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September 10, 2019

The Honorable Lindsey Graham  
Chair  
Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Dianne Feinstein  
Ranking Member  
Senate Committee on the Judiciary  
152 Dirksen Senate Office Building  
Washington, D.C. 20510

**RE: Nomination of Steven Menashi for U.S. Court of Appeals for the Second Circuit**

Dear Chair Graham and Ranking Member Feinstein,

On behalf of the National Center for Transgender Equality (NCTE), we write to oppose the nomination of Steven Menashi for U.S. Court of Appeals for the Second Circuit. Founded in 2003, NCTE works to improve the lives of the nearly two million Americans who are transgender. For all Americans, equal justice requires fair judges who will honestly and impartially weigh all the facts presented in any case, on any issue, demonstrate a commitment to respecting fundamental rights and freedoms, and treat all litigants with dignity and respect. Unfortunately, Mr. Menashi's extensive record of inflammatory rhetoric, demeaning minority groups and survivors of sexual violence, and working to undermine basic legal protections for millions of Americans means that he cannot meet this high standard for a lifetime appeals court appointment.

Mr. Menashi's career has been characterized by disturbing rhetoric, including toward LGBTQ Americans. In his writings, he has suggested being LGBTQ is "outside nature," and suggested advocates for LGBTQ equality are seeking to "peer[] down on the rest of creation with a godlike power to manipulate it for our own purposes." He has described respect for transgender people, and the medical standards of care for transgender people endorsed by every major medical association, as examples of "the tendency to ignore reality." He has downplayed hate violence against LGBTQ Americans, including the brutal 1998 murder of Matthew Shepard, and bizarrely suggested that LGBTQ advocates should instead focus on crimes against children that happen to be committed by gay people. He has virtually dismissed the entire concept of sexual harassment as "nonsensical," has argued for ending all need-based financial aid, suggesting it only benefits those who lack "foresight and prudence." These are not the signs of a judicial temperament.

In his political career, Mr. Menashi has been responsible for advancing some of the Trump Administration's most divisive and legally dubious policies. As Deputy General Counsel for

Postsecondary Education and Acting General Counsel at the Department of Education under Secretary Betsy DeVos from May 2017 to September 2018, he has played a key role in undermining respect and protections for student survivors of sexual assault and harassment, implementing numerous regulatory delays that were found by courts to be unjustified and unlawful, and enforcing the Department's current policy of summarily dismissing discrimination complaints by transgender students. As a White House lawyer since 2018, Mr. Menashi has helped craft cruel and lawless immigration policies that have been repeatedly struck down in the courts.

In short, Mr. Menashi's record does not show that he meets the high standards of professionalism, civility, temperament, and fairness expected for a lifetime appointment to a powerful federal appeals court. We urge you to oppose his confirmation.

Thank you for considering our views on this important nomination. Please do not hesitate to reach out if we can provide additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Mara Keisling", with a stylized flourish at the end.

Mara Keisling  
Executive Director

cc: United States Senate Judiciary Committee Members