

Willowbrook parents, officials close to 32-point agreement

By HARRY LEICHTER
ROBERT MIRALDI
and JANICE KABEL

State mental hygiene officials and attorneys for the parents of Willowbrook have apparently worked out "95 per cent" of a 32-point agreement designed to avoid a contempt trial against three officials for failing to implement the 1975 Willowbrook Consent Decree.

The final package, which has been held up pending "some language" in the document, will be unveiled in federal court in Brooklyn on March 10, attorneys told Federal Judge John R. Bartels yesterday.

Attorneys for both the State Department of Mental Hygiene and the New York Civil Liberties Union, which is representing the residents, would not discuss the contents of the package.

But Anthony Pinto of Bulls Head, a member of the Willowbrook Consumer Advisory Board and part of the negotiating sessions, said that the following major points have already been agreed to by the state:

¶ Placement of Willowbrook residents in community-based facilities will be stepped up on this schedule: From April 1 until Oct. 1, at the rate of 50 residents a month; from Oct. 1 until April 1, 1978, at the rate of 75 residents a month; from April 1, 1978 until April 1, 1979, at the rate of 100 residents a month.

United Cerebral Palsy will operate several buildings at Willowbrook under a contract from the state and will have the freedom to hire its own staff.

¶ With the exception of the Bronx Developmental Center, no Willowbrook resident may be transferred to a state institution — except to fill a place at an institution in his home borough created by a similar transfer.

¶ Certain ratios between staff personnel and Willowbrook residents transferred to community facilities must be maintained.

¶ The three state officials against whom contempt of court charges had been filed by the NYCLU, Mental Hygiene Commissioner Dr. Lawrence C. Kolb, Deputy Commissioner Thomas A. Coughlin and Regional Director Dr. Alvin M. Mesnikoff, will deny that they are in contempt of the Willowbrook Consent Decree, ordered in April, 1975 by the late Judge Orrin G. Judd, but will "agree that there is a noncompliance with portions of the consent judgment."

The consent decree, the outcome of a three-year court fight by parents of Willowbrook residents, ordered the state to make sweeping changes in the care of residents. The broadest part of the decree ordered that all but 250 residents be placed in community facilities by 1981.

A review panel was set up to monitor the changes, but many of the things ordered by the court have only been accomplished in part, if at all. For example, 200 residents were to have been transferred by April, 1976, but only 120 were transferred.

Faced with the delays, attorneys for the residents went back into court in November and asked that the three officials be found in contempt for failing to comply. As a trial into the contempt was to have begun, both sides sat down to hammer out a new agreement on the future of Willowbrook.

In asking for a status report at yesterday's court session, Justice Bartels asked why some of the items already settled couldn't be implemented immediately. "I don't understand why you can't make the 95 per cent effective immediately," the judge asked.

Neither side, however, was willing to discuss the agreement, apparently for fear that some things already agreed upon could be used later for bargaining points on the remaining items, court observers speculated.

But Coughlin did tell the judge that work has already begun to implement some of these items. He mentioned two: A plan to set up offices in all five

boroughs to monitor the quality of the community-based placements; and a plan to establish a legal advocate for the community-based residents.

Earlier in the day, attorneys had speculated that the entire agreement might be in place in time for the court session, but that hope vanished when it became clear that too many stumbling blocks remained. Sources said that while the language of certain items was in contention, several of the items had been written without deadlines and that these still had to be worked out.

A trial on the contempt of the three officials was to have begun this Monday, but it was clear from yesterday's court session that the possibility of personal punishment has been avoided.

At one point, NYCLU officials considered asking Justice Bartels to send Kolb and Coughlin to Willowbrook on weekends to live on a resident ward. Two weeks ago, state officials agreed to sit down and work out a new agreement on how minimum standards of care would be implemented at the center.

Justice Bartels tried to have the state sign a partial agreement, but state officials refused and the judge did not press the matter. State officials are thought to be reluctant to agree to any one item until the whole package is in place. Some of the items are known to require approval of Gov. Carey, an original defendant in the court fight.

The court session lasted about 20 minutes yesterday. Attorneys for both sides promised the judge that the presentation of the final agreement on March 10 would take "no more than ten minutes."

Representing the parents of the Willowbrook residents was Christopher Hansen of the NYCLU, and representing the state was Seth Greenwald, an assistant attorney general.