

Title 19 NYCRR Part 937 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE  
STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. [STATE ETHICS] COMMISSION ON PUBLIC INTEGRITY

PART 937

[PUBLIC INSPECTION] ACCESS [OF] TO [ANNUAL] PUBLICLY AVAILABLE  
RECORDS [STATEMENTS OF FINANCIAL DISCLOSURE]

937.1 Scope and purpose

[Pursuant to subdivision (17)(a)(1) of section 94 of the Executive Law, the State Ethics Commission shall make available for public inspection the information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law, except that the categories of value or amount set forth in the annual statement and any additional information which the Public Advisory Council to the commission or the commission shall have determined to delete from public disclosure and exclude from the annual statement (pursuant to section 94[18][h] of the Executive Law), shall remain confidential and not available for public inspection.]

These regulations provide information concerning the procedures by which the publicly available records set forth in section 94(17)(a) of the Executive Law may be obtained from the New York State Commission on Public Integrity (“Commission”). These records include:

- (a) The information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law except the categories of value or amount, which shall remain confidential, and any other item of information deleted pursuant to Section 94 (9)(h) and (m) of the Executive Law;
- (b) Notices of Delinquency sent pursuant to section 94(11) of the Executive Law;
- (c) Notices of Reasonable Cause sent pursuant to section 94(12)(b) of the Executive Law;
- (d) Notices of Civil Assessments imposed pursuant to section 94(13) of the Executive Law that shall include a description of the nature of the alleged wrongdoing, the procedural history of the complaint, the findings and determinations made by the Commission, and any sanction imposed;
- (e) The terms of any Settlement Agreement or compromise of a complaint or referral that includes a fine, penalty or other remedy; and

(f) Those records required to be held or maintained publicly available pursuant to article one-A of the Legislative Law.

937.2 [Statements] Designation of Records [a] Access [o] Officer.

[The administrative officer of the State Ethics Commission is hereby designated as the statements access officer. The statements access officer shall:

(a) coordinate the State Ethics Commission's response to requests for public inspection of annual statement(s) of financial disclosure;

(b) provide information concerning the location of the statements, maintain a current list of statements available for public inspection and response to all inquiries relating to the availability to the public of annual statement(s) of financial disclosure;

(c) receive and process requests for public inspection of annual statement(s) of financial disclosure in the manner provided in these guidelines; and

(d) designate one or more members of the staff of the commission, as necessary, to serve as assistant statements access officer(s), and such assistant(s) shall have those functions and responsibilities of the statements access officer, except to designate other assistants.]

(a) The Commission designates its Public Information Officer to act as the Records Access Officer.

(b) The Records Access Officer is responsible for ensuring compliance with the regulations herein.

(c) The Records Access Officer is responsible for ensuring that Commission staff perform the following actions:

(1) assist the requester in identifying the record sought, if necessary;

(2) upon locating the requested record:

(i) make the record promptly available for inspection in accordance with Subparts 937.3 and 937.4 herein; or

(ii) make copies free of charge unless the request is for more than 40 pages, in which case the Commission shall charge \$0.25 per copy or the cost of electronic reproduction.

(iii) upon request, certify that a record is a true copy or reproduction.

[937.3 List of statements.

(a) The statements access officer shall maintain and make available for public inspection a current list of those statements which are available for public inspection. The list shall be sufficiently detailed to permit the requester to identify the statement sought. The lists shall be updated periodically as required to add additional statements that have been filed.

(b) Upon termination from State service for whatever reason, or any other change in status which no longer makes the individual subject to section 73-a of the Public Officers Law, the statement of such individual will be available for public inspection for 90 days following the individual's termination from State service or change in status. Thereafter, the statement will be retained by the commission without being subject to public disclosure except that upon written request, the statements access officer may determine to allow public inspection for good cause shown balancing the public's interest in inspecting the statement with the individual's expectation to privacy following his or her separation from State service.]

937.[4] 3 Requests for [public] access [inspection] to publicly available records.

