criminals that menaced lawmakers and attacked police, and note that later in the day he told his supporters in a Twitter video to go home.



President Donald Trump arrives to speak at a rally Wednesday, Jan. 6, 2021, in Washington. (AP Photo/Jacquelyn Martin)

As the trial begins, Trump's lawyers are also expected to argue that the Senate can no longer constitutionally convict Trump now that he is out of office — and the House impeachment managers are expected to dispute that — in an affair that represents the finale of Trump's tumultuous first term, even as rumors persist he may run for a second in 2024.

Here's what you need to know about Trump's impeachment trial.

What's Trump accused of?

Incitement of insurrection is the fundamental charge behind the impeachment article. But that assertion is backed up by the impeachment managers with a litany of other charges about what actions from Trump incited the insurrection and why.



In this Jan. 6, 2021, file photo, violent rioters, loyal to President Donald Trump, storm the Capitol in Washington. (AP Photo/John Minchillo, File)

Those include that Trump lied about the results of the presidential election; that he tried to subvert the accurate and fair result of the election; and that he sent the mob of his supporters to the Capitol.

HOUSE IMPEACHMENT MANAGERS SLAM TRUMP IN FINAL PRE-TRIAL BRIEF: 'MOST GRIEVOUS CONSTITUTIONAL CRIME EVER'

"He also willfully made statements that, in context, encouraged - and foreseeably resulted in - lawless action at the Capitol, such as: 'if you don't fight like hell you're not going to have a country anymore,'" the impeachment article says of the Jan. 6 "Save America Rally" Trump organized.

"Thus incited by President Trump, members of the crowd he had addressed ... unlawfully breached and vandalized the Capitol, injured and killed law enforcement personnel, menaced members of Congress, the vice president, and congressional personnel, and engaged in other violent, deadly, destructive and seditious acts," it continues. The article says the mob aimed to "interfere with the joint session's solemn constitutional duty to certify the results of the 2020 presidential election."



In this Jan. 6, 2021, file photo, Trump supporters gesture to U.S. Capitol Police in the hallway outside of the Senate chamber at the Capitol in Washington. Doug Jensen, an Iowa man at center, was jailed early Saturday, Jan. 9, 2021, on federal charges, including trespassing and disorderly conduct counts, for his alleged role in the Capitol riot. (AP Photo/Manuel Balce Ceneta, File)

Read more about the accusations against Trump and his team's answer to those charges **[HERE](#)**.

How does it work?

The trial will gavel at 1 p.m. on Tuesday with Vermont Democrat Sen. Patrick Leahy, the chamber's president pro tempore, presiding in place of Chief Justice John Roberts. The chief justice is constitutionally required to oversee impeachments of presidents, but Roberts chose not to in this case as Trump is no longer commander-in-chief.

Vice President Harris also could have potentially presided over the trial, although senators have historically presided over impeachment proceedings when the person being tried is not the sitting president. The person overseeing the trial is not expected to substantially affect the outcome.

WHO IS SENATE PRO TEMPORE PATRICK LEAHY AND WHY IS HE PRESIDING OVER TRUMP IMPEACHMENT TRIAL?

Tuesday will see four hours of debate total, divided between the House impeachment managers and Trump's counsel about whether the impeachment trial is constitutional. The Senate will then vote by simple majority on if the trial is constitutional, which was affirmed 55-45 in a similar vote last month. If the majority of the Senate says the trial is unconstitutional, which is not expected to be the case, then the impeachment trial would be dismissed immediately.

Chuck Schumer@SenSchumer

This impeachment trial of Donald Trump in the United States Senate will allow for truth and accountability.

The sides will then have until 9 a.m. Wednesday to file any motions, and 11 a.m. Wednesday to file responses to those motions, before the arguments on the merits of the impeachment begin at noon Wednesday. The House will present its case first, and it will be allowed up to 16 total hours of argument over the course of two days.

Then Trump's lawyers will present their case, also up to 16 hours over two days.

As the trial is currently set up, it will pause at 5 p.m. on Friday until 2 p.m. Sunday in observance of the Jewish Sabbath, at the request of Trump lawyer David Schoen.

But Schoen withdrew that request Monday evening, saying that "I will not participate during the Sabbath; but the role I would have played will be fully covered to the satisfaction of the defense team." He said that he did not want to delay the proceedings because "I recognize it is important to bring to a conclusion for all involved and for the country."

CAN THE SENATE STOP TRUMP RUNNING FOR PRESIDENT AGAIN?

This would mean the Senate could hold a full session on Saturday and would instead take Sunday off. The adjustment is not official yet, but Fox News is told that Schoen's letter will likely lead the Senate to change its schedule.

After the opening arguments, senators will have four total hours to question the lawyers for each side, then there will be two hours of arguments per party on whether the Senate should bring in any witnesses, which will be followed by a

simple majority vote.

Chad Pergram @ChadPergram

Replying to @ChadPergram

12) At the end of that process, the Senate shall listen to closing arguments between both sides. Four hours total are allocated to this, equally divided between the managers and the President's defense counsel.

If the senators do not hear witnesses, it is likely the trial would wrap up by some time next week. If senators do vote to hear witnesses, then that will open up the possibility that the trial could drag on for much longer than anticipated.

Both sides would be allowed depositions and "discovery." The Senate would then decide which witnesses to hear testimony from. No witnesses can testify until they are first deposed, which would likely happen outside of the Senate floor.

The Senate will also take a vote as to whether it should consider evidence.

After the evidence and witnesses process, whether the Senate votes to hear evidence and witnesses, there will be two hours for the Trump legal team and the House impeachment managers to present closing arguments. Then there will be a vote on whether to convict the former president, which would require a two-thirds supermajority.

Who are the impeachment managers?

Rep. Jamie Raskin, D-Md., leads a team of House impeachment managers that also includes Diana DeGette, D-Colo.; David Cicilline, D-R.I.; Joaquin Castro, D-Texas; Eric Swalwell, D-Calif.; Ted Lieu, D-Calif.; Joe Neguse, D-Colo.; Madeleine Dean, D-Pa.; and nonvoting Delegate Stacey Plaskett of the Virgin Islands.

Raskin is a member of the House Oversight Committee, the House Rules Committee and the House Judiciary Committee.



Impeachment manager Rep. Eric Swalwell, D-Calif., walks on Capitol Hill in Washington, Wednesday, Jan. 13, 2021. (AP Photo/Susan Walsh)

He penned a letter to Trump's legal team this week urging him to testify before, or as part of, his Senate trial. Trump's legal team denied the request, saying they would not take part in an "unconstitutional" process.

Swalwell, meanwhile, has run into controversy recently

TRUMP LAWYERS RAIL AGAINST IMPEACHMENT TRIAL AS 'POLITICAL THEATER' ON EVE OF PROCEEDINGS

Learn more about the impeachment managers prosecuting the case against Trump **HERE**.

Who is on Trumps' defense team?

The two lead lawyers on Trump's defense team are Bruce Castor, the former district attorney for Montgomery County, Pa., and David Schoen, a longtime civil rights attorney who is the chairman of the American Bar Association's (ABA) Criminal Justice Subcommittee. Schoen was also honored for his pro bono work in 1995 by the ABA and was honored for public interest litigation in 2018 by Boston College Law School, his alma mater.

Schoen has ties to former Trump associate Roger Stone, who he represented as he

was sentenced to 40 months in prison for witness tampering and other charges in early 2020. And he was one of the final people to meet with Jeffrey Epstein before his death.

Schoen said that Epstein planned to bring him onto his legal team and that he does not believe Epstein killed himself.

"I saw him a few days earlier," said Schoen on Fox Nation's "Deep Dive" last year. "The reason I say I don't believe it was suicide is for my interaction with him that day. The purpose of asking me to come there that day and over the past previous couple of weeks was to ask me to take over his defense."



Attorney David Schoen speaks to the media, Wednesday, Jan. 6, Schoen is a civil rights lawyer who is on former President Trump's legal team for his impeachment trial. (Joe Cavaretta/South Florida Sun-Sentinel via AP) MAGS OUT (AP)

Castor, according to NBC Philadelphia, recently joined the personal injury firm van der Veen, O'Neill, Hartshorn, and Levin, and joined Trump's team after getting the permission of the firm's founding partner, Michael T. van der Veen.

DEM SENATOR CHRIS MURPHY ON TRUMP TRIAL: NOT 'RIDICULOUS' FOR GOP TO ARGUE IT'S UNCONSTITUTIONAL

But van der Veen appears to have joined the Trump legal team as well, signing on

to the Trump pretrial brief submitted Monday. It's unclear what role, if any, he may play at Trump's trial. But the Wall Street Journal reports that van der Veen and Castor will play a larger role in the trial after Tuesday, when Schoen is expected to lead the defense's case.

Learn more about Schoen **HERE**.

Learn more about Castor **HERE**.

Is the impeachment trial constitutional?

It depends on who you ask.

Republicans tend to say that the trial is unconstitutional, citing the fact that Trump is now out of office and that impeachment trials for presidents need the chief justice of the United States to preside — and Chief Justice John Roberts will not be there.

Democrats say the trial is constitutional, citing the 1876 trial of former Secretary of War William Belknap, which occurred after he left office. Belknap was acquitted. They also say that a trial is constitutional because there is still a consequence the Senate can level even if it can no longer remove Trump from office — a ban on holding office in the future.

Either way, most scholars, regardless of their opinion, say whether the trial is constitutional is still an open question, as there's never before been a trial of a former president, and no court has ruled on the issue.

"I admit this is, of course, a matter of first impression and so I don't think the case that Sen. Paul is making is a ridiculous one," Sen. Chris Murphy, D-Conn., said on "Fox News Sunday" of Kentucky GOP Sen. Rand Paul's argument that the trial is unconstitutional.

And even if Trump's defense team asked the federal courts for a ruling on this issue, it's extraordinarily unlikely any court would step in to tell the Senate how to run its business. So the decision of whether the trial is constitutional is basically up to senators.

What are the chances Trump is convicted?

Extraordinarily slim.

Paul last month raised a point of order in the Senate claiming that an impeachment trial of a former president is unconstitutional. That forced a vote on the issue, and 45 of the 50 Senate Republicans voted that the trial is unconstitutional.

That means the trial was upheld as constitutional by a vote of 55-45. But it also means 12 Republicans would have to change their minds about whether the trial is even allowed to happen for the Senate to have any shot of convicting Trump.

Besides that, there are political calculations at play. A vote to convict Trump is essentially an invitation for a Trump-backed primary challenge for any Republican. And the general perception within the GOP is that even if Republican elected officials have a distaste for Trump — as shown by Wyoming GOP Rep. Liz Cheney's resounding victory in a vote of confidence under secret ballot last week — that the party base is still loyal to the former president.

Going on the record against Trump is a massive political risk for any Republican.

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What happens if Trump is convicted?

However unlikely a conviction is at this point, it could still carry some consequences for the former president.

Though the main point of impeachment is to remove a person from office if convicted, a person can also be barred from holding office in the future. If Democrats do get the 67 votes they need to convict Trump of inciting an insurrection, then they plan to hold a subsequent vote on barring Trump from office in the future. That would only need a simple majority to pass.

If this does happen, Trump could theoretically challenge the constitutionality of the Senate trial in court in the future, aiming to get back his right to run for office. An after-the-fact challenge to the consequences of conviction is likely the only way a court would weigh in on this impeachment.

Fox News' Brooke Singman, Jason Donner, Chad Pergram, and Ronn Blitzer

contributed to this report.

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