

Court sides with state in Willowbrook feud

By BRUCE ALPERT
and SYDNEY FREDBERG

For the first time in six years, New York State has won a federal court ruling in the Staten Island Developmental Center case.

Brooklyn Federal Judge John R. Bartels said in a 31-page decision issued yesterday that the state turnover of seven buildings at the Willowbrook institution to the private United Cerebral Palsy Association of New York is legal, thus tossing out a union action challenging the validity of the arrangement.

The decision allowing the contact between the state and UCP could pave the way for more private operation of publicly run facilities across the state. Such transfers have sparked wildcat strikes and protests by an angry corps of state workers who fear their jobs are threatened by privately hired staff.

Bartels, in striking down the challenge of the Civil Service Employees Association, the union representing 3,500 state workers at the Island center, flatly rejected union claims that the state, by surrendering the buildings and care of 650 retarded people to UCP, violated provisions of the state constitution, state law and the union's collective-bargaining agreements.

The UCP takeover, asked for by the parents of Willowbrook residents as a hoped-for remedy to the institution's lingering problems, was agreed to by Gov. Carey and his aides last February.

The palsy group, a private, not-for-profit organization with expertise in treating multi-handicapped people,

gained control of seven of the institution's 27 residential buildings last September.

"The union's attack on the (state Office of Mental Retardation's) authority to enter into the agreement with UCP is in reality a minor aspect of a deeper political struggle between the union and the state," Bartels wrote in his decision.

"The state is committed," he said, "to the deinstitutionalization of the mentally retarded persons in its care, and while the union does not oppose this policy, it objects strenuously to the state's practice of placing its clients with private or local governmental agencies because, the union claims, only the state is able to provide the services needed in a humane manner."

But Bartels called the threat to state employees' jobs "the motivation of (the union's) opposition," concluding, "Whatever the validity of the union's political stance, the statutes make it clear the union's argument...is without merit."

Pauline Rogers, an attorney representing the union, said yesterday she is "disappointed" by the ruling, indicating the CSEA would probably appeal to the Second Circuit Court of Appeals.

But as a result of the union's court challenge, Ms. Rogers said she thinks the state has reconsidered its position on relinquishing responsibility of care for the retarded to private organizations.

"I think the state has taken a new look at the advisability of state workers operating facilities, whether in institutions or in the community," she said.

Thomas A. Coughlin, saying the decision is "a clear-cut victory for the state," said his office is committed to the retraining of state workers so they can move, with the residents, from institutions into community-based programs.

Coughlin said that no state workers have been laid off at Willowbrook, in keeping, he said, with a state promise.

Brooklyn Federal Court, which has had jurisdiction in the Willowbrook case since 1972, has forced the state to spend millions of dollars to improve conditions at the Island developmental center and expand its community-placement program.

Approximately 2,200 residents remain today in state-operated buildings at the 382-acre Willowbrook, which in 1972 housed more than 6,000 people.

The UCP-run baby complex now houses approximately 585 people, cared for by about 800 privately hired employees.

Jerry Gavin, a spokesman for the court-mandated Willowbrook Review Panel, said the monitoring agency is "impressed with the job that UCP can do and is doing" despite some "shortcomings" in the private group's programs.

A detailed evaluation of UCP operations will be completed by the panel soon, Gavin said.