



NATIONAL DISABLED STUDENTS UNION

3948 W. Waveland Avenue, Chicago, IL 60618 • 773-463-4776 • 773-463-5154 (Fax) • http://www2.uic.edu/stud_orgs/pol/dsu

The National Disabled Students Union (NDSU) is a national, cross-disability, student organization. We recognize all disabled people -- those with traditionally recognized disabilities and those who have often been left out of the movement -- as our brothers and sisters, and we recognize all students -- those who work to learn, whether or not they are at recognized schools -- as our colleagues.

April 8, 2001

RE: MEDIA TOOLKIT for the April 17th Leave Out for Equal Justice

To All Participants, Co-Sponsors, and Allies:

Thank you for your interest in the April 17th nationwide Leave Out for Equal Justice, sponsored by the National Disabled Students Union (NDSU).

Phase 2 of the protest preparations involves the widespread dissemination of the documents in the enclosed Media Toolkit. This Media Toolkit includes:

- A. [Cover sheet](#)
- B. [A sample local press release](#)
- C. [Step-by-step "Media Guide"](#)
- D. [Background information](#) for people talking to reporters

Before the protest, we hope to distribute a **Legislative Packet** that will include sample letters to your representatives, a national petition as well as a model state petition for distribution in your particular state.

If you have any questions or concerns, please feel free to contact Sarah Triano at 773-463-4776 (V or Relay) or at <mailto:strian1@uic.edu>.

In Solidarity,

Members of the NDSU Leadership Team

Co-Sponsors for this Event Include:

Access Living of Chicago, IL, ADA Watch, ADAPT LA (ADAPT of So. California), ADAPT Montana, Alliance for Disability and Students of the University of Montana (ADSUM), American Association of People with Disabilities, American Psychological Association Graduate Students (APAGS), Chapman University Organization for Disability Advocacy & Awareness, Chicago ADAPT, Citizens for Legitimate Government, Coalition of Citizens with Disabilities in IL, Disability Advocates of Minorities Organization, Disabled Students Union at the University of California, Berkeley (DSU), Disabled Students Union at the University of Illinois at Chicago (DSU), IMPACT, Inc. of Alton, IL, Justice for All, Kids as Self-Advocates, Lake County Center for Independent Living, MCS: Health and Environment, Monroe County Women's Disability Network, National Association of Protection and Advocacy Systems, National Council on Independent Living, National Strike One, Not Dead Yet, On A Roll Radio, PACER Center, Progress Center for Independent Living of Forest Park, IL, Suburban Access Squad, The Associated Blind, Inc., The Independent Living Resource Center San Francisco, The PhD Program in Disability Studies at UIC, UIC Circle Greens, UIC College Democrats, UIC Department of Disability and Human Development

Local Media Toolkit for the April 17, 2001 Leave-Out

THE PEOPLE'S RIGHT TO EQUALITY COMES BEFORE THE STATES' RIGHT TO DISCRIMINATE!

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Contents of this Packet

- A. Cover sheet**
- B. A sample local press release**
- C. Step-by-step "Media Guide"**

1. Make your contact list by looking at what media outlets you want to try to get coverage in and identifying reporters, editors, and producers who might be receptive.
2. Modify the sample press release to fit your needs or write your own.
3. Prepare to "sell" the story by having a one-sentence explanation of what the story is, and then preparing yourself for the questions you're likely to get asked.
4. "Pitch" the story in three steps: CALL, FAX, CALL.
5. Remember to stay "on message": The people's right to equality comes before the state's right to discriminate!

- D. Background information for people talking to reporters**



FOR IMMEDIATE RELEASE
April 16, 2001

For more information contact:
Sarah Triano 773-463-4776
Name Number

CIVIL RIGHTS BEFORE STATES' RIGHTS, SAY DISABLED STUDENTS

At noon on Tuesday, April 17, UIC students will meet at 1640 W. Roosevelt to join with disabled students across the nation in a simultaneous Leave-Out to protest the Supreme Court's pattern of weakening civil rights protections in the name of "states' rights."

