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November 8, 2019

United States Senate
Washington, DC 20510

Dear Senator:

On behalf of our 3 million members and the 50 million students they serve, we urge you in the strongest possible terms to VOTE NO on Steven Menashi's nomination to the U.S. Court of Appeals for the Second Circuit. His writings and record raise serious concerns about whether he can be trusted to be fair-minded and dispense equal justice to all who come before him, none of which the hearing on his nomination assuaged. Votes associated with this issue may be included in NEA's Report Card for the 116th Congress.

Mr. Menashi played a key role in carrying out the disastrous policies of Education Secretary Betsy DeVos. In his own words, he was "responsible for providing legal advice on ALL aspects of the Department's operations, including litigation, rulemaking, regulation, and enforcement."¹ He is also an acolyte of presidential adviser Stephen Miller, the infamous architect of immigration policies that have terrified and traumatized our students, their families, and entire communities.

The most recent example of Mr. Menashi's deeply troubling role at the Department of Education was confirmed just days ago. On Nov. 6, 2019, the [New York Times](#) reported that he helped devise an illegal scheme that deprived thousands of students of debt relief and violated federal privacy laws—a scam that earned Ms. DeVos a contempt of court citation and \$100,000 fine from [U.S. Magistrate Judge Sally Kim](#).

Since Ms. DeVos and Mr. Menashi joined forces, the Department of Education has, among other things:

- Unlawfully attempted to repeal provisions that protect students from predatory online institutions, many of which NEA and others have successfully sued to reinstate
- Attempted to block states from protecting student loan borrowers from predatory online institutions
- Failed to ensure that borrowers who commit to public service can have their student loans forgiven after ten years, causing both the General Accountability Office and Consumer Financial Protection Bureau to admonish the Department of Education repeatedly for dereliction

¹ Sen. Comm. on the Judiciary, 116th Cong., Steven James Menashi Questionnaire for Judicial Nominees, at 29, <https://afj.org/wp-content/uploads/2019/09/Steven-Menashi-Senate-Questionnaire.pdf#page=29>.

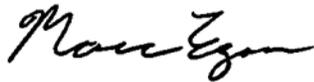
- Proposed Title IX guidelines that weaken protections against sexual assault and harassment, even for our youngest students
- Failed to protect LGBTQ students from discrimination and harassment while urging courts to rescind federal protections for them
- Attempted to strip federal employees of their collective bargaining rights
- Initiated plans to militarize our schools and arm educators

Mr. Menashi’s record at the Department of Education reflects his career-long hostility to public education and civil rights. For over two decades, he has expressed views and advocated for policies contrary to the fundamental principle that every student, regardless of background, deserves an equal education and opportunities. Specifically, he has:

- Lamented that our education system “persist[s]” in promoting “egalitarianism”²
- Opposed student financial aid because it “punishes” affluent families³ while advocating for school vouchers on the grounds that they “restore taxpayers’ property rights”⁴
- Supported the ban on lesbian, gay, and bisexual people serving in the military; opposed court decisions that recognize marriage equality; and defended discrimination against LGBTQ Americans in public arenas such as restaurants and movie theaters
- Denigrated those who take action against perpetrators of sexual assault as “campus gynocentrists [who] throw around accusations [of sexual misconduct] when there's no similar leeway for men”⁵
- Opposed the Affordable Care Act’s health protections for women and criticized the Family and Medical Leave Act

In the strongest possible terms, we urge you to oppose Steven Menashi’s nomination to the U.S. Court of Appeals for the Second Circuit.

Sincerely,



Marc Egan
 Director of Government Relations
 National Education Association

² Steven Menashi, *The Empty Decade*, DOUBLETHINK, Summer 2002, at 22, <http://web.archive.org/web/20021112223055/http://www.americasfuture.org/doublethink/summer2002/summer2002.pdf>.

³ Steven Menashi, *Hide That College Fund!*, THE NEW YORK TIMES, November 21, 1998, at A15, <https://afj.org/wp-content/uploads/2019/09/Hide-That-College-Fund.pdf>.

⁴ Editorial Board, *Teachers’ Choices and Ours*, THE NEW YORK SUN, September 13, 2004, <https://www.nysun.com/editorials/teachers-choices-and-ours/1547/>.

⁵ Steven Menashi, *Heteropatriarchal Gynophobes!*, THE DARTMOUTH REVIEW, October 2, 2000, at 3, <http://web.archive.org/web/20050112004027/http://www.dartreview.com/issues/10.2.00/editorial.html>.