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FOR IMMEDIATE RELEASE

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Release Date:

June 24, 2022

STATEMENT OF JOSHUA ENGEL, MANAGING PARTNER OF ENGEL & MARTIN, LLC, ON PROPOSED DEPARTMENT OF EDUCATION TITLE IX REGULATIONS

The proposed Biden Administration Title IX regulations on sexual misconduct matters is an unfortunate retreat from many of the due process protections provided to students in school disciplinary proceedings.

The changes, in particular, appear to eliminate the requirement that schools provide hearings to students in which the students facing potentially life-altering disciplinary charges can confront adverse witnesses and review and respond to evidence.

I share the concerns that animated the original 2011 Dear Colleague Letter and some of the current revisions. It is true that the prevalence of sexual assault on campus and the unwillingness or inability of many schools to adequately address it are significant concerns. As a former prosecutor, I share the goal of eliminating sexual assault on campus.

I have seen significant violations of due process norms in pursuit of these goals. Due process is fundamental not only to our constitutional democracy but is an important value in liberal education. The various due process protections that will be eliminated or cut back enhance both the truth finding function and faith in institutions. I fear that the proposed

regulations will harm both victims and offenders by reducing the accuracy and reliability of investigations and adjudications.

The Department is wrong to view due process protections as creating barriers to victim participation. Instead, due process protections should be seen as supporting victims by enabling all parties to be heard, bolstering the search for the truth, and increasing the credibility of outcomes. The Trump Administration's 2020 Regulations also had significant problems, and I disagree with certain aspects of them. I am pleased, for example, to see increased protections for LGBTQ+ students in the Biden Administration's proposal. However, permitting the wholesale abandonment of the requirement of a hearing – with notice and an opportunity for everyone to be heard – for accusations of sexual misconduct is misguided and best and harmful to students at worst.

About Joshua Engel: A civil rights attorney for nearly 30 years, Joshua Engel currently provides representation to individuals in civil rights matters, appeals, and high-profile litigation nationwide. Engel has argued some of the most important Title IX appellate cases addressing the rights of both students accused of misconduct and alleged victims, including *Doe v. University of Cincinnati*, *Doe v. University of the Sciences*, *Plummer v. University of Houston*, and *Foster v. University of Michigan*. Engel served as a prosecutor in Ohio and Massachusetts and as Chief Legal Counsel for the Ohio Department of Public Safety. Engel was head of the Appellate division for the Warren County Prosecutor's Office and has argued cases in the six federal appellate circuits. Engel earned a B.A. in Economics, *magna cum laude*, from the University of Pennsylvania and graduated *cum laude* from Harvard University Law School.

About Engel & Martin, LLC: Engel & Martin, LLC is a boutique law practice offering a combined more than 100 years of legal experience located in Mason Ohio, north of Cincinnati. Engel & Martin, LLC is a recognized source for assertive legal representation in Ohio and nationwide. The attorneys of Engel & Martin, LLC have significant experience handling high profile and difficult criminal, civil rights cases and appellate in state and federal courts.

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