"The people's right to equality comes before the states' right to discriminate," says Sarah Triano. Triano, a member of UIC's Disabled Students Union, is a co-founder of the National Disabled Students Union and one of the organizers responsible for Tuesday's national demonstration. The NDSU was founded on February 21, 2001, in response to the Supreme Court's ruling in *Trustees of the University of Alabama v. Garrett et. al.* that state employees facing disability discrimination at work cannot sue for damages.

The *Garrett* ruling will make it harder for today's students with disabilities to become tomorrow's workers. The Census Bureau reports that 50% of disabled people in America are unemployed, and those who do have jobs make less money than the nondisabled.

Title I of the Americans with Disabilities Act requires employers to give job-seekers and employees with disabilities the same chances nondisabled workers get, but the *Garrett* decision makes it easier for state governments to get away with breaking that law. Workers with disabilities will be unable to recover damages, making it more difficult for them to finance lawsuits challenging clear discrimination.

The ADA isn't the first civil rights law to be weakened by the Court. In 2000, Court rulings struck down the civil rights remedy of the Violence Against Women Act and protected states against suits by their employees under the federal Age Discrimination in Employment Act.

Students across the country are leaving out of their classrooms and libraries at 1:00 pm Eastern to protest under the banner of the National Disabled Students Union. UIC students and community supporters will meet at noon, Chicago time, outside 1640 W. Roosevelt for a march and rally.

The Disabled Students Union is an active campus group fighting for equal access for disabled students. The National Disabled Students Union is a national, cross-disability, student organization concerned with disability rights. "In less than two months, we've gone from being an idea in a few students' minds to having members on more than sixty campuses," Triano says. "We're building momentum."

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Media Guide

1. Making your contact list:

We are attempting to obtain media on **two fronts**:

- * Media that will reach **potential allies** to alert them to what's going on and what they can do
- * Media that will reach **policymakers** to alert them to what we want them to do

Potential allies are likely to be paying attention to campus newspapers, newspapers aimed at minority groups concerned with civil rights, TV and radio shows aimed at minority groups concerned with civil rights, etc. When we deal with these outlets, we want to stress that the Supreme Court has put the states' right to discriminate ahead of the peoples' right to equality, and that we are organizing against that. Some groups, especially those that are small and/or just getting off the ground, may want to focus on educating and recruiting potential allies in their media work.

Both potential allies and policymakers are likely to be paying attention to local newspapers, local TV news (especially just before and after prime time), local radio news, etc. When we deal with these outlets, we want to stress that the Supreme Court has put the states' right to discriminate ahead of the peoples' right to equality, and that state legislators can and must now make things right. Groups that are larger and/or more organized will probably focus on both educating/recruiting allies and pressuring policymakers.

THE FIRST STEP in working on media is to identify the outlets you want to reach (if you are a campus group, any campus media - such as the college newspaper - need to be included) and, if possible, particular reporters who might be receptive to covering our story.

- * Have particular outlets or reporters covered disability issues from a civil rights perspective?
- * Have particular outlets or reporters seemed interested in how Supreme Court decisions or other national events affect people in your area?
- * Are there particular reporters someone in your group has a relationship with?

THE SECOND STEP in working on media is to identify how and when you want to make the initial contact.

- * You need a telephone number (voice, TTY, or voice and relay, as appropriate) for the outlet
- * A daily newspaper, TV show, or radio show should probably be approached on Monday morning (the day before the rally).

* A newspaper, TV show, or radio show that comes out less frequently should probably be approached shortly after the last issue or show before April 17 comes out.

>From these two steps, you should have a list put together of who (and when) you want to call.

2. Putting your press release together.

When you have decided how you are going to celebrate the Leave-Out in your area, you'll be ready to prepare a press release giving details to reporters. In this packet is a sample press release. You can modify it to fit your group's needs, or you can write your own. **Here are instructions for modifying your sample release:**

* The press release should go on letterhead that identifies your group. If you want, you can get a copy of the NDSU logo and identify yourself as a local chapter of NDSU.

* If your group isn't a student group, you'll need to change the headline so that it fits.

* Make sure the date is the actual date you are sending the release out.

* For press releases sent to big city dailies, add two local contacts – name and number - above Sarah Triano's name. For press releases sent to local outlets, remove Sarah's name and just use two local contacts.

