



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

Oct. 26, 2021

Hon. Ron Wyden  
Chair  
Senate Finance Committee  
221 Dirksen Senate Office Bldg.  
Washington, DC 20510

Hon. Mike Crapo  
Ranking Member  
Senate Finance Committee  
239 Dirksen Senate Office Bldg.  
Washington, DC 20510

Re: Support for Nomination of Samuel Bagenstos to serve as HHS  
General Counsel

Dear Chair Wyden and Ranking Member Crapo:

We write as members and allies of the Consortium for Citizens with Disabilities (CCD) Rights Task Force in strong support of the nomination of Samuel Bagenstos to serve as General Counsel of the Department of Health and Human Services. CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

We have known and worked with Mr. Bagenstos for decades and it is hard to think of anyone more qualified to serve in that role. Mr. Bagenstos has an extraordinary breadth of experience, working over many years to protect and improve the health and well-being of people with disabilities, older adults, women, and Black, Indigenous, and other People of Color. Some of that work has been through the lens of civil rights enforcement, but all of it has been critically important to ensuring that people have access to the healthcare services that they need and want, and that enable them to live the kinds of lives they want and deserve. Bringing equity to our healthcare systems is a key concern for our nation right now, particularly as the COVID-19 pandemic has revealed in new ways the dramatic disparities that exist in healthcare access and outcomes. Mr. Bagenstos has the right experience and knowledge to ensure that those and other concerns are addressed within HHS.

As Principal Deputy Assistant Attorney General for Civil Rights, Mr. Bagenstos led the Justice Department's initiative to prioritize enforcement of the rights of people with disabilities to live,

work, and receive services in the most integrated setting appropriate, as guaranteed by the Americans with Disabilities Act’s integration mandate and the Supreme Court’s *Olmstead* decision. This enforcement was widely hailed by the disability community as among the most important work ever done by the Justice Department, enabling thousands of people with disabilities to receive the healthcare services that they needed to live and work in their own homes and communities.

Mr. Bagenstos also did pioneering work to ensure that people with disabilities and older adults were not denied life-saving treatment during the COVID-19 pandemic due to discriminatory “crisis standards of care” designed to ration scarce medical treatment. As a result of the efforts of Mr. Bagenstos and others, numerous states modified their crisis standards of care to prevent discriminatory denials of lifesaving treatment, and the Trump Administration’s Department of Health and Human Services investigated and reached resolutions that secured key changes in these crisis standards of care to avoid discrimination. Mr. Bagenstos also played a key role in the disability community’s participation in litigation across the country challenging the “public charge” rule promulgated by the Department of Homeland Security in 2020. This rule heavily weighted individuals’ disabilities in multiple negative ways, and discouraged many individuals with disabilities and others from using important healthcare benefits to which they were legally entitled. As the Seventh Circuit Court of Appeals observed in upholding an injunction against the rule, the rule “in many instances makes it all but inevitable that a person’s disability will be the but-for cause of her being deemed likely to become a public charge.”<sup>1</sup>

Mr. Bagenstos also secured an important victory affording pregnant women the right to the same reasonable accommodations offered to others in the workplace, providing them the chance to protect their health and well-being. He achieved this victory through his representation of the plaintiff in *Young v. United Parcel Service, Inc.*, decided by the Supreme Court in 2015. He also secured legal victories for residents of Flint, Michigan in a challenge to practices resulting in harmful water quality, largely in communities of color.

Mr. Bagenstos has served in all three branches of the federal government and is intimately familiar with the roles and workings of federal agencies, having served since January 2021 as General Counsel at the Office of Management and Budget, and previously as Principal Deputy Assistant Attorney General in the Justice Department’s Civil Rights Division during the Obama Administration. He has worked closely with both Republican and Democratic policymakers and has a long record of success in securing important changes in policy and law to improve the health and well-being of all people, with particular attention to those who have too often been left behind.

We stand strongly behind Mr. Bagenstos’s nomination and urge you to confirm him as quickly as possible. Thank you for your attention to this critical nomination.

---

<sup>1</sup> *Cook County v. Wolf*, 962 F.3d 208, 228 (7<sup>th</sup> Cir. 2020).

Sincerely,

American Association of People with Disabilities

American Foundation for the Blind

The Arc of the United States

Association of People Supporting Employment First (APSE)

Autistic Self Advocacy Network

Bazelon Center for Mental Health Law

Center for Public Representation

Disability Rights Education and Defense Fund

National Association of Councils on Developmental Disabilities

National Disability Rights Network (NDRN)

TASH

United Cerebral Palsy

World Institute on Disability