



## New York State Assembly

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March 17, 2021

Honorable Charles D. Lavine  
Assemblymember & Chair of the Assembly Judiciary Committee  
Legislative Office Building 831  
Albany, NY 12248

Chairman Charles Lavine:

Throughout the course of the COVID-19 pandemic, our state has been tested in countless ways. Our work is not over, and the scandals coming from the Cuomo Administration have only added to the challenges we all face. The importance of the Judiciary Committee's responsibility to investigate Governor Cuomo and the administration cannot be overstated.

While it is important your committee is provided the time and resources it needs to conduct a thorough investigation, it is critical that there be no delays in your work. It would be wrong to afford Governor Cuomo and his administration the opportunity to further misuse his office by utilizing the budget process to impede or influence your investigation.

In our state's rich long history, only one Governor, William Sulzer, has ever been impeached. Like the Assembly Speaker did in 1913, Speaker Heastie has opted to begin the impeachment process with an investigative committee. The allegations against Governor Cuomo are far more serious and more numerous than those levied against Governor Sulzer, or more recently against Governor Elliot Spitzer.

Many of these impeachable offenses were conducted in the middle of a pandemic when millions of New Yorkers were putting their faith in the Legislature and Governor Cuomo to be honest with them. The only thing that will restore the public's trust in our state government is to provide New Yorkers the unvarnished truth in a timely manner.

The standard for impeachment in New York State is "willful and corrupt misconduct." A careful review of evidence already publicly available, as well as a timeline provided to you in this letter should help make it clear that Governor Cuomo's actions are impeachable. Impeachment is the process provided by our state constitution to accuse, hold accountable and when warranted, remove a governor.

Based on public information, we believe there is already enough evidence to substantiate multiple impeachment counts including the cover-up of nursing home deaths, obstruction of justice, coercion, pay to play, profiting off the pandemic, sexual misconduct and possibly more. This evidence will likely be strengthened by your committee's investigation, gathering of sworn testimony and exercising your power to subpoena.

The timeline provided with this letter includes a long list of public sources. It was created to make clear where this story began, and how we got to where we are today. By reviewing this timeline, you will see that Governor Cuomo's response to critical questions has changed significantly over time, meriting serious scrutiny.

Below is a list of what we consider impeachable offenses committed by Governor Cuomo based on publicly available sources.

- Originally, Governor Cuomo claimed the March 25<sup>th</sup> nursing home policy was about protecting COVID-19 patients from discrimination. Then, after Attorney General James released her report earlier this year, Cuomo claimed the policy was designed to free up hospital capacity. The justification for this policy presented to lawmakers has changed over time and **limited policy makers from taking corrective action** at the state and local levels.<sup>i</sup>
- Nursing home COVID-19 data which should be public information was withheld from the public, the New York State Legislature, and local public health officials who would have benefited from reviewing this information in real time. Other states were hit with COVID-19 after New York and looked at our response as a guide. The intentional withholding of this data **impeded our national response during the worst pandemic in our nation's history.**<sup>ii</sup>
- The Governor, his administration, and the Department of Health have changed their reasoning for withholding this information multiple times. However, senior Cuomo advisor Melissa DeRosa confirmed the administration's refusal to release nursing home data was motivated by a desire to **obstruct a potential investigation by the U.S. Department of Justice.**<sup>iii</sup>

Ms. DeRosa's updated response, as well as statements from the Governor alleging our legislative leaders were told of the delay due to a DOJ inquiry has been denied by Speaker Heastie and Senate Majority Leader Stewart-Cousins.<sup>iv</sup> We believe them over the Governor, but would encourage your committee's pursuit of the truth to confirm this is so.

- The Governor's reported threatening call to Assemblymember Ron Kim is a clear example of the Governor attempting to **coerce a lawmaker** and force him to corroborate Cuomo's claims.<sup>v</sup> At the time, Assemblymember Kim, who chairs the Aging Committee, had a petition before him by his colleagues seeking additional hearings utilizing subpoena powers against the Governor.<sup>vi</sup> The Governor threatened our colleague, and the following week followed through on his threat. This is a clear violation of the law and based on public information is an impeachable offense.
- The Wall Street Journal reported that Governor Cuomo's senior aids influenced the Department of Health's July report, convincing the DOH to leave thousands of nursing home residents who died of COVID-19 out of their study. Furthermore, the DOH press release and Commissioner Zucker suggested the July report was "peer reviewed." Jim Malatras recently conceded that it was not peer-reviewed.<sup>vii</sup> Governor Cuomo and his administration **willfully impeded public health officials from producing public health documents and hid information from the public and policy makers who could have made changes to save lives.**
- Due to Governor Cuomo's refusal to be transparent, questions remain about the terms of the **Governor's book deal** for, "American Crisis: Leadership Lessons from the COVID-19