* Change all references to Chicago and UIC to appropriate local references. Make sure that the time - in Chicago, it's noon - is correct, depending on your time zone. For everyone participating in the synchronized Leave-Out, that's 1pm Eastern, noon Central, 11am Mountain, and 10am Pacific.

* The second paragraph should be changed to highlight an important local leader or organizer. (Remember to explain why this person is important.) You can keep the quote and attribute it to that local leader or change it, but the basic message should be the same: **“The people's right to equality comes before the states' right to discriminate.”**

* The final paragraph should be changed to highlight an important local leader or organizer. This can be the same one as in Paragraph 2, or a different one. (If it's a different person, remember to explain why this person is important.) You can keep the quote or change it to something your group thinks is important.

* Local reporters are likely to be more interested in local stories. Patricia Garrett's case is important - but are there any local people who have faced discrimination by state employers? If you're at a state college or university, are there disabled faculty or staff with important stories about civil rights? Are there students who want to work for the state after graduation?

* If you live in a state where there is any significant move to reinstate the protections we've lost at the state level, please praise the people involved.

* Make any other changes your group thinks are important. The final product should be no longer than one page, with 12-point font.

Once you have your press release, you have your primary tool for media work. Anyone you plan to send reporters to should have a copy.

3. Preparing to "sell the story":

Reporters have to choose between a lot of different stories, trying to find some that the people who watch or read or listen to them will be interested in. It's our job to convince people that our story is worth covering (that the audience will be interested), that our information is reliable (that they won't have to do a lot of extra research), and that we are going to be comfortable to work with (that reporters will get what they need from us). We have to "sell" them on our story, and on us.

Your first and best tool is your press release. The first paragraph of the release should tell the story - who is doing what, when and where, and how and why - very very briefly. (Your press release should be ready to go before you start pitching.) Remember, we're doing this because the **peoples' right to equality comes before the states' right to discriminate.**

You should be prepared to answer any obvious questions. For example, in the sample press release in this kit, we've included some information about (1) the Garrett case, (2) census data concerning people with disabilities, and (3) other decisions in which the Court has weakened civil rights protections. A reporter might well ask you about these things. (There is information in this media toolkit.)

You might also get asked how many people you expect to have at the demonstration. (If you aren't sure, go for a low estimate. If you say you're going to have 50 people and 25 will show up, reporters are going to notice how small that number is. If you say you're going to have 10 - 15 and 25 show up, that's going to look big.) You might get asked how many other campuses are involved. We will work to keep you updated. You might get asked what precisely is going to happen at the demonstration. (If you're trying for radio coverage, people will want to know what will happen that might be interesting to listen to. If you're trying for TV coverage, people will want to know what will happen that might be interesting to watch.) You might get asked for the phone numbers of other people the reporter can talk to. You should either have the information available, or be able to say, "I will find out and call you right back."

You are likely to get asked "Who is NDSU and what are your goals?" You might get asked, "What's all this about the braid?" Refer to your NDSU Leave-Out Activism Packet for that information.

Many people find it useful to role-play pitching beforehand, practicing talking to "reporters" who are busy, or uninformed on the issue, or want a lot of information.

By the time you're ready to pitch, you should feel comfortable that you can "sell" the story.

4. Pitching:

You're going to follow a three-step plan:

1. **Call** the reporter to "pitch" the story.
2. **Fax** the press release and any other information the reporter wants.
3. **Call** the reporter to make sure the fax went through.

THE FIRST STEP is a fast attempt to catch the reporter's attention:

- * When you get the reporter on the phone, give your name and the group (or coalition) you're representing. "Hi, I'm Sarah Triano, and I'm calling from the UIC Disability Students Union and the National Disabled Students Union." Then ask if the reporter has time for you to pitch a story.
- * If the reporter asks you to call back later, follow up.
- * Your initial pitch should be very fast. Since the first paragraph of your press release should have all the relevant information (who is doing what, when and where, and how and why, all very quickly), you can use the release as a guide. "At noon tomorrow, disabled students and community members and other people who are concerned about the Supreme Court's weakening of civil rights protection will be demonstrating at 1640 West Roosevelt. We say that **the people's right to equality comes before the states' right to discriminate.**"
- * If the reporter asks for more information, you should either give it immediately, or say, "I will find out and call you right back."
- * Ask whether you can fax the reporter a press release (and write down any instructions given).

