

**TESTIMONY OF SAMUEL R. BAGENSTOS
BEFORE THE U.S. SENATE COMMITTEE ON FINANCE
TUESDAY, OCTOBER 26, 2021**

Chairman Wyden, Ranking Member Crapo, Members of the Committee, thank you for considering my nomination to be General Counsel at the Department of Health and Human Services (HHS). I am humbled and honored by President Biden’s decision to nominate me, and I am excited, if confirmed, to serve under the leadership of Secretary Xavier Becerra.

I would like to thank my family for their love and support. Here with me today is my wife, Margo Schlanger, who is a terrific and accomplished attorney in her own right. Watching from afar are my children, Harry and Leila—twins who are in their senior years of college—and my mother, Naida Tushnet—who is nominally retired but keeps up a full schedule fighting to improve her own community. I would also like to thank my supervisors in my government positions: Former Governor Deval Patrick, former Secretary of Labor Tom Perez, and Acting Director of the Office of Management and Budget (OMB) Shalanda Young. And I would like to thank the two great, now-departed jurists for whom I clerked, Judge Stephen Reinhardt and Justice Ruth Bader Ginsburg, whose memories are a blessing.

In the more than 28 years since I graduated law school, my work has sought to advance the paired principles that should always inform the application of the law: No person, no matter how high their position, should be above the law’s constraints. Nor should anyone be beneath its protections.

Perhaps no case illustrates those principles better than that of George Lane. George had paraplegia and was a bit down on his luck. When he was accused of a minor criminal violation, his hearing was held on the second floor of a courthouse with no elevator. And when he couldn’t make it to the courtroom because his disability kept him from climbing stairs, he was arrested for failure to appear in court. I worked with George to take his case to the Supreme Court, and—with the help of President George W. Bush’s Solicitor General—we prevailed. George’s case showed that at its best the law must be open and responsive to even the humblest members of our community. I was very proud to have achieved this result—and to have worked with congressional and Administration allies across partisan divides to build support for George’s case.

Should I be fortunate enough to be confirmed, I will approach the General Counsel role in the same spirit. I will work to ensure that the actions of the Department conform to the substantive and procedural requirements that Congress has established—as well as the fundamental principles and protections of the Constitution. And I will work to ensure that the Department advances its critical mission of enhancing the health and well-being of all Americans.

During the Obama-Biden Administration, I was the Principal Deputy Assistant Attorney General for Civil Rights at the U.S. Department of Justice. In addition to supervising 200 attorneys across three sections of Civil Rights Division, I led the Department’s enforcement of the Americans with Disabilities Act.

Much of my disability rights work has required me to engage with state Medicaid programs—to defend the rights of people with disabilities to receive services in their own homes and communities. I worked with governors, sheriffs, and other state and local officials across party lines who were committed to providing quality services to individuals with disabilities. Through this work, I learned a lot about the particular needs of different states and regions. I am especially proud of work I did to reach a historic agreement with then-Governor Sonny Perdue in Georgia to expand that state’s community-based services system. In the course of that work, I saw how important tools such as telehealth can be in serving rural and other communities without access to specialized providers—a lesson that the COVID-19 pandemic has underscored for all of us.

More than a year into that pandemic, the laws that HHS administers are essential to the Department’s mission. Should I be confirmed, I will seek to uphold the law with a commitment to equity, transparency, and accountability.

Thank you, again, for considering my nomination. I look forward to your questions.