

§93.303. Hearings on Applications.

- (a) If ADR is not used or if it fails to resolve the controversy, **an applicant or other person aggrieved by the commissioner's preliminary determination may appeal to the commission. In such a case,** the commissioner shall **refer the matter to SOAH and will** furnish to the ALJ all **statutes, rules and policies [information]** upon which the preliminary decision, **if any,** was based. In preparing a PFD, the ALJ shall consider this information along with the testimony and documentary evidence presented at the hearing.
- (b) Burden of Proof for Unprotected Applications. The applicant must prove each of the statutory and regulatory requirements for approval by a preponderance of the evidence.
- (c) Burden of Proof for Protested Applications. The applicant must prove each of the statutory and regulatory requirements for approval by a preponderance of the evidence. In cases in which field of membership is at issue, the protestant must establish by a preponderance of the evidence that overlapping fields of membership will unreasonably harm the protestant. For the purposes of this section, to constitute "unreasonable harm" an overlap must threaten the protestant's welfare and stability or its financial viability to such an extent that it would adversely impact its safety and soundness as a credit union.