When you get off the phone, write down any notes you have on that interaction.

THE SECOND STEP is to fax the information the reporter needs to him or her:

- * Follow any directions you've been given precisely.
- * Use a cover sheet and the one-page press release, plus anything else you've been asked for. Feel free to make a reference to your conversation. "I'm following up on our telephone conversation and faxing you our press release. If you have any questions or need any more information, you can reach me at"
- * Follow up quickly, before the reporter has time to forget the phone call.

THE THIRD STEP is to follow up. Wait a little while, and then call to ensure that the fax went through:

* "This is Sarah Triano from the National Disabled Students Union again. I just wanted to make sure you got our press release about the demonstration tomorrow at noon."

* If the reporter has any more questions after reading the fax, you can answer them then. Otherwise, this should be a quick call.

Keep notes on all the press contacts you have, and share them among the people whose phone numbers have been given out and those who will be working on talking to reporters at the demonstration.

At this point, you should be ready to respond to any attempts by the media to contact you, and getting ready for the demonstration itself.

5. At and after the demonstration:

We need to stay "on message." Reporters have all kinds of ideas about disability, and they may have all kinds of ideas about how the story should be told. All the activists who are working with the press should be working to get them to understand the same one-sentence message:

THE PEOPLE'S RIGHT TO EQUALITY COMES BEFORE THE STATES' RIGHT TO DISCRIMINATE.

Everyone should know what the message is, and think of a couple of different ways to communicate it. We don't all have to use the same words; we do all want to be conveying the same idea.

When the demonstration is over and the reporters have left, it's a good idea to have a "debriefing" with your activists, to share experiences with the media, to get an idea of who you hope will cover you, and to discuss any problems that anyone had. The more you learn from this demonstration, the more prepared you will be for any future demonstrations you want to participate in.

NDSU and other people participating in the Leave-Out would love to hear how the media work went for you. We'd love to see copies of any news stories you manage to get, and to hear about your work.

E-mail Cal Montgomery
ckmont@aol.com

Or write Sarah Triano
National Disabled Students Union
3948 Waveland Avenue, Chicago, IL 60618

Accessible Society E-Letter 3/20/2001: NEW FIGURES FROM CENSUS BUREAU CAN RESHAPE IMAGE OF DISABILITY

On Friday (March 16), the Census Bureau released new figures on the numbers of individuals in the U.S. who say they have disabilities. A story from the Associated Press's Genaro C. Armas is so far the only media attention the new figures have garnered.

Armas led his story with this: "Half the adult Americans with disabilities have jobs, and the employed typically earn less than the average American, new Census Bureau estimates show. The disparity is worse among those people whose disabilities are considered 'severe.'"

The data, from the Census Bureau's 1997 Survey of Income and Program Participation (SIPP), revealed that 52.6 million people (19.7 percent of the population) had some level of disability. The report, "Americans with Disabilities: 1997," is available online at <http://www.census.gov/hhes/www/disable/sipp/disable97.html>

The newsworthy fact -- that half of those reporting disability have jobs -- is actually an artifact of the definition used in the survey. For decades, advocates worked to get the Census Bureau to use functional definitions of disability rather than work definitions -- and we are now reaping the result: people who have jobs but who also have functional limitations are being defined as "disabled." Years ago, anyone who was working were considered "not disabled."

"The Survey of Income and Program Participation contains questions about the ability to perform a number of activities," says report author Jack McNeill of the Census Bureau. "If an individual reported having difficulty performing a specific activity, a follow-up question usually determined if the level of difficulty was severe or not."

The SIPP is a household survey, so the data exclude people in institutions. Approximately 32,000 households were interviewed to obtain the data.

Survey results show that:

* In 1997, 52.6 million people (19.7 percent of the population) had some level of disability and 33.0 million (12.3 percent of the population) had a severe disability.

* About 10.1 million individuals (3.8 percent of the population) needed personal assistance with one or more "activities of daily living" or "instrumental activities of daily living."

* Among the population 15 years old and over, 2.2 million used a wheelchair. Another 6.4 million used some other ambulatory aid such as a cane, crutches, or a walker.

