

Mother of barred hepatitis carrier sues board

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The mother of a mentally retarded boy filed suit yesterday against the Board of Education, charging the board with depriving her son of his constitutional rights for refusing to allow him to attend public school.

The youth, Mark West of 543 E. 108th St., Brooklyn, a former resident of the Staten Island Developmental Center, is one of 52 mentally retarded children and

young adults being barred from city schools, including PS 69, Merrymount Ave., New Springville, because they are carriers of hepatitis.

Meanwhile, a ruling is expected today on a motion brought by the state, which asks Brooklyn Federal Court Judge John R. Bartels to overturn the Board of Education's decision to exclude the youngsters from special education classes. The judge had said a ruling would be made yesterday afternoon, but he postponed a decision on the motion

until this morning.

In the suit filed yesterday in Brooklyn Federal Court, the youth's mother, Christine West, charges there is no medical or educational reason for excluding her son from attending public school.

"Mark and all others in his situation are presently being deprived of education as well as being stigmatized and humiliated by the Board of Education's action in excluding him from class," she said.

Because of the board's action, she added, she and other parents involved have had to "rearrange our lives so as to be able to care for these children

around the clock" during the time they have been excluded from school.

Board of Education officials Monday excluded the students from attending city schools, including PS 69, "in the interest of health and safety."

The state Office of Mental Retardation and Developmental Disabilities is attempting to overturn the board's decision.

The 52 students involved started special education classes in city schools Monday, but were sent home after the board reached its decision to bar the youths.

Board of Education witnesses and representatives have argued that several

problems would result if the mentally retarded youths were to be sent back to the classroom. Problems, they said, would include parental disapproval, the need for volunteers to teach and transport the children and the possibility of the disease being transmitted to a susceptible student in the same school.

Physicians testifying on behalf of the state, however, said they could not identify a single case in the past year where the disease, Type B hepatitis, had been transmitted. Representatives of the city Board of Health also testified there is a "very small" possibility of the disease being transferred.

The controversy over the 52 students

emerged last October, when Frank Kelly, principal of PS 69, told parents that three students who were carriers of the disease were enrolled in special education classes there.

As carriers, the students do not have the disease, but could, through blood contact, transmit it to others. Hepatitis Type B, a disease common in large institutions, can cause nausea, jaundice and liver damage.

As a result of concern expressed by PS 69 parents over the three student carriers of the disease, the Board of Education announced plans to develop a citywide policy concerning student carriers of the disease.