[(a) A request for public inspection of annual statement(s) of financial disclosure within the possession of the State Ethics Commission shall be in writing on a form provided by the commission for such purpose and substantially identified as a request for public inspection under section 94(17) of the Executive Law. Such request shall be filed with the Statements Access Officer, State Ethics Commission, Suite 900, 11 North Pearl Street, Albany, NY 12207. \*]

[(b) The statements access officer may permit individuals to act as agent for or authorized representative of a requester of public inspection of statement(s).]

[(c) (1) The statements access officer shall respond to a request for public inspection as soon as possible, but no later than 10 business days after the day of the receipt of the request.

(2) If more than 10 business days are required to act upon a request for public inspection, the statements access officer shall issue an acknowledgement of the receipt of the request within 10 business days after the request is received. The acknowledgement shall include an estimate of the date that the statement shall be available for public inspection.]

[(d) A request for public inspection shall contain the name of the individual whose statement is sought to be inspected and:

(1) the State agency by which the State officer or employee is employed or with which he or she is affiliated; or

(2) the statewide elected office held; or

(3) the political party chairmanship held; or

(4) the statewide elected office for which the individual is a candidate.]

(a) A request for access to records shall be in writing or on a form approved by the Commission.

(b) A request shall reasonably describe the record sought. To the extent possible, a requesting person should supply identifying details such as the name of the person, entity or title associated with the record sought and dates or filing period.

(c) A response to a request that reasonably describes the record sought shall be made within five business days of receipt of the request by:

(1) granting access to the record; or

(2) acknowledging the receipt of the request in writing, including an approximate date when the request will be granted, which shall be reasonable under the circumstances and shall not be more than twenty business days after the date of the acknowledgement, or providing a statement in writing indicating the reason for the inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted; or

(3) If receipt of the request was acknowledged in writing and included an approximate date when the request would be granted within twenty business days of such acknowledgement, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgement specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted.

937.[5] 4 Location of records for [I] inspection.

[(a) Statements may be inspected by the public at the office of the commission every day that these offices are open for business during the hours 9 a.m. through 12 noon, and 1 p.m. through 4 p.m. At the discretion of the statements access officer, the records may also be inspected at other times and at any other office or location determined by the commission.]

[ (b) The statements access officer shall delete from public inspection the categories of value or amount contained in the annual statements of financial disclosure plus any information which the Public Advisory Council to the commission or the commission itself shall have determined to delete from public disclosure or excluded from reporting pursuant to section 94(18)(h) of the Executive Law. Information which is the subject of a request for deletion from public disclosure under review by either the Public Advisory Council or the commission will not be made available for public inspection pending the completion of that review.]

[(c) The statements are not available for photocopying, photographing or mechanical duplication in any manner. Handwritten notes may be taken.]

[(d) No statement shall be removed from the offices of the State Ethics Commission.]

[(e) An individual filer may inquire whether his or her annual statement of financial disclosure has been inspected. The commission shall indicate only whether an inspection(s) has taken place. Under no circumstances, shall the commission reveal by whom the statement was inspected.]

(a) Upon arranging an appointment with the Records Access Officer, the records set forth in Subpart 937.1 shall be available for public inspection at the Commission's office.

(b) Such appointments shall be arranged on days that the Commission is regularly open for business and during the hours of 9am-4:30pm.

#### 937.5 Deletion of certain items of information from financial disclosure statements

(a) Prior to making any financial disclosure statement publicly available, the Records Access Officer shall delete the categories of value or amount and any other item of information that the Commission has determined to delete pursuant to section 94(9)(h) and (m) of the Executive Law.

(b) In accordance with the rules set forth in 19 NYCRR 941.19(b)(1), pending any application for deletion to the executive director or notice of appeal filed with the members of the Commission, all information which is the subject or a part of the application or appeal shall remain confidential. Upon an adverse determination on appeal by the members of the Commission, the reporting individual may request, within five calendar days of receipt of an adverse determination, and upon such request the Commission shall provide, that any information which is the subject or part of the application remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns from office prior to the issuance of a determination and holds no other office subject to the jurisdiction of the Commission, the information shall not be made public and shall be expunged in its entirety.