* About 7.7 million individuals 15 years old and over had difficulty seeing the words and letters in ordinary newspaper print; of them, 1.8 million were unable to see.

* The poverty rate among the population 25 to 64 years old with no disability was 8.3 percent; it was 27.9 percent for those with a severe disability.

The figures of those who have difficulty seeing ordinary newsprint -- 7.7 million says the Census Bureau -- are similar to those reported earlier this month by the Centers for Disease Control. An article about that finding -- from the same SIPP data this Census Bureau report used -- is online at the Center's website at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5007a3.htm>

The Center for An Accessible Society is funded by the National Institute on Disability and Rehabilitation Research to focus public attention on disability and independent living issues. The Center is a project of Exploding Myths, Inc. a media enterprise company.

Garrett v. University of Alabama
The Supreme Court's Decision on the Constitutionality of the ADA

Barry C. Taylor, Equip for Equality Legal Advocacy Director

A. State Immunity under the 11th Amendment

The Americans with Disabilities Act ("ADA") prohibits discrimination against people with disabilities in employment (Title I), state and local governments programs (Title II) and public accommodations (Title III). Although the 14th Amendment to the U.S. Constitution permits Congress to pass laws to prevent discriminatory actions by states, the 11th Amendment has been interpreted to provide states with immunity from private lawsuits in federal court unless the federal legislation remedies or prevents a problem of unconstitutional state action, and the legislation is deemed proportional and a reasonable response to the problem it is intended to remedy or prevent. In recent years, the Supreme Court has interpreted the states' immunity under the 11th Amendment quite broadly.

B. The Facts of the Garrett Case

The Garrett case is the consolidation of two ADA employment discrimination cases by state employees against two separate state defendants. In one, state university employee Patricia Garrett alleged that her employer violated the ADA by demoting and then firing her from her position as a supervising nurse after she was treated for breast cancer. In the other case, Milton Ash alleged that the Alabama Department of Human Services violated the ADA by failing to reasonably accommodate his asthma by not enforcing the agency's no-smoking rule. Both sought money damages in their ADA lawsuits. In both cases, the State of Alabama argued that it is immune from suit because Congress exceeded its authority by applying the ADA to state entities.

C. The Supreme Court's Decision

In a narrow 5-4 decision, the Supreme Court ruled that suits in federal court by state employees to recover money damages under Title I of the ADA are barred by the 11th Amendment. The majority held that although Congress clearly stated its intention for states to be subject to ADA employment discrimination suits, the ADA's legislative record fails to show that Congress identified a history and pattern of irrational employment discrimination by the states against people with disabilities. The Court stated that the legislative history indicated that Congress targeted the ADA at employment discrimination in the private sector.

D. Implications of the Supreme Court's Ruling in Garrett

- State employers are no longer subject to private federal ADA Title I employment discrimination suits seeking money damages. The result of the Supreme Court's decision is that employees with disabilities who work for state employers have fewer civil rights protections than employees with disabilities who work for private or local governmental employers.

- States are still subject to ADA Title I employment discrimination suits seeking non-monetary relief. The Supreme Court expressly held that state employees can bring ADA actions in federal court when seeking injunctive relief, such as reasonable accommodations, promotions or reinstatement.
- States are still subject to Title I employment discrimination suits in federal court for money damages brought by the United States. The Department of Justice and the Equal Employment Opportunity Commission can still bring ADA actions for money damages against the states.
- Private and local governmental employers are still subject to Title I employment discrimination suits in federal court. The Supreme Court did not extend the 11th Amendment immunity beyond state entities.
- States are still subject to ADA claims under Title II. The Supreme Court expressly declined to address the constitutionality of Title II of the ADA, which covers programs and services provided by state and local governmental entities. However, the Seventh Circuit Court of Appeals, which covers Illinois, Indiana and Wisconsin, has ruled that states cannot be sued for money damages under Title II. Even though the Supreme Court did not address this issue, individuals in those three states cannot bring a Title II claim for damages against the state.
- States are still subject to the Supreme Court's ruling in *Olmstead*. The *Garrett* decision does not affect the Supreme Court's previous decision in *Olmstead* that unjustified institutionalization is discrimination under the ADA. States must still comply with the *Olmstead* decision.
- States are still subject to federal disability lawsuits under Section 504 of the Rehabilitation Act. In *Garrett*, plaintiffs only sued under the ADA. Although the Supreme Court did not address the Rehab Act, the Seventh Circuit has held that, unlike the ADA, private individuals can bring suits in federal court against states under the Rehab Act, as it is legislation under Congress' spending power.
- People with disabilities can still bring private suits in state court against state entities under state law and the ADA. See, *Erickson v. Board of Governors*, 207 F.3d 945 (7th Cir. 2000).

