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STATEMENT

Bringing to a close nearly a year and a half of legal argument, federal judge Ellen Bree Burns has denied Yale University's request to dismiss a lawsuit, Price v. Yale University, charging the university with sex discrimination based on sexual harassment of women students. In a ruling filed in Federal District Court in New Haven on November 29, Judge Burns cleared the way for a trial on the merits of the plaintiff's claim of sex discrimination under Title IX of the Education Amendments of 1972.

The ruling, one of a number of legal decisions in the case, was made after an extensive hearing on the role of the Department of Health, Education and Welfare in the enforcement of Title IX, which forbids sex discrimination in educational programs receiving federal funds. After considering the testimony of John Bynoe, Director of HEW's Region 1 office in Boston, Judge Burns concluded that "it is highly doubtful that HEW was practically capable of providing plaintiff Price with any meaningful remedy within an adequate period of time." And acting on legal arguments advanced by both HEW and the plaintiff, the court further concluded that "even if HEW had taken steps to pursue the sort of administrative remedy for which it is designed, such remedy would still not be sufficiently adequate to foreclose the need for implying a private right of action under Title IX."

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The decision disposed of the issue most consistently pressed by Yale - that the plaintiffs in the suit must complain to HEW, rather than seek relief in federal court. In her opinion, Judge Burns emphasized the importance of access to federal courts, noting that HEW is only empowered to cut off federal funds to an offending institution, and "there is nothing to stop Yale from paying the price of that sanction if it so desires." Further, such a drastic step can be taken only after HEW "wrestles with the legal resources and bureaucratic foot-dragging of a recalcitrant recipient institution."

Anne Simon, the plaintiff's attorney, expressed satisfaction with the decision. "We are pleased that Judge Burns so clearly recognized how important it is for individual women to be able to enforce their right to an education free from sex discrimination. Now we can return to the real issue in this case - the university's responsibility to take action against sexual harassment."

November 30, 1978