

§93.205. Notice of Hearing.

(a) An action subject to this chapter is initiated by the service of such notices as are required to be served under the substantive law governing the particular proceeding. Unless other law authorizing a different notice period is applicable to the particular proceeding, all hearings in contested cases must be preceded by at least 10 day notice, as required by the APA §2001.051. Credit unions shall keep the Department informed as to their correct current mailing address and may be served with initial process by regular, certified, or registered mail to the address furnished the agency.

[(a) A notice of hearing shall include:]

[(1) A statement of the time, place and nature of the hearing;]

[(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;]

[(3) A reference to the particular sections of the statutes and rules involved, including a specific reference to 1 TAC Chapter 155;]

[(4) A short, plain statement of the matters asserted; and]

[(5) A description of the relief requested.]

(b) If a credit union does not file a written answer or other written responsive pleading to the notice required by subsection (a) of this section on or before the 10th day after the date on which the credit union was served with the notice, or if the credit union fails to attend the hearing, the Commissioner may dispose of the case without hearing and grant the relief set forth in the notice.

[(b) At the discretion of the Commissioner, the following language set forth in bold capital letters may be included: “IF YOU DO NOT FILE A WRITTEN ANSWER OR OTHER WRITTEN RESPONSIVE PLEADING TO THIS NOTICE OF HEARING ON OR BEFORE THE 10TH DAY AFTER THE DATE ON WHICH YOU WERE SERVED WITH THIS NOTICE, OR IF YOU FAIL TO ATTEND THE HEARING, THE COMMISSIONER MAY DISPOSE OF THIS CASE WITHOUT HEARING AND GRANT THE RELIEF SET FORTH IN THIS NOTICE. THE RESPONSE MUST BE FILED IN AUSTIN, TEXAS, WITH THE STAFF OF THE DEPARTMENT AND WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS”.]

(c) The Respondent or Applicant shall enter an appearance, with a copy to the Department, within 10 days of the date on which the notice of hearing was served on the person. For purposes of this section, entering an appearance means the filing of a written answer or other responsive pleading with SOAH.

[If a written response is required, the response must be filed with the department and SOAH, and shall specifically admit or deny each of the assertions contained in the notice of hearing. Any assertion not denied will be deemed to be admitted. Failure of a party to timely file a written response as provided in this subsection shall entitle the department to the remedies relating to default set forth in §93.206 of this title (relating to Default).]

(d) SOAH rules relating to Default Proceedings (1 TAC § 155.501) and Dismissal Proceedings (1 TAC § 155.501) apply when a Respondent or Applicant fails to appear on the day and time set for the contested case hearing. In that case, the Department may move either for dismissal of the case from SOAH’s docket or for the issuance of a default PFD by the ALJ or remand to the Department for entry of default by the Commission or the Commissioner, as appropriate. If the ALJ issues an order dismissing the case from

SOAH docket or issues a default PFD, or a remand for entry of default by the Commission, the factual allegations against the Respondent at SOAH are admitted and the Commissioner or the Commission, as appropriate, shall enter a default order against the Respondent. Any claims raised or applications for approval submitted by an Applicant will be deemed denied.