Questions? Call Equip for Equality at (800) 537-2632 (v) or (800) 610-2779 (tty)

From an ACLU press release dated June 28, 2000:

"A majority of the Court was appointed by presidents who claimed to be looking for judges who would enforce law, not make law," said Shapiro. "Yet, this Court has shown a greater willingness to strike down Acts of Congress than any Court since the early days of the New Deal."

This helps to explain, for example, the Court's surprisingly lopsided vote earlier this week to uphold *Miranda* in *United States v. Dickerson*. Although Chief Justice Rehnquist had frequently criticized *Miranda* in past decisions, he wrote a forceful opinion for the majority in *Dickerson* reaffirming the principle that it is the Court, not Congress, that is ultimately responsible for interpreting the Fifth Amendment.

On the other hand, the Court continued to breathe new life into the doctrine of state's rights by invalidating two important pieces of civil rights legislation enacted by Congress during the past decade. In *United States v. Morrison*, the Court held that Congress had exceeded its powers under both the Commerce Clause and the Fourteenth Amendment by allowing the victims of sexually motivated violence to sue their attackers in federal court. And, in *Kimel v. Florida Board of Regents*, the Court held that the Eleventh Amendment protected the states against suits by their employees under the federal Age Discrimination in Employment Act.

Media Contact: Sharon Reis 202/745-5103
May 18, 2000

Supreme Court Ruling on Violence Against Women Act

Disappoints Women's Organization

Ruling negatively impacts campus women and all victims of violent crime

Washington, DC, May 15, 2000 - - The American Association of University Women (AAUW) Legal Advocacy Fund is extremely disappointed with the Supreme Court's narrow decision declaring the civil rights remedy of the Violence Against Women Act (VAWA) unconstitutional. The justices ruled 5-4 that Christy Brzonkala, a former Virginia Tech student who was allegedly raped by two football players, cannot sue her attackers for monetary damages in a federal court. The AAUW Legal Advocacy Fund has provided financial and moral support for Brzonkala since February 1997.

The justices dismissed the complaint, citing that Congress had exceeded its constitutional bounds. The majority opinion stated that Congress may not regulate non-economic, violent criminal conduct based solely on the conduct's aggregate effect on interstate commerce. The AAUW Legal Advocacy Fund and other proponents of VAWA believe that violent crime impacts the economy to a degree that Congress should have the power to regulate it under the Commerce Clause.

The ruling means that women like Christy Brzonkala must rely on state criminal and civil laws to protect them, and not the federal government. In fact, 36 state attorneys general asked the Supreme Court to uphold the federal remedy in VAWA because states are not adequately addressing the issue.

"Unfortunately, we know too well that the current state-level remedies for rape, assault, and abuse are not working. How can we encourage women to speak out for justice, when justice varies so differently from state to state?" said Patricia McCabe, an attorney and the director of the AAUW Legal Advocacy Fund.

Sylvia Newman, president of the AAUW Legal Advocacy Fund said, "We were hopeful that Sandra Day O'Connor, who often supports women's issues, would be on our side for this decision. We are very disappointed. The next step is to mobilize women to the polls this fall knowing that the next president could appoint one to three Supreme Court justices. Only by speaking loudly and clearly through the voting process will we be able to remedy this injustice."

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The AAUW Legal Advocacy Fund (LAF) provides funding and a support system for women seeking judicial redress for sex discrimination in higher education. Since 1981, LAF has helped students, faculty and administrators challenge discriminatory practices involving harassment, denial of tenure or promotion and aid for women's athletics programs. LAF has provided more than \$600,000 in financial support -- plus thousands in technical assistance -- for more than 58 lawsuits. AAUW is the nation's leading advocate for education and equity for women and girls.