

# United States Senate

WASHINGTON, DC 20510

July 26, 2018

The Honorable George W. Bush  
10000 Memorial Drive  
Houston, TX 77024

Dear President Bush:

I am writing with a time-sensitive request regarding the nomination of your former aide Judge Brett Kavanaugh to the Supreme Court. I understand and completely respect that you support Judge Kavanaugh's nomination. We have a difference of opinion on whether he is the right person for the Court at this moment, but that is not the reason for my letter. My purpose instead is to ask you to authorize that the complete record of Judge Kavanaugh's service in the White House be made public so that all Americans can be informed about this nomination and the Senate can fulfill its constitutional advice and consent obligations.

Under our most recent precedent in a similar case, when the Senate considered the nomination of Justice Kagan, Republicans and Democrats jointly asked the National Archives and the Clinton Library to provide all of Justice Kagan's records from her White House service. All of those documents were provided to the Senate without any assertions of privilege by President Clinton, and the Archives immediately made them public on its website. Those actions gave the Senate and the public the ability to examine Justice Kagan's full record and eliminated any questions about whether important information about her previous work had been withheld.

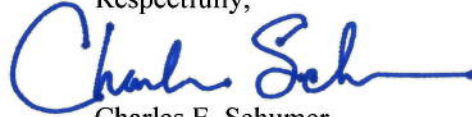
Regrettably, my colleagues in the majority in the Senate are now suggesting the Senate depart from that bipartisan precedent, and have declined to sign a bipartisan document request for Judge Kavanaugh's complete record. It appears that, on a partisan basis, they plan to request a pre-screened subset of Judge Kavanaugh's record, selected not by career officials of the Archives but by a private legal team representing your presidential library. I understand that you have a right to review your Administration's documents before they are released, and there is nothing wrong with that. My concern is that the Archivist of the United States, who is responsible for guiding the review and release of responsive documents, would be cut out of this new process being contemplated by Senate Republicans, and as a result the Senate may receive only documents that have been pre-selected and approved by the private legal team, without any public insight or accountability. This legal team is led by an attorney who, like Judge Kavanaugh, is an alumnus of your White House Counsel's office, but who also has close ties to President Trump through his current representation of Steve Bannon, Reince Priebus and Donald McGahn. If implemented, this irregular approach to the nominee's document production will inevitably raise serious questions about the fairness and impartiality of the process, and about whether crucial information regarding the nominee is deliberately being withheld from public scrutiny.

In order to remedy this unfortunate situation, I respectfully write to ask that you make public Judge Kavanaugh's full White House record, including his years as Staff Secretary. You have been an advocate of transparency regarding your presidential records, and you have previously taken steps to

make portions of your Library's collection of White House documents more available to the public. I believe that making Judge Kavanaugh's complete record public is consistent with your commitment to transparency and is strongly in the public interest. While the country may be divided on whether Judge Kavanaugh should join the Supreme Court, there ought to be no disagreement on whether the process that leads to a confirmation vote should be a fair and impartial one.

Thank you very much for considering this request, which I would be happy to discuss with you directly at any time.

Respectfully,

A handwritten signature in blue ink that reads "Charles E. Schumer". The signature is written in a cursive style with a long horizontal flourish at the end.

Charles E. Schumer  
United States Senator