Pandemic.”<sup>viii</sup> The timeline from when the Governor first mentioned his interest in a book deal occurred around the time of the July DOH report which intentionally withheld a complete count of COVID-19 nursing home resident deaths. The fact that Governor Cuomo personally enriched himself during the pandemic is not disputed. He may have also added to his pandemic windfall by withholding public information that would have hindered book sales but could have helped public officials save lives. Moreover, it is undisputed that a law firm with a state contract related to the pandemic purchased large quantities of the Governor’s book.<sup>ix</sup>

- Questions remain regarding the conversations which led to the Governor’s decision to include broad immunity protections for senior executives. Allegations of pay to play have been made. While large campaign contributions have been confirmed, clear evidenced of **‘pay to play’** would likely have to be substantiated or dismissed by your committee’s use of gathering sworn testimony with subpoenas.<sup>xi</sup>
- Questions remain as to how Ms. Boylan’s personnel file was leaked to the press in an obvious effort to discredit her and her very serious allegations of harassment against Governor Cuomo. The New Yorker wrote a powerful article on this subject, and we expect your committee to investigate and gather sworn testimony to determine if the Governor and his administration engaged in this type of despicable and **corrupt cover-up of sexual harassment in the workplace.**<sup>xii</sup>
- Questions remain regarding the very **serious allegations made of sexual harassment and potential assault** levied against Governor Cuomo. While the investigation by Attorney General Letitia James’ independent investigator Joon Kim must be respected, these allegations must also be considered as impeachable offenses and merit additional review by your committee.<sup>xiii</sup> Moreover, many of the harassment allegations against Cuomo by state employees were corroborated by Cuomo himself.
- On March 14, 2021, the New York Times broke a story regarding Governor Cuomo’s former senior aid in charge of vaccine distribution, Larry Schwartz, had reportedly called County Executives verifying their political loyalty to Governor Cuomo and then following up with a discussion about vaccines.<sup>xiv</sup> This is yet another example of potential **obstruction, exceeding the standard of willful and corrupt misconduct.** One County Executive has reportedly filed a complaint for this misconduct. This allegation is serious and should be further confirmed through added investigation from your committee.
- Questions remain surrounding an Albany Times Union article from a reported whistleblower exposing structural flaws on the new Tappan Zee Bridge, also known as the Governor Mario M. Cuomo Bridge. The report alleges **New York downplayed the danger in potentially yet another cover-up.**<sup>xv</sup> The allegations purported through this article are serious and merit your committee’s consideration and added review.
- Questions also remain surrounding the Cuomo administration’s decision to initiate a **policy through OPWDD affecting homes for people with developmental disabilities.** The policy in question largely mirrored the controversial March 25<sup>th</sup> DOH policy affecting nursing home residents.<sup>xvi</sup> In the course of your committee’s investigation, we ask you consider reviewing the factors that went into instituting this policy, as well.

The above outlines at least twelve potential counts of impeachment. We, like many of our colleagues, believe there is enough evidence already available to merit impeachment, but we appreciate the added thoroughness that will be provided through your own investigation. It is our hope that the information we provided to you in this letter will assist and accelerate your quest for truth, transparency and accountability.

No one is above the law. That includes our elected Governor. Twenty million New Yorkers, including the families of 15,000 nursing home victims are counting on you and your committee to swiftly pursue justice.

God speed,



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Enclosure: *Timeline on Gov. Cuomo Covid Response, Cover-ups, and Impeachable Offenses*

Cc: Assembly Speaker Carl Heastie  
Assembly Minority Leader William Barclay  
Assemblyman Michael Montesano, Ranking Minority Member of Judiciary Committee  
Members of the Assembly Judiciary Committee

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<sup>i</sup> Byrne, K. & Lalor, K. (2021, March 15). Timeline on Gov. Cuomo COVID Response, Cover-ups and Impeachable offenses. Enclosed with letter.

<sup>ii</sup> Thiessen, M. (2021, February 17). Opinion: Cuomo hid covid-19 data. But it was worse than just a coverup. Washington Post. Retrieved March 15, 2021 from <https://www.washingtonpost.com/opinions/2021/02/17/cuomo-hid-covid-19-data-it-was-worse-than-just-coverup/>

<sup>iii</sup> DeRosa, M. (2021, February 12). Statement from Secretary to the Governor Melissa DeRosa. Retrieved March 14, 2021 from <https://www.governor.ny.gov/news/statement-secretary-governor-melissa-derosa-0>

<sup>iv</sup> Roos, M. (2021, February 16). State Senators Claim Cuomo Lied, Say They Weren't Told About DOJ Probe into Nursing Home Deaths. Newsweek. Retrieved March 14, 2021 from <https://www.msn.com/en-us/news/us/state-senators-claim-cuomo-lied-say-they-werent-told-about-doj-probe-into-nursing-home-deaths/ar-BB1dlfD3>

<sup>v</sup> Lee, M.J. & Morales, M. (2021, February 17). Cuomo said 'he can destroy me': NY assemblyman alleges governor threatened him over nursing homes scandal. CNN politics. Retrieved March 14, 2021 from <https://www.cnn.com/2021/02/17/politics/cuomo-ron-kim-nursing-home/index.html>

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