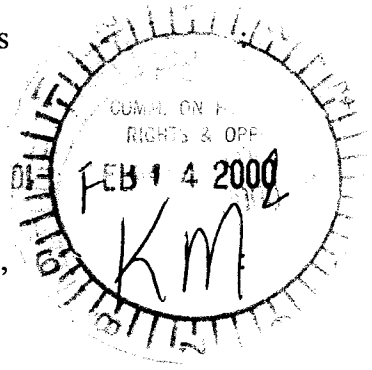
Commission on Human Rights and Opportunities, *ex rel.* Rosemarie Gill, Complainant

v.

Hartford Public Schools, et al., Respondents

CHRO No. 0010417



February 14, 2002

RULING ON OBJECTION TO INTERROGATORIES

On or about January 10, 2002, the complainant served upon the respondents a set of interrogatories and requests for production of documents. On February 8, 2002, the commission filed an objection to the interrogatories, claiming that interrogatories are not allowed in a contested case proceeding before the Office of Public Hearings. For the reasons set forth below, I sustain the commission's objection.

Parties have no general or constitutional right to prehearing discovery in an administrative proceeding. *Pet v. Department of Health Services,* 207 Conn. 346, 356 (1988). Although prehearing discovery may be expressly allowed by statute or, absent statutory authorization, by the regulations of the administrative agency, where no statute or regulation provides for prehearing discovery, an agency hearing officer lacks authority to grant a request for same. Id. at 357; *Rogers v. County Commission*, 141 Conn. 426, 429 (1954); *CHRO ex rel. Thergood v. YMCA*, CHRO No. 9520722 (Ruling on Motion to Depose, January 16, 1998).

The Uniform Administrative Procedure Act ("UAPA"), General Statutes §§4-166 et seq., provides only for the inspection of documents.[1] According to §4-177c:

> (a) In a contested case, each party and the agency conducting the proceeding shall be afforded the opportunity to (1) inspect and copy relevant and material records, papers and documents not in the possession of the party or such agency, except as otherwise provided by federal law or any other provision of the general statutes . . .

[1] The Connecticut Supreme Court has unequivocally stated that "the procedures required by the UAPA exceed the minimal procedural safeguards mandated by the due process clause." *Pet v. Dept. of Health Services*, 207 Conn. at 357, citing *Adamchek v. Board of Education,* 174 Conn. 366, 369 (1978).

This narrow provision is mirrored in the commission's rules of practice at §46-54-98 of the Regulations of Connecticut State Agencies ("regulations"). Neither the UAPA nor the rules of practice allow for depositions in an administrative proceeding, and the commission's human rights referees have no authority to allow discovery beyond that provided in the statutes and regulations. *Castro v. Viera*, 207 Conn. 420 (1988); *CHRO ex rel. Isler v. Yale-New Haven Hospital,* CHRO # 9730024 (Ruling on Discovery Motions, March 3, 1999); *CHRO ex rel. Thergood v. YMCA*, supra; *CHRO ex rel. Centopani v. Itex Total Office System,* CHRO No. 9320010 (Ruling on Motion for Enlargement of Time, December 15, 1993).

Sections 46a-54 and 46-88 of the General Statutes and §46a-54-71 of the regulations unequivocally provide the commission--and only the commission--with the authority to issue and enforce written interrogatories, but even this may occur only during the investigatory process. The legislature has created no such provisions, however, for any party after the investigatory phase is completed and the case is certified to hearing before this tribunal.

Furthermore, although parties may voluntarily exchange information in any fashion they contemplate in order to facilitate the proceeding, human rights referees lack authority either to authorize or compel responses to interrogatories, or to impose sanctions for failure to comply. Accordingly, the commission's objection to the respondents' interrogatories is sustained.

David S. Knishkowy
Human Rights Referee

c: A. Bird
M. Nurse-Goodison
J. Rose
R. Pech