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Recall Adams instead of Gov. Hochul removing him

By [Jerry H. Goldfeder](#)

As Gov. Hochul considers exercising her authority to initiate removal proceedings of Mayor Adams, I offer my advice. Don't do it. It would be legally problematic. In fact, I have a better idea.

She undoubtedly has the power to remove him. It's in the state Constitution, allowing the state Legislature to enact removal authority for "misconduct" or "malversation." Misconduct is a pretty ambiguous term. And malversation, from the French, is an outdated concept relating to corruption. When the Legislature did write the removal law, however, it didn't even mention these grounds. All it says is the governor has the authority, with no specifics. The governor is on her own.

So on what basis can Hochul remove Adams? It's pretty open-ended, and therefore requires a measured judgment by her. It cannot simply be that he has been indicted for corruption — an indictment is only one side of the story. And it shouldn't be his coziness with President Trump, as unpopular in these parts as that is.

For that matter, does the fact that the former acting U.S. attorney, even convincingly, alleges a quid pro quo between Adams and the Justice Department ("I'll support your immigration policies if you drop the case against me") constitute conduct that warrants removal? And just because so many city officials are bailing doesn't itself warrant removal — though it obviously undermines his ability to govern.

Hochul can consult all the people she wants, but the decision is hers — and the legal basis appears to be sufficiently murky as to tip the scales against removal. In fact, the precedent of then-Gov. Franklin Roosevelt initiating removal proceedings against New York City Mayor Jimmy Walker is unlike the current situation, which should give Hochul even further pause.

At that time, a full investigation of Walker and his cronies was undertaken by former Judge Samuel Seabury (authorized by the state Legislature), at which Walker testified, presented evidence, questioned witnesses, and the like. In other words, there was a full record evidencing his corruption that prompted Roosevelt to act. Here, there is no such record, and Adams denies everything.

If the governor does initiate proceedings against Adams — presenting him with specific charges that warrant his removal — he would have full due process rights to testify and present whatever evidence he could muster. But why would he? At this point, he may have the burden in the court of public opinion, but no incentive to come forward — leaving Hochul with the unenviable decision to remove him in the absence of a defense.

On the other hand, if Judge Dale Ho, the federal judge before whom the Department of Justice’s motion to dismiss his case will be heard today, unearths sufficient evidence to reveal a corrupt bargain between Adams and the president, that might persuade the governor to proceed despite the legal ambiguities.

But no matter what, I believe that unless there is unmistakable corruption or criminal conduct, staying in office or getting bounced are decisions that should remain with the voters, which brings me to a solution the governor should consider: the “recall” process.

Recall elections allow voters to oust a public official in the middle of the term. According to the National Conference of State Legislatures, 20 states, including neighboring New Jersey, allow recall elections. They include big states such as California, and small ones, like Rhode Island; and red states such as Kansas and blue ones like Oregon.

Usually voters are required to petition for a recall election, but there is no reason a state legislature cannot schedule it under extraordinary circumstances. After all, the last time there was a serious governmental stalemate, then-Gov. David Paterson took the novel approach of simply appointing a lieutenant governor, which had never been done before. The Court of Appeals upheld his innovative solution. So, here, too, Albany should not be reluctant to act.

As the governor said Monday, removal of a democratically-elected official is as serious as it gets: “In the 235 years of New York State history, these powers have never been utilized to remove a duly-elected mayor.” She is right to be super cautious. But if she and her “key leaders” cannot persuade Adams to resign, the Legislature should immediately enact a provision for a recall election and set it for a month from now so there could be a special election for a mayor to fill the rest of Adams’ term.

This way, the voters would retain the right to call the shots, not the governor. Isn’t that the way